



TRANSCRIPT OF DAY 13 – PUBLIC HEARINGS

PROFESSOR ELEANOR A BOURKE AM, Chair
MS SUE-ANNE HUNTER, Commissioner
MR TRAVIS LOVETT, Commissioner
DISTINGUISHED PROFESSOR MAGGIE WALTER, Commissioner
THE HON ANTHONY NORTH KC, Commissioner

WEDNESDAY, 1 MAY 2024 AT 10.00 AM (AEST)

DAY 13

HEARING BLOCK 6

MR TONY McAVOY SC, Senior Counsel Assisting
MR TIMOTHY GOODWIN, Junior Counsel Assisting
MS ROISIN ANNESLEY KC, Counsel for the Catholic Church (Archdiocese of Melbourne)
MR ANTHONY STRAHAN KC, Counsel for the Uniting Church in Australia
MS GEMMA CAFARELLA, Counsel for the State of Victoria

Transcript Produced by
LAW IN ORDER PTY LIMITED

ACN 086 329 044

T: 1300 004 667

W: www.lawinorder.com.au


LAW IN ORDER
Where work flows.

<THE HEARING COMMENCED AT 10:23 AM

CHAIR: Are we ready, Counsel?

5 **MR GOODWIN:** Yes. Thank you.

CHAIR: Good morning. Welcome to today's hearings of the Yoorrook Justice Commission. Today we continue our inquiry into Land Injustice in Hearing Block 6. It is the last day of these hearings, here in Collingwood and before we conclude
10 the hearing block. I would like to invite Commissioner Hunter to give Welcome to Country before we begin our business.

COMMISSIONER HUNTER: Thank you, Chair. I would like to acknowledge that we are on the lands of the Wurundjeri the unceded stolen lands of the
15 Wurundjeri. I pay my respects to my Elders ancestors both past and present to other Aboriginal people watching online, particularly our Elders watching online. May Bunjil, the creator spirit, watch over us as we conduct today's hearings and Wominjeka.

20 **CHAIR:** Thank you, Commissioner Hunter. May I have appearances please, Counsel?

MR GOODWIN: Thank you, Chair, I appear led by Mr McAvoy of Senior
25 Counsel to assist the Royal Commission. I also acknowledge and thank Commissioner Hunter for her Welcome and I pay my respects to the Traditional Owners of this Country, the Wurundjeri people. I do that both as a member of Counsel Assisting also as a Yuin person from the south coast of New South Wales. I invite other parties to announce their appearances.

30 **MS CAFARELLA:** Good morning, Chair, and, Commissioners. My name is Gemma Cafarella, I appear on behalf of the State of Victoria. On behalf of the State I'd like to thank Commissioner Hunter for her welcome this morning. The State acknowledges that today's hearings are held on the lands of the Wurundjeri people and we acknowledge them as the Traditional Owners of this land. I will
35 start again. Sorry, Commissioners.

My name is Gemma Cafarella and I appear on behalf of the State of Victoria. On behalf of the State I would like to thank Commissioner Hunter for her Welcome
40 this morning. The State acknowledges that today's hearings are being held on the lands of the Wurundjeri people and acknowledges them as the Traditional Owners of this land. The State acknowledges that sovereignty was never ceded over this land. I pay my respect to Wurundjeri Elders past and present and I acknowledge also First Nations people here today, especially the Elders and also those who are watching online.

45 The State acknowledges the pain and trauma inherent in the truth-telling process, and in particular in the topics that will be raised today, and acknowledges the

ongoing spirit and resistance of First Nations people in the face of what they've experienced. Thank you.

5 **MR STRAHAN KC:** May it please the Commission, my name is Strahan. I appear with the leave of the Commission for Reverend Fotheringham, who is the Moderator of the Uniting Church in Australia, Synod of Tasmania and Victoria for whom are also here. Can I acknowledge the Wurundjeri people of the Kulin Nation whose land on which we are gathered today and pay my respects to their Elders past and present, and offer my respects to the First Peoples present in the
10 room and online. And could I thank Commissioner Hunter for the Welcome also.

CHAIR: Thank you.

15 **MS ANNESLEY KC:** May it please the Commission my name is Annesley. I appear on behalf of the Catholic Archdiocese of Melbourne. His Grace has indicated he will do the acknowledgements and welcomes on behalf - acceptance welcome on behalf of the Archdiocese. Thank you.

20 **MR GOODWIN:** There is no legal representative here today to represent the Anglican Church, so I'd invite Bishop Treloar and Bishop Blackwell to respond to the acknowledgment of Country, if they wish.

25 **BISHOP TRELOAR:** Thank you, Mr Goodwin. Is this the opportunity for the opening statement?

MR GOODWIN: Just the acknowledgment.

30 **BISHOP TRELOAR:** Yes. On behalf of the Anglican Province of Victoria we'd like to thank Commissioner Hunter for her Welcome to Country. Thank you.

35 **MR GOODWIN:** Thank you. I might just then first have everyone introduce themselves and make an undertaking or oath to tell the truth to this Yoorrook Justice Commission in whatever shape or form. I might start just with you, Bishop Richard, I should say instead of Bishop Treloar. Bishop Richard, if you could please introduce yourself to the Commissioners.

40 **BISHOP TRELOAR:** Thank you very much. Richard Treloar, Anglican Bishop of the diocese of Gippsland. I've been in ministry since 1990 all in Victoria, in Ballarat diocese, Melbourne diocese and for the last six years in Gippsland.

MR GOODWIN: And do you - would you prefer to take an oath or undertaking?

BISHOP TRELOAR: Just the normal procedure.

45 **MR GOODWIN:** Yes. Do you undertake to tell the truth to this Yoorrook Justice Commission today?

BISHOP TRELOAR: I do.

MR GOODWIN: Thank you. And, Bishop Genieve, if you could introduce yourself to the Commissioners, please.

5

BISHOP BLACKWELL: Genieve Blackwell. I am an Assistant Bishop in the Anglican Diocese of Melbourne. I have been in the Anglican Diocese for the past eight years, prior to that I was a regional Bishop and in Parish Ministry in the diocese of Canberra and Goulburn. I have been an ordained Minister for 31 years now, most of that has been in New South Wales and in various diocese, largely in Wurundjeri Country, but I actually did train in Sydney as well and served there initially.

10

MR GOODWIN: And, Bishop Genieve, do you undertake to tell the truth to the Yoorrook Justice Commission today?

15

BISHOP BLACKWELL: I do.

MR GOODWIN: And then turning to Reverend David, if you could please introduce yourself to the Commissioners.

20

REVEREND FOTHERINGHAM: Thank you, Counsel. I am David Fotheringham, the Moderator of the Uniting Church, Synod of Victoria and Tasmania. I was born on Kaurana Country in Adelaide, now live in Wurundjeri Country. I have been an ordained Minister since the year 2000 and have been in the role of Moderator for the last two years.

25

MR GOODWIN: Reverend David, would you prefer to do an undertaking?

REVEREND FOTHERINGHAM: That's fine.

30

MR GOODWIN: Do you undertake to tell the truth to this Yoorrook Justice Commission?

REVEREND FOTHERINGHAM: Yes, I do.

35

MR GOODWIN: And then if I can turn to Reverend Peter, if - Archbishop Peter, sorry. If you could please introduce yourself to the Commissioners.

ARCHBISHOP COMENSOLI: Hello, Commissioners. Can I just first say, Commissioner Hunter, thank you for the Welcome to Country and we also pay our respects and honour the Wurundjeri people and the ongoing concerns that are there, but also the importance of seeking justice and conciliation, so thank you very much. I am Peter Comensoli, I am the Archbishop - Catholic Archbishop of Melbourne. I have been in this role since August 2018. Originally came from New South Wales, but now Archbishop of Melbourne.

40
45

MR GOODWIN: Thank you, I understand that you would like to take an oath.

ARCHBISHOP COMENSOLI: If that is okay.

5 **MR GOODWIN:** Yes. Do you swear to tell the truth to the Yoorrook Justice Commission?

ARCHBISHOP COMENSOLI: I do.

10 **MR GOODWIN:** Then Mr O'Leary, if you could introduce yourself to the Commissioners.

MR O'LEARY: Commissioner Hunter, thank you very much for your gracious Welcome to Country, very much appreciated. I am the Executive Director of Stewardship for the Archdiocese of Melbourne, and I have been in this role for the
15 last four years.

MR GOODWIN: Thank you very much. And do you swear to tell the truth to this Yoorrook Justice Commission?
20

MR O'LEARY: Yes. I do.

MR GOODWIN: Thank you very much. Each of the churches have prepared a submission that have been provided to the Commission. The submissions of the
25 Uniting and Catholic churches as the Commissioners will be aware, are subject to a number of section 26 non-publication claims. Those particular claims will be dealt with by the Commissioners at a later date, but my questions won't traverse the detail of the material that is subject to those claims for the purposes of today.
So -

30 **COMMISSIONER NORTH:** Mr Goodwin -

MR GOODWIN: Yes.

35 **COMMISSIONER NORTH:** - we will simply stand over each of those section 26 applications to a later date.

MR GOODWIN: Yes, thank you, Commissioner. I will tender - there are no claims made over the submission made by the Anglican Church. Two
40 submissions, relevant submissions have been made. One submission has been prepared by four out of five of the dioceses located in Victoria. Those are the diocese of Melbourne, Bendigo, Wangaratta and Gippsland. That is the submission that Bishops Richard and Genieve will speak to. So I tender that submission. The diocese of Ballarat has also prepared a separate submission, no
45 claims are made over that submission, and I tender that submission as well, Chair.

CHAIR: Thank you.

MR GOODWIN: I now would like to invite each of the representatives of the churches, who have prepared an opening statement to deliver that opening statement. This is - I promise, no favouritism, but I will start in the order in which
 5 I allowed people to introduce themselves as well. So if I can invite Bishop Richard to read his opening statement on behalf of him and Bishop Genieve.

BISHOP TRELOAR: Thank you. Chair, Commissioners, Bishop Genieve Blackwell and I acknowledge that we meet on the lands of the Kulin Nations and
 10 pay our respects to Elders past and present of the Wurundjeri Woi Wurrung, Bunurong and Wathaurong people on whose Country the Diocese of Melbourne serves, and to all First Nations people here in person or watching online.

On behalf of the Anglican province of Victoria, we acknowledge Traditional
 15 Owners of all lands on which our five autonomous interdependent dioceses operate. All signatories to the written submission from Melbourne, Bendigo, Wangaratta and Gippsland including the Archbishop represented by Bishop Genieve echo what follows as it applies in their context and we note that the Diocese of Ballarat has made a separate submission. I speak today primarily for
 20 the Diocese of Gippsland and so pay my respects to the Gunaikurnai, Boonwurrung, Bidawal and Ngarigo Monero peoples whose sovereignty over the land and waterways of that region has never been ceded.

Gippsland Anglicans lament that our colonial history includes atrocities
 25 committed against First Peoples and that some of those involved in these heinous, but no longer unspeakable acts are likely to have identified with the Church of England. Of this terrible legacy we repent. The Anglican Church in Gippsland has been complicit in and has benefited from the dispossession and other harms caused by Victoria's colonisation, predicated in part on the theologically repugnant
 30 and now repudiated Doctrine of Discovery and its outworking in the morally bankrupt ideology of terra nullius.

We recognise with sorrow that the forced relocation of First Peoples from Country
 35 to and from missions at Lake Tyers and Ramahyuck caused separation from family, language and culture and has led to intergenerational trauma. Gippsland Anglicans are committed to truth-telling as an essential condition of reconciliation as expressed in our diocesan vision. We are encouraged and challenged on this journey by the leadership of two Aboriginal priests who work in their
 40 communities mostly outside the church.

The Reverend Canon Aunty Phyllis Andy was made a canon of our cathedral in
 2021, the Reverend Kathy Dalton was appointed to our peak governing body,
 Bishop-in-Council in 2023 and both have given their blessing to this statement.
 45 The diocese will continue to support Aboriginal ministry including through proceeds from land sales and to partner with our Anglican agencies and schools in their empowering of Victoria's First Peoples. In 1988 the Anglican Primate

publicly apologised to the national Aboriginal Bishop for the suffering that his people had to endure with its violence and hurt.

5 In 1998 General Synod apologised for the Anglican Church's part not least
 through our silence in the litany of wrongs documented by the Bringing Them
 Home Report. With other Victorian dioceses, we reiterate these apologies today,
 grateful for the opportunity to engage with the Commission as a further step
 towards a more hopeful future by addressing past injustice -what one of my
 predecessors has called the, 'unhealed wound in the soul of our church and
 10 nation'.

CHAIR: Thank you.

15 **MR GOODWIN:** Thank you, Bishop. I now invite Reverend David.

REVEREND FOTHERINGHAM: Thank you. Can I first of all add my thanks
 to Commissioner Hunter for the Welcome to Country this morning. I begin by
 acknowledging the Wurundjeri people of the Kulin Nation on whose land we are
 gathered. I pay respect to their Elders, past and present and I offer my respects to
 20 all First Peoples present in this room and online. I acknowledge that this land has
 not been ceded by First Peoples and that First Peoples' sovereignty continues, as
 eloquently described in the Statement from the Heart.

25 I am grateful for the opportunity to participate in this Commission on behalf of the
 Uniting Church in Australia, Synod of Victoria and Tasmania. The Uniting
 Church supports the objectives of Yoorrook and the process of truth-telling,
 record-making, developing understanding and making recommendations for
 healing and practical change.

30 This is certainly an historic moment for Victoria and I trust and hope that this will
 be a significant step towards the development of Treaty. The Uniting Church
 acknowledges that it is a beneficiary of the dispossession of land from First
 Peoples and that historical Crown grants of land were made with no consideration
 of First Peoples' sovereignty, connection to the land or rights. We acknowledge
 35 that churches that came to form the Uniting Church were involved in missions in
 ways that harmed or rejected First Peoples' culture, language, spiritual wisdom
 and connection with Country.

40 As part of our journey in truth-telling and understanding we accepted an invitation
 into a covenant with the Uniting Aboriginal and Islander Christian Congress in
 1994. With their leadership in 2009 the Uniting Church in Australia adopted a
 revised preamble to our constitution. The preamble expressly acknowledges that
 many in the churches which formed the Uniting Church shared the values of the
 emerging colonial society, including paternalism and racism towards First Peoples
 45 and were complicit in the injustice that resulted in the dispossession of land,
 language, culture and spirituality.

The change to the preamble also reflects our commitment to praying and working for reconciliation, together with the Uniting Aboriginal and Islander Christian Congress. Today the vision of the Synod of Victoria and Tasmania is following Christ, walking together as First and Second Peoples, seeking community, compassion and justice for all creation. Accordingly, we look forward to Yoorrook's findings and recommendations, and are committed to working cooperatively towards a more just future for First Peoples.

CHAIR: Thank you.

10

MR GOODWIN: Thank you, very much. Archbishop Peter, I now invite you to present your opening statement.

ARCHBISHOP COMENSOLI: Thank you, Chair and Commissioners. I am grateful that I can be here today and to be able to engage with you through this session of the Commission and so thank you. I just reiterate my acknowledgment and thanks once again, Commissioner Hunter, and acknowledge and honour I think that word is important, the Wurundjeri people on whose lands we are present at the moment.

20

Thank you for including the Archdiocese - Catholic Archdiocese of Melbourne in the Yoorrook Justice Commission, which forms part of the First Peoples'-led truth-telling inquiry in Victoria and for permitting us to make this brief introductory statement. We are aware that the Archdiocese has provided a more extensive submission in response to the various questions of the Commission and we look forward to being able to speak to that submission in our session today, including the acknowledgements and apologies and actions of reconciliation that are named within that document.

25

We recognise that the word "Catholic" is appended to many entities, institutions and ministries operating within Victoria. But it is also to be acknowledged that the structures and geographic limits of the Archdiocese of Melbourne for whom I speak will not be well-known to being Victorians and perhaps not to the Commissioners yourselves. For this reason allow me to just take a moment to offer some clarification, which might help in terms of our engagement as we are going along today.

35

In general terms, the Catholic Church in Australia is administratively and geographically divided into seven archdioceses, 21 dioceses and five eparchies, each diocese is under the jurisdiction of the Bishop, and an archdiocese such as Melbourne, under the leadership of an Archbishop. According to the 2021 Census, 136,000 Catholics identified themselves as Catholics - sorry - as Indigenous, throughout Australia. That is roughly I gather around 2.7 per cent of all Catholics within Australia.

45

But that is about 16.7 per cent of Indigenous in Australia, and I think that also is a significant number to be acknowledging today. In general terms the Catholic

Church in Australia, as I said is administered in both geographic and jurisdictional efforts. The Archdiocese of Melbourne is the largest of those dioceses in Australia by population at least, with some 1 million people identifying as Catholic in the last Census. Over 5,000 Aboriginal and Torres Strait Islanders identified themselves as Catholic in the Archdiocese of Melbourne from that Census as well. Just some facts that might be not necessarily known.

The Archdiocese of Melbourne, however, covers only a relatively small area of the State of Victoria, some 27,000 square kilometres and there are three other dioceses in Victoria, being Ballarat, Sandhurst and Sale diocese, each is a separate church jurisdiction and as such I do not speak on their behalf today.

The Catholic Church's presence in Melbourne is not reducible to a single entity. It is rather a community of realities, embracing the running of parishes and churches, pastoral centres, health and aged care facilities, schools and universities, welfare services, prison ministries and much, much more. This extensive charitable and formational outreach not solely undertaken by the Archdiocese of Melbourne, but there are many discrete entities involved.

The Catholic Church is also comprised of many religious organisations or institutes who undertake outreach under their own jurisdiction and governance. Although we share a common faith, as with other dioceses I cannot speak today on behalf of those groups.

I hope that the - just these small clarifying remarks can assure the Commission in helping to foster our understanding together today, and again I thank the Commissioners for inviting us to be present at this meeting.

MR GOODWIN: Thank you very much, Archbishop Peter. Using that as a springboard and the Catholic Church have answered this question in their opening statement, but just to provide an opportunity to each of the other churches, the submissions do discuss the current structure of the church and its operation in Victoria for each of your churches. Just by way of quick summary, if each of you could briefly describe to the Commissioners the structure of the church in Victoria and how it operates. And I might just provide an opportunity first to Bishop Richard. Yes. Thank you, Bishop Genieve.

BISHOP BLACKWELL: So there are five dioceses in the province of Victoria and they are separately governed, but as Bishop Richard mentioned there is a collegiality and an interdependence. We have a provincial council, but each separate diocese - each diocese is separate in terms of its governance, headed by the Archbishop of Melbourne for the diocese of Melbourne, who is also the metropolitan of the province. And then there is four regional bishops for each of the regional dioceses, Ballarat, Bendigo, Wangaratta and Gippsland. The submission outlines how those four regional dioceses were effectively carved out of what was the diocese of Melbourne originally.

The other thing to mention, I think, particularly is that similar to the Catholic Church there are separate agencies. Each of Anglican schools, they are each a separate entity on their own, as well as welfare agencies and there is also an aged care facility. That is particularly aged care - Benetas, that is particular to, I suppose, within the area of Melbourne. In terms of other dioceses, regional dioceses, some of those things might be or have been historically interdependent more with the diocese, the dioceses. The Melbourne diocese, that separation occurs in terms of schools a number of decades ago. In terms of our welfare agencies, they have tended to be separate. But is there anything you would add in terms of the governance?

BISHOP TRELOAR: It might just be worth adding on that last point that we continue to have a significant role in terms of governance and chaplaincy with those partner organisations, agencies and schools. So it continues to be a shared Ministry even if they are separate as, kind of, self-determining organisations. Yes.

BISHOP BLACKWELL: And I would also add that the things like you see where the Archbishop, for example, is President of the Anglicare Victoria Council of which the board is accountable to. It gives you some of the nuance to it.

MR GOODWIN: My understanding was each diocese is an assembly of mostly elected representatives, known as a Synod?

BISHOP BLACKWELL: That's right. Say, for example, in Melbourne it is the Archbishop in Synod. And Synod is elected representatives from each of the parishes of the diocese and the clergy are also members of Synod, and there may be other people summonsed for various reasons to Synod as part of the membership.

BISHOP TRELOAR: That is how it works from a governance perspective. I guess there is a deeper sense in which the diocese comprises all the clergy and people who identify as Anglican in that region. Yeah.

MR GOODWIN: And one of the responsibilities of Synod is to pass acts of Synod which are binding on clergy is that right?

BISHOP BLACKWELL: They are binding on clergy. I would also say they are binding on parishes as well and so when the I say, "The parishes" I mean the parish leadership. Each parish has a parish council and office elders are expected to abide by the acts of Synod as well.

MR GOODWIN: There is also a national general Synod which is headed by a President, known as the Primate; is that right?

BISHOP TRELOAR: That's right.

MR GOODWIN: And then, Reverend David, if you could briefly outline the current structure of your church, particularly in -

5 **COMMISSIONER HUNTER:** Sorry, Tim. Can I check, I am just looking at your - I just want to correct or get on the record the diocese of Melbourne was founded in 1847.

BISHOP TRELOAR: That's right.

10 **COMMISSIONER HUNTER:** And Ballarat was 1875. Yes?

BISHOP BLACKWELL: Yes.

15 **COMMISSIONER HUNTER:** And the others; Bendigo, Wangaratta and Gippsland were 1902?

BISHOP BLACKWELL: That's correct.

20 **BISHOP TRELOAR:** That's correct.

COMMISSIONER HUNTER: Thank you.

25 **COMMISSIONER LOVETT:** Just while we're jumping in, can I go back to Archbishop Peter? Great to get clarity on the numbers around how many of our people are identifying with the Catholic Church, but I would like to ask you a question. You talk for a small portion of the Catholic Church, have you sought authority to speak on behalf of the - of the Catholic Church more broadly?

30 **ARCHBISHOP COMENSOLI:** I have spoken, Commissioner, to the other three bishops here in Victoria, but I have not spoken with a more broad reality. We meet, in fact, I will travel to Sydney tonight, when we will begin a meeting of all the bishops in Australia.

35 **COMMISSIONER LOVETT:** Do you see that as an issue, being here today, given the significance of the role of churches, just more broadly about how important this process is?

40 **ARCHBISHOP COMENSOLI:** Yes. There is certainly an awareness amongst the other bishops in Australia that I will be here today, but I stand as - in my own jurisdiction, so it is not for - in perhaps different to other Christian denominations, we have a fairly flat level of governance. So I am responsible for this area and while we speak as bishops in common regularly, and I draw your attention to last year's - in fact, this year's - leads into this year's annual social justice statement, which was very specifically on Indigenous matters and we do that on a regular
45 basis.

MR GOODWIN: Thank you, Commissioner Lovett. So I was going to go to Reverend David to allow him to briefly outline the structure of the Uniting Church in Victoria.

5 **REVEREND FOTHERINGHAM:** Thank you, Counsel. So the Uniting Church in Victoria has approximately 500 congregations. The congregations are organised into seven presbyteries, presbyteries in a similar sort of structure. The majority of the members of presbytery are appointed by those congregations. The
10 seven presbyteries plus the presbytery of Tasmania join together to form the Synod of Victoria and Tasmania. So in a similar way representatives from each of the presbyteries form the majority of the membership of the Synod.

The Synod is one of, I think it is six Synods in Australia and nationally we have an assembly. So the assembly body has responsibility for doctrine and some of the
15 other broader issues across the church. Synod has responsibility across its region and each of those elements, the presbytery and the congregation have particular responsibilities for their own patches. We also have some other agencies as well, with whom we have relationships, but I think that is the broad structure that you are - that you are asking about.

20 **MR GOODWIN:** The Uniting Church has a unique history. My understanding is that it was formed in 1977 upon the union of Presbyterian, Methodist and Congregational churches, and not all churches within those groups united. But for the large part those churches came to form the union. Is that correct?

25 **REVEREND FOTHERINGHAM:** That's correct. All of the Methodist churches did. They came on block. The Congregational churches came in and the majority of Presbyterian churches came in.

30 **MR GOODWIN:** When we are speaking about historical matters today in relation to church presence in Victoria, for your part its often a discussion about those particular churches that had various presences in Victoria throughout the course of the colonisation of the State.

35 **REVEREND FOTHERINGHAM:** Indeed. And, in fact, if we go back to the early 19th century we are talking about nearly a dozen different churches, which gradually amalgamated into say the Methodist union and the Presbyterian union, which then amalgamated - amalgamated isn't quite the quite term, but joined into the Uniting Church.

40 **MR GOODWIN:** It is clear that - my understanding is basically that because the churches have no legal personality, there is not an inheritance of the Uniting Church to - to lead the full succession in title of those churches. But, nonetheless, as your submission, opening statement and presence today indicates there is,
45 nonetheless, an acknowledgment by the Uniting Church of the - if I can put it this way, of the responsibility for and ownership of the history of those churches in Victoria.

REVEREND FOTHERINGHAM: Yes, indeed.

5 **MR GOODWIN:** I just wanted to give an opportunity to each of you to also describe for the Commissioners what Aboriginal-led Ministries or structures exist in your church in Victoria today and just to share - share the space. I will allow Archbishop Peter to start, if I can.

10 **ARCHBISHOP COMENSOLI:** Thanks very much. And, Commissioners, I might respond to this question naming specific initiatives and works, and Ministries that exist and then a broader description if that is okay. So in the Archdiocese of Melbourne, in fact, over the whole of Victoria, we have the Aboriginal Catholic Ministry which has been established in 1988. If my date is right. You have the correct information in my submission and that has been in
15 continuous operation and into the future funded by the, initially by the Archdiocese of Melbourne and then the four dioceses in Victoria.

20 There is also the Opening the Doors Foundation. The Opening the Doors Foundation is the foundation, which was established in the early 2000s to assist in the support of any Aboriginal and Torres Strait Islander child in a non-government school in Victoria. So any amount of grants annually are offered to any Aboriginal and Torres Strait Islander child who indicates that they wish for a grant, so that is another ongoing reality.

25 The Binnap Partners is a group of non-Indigenous persons who work with and support Indigenous peoples, no matter what - whether religious or not, just in terms of their indigeneity. There are fire carriers in all of our schools. Fire carriers are those in a program and in a way in each of our Catholic schools there is a nominated person. In nearly all of those schools, that is an Indigenous person
30 themselves. There would be perhaps only one or two schools that may not have an Indigenous student at the moment, or a teacher. And it is a generally a way of bringing the fire into the life of the school in terms of reconciliation and building acknowledgment and respect and recognition.

35 **COMMISSIONER WALTER:** Excuse me, is that fire carrier a student or an adult?

40 **ARCHBISHOP COMENSOLI:** Usually a student, but not always. So in a couple of examples where there is not yet a - or at this present time not an Indigenous student in the school. Say it might be a very small school in rural Victoria or something, then it would be someone who is nominated. It is done - the choosing of the person is via the Catholic Aboriginal ministry.

45 **COMMISSIONER WALTER:** What are their obligations?

ARCHBISHOP COMENSOLI: To - awareness-raising, to build relationships, to seek pathways of reconciliation.

COMMISSIONER WALTER: And the Aboriginal students do that?

5 **ARCHBISHOP COMENSOLI:** Yes. And speaking directly into the life of the school itself. In our safeguarding environment we have a cultural competency for all Catholics, in employment or in Ministry, including myself, which is - helps to develop culturally safe environments for Indigenous peoples, particularly children and young people.

10 We have an Aboriginal and Torres Strait Islander Education Action Plan, which is across the State that is - that plan is held by the Victorian Catholic Education Authority. That is a new acronym, the VCEA. It was until a few months ago the Catholic Education Commission of Victoria, so you may have heard of the CECV. It changed the name recently and now it is the VCEA. There is an Aboriginal and
15 Torres Strait Islander Sunday celebrations and resources every year.

So in the cathedral, St Patrick's Cathedral in East Melbourne not far from here is the - we celebrate the Aboriginal and Torres Strait Islander Sunday with a significant Indigenous expression of our worship, our liturgical worship. There is
20 a particular - it's called a mass setting. How do I describe this? Certain parts of our Catholic liturgy are set things that are sung, and there is a particular mass that has been commissioned that is an Indigenous-composed mass, drawing fairly strongly on more northern Indigenous traditions and musically coming out - particularly out of the Tiwi Islands.

25 We have - probably obvious things. We would have Indigenous flags in the cathedral, for instance, at our schools and in parishes and in the cathedral. Once again, I am trying to describe things in our cathedral at moment. If anyone has had an opportunity if you walk into the forecourt and there is a major Indigenous
30 floor plan and in each of our churches there will be a message stick. The message stick is important, as you will find this in each of our parishes and in our schools, and it carries the message of Indigenous people to those locations. It is displayed prominently and available there for people.

35 I would then just draw your attention to the more general things. Those are the specifics that I wanted to share with you. The more general is there are action plans in education, in our schools. In our welfare services there is a very significant amount of, while not targeted programs, but programs that are open and available for Indigenous or Torres Strait Islanders, particularly in the area of
40 social services. A lot of Ministry within the prisons, which we are involved with, and our Catholic health care agencies, while I can't speak specifically about them, because I don't have jurisdiction there, there are also action plans and significant ways in which services of aged and health care and disability care are extended into Indigenous populations.

45

COMMISSIONER LOVETT: May I ask, Archbishop, you articulated a lot of things there. You touched upon cultural competency. My question to you is do you see yourself as culturally competent?

5 **ARCHBISHOP COMENSOLI:** That is a good question. I would hope I am. I don't think I would want to go so far as to just make a blanket "I am". I have certainly done training in that, prepared by the national Catholic - National Aboriginal and Torres Strait Islander Catholic Council. So there is a national body and they provide training, and I have undertaken that. But I guess I would
10 hope that is the case and it is for others to judge about me.

COMMISSIONER LOVETT: I second that question, Archbishop, with, you were talking about fire carriers a little bit earlier and we talked about students undertaking that role.

15

ARCHBISHOP COMENSOLI: Mmm-hmm.

COMMISSIONER LOVETT: Now, as a proud Kerrupmara, Gunditjmara man the load on that child to carry that fire stick or the fire is a massive cultural load
20 for that child to do. So I just want to make the point of I would not articulate that, if that is the measure of success that that is cultural competency in the context of my people. I just wanted to make that point and I think it is really important that we should be looking after the young children and not overloading them with cultural loads. And that the continual compounding thing where they have to
25 educate non-Aboriginal people on our history, our journey and the things that have continually happened to us as well. So I just wanted to make that point.

ARCHBISHOP COMENSOLI: Thanks very much. Might I just - the manner in which people are chosen comes from our Indigenous peoples in the offices of
30 the Catholic Aboriginal Ministry and I will certainly be happy to take that back to them.

COMMISSIONER LOVETT: Yes. I understand that and I think they are fitting in your structures. But again, when we think about our culture, our practices that
35 is a significant load that our people are carrying in society and continuing to carry, recognised also by your early acknowledgements here as well around our people and what we have been through. So it is just really important we don't lose sight of that and cultural competency is something that has to be continually strived for and it is really hard to achieve that, because it needs continual effort as well.

40

COMMISSIONER HUNTER: Can I just on the back of that, you mentioned cultural safety. What does that look like within the Catholic Church?

ARCHBISHOP COMENSOLI: We have specific policies that have been
45 developed in terms of training in every entity within the archdiocese that I am responsible for. So particularly if I can go to parishes, might be a good example of this. So there is training done every year in safety and safeguarding that targets

and specifies certain vulnerable people in our society. And part of that is through the Commission for Children and Young People competency programs that enable people to identify and allow people to say, "I am of an Indigenous heritage." Whether it is Aboriginal or Torres Strait Islander that they might be acknowledged
5 within the context of their local community.

COMMISSIONER HUNTER: So how do you make it safe enough that they want to identify? If they want to be in, that is, of course, their choice, whichever -

10 **ARCHBISHOP COMENSOLI:** Various things. I will describe one parish I was in two weeks ago where they have set up a particular zone within the church building itself, which provides also a place of safety for individuals. It would not be specifically for Indigenous, just as it would not be specifically for other particular grouping of children, but that is an example.

15 **COMMISSIONER HUNTER:** But given the history with the Catholic Church and First Peoples in this country, how do you make it culturally safe? I'm not really - how do you make it culturally safe? I'm just not - what is - other than that what are other practical examples?

20 **ARCHBISHOP COMENSOLI:** Right. So there is been a commitment to the church throughout Australia to certain actions in regards to how we actually are present within the lives of Indigenous peoples. Would it be helpful if I read those to you, as the commitments that have been taken on?

25 **COMMISSIONER HUNTER:** Look, I love a good commitment, but unless those actions are in place -

30 **ARCHBISHOP COMENSOLI:** They are actions that are either in place or moving towards being put in place.

COMMISSIONER HUNTER: I am sure we can get that document and have a look at it. Thank you.

35 **ARCHBISHOP COMENSOLI:** Sure. It is known as - we had a major gathering of the Australian Catholic Church in 2022 called a Plenary Council and decisions were made there that are binding on everyone.

40 **COMMISSIONER HUNTER:** What happens if someone doesn't stick to those actions?

ARCHBISHOP COMENSOLI: There is the - these are not civil decisions.

45 **COMMISSIONER HUNTER:** I am not trying to catch you out. This isn't a catch out. It's just we have heard a lot from government about actions. We have heard a lot of people on the stand about actions and commitments, but there is

actually no accountability if these aren't adhered to. I am just wondering what is the accountability?

5 **ARCHBISHOP COMENSOLI:** The accountability is in the context of the Archdiocese of Melbourne is - comes back and lands on me quite explicitly.

10 **COMMISSIONER HUNTER:** What does that look like if somebody feels or has been just, for example, someone has been racist against an Aboriginal person. Does that come back to you? I mean -

15 **ARCHBISHOP COMENSOLI:** If it does come back to me, I may not hear of that, but we have, you know, many hundreds of priests and religious and so on who are in Ministry. So if something comes to my attention, like, anything, there will be a risk assessment and understanding of what has happened and if there is need to speak to that persons involved then that will happen. We have structures within our Archdiocese to enable that to happen. If there is not adjustments made then further in terms of actions that might be taken.

20 **COMMISSIONER HUNTER:** Thank you.

25 **COMMISSIONER WALTER:** I have just got one tiny question. You have talked about the Sunday celebration and the church has got sort of lots of First Peoples' messages and things there, but you said it was mostly northern inspired. I was wondering why it is not Victoria?

30 **ARCHBISHOP COMENSOLI:** No, no, that was - the musical modal structures came from there, just for this setting of - it is a particular setting of music. There is any amount of other musical dimensions. I just mention there is one kind of feature which is celebrated with our normal Sunday masses.

35 **MR GOODWIN:** Thank you, Commissioners. I might then just turn to bishops Richard and Genieve. And if someone can outline the role of the National Aboriginal and Torres Strait Islander Anglican Council.

40 **BISHOP BLACKWELL:** Yes. So the National Anglican Torres Strait Islander Council is a network and it is supported by each of the dioceses that make up the general Synod. Its membership is of individuals and made - who are Indigenous and they form that Council. It - the submission outlines its role in terms of providing pastoral care and it also assists, encourages and resources Aboriginal and Torres Strait Islander ministries, which exist in many dioceses.

45 And I think I would also want to highlight that it is part of the Anglican Indigenous Network which has a seat on the United Nations. So NATSIAC doesn't, but the United Anglican Indigenous Network does. The submission also refers to the establishment of a provincial Aboriginal and Torres Strait Islander Council, that is seen as something - I want to acknowledge that is at the beginning

of its life, but that it is actually intended to be part of supporting the work of NATSIAC rather than separate to it.

5 **BISHOP TRELOAR:** If I might just add to that it might be salient that the key principles of that provincial pilot program are the recognition the sovereignty, the reception of Aboriginal and Torres Strait Islander generosity within our churches, the formation of a permanently funded representative body with an endowment of \$3.5 million, that is the aspiration and self-determination in decision making and ministry, and full participation in dioceses and provincial and national Church life
10 are kind of vertically integrated integration and participation in all aspects of the church's structure.

And one of its particular goals is to help lead the General Synod at its next meeting in 2026 towards constitutional recognition of Indigenous peoples in the
15 Anglican Church of Australia Constitution, which is something that General Synod has been working towards since 2016. So that is a particular kind of focus of its work over the next few years.

20 **MR GOODWIN:** Does it require a double majority of the vote?

BISHOP TRELOAR: Yes. The complexities of how General Synod works would take us day to work our way through, but we're confident -

25 **MR GOODWIN:** We have no doubt of constitutional change, as we all know.

BISHOP TRELOAR: We are confident that will progress in 2026.

30 **MR GOODWIN:** Thank you. Reverend David, could you just outline briefly the work of the Uniting Aboriginal and Torres Strait Islander Christian Congress?

REVEREND FOTHERINGHAM: Yes, the Uniting Aboriginal and Torres Strait Islander Christian Congress came together in the mid-1980s and originally drew together Christian - in First Peoples' members of the Uniting Church, but also some wider Christian input as well. The UAICC nationally invited the
35 Uniting Church then to actually form a covenant relationship with them, which we did, as I have mentioned earlier. The UAICC is structured such that there are different regions, roughly corresponding with the Synods. So there is a Congress Victoria and a Congress Tasmania with whom I have interactions.

40 So the membership of Congress it is probably worth saying is that all first persons - all First People who are members of the Uniting Church are automatically members of Congress, but Congress is ultimately in control of its membership and may have other members as well, and the - and I guess one of the ways that I work with Congress is through working together in covenant committee, which I
45 co-chair with - the other co-chair is decided between - because we are a Synod of Victoria and Tasmania, the other co-chair is decided between Congress Victoria

and Congress Tasmania and is currently Alison Overeem who is a Palawa woman from Tasmania. So I work with Congress in that respect.

5 **MR GOODWIN:** And the Commissioners have a - a number of the Commissioners have visited Narana Creations, which is in your submission, and held the - the Commission held a round table with the Wadawurrung at that location. Could you just briefly explain the background to that organisation to the Commissioners?

10 **REVEREND FOTHERINGHAM:** Yes, Narana Creations was - it has actually had a varied life in some ways. It was set up to provide for cultural education and promotion, and by the Congress. It has also at various stages been involved in various justice efforts, some of which are described in our submission. The - I am not sure what else I would say towards that, but certainly they've been involved in
15 various ways and that will do for now.

COMMISSIONER WALTER: Can I just ask, so is it - is there any partnership with First Peoples around Narara Creations, or is it wholly owned by the Uniting Church?

20 **REVEREND FOTHERINGHAM:** So, no, Congress has responsibility for it. So in the same way - so in the Uniting Church all property is held under trust by the Property Trust of Victoria or the Property Trust in Tasmania and the - but within the Uniting Church we assign responsibility to different congregations in
25 the main, but the Congress also has responsible body status for such things as Narana Creations. And so they have their own budget, they have their own responsibilities in terms of how they look after that.

COMMISSIONER WALTER: Congress is still part of the Uniting Church?

30 **REVEREND FOTHERINGHAM:** The answer is yes and - it is technically part of the Uniting Church in the sense that the property trust has that ultimate responsibility, and yet the Congress also sees itself as independent to the extent that we have a covenant relationship with the Congress.

35 **COMMISSIONER WALTER:** I have a little query on that. When I was there at that meeting and the room we held in our meeting was absolutely full of artefacts, First Peoples' artefacts.

40 **REVEREND FOTHERINGHAM:** Yes.

COMMISSIONER WALTER: And I just wondered what was going to happen with those. Are they being repatriated?

45 **REVEREND FOTHERINGHAM:** I would not be able to - I would have to take that on notice. I am happy to take that on notice, but I can't give you a direct answer on that.

MR GOODWIN: And to Commissioner Walter's question, I note that the submission states that the Victorian Congress oversight committee who looks after the venue has engaged with the Traditional Owners to explore possibilities for the future of the organisation.

REVEREND FOTHERINGHAM: Yes, indeed.

MR GOODWIN: And so it might be that that might be a topic of conversation.

REVEREND FOTHERINGHAM: Indeed.

MR GOODWIN: I just want to turn now to the centrality of Country for Victorian Traditional Owners. In the Gove land rights case in the 1970s, regarding the Gove Peninsula in the Northern Territory, Blackburn J stated that:

"The fundamental truth of the Aboriginals' relationship to the land was that whatever else it is it is a religious relationship. There is an unquestioned scheme of things in which the spirit ancestors, the people of the clan, particular land and everything that exists on and in it, are organic parts of one indissoluble whole."

While, of course, it cannot be universalised as a statement for all Traditional Owners groups, nonetheless, it has been relied upon in a number of cases to generally describe Traditional Owner relationship to Country. I just wanted to ask each of you when you hear the relationship to land described as a religious one as representatives of various churches what does that evoke for each of you? And I might start with you, Archbishop Peter.

ARCHBISHOP COMENSOLI: The Statement from the Heart names sovereignty as a spiritual reality and most definitely that is. The sense that land as distinct from history, as distinct from other political conceptions that land not just in a physical kind of reality, does speak very powerfully to this sense of the spiritual and religious dimensions that I have always experienced as being a part of the identification that people of an Indigenous identity speak to me.

The finding of the ways in which that is then given expression varies amongst different peoples and some of those might be spoken into, more broadly into our society, but needing to know the particularities of the reality as to how it applies to here or here, or here.

MR GOODWIN: Anybody else want to react to that?

BISHOP TRELOAR: Thank you. Yes. The statement that you read I think resonates deeply with us. I am certainly no expert in this area but we are all of us, I trust on a journey of learning and listening. I was reminded by Aunty Phyllis, whom I referenced in that opening statement at Lake Tyers Aboriginal Trust just

last month. She said, "It is not just that Country belongs to us, we belong to Country." And hopefully a deepening understanding of these things is starting to be reflected in the specific ways that Traditional Owners are being acknowledged in services and meetings and events in our parishes and schools and agencies,
 5 specifically, I think around the rights and responsibilities of Elders to care for Country, which really has such, you know, primacy. You know, the network of kinship and lore and language as I understand it, ceremonies is all connected around the notion of Country where the creator ancestors live and continue to guide through land and waterways, and animals and plants. So it's the sense as
 10 you referenced that everything has this spiritual dimension and I guess the challenge for us sometimes that can be very different from a kind of Western understanding of the dichotomy between the secular and the sacred, or the spiritual and the material. It is a much more organic whole. And I was really helped in this by a very brief statement by Trawlolway theologian, Garry Deverell:

15

"For us spirituality is all about the most basic building blocks of life; Country, kin and the practice of a ritual storytelling that weaves past, present and future living together in a web sometimes referred to as the dreaming."

20 So I think that kind of resonates with the statement that you read earlier.

MR GOODWIN: Reverend David, do you want to add anything?

REVEREND FOTHERINGHAM: Yes. Thank you. Certainly I completely
 25 agree that the sense of First Peoples' spiritual connection to Country is undeniable and we would not want to deny that at all. It may be of interest to the Commission to know that in February the School of Indigenous Studies, which is a part of the University of Divinity ran a conference here, well, in Box Hill, about Indigenous theology and Indigenous justice. And so this was very much a First Peoples' led
 30 conference, and I think it was a very, very significant conference in that it brought together a range of First Peoples' views on our Christian theology and Indigenous spirituality.

Connect or don't connect, there are a range of views, and I think the conversation
 35 between that range of views was a particularly important part of the conference. And in some ways I recognise that this is a conversation, which occurs amongst First Peoples. It's not for me to say how that lands, but - but I would say that the churches have a strong interest in learning from this, and in learning from those conversations, so -

40

MR GOODWIN: And given the strength of attachment that each of you have described, do each of you accept that Traditional Owner relationships to lands and waters is central to culture and beyond that, cultural survival?

45 **REVEREND FOTHERINGHAM:** Absolutely, yes.

BISHOP BLACKWELL: Can I add something personal, Mr Goodwin?

MR GOODWIN: Yes.

BISHOP BLACKWELL: I just wanted to say, Commissioners, for me,
 5 personally, in terms of my own learning I think where some of that has been
 helped for me is with one of our canons, Glenn Loughrey, the Reverend Canon
 Glenn Loughrey. And I am thinking particularly of a book, a recent book that he
 wrote and just reading it, because he actually grew up in one of the areas I served
 as an Anglican priest. And seeing his journey or reading his journey in - in what it
 10 meant for him in terms of land and his Christian faith, and even just in terms of his
 journey of his own Aboriginality and what that meant in terms of reflecting on his
 - where he grew up and the land and in his experiences. So I suppose I just
 wanted to add that is where - that is the sort of thing that is been part of my
 learning journey, but I want to manifestly emphasise it is a learning journey in
 15 that.

MR GOODWIN: Those acknowledgements and understanding has not always
 been the case in the history of the churches here in Victoria. If I can just mention
 first and particularly I will ask Archbishop Peter a question arising out of this. A
 20 number of 15th century papal bulls or decrees legitimised the colonial era seizure
 of Indigenous lands, particularly in the Americas, leading to the Doctrine of
 Discovery. In short, the doctrine asserted that lands uninhabited by Christians
 would be discovered and colonised without due regard to the rights of Indigenous
 peoples.

25 Last year the Vatican officially repudiated the Doctrine of Discovery and stated
 that the papal bulls did not adequately reflect the equal dignity and rights of
 Indigenous peoples and have never been considered expressions of the Catholic
 faith. Do you agree with that repudiation, if so why was it important?

30 **ARCHBISHOP COMENSOLI:** This came out of - Commissioners may be
 aware of enormous difficulties experienced by the Indigenous peoples within the
 North American, particularly Canadian dimensions and a call for Pope Francis, the
 Holy Father to visit Canada, which he did at that time. And the document itself
 35 comes from one of the - perhaps the easiest way of describing it a department,
 called the dicastery, the Department of the Holy See of Rome, of the Vatican.
 And it is an expression of a naming of this so-called Doctrine of Discovery, and
 how that came about and how that has - in different contexts seriously undermined
 and gone to great harm of people's - Indigenous peoples throughout - throughout
 40 the world.

Those documents relate a lot to the time of the colonisations of the Americas and
 but have played out in other parts of the world as well. The document I thought
 was very clear in being able to articulate the reasons why this so-called doctrine
 45 was a false reality and, indeed, a very damaging reality. Naming, though that it
 was never specifically a teaching of the church, but had been caught up in
 individual statements made by the Pope at the time, in regards to then political

realities that were happening. So if you - the history of these sorts of things but these things play out also at a political level.

5 Our situation here in Australia is an interesting one in this regard, I think, in that the time of the colonisation of Australia it certainly was not something that had anything much to do with the Catholic Church at all. In fact, the initial Catholics who came to Australia were convicts and had no part to play in those sort of societal and institutional decisions that were being made by a foreign entity. So that comes out of the particular British history, which was not part of the Catholic tradition.

10 So it was interesting to, I think consider how this doctrine has spread into other kind of realities. So it may have had the naming in a Catholic setting, but it moved well and truly beyond that reality and into ways of governments and states and taking on, essentially, a political thing. That the statement is made is very, very good, that it is made so definitively is really important.

15 **MR GOODWIN:** It is clearly an acknowledgment of the responsibility, at least from the Pope, of the Catholic Church's laying of part of the foundation that led to justify the dispossession of Indigenous peoples around the world through colonisation.

20 **ARCHBISHOP COMENSOLI:** I would say that there were ways in which the words of the Pope at the time were taken up and interpreted were significantly problematic. So, you know, a nation or at least a state like Portugal or France who were essentially the ones who were going to colonise the Americas would take those words and reinterpret them, and I think that is important to acknowledge today too.

25 **MR GOODWIN:** But given attitudes of the time, and the relationship between church and state at that time, I presume that the persons issuing those papal bulls knew, to some extent, how they would be used by those colonial states.

30 **ARCHBISHOP COMENSOLI:** I think from my perspective I am not able to answer that question at all.

35 **MR GOODWIN:** A number of academics, including First Nations academics such as Professor Mick Dodson and Professor Larissa Behrendt have linked the discovery to the concept of terra nullius in Australia. And I think, Bishop Richard, you mentioned in your statement the repugnancy of the Doctrine of Discovery. Given the legal fiction of terra nullius as confirmed in the Mabo decision, what is the basis upon which you say the Doctrine of Discovery is repugnant? And what sense of responsibility, I suppose, to your church do you, by mentioning that, recognise?

40 **BISHOP TRELOAR:** Yes. Just in terms of something Archbishop mentioned about the way in which this kind of set of concepts has the capacity to kind of spill

outside of its historical originating context, you know, into academia, into popular culture, I noted that it is referenced in Ziggy Ramos's very powerful version of Paul Kelly's Little Things, for example. And I think as a pre-reformation piece historically, you know, we all have a stake in this and, you know, concerns around it.

I think it is an example, I suppose, of a sense of entitlement, or cultural superiority which was drawn upon by colonial powers in which churches were complicit to legitimate conquest, another means of dispossession.

So whatever its originating context and its status within the church as an organisation it was something that was, you know, derivable from church teaching, official or otherwise and, you know, in the face of which the church was passive at best. And so there is that sense that this, I suppose, forms part of the - part of the backdrop of that colonialising world view which, you know, was brought to the colony of Victoria including by the churches. So it is part of our kind of collective history and personally I think we have really welcomed the Vatican's formal repudiation of that doctrine and the Statement of the Dicasteries.

MR GOODWIN: Reverend David, did you want to add something to that? I saw you nodding at certain points.

REVEREND FOTHERINGHAM: Certainly nodding in agreement with those comments. I think - I haven't been able to locate formal resolutions by the Uniting Church by our Assembly regarding the Doctrine of Discovery, but we absolutely agree about its repugnancy. And certainly we have resolutions that have repudiated the notion of terra nullius and certainly worked towards land rights. So that's - that is all I can add.

MR GOODWIN: Commissioners, I note the time. Is that a convenient point to make take a 15-minute morning tea break?

COMMISSIONER NORTH: Mr Goodwin, before we do that, can I just, as has been my habit, to interrupt the peace of these breaks to foreshadow a question which I would like responses to by all panel members in due course at a convenient time. I think everyone here and our Letters Patent, which establish the Commission, acknowledge the past of injustice and I don't need to go over all that with you. It is, of course, one of the things that we need to consider and report on to establish a public record of those past injustices to Indigenous people.

We are also charged with working out what to do about it and it is no coincidence that the churches are here, because you all reflect the conscience of our society. Therefore, injustice within the society is obviously something that you will be concerned with and, indeed, the activities of the churches are directed to matters of injustice. We have the very difficult job of trying to, if you like, make some effort to untangle the colonial mess and that involves not just acknowledging past injustices, but actually doing something, suggesting what can be practically done.

Now, your organisations are large, influential and have the capacity to do things, and I am wondering whether you can give us some indications of some ideas that might assist us in coming to a decision about the sorts of things that your
5 institutions might do to contribute to addressing those injustices. I know it is a big subject and I guess you'd have some notice of it by reading our Letters Patent, but it is a very hard thing for us to resolve and the more help we can get the better. I put that on the agenda at some point later on you might each come back and tell me your budgets. Yes, thank you, Mr Goodwin.

10

CHAIR: So shall we adjourn until midday then? Midday.

MR GOODWIN: Thank you, Chair.

15

CHAIR: Thank you.

<THE HEARING ADJOURNED AT 11.43 AM.

THE HEARING RESUMED AT 12.08 PM

20

CHAIR: The hearing has now resumed.

25

MR GOODWIN: Thank you, Chair. And thank you to the panellists for agreeing to stay on until 1.30, so we will adjourn at that point, Chair, but I note if you have got to the make a speedy get away at 1.30. So that will be no disrespect to the panellists if the Chair has to duck out immediately.

30

So I want to turn now to the process of how colonisation unfolded in Victoria. I just want to go first to a Select Committee of the United Kingdom Parliament report, which was established to enquire into Aboriginal peoples across the colonies in 1837. So if we can first go to page 10 of that report. You can see it on the screen. So this is a general Select Committee that was established regarding the Aboriginal tribes in all British settlements. So it covered the Americas, South Africa, other places in Africa, islands the Pacific, New Zealand and what was then
35 termed New Holland, Australia. And the Select Committee noted that:

40

"The inhabitants of New Holland in their original condition have been described by travellers as the most degraded of the human race, but it is to be feared that intercourse with Europeans is cast over their original debasement a deeper shade of wretchedness. These people unoffending as they have towards us have, as might be expected, suffered from an aggregated degree amongst them the penal settlements. In the formation of these settlements it does not appear that the territorial rights of the natives were considered and very little care has been taken to protect them from the violence or the contamination of the dregs of our
45 countrymen. The effects have consequently been dreadful beyond example both in the diminution of our numbers and in their demoralisation."

This is parliamentarians in the United Kingdom Parliament making findings in regards to those issues. If I can then go to page 59. And this is a general statement regarding - so not specific to Australia, but a general statement in relation to European colonisation under the heading, "Effects of fair dealing
5 combined with Christian instruction of Aborigines." So the committee said:

"In the foregoing survey we have seen the desolating effects of the association of unprincipled Europeans with nations in a ruder state. There remains a more gratifying subject to which we have now to a direct our
10 attention, the effect of fair dealing of Christian instruction upon heathens. The instances are unhappily less numerous than those of a opposite character but they are no less conclusive.

And in reviewing the evidence before us we find proof that every tribe of mankind is accessible to this remedial process and that it has actually been partially applied and its benefits experienced in every quarter of the world. So that the main feature of the case before us, being the ravages caused by Europeans, enough has been incidentally exposed to show that those nations, which have been exposed to our contamination might, during the same period
20 have been led forward to religion and civilisation.

Independently of the obligations of conscious to impart the blessings we enjoy, we have had abundant proof that it is greatly to our advantage to have dealings with civilised men rather than barbarians. Savages are dangerous neighbours and unprofitable customers, and if they remain as degraded denizens of our colonies they come a burden upon the state."
25

So just to get that in context, a number of historians and anthropologists explained to the Commissioners that at around the time of this report there was an evangelical movement that had taken government in the United Kingdom and so there was a deep concern about the - what was seen as un-Christian acts of settlers, but a desire to protect through Christianisation of Aboriginal populations. But, nonetheless, I think you'd all agree, some of the language used is particularly repugnant in relation to Aboriginal populations.
30

And I just wanted to allow you each to reflect on that genesis story, I suppose, if I put it one way, around colonisation in Australia, and given that that report was just as the first land grabs were occurring in Victoria, but as representatives of your churches, what your reactions are to that attitude at the time of Christianising those populations. I might just start with you, Bishop Richard.
40

BISHOP TRELOAR: Thank you very much. I mean, to the attitude that's abhorrent, the language that that's expressed in is reprehensible and we would resilie totally from that, of course. I think it's interesting that there is this, kind of, nexus, this coming together, of a sort of, protectionist ideology such as reflected in other documents and the, kind of, missionary evangelical zeal of the missionary societies and the desire to promote the gospel.
45

So there is, sort of, this nexus between church and state almost. And that 1836 Select Committee report is, of course, echoed in the colony of Victoria where perhaps in response to the devastating census results of 1857 which show an 85
5 per cent decrease in First Nations population over a 23-year period in the Port Phillip region. There is a kind of, in some quarters an outcry reflected in the Argus Newspaper, for example.

10 And Thomas McCrombie sets up a Select Committee, which reports to the Legislative Council in 1859, accusing the government of neglect of the Aboriginal population and that leads to the formation of the Central Board and then later the Protection Board and the Acts of 1869 and 1886, which perhaps we will come to. But at the same time you've got the Church of England missioned the Aborigines, you know, forming here in Melbourne and so they are starting to send
15 missionaries. Because part of what that Select Committee recommended in its report to the government was that there be greater government intervention in terms of reserves for agriculture and mission work.

20 So the churches kind of join in and start to send missionaries as part of this enterprise. I was deeply - you know the enterprise itself I would want to say is just fundamentally flawed and is just built on completely erroneous premises. But I was deeply, deeply moved by the testimony of Uncle Jim Berg and Uncle Robbie Thorpe at a hearing in late March. And, you know, Jim Berg reflected on this irony of a kind of a combination of a protective ideology in terms of those reserves
25 and missions coexisting with this loss of identity and language, and lore and kinship in precisely in that context.

30 So there is this sort of, you know, protection going on, protection, going on at one level and cultural genocide at another level and these two things are kind of, you know, coexisting. So it is a - it is a - it is a really debilitating paradox I think for us to come to grips with. And there is no question that, you know, our church partnered with the colonial government to implement policies and practices that were and continue to be profoundly harmful to First Nations people in Victoria, partly in response to reports like this and the kind of, you know, evangelical
35 opportunities that they extended to the churches and that those policies were grounded in a deep seated and pervasive racism from which our church is far from immune.

40 And that has had a devastating impact on the Aboriginal population, you know, physically and spiritually, including in Gippsland, you know. Between the 1840 and 1850s some 15 to 20 massacres, the loss of up to 300 Aboriginal lives. And whatever else they were the missions were places of confinement, culturally, temporally and geographically. They contributed to segregation, to forced relocation, to assimilation, a little later on.

45 And Professor Marcia Langton in that same hearing referred to this period as the start of a kind of coercive native administration. She was quoting from an article

Legislating Aboriginality and she described how First Nations people effectively become wards of the state, with the Board and the churches serving in loco parentis, setting up this kind of institutionalised culture. And, you know, whilst we might argue as per Professor Reynolds' evidence that there were, you know, better and worse experiences of missions, there is no escaping the fact that the system itself following on from - from these kinds of reports, was irredeemably broken, that it is conceived on a premise that was fundamentally flawed, built on stolen land and what Henry Reynolds called, "the original sin of Australia's colonisation". Namely a complete disregard for the rights of the Indigenous population and acting without consent, and so it is pretty hard to preach the gospel on stolen land.

COMMISSIONER HUNTER: Can I just ask, would you agree with - you talked about protective, but it is still based on superiority of Christianity and inferiority of culture and spiritual beliefs. Would you agree with that?

BISHOP TRELOAR: Thank you, Commissioner Hunter, for the question. Absolutely. I think it is a paternal culture, paternal environment based on superiority of culture and a sense of responsibility to, you know, to preach the gospel into that context, completely ignorant of any pre-existent spirituality. And, yeah, so the protectionist desire is itself the part of the problem. The assumption that it was our place to protect and the fact that the protection was even necessary, partly due to the conflict of the Frontier Wars but also because of exposure to disease and other - other things that the miners brought with the gold rush. The fact that that was even necessary really speaks to the underlying problem, but the paternalistic way in which that was, kind of, implemented is a further problem.

MR GOODWIN: Sorry, Commissioner Lovett.

COMMISSIONER LOVETT: Not one witness has observed that the missions and reserves is the mark of the beginning of Aboriginal deaths in custody. Can I open it up to any responses to that?

BISHOP TRELOAR: Regrettably I can only agree with that. And hence my remark that whatever else they were or were intended to be, they were places of confinement, incarceration. I think Uncle Jim Berg spoke of being a prisoner, a refugee on his own Country. Uncle Robbie Thorpe spoke of protracted and ongoing genocide. These are very, very hard truths for us.

COMMISSIONER LOVETT: I just want to repeat that because my mic was not on. More than one witness has observed that the missions and reserves system marked the beginning of Aboriginal deaths in custody. In the context of racism does your church now say your religiosity and beliefs are superior to ours?

BISHOP TRELOAR: Absolutely not.

COMMISSIONER LOVETT: How then can you accommodate that?

BISHOP TRELOAR: I guess it is partly by coming to terms with our past and telling the true history of our past and being on that journey that we have spoken of, of learning and listening, really attending to the wisdom of Aboriginal culture and spirituality and relationship with Country. And repenting of the past but seeking - seeking to move forward in respectful partnership.

MR GOODWIN: And I was - I think it is an important segue into the creation of missions and reserves in Victoria. As you highlighted, Bishop Richard, in an attempt to offer so called protection to Victorian Traditional Owners many were moved following those various reports that you have referred to on to reserves and missions, and off Country. And I suppose you have already acknowledged that that was essentially an act of dispossession of land for Aboriginal people. Would you agree with that?

BISHOP TRELOAR: Most definitely.

MR GOODWIN: And I know that the Anglican Church had particular missions that it either operated or were present at, as well as the predecessor churches of the Uniting Church. I just wanted to give you, Reverend David, an opportunity to respond or add to any of Bishop Richard's comments from your own perspective.

REVEREND FOTHERINGHAM: Thank you, Counsel. And can I start by saying I recognise and agree with your characterisation of history. I acknowledge that and that accords with my understanding there and I agree with all of Bishop Richard's remarks.

The - I guess one part that I would reflect on is that early in the 19th century, in part of my traditions, so the Methodist, so we had the Buntingdale Mission, which lasted for a bit under a decade. And I think that that mission in many ways, demonstrates all of the complexities that have been named. The - it was - this one was - it was earlier than the ones, which were much more sponsored by government. This was some missionaries who came out of England to - with the idea of providing a safe haven in the midst of all of the violence, and, yes, that speaks precisely to the underlying problem is actually the violence, and the lack of recognition, all of that.

And, you know, and another classic example of the lack of recognition at that time was that the mission was set up on the boundary of several Countries, so that it - it was never going to work, even in the sense that that - that the missionaries had intended. And so - and this was one where I certainly agree with the remarks about the deaths in custody.

The Buntingdale mission was - was a little more free-flowing, I think it was less kind of - people were not confined so much to the mission. People came and went, but it is entirely true that - that the impulse to share the gospel was completely entangled with the idea of the superiority of - of Western civilisation

and certain social structures. So it is entirely true that the missions were disastrous in that regard.

5 **MR GOODWIN:** And in addition - you mentioned in terms of the missions being disastrous, not only in terms of the dispossession of land, but in various ways, in terms of the incapacity to practice culture and speak language, in relation to the removal of children from the care of parents, in the relation to the consequences of what became known as the Half-Caste Act where persons who were deemed to be half-castes were initially forced on to those missions, but then
10 no longer allowed to live there from 1889 onwards. All of those things suggest that there were huge and devastating societal and cultural impacts on Aboriginal Victorians of the mission and reserve movements. Would you agree with that, Reverend David?

15 **REVEREND FOTHERINGHAM:** Yes, certainly. And I think some of my own growth and understanding of this is when I began as a Minister in Frankston, which is on Boonwurrung country and doing some research into some of the history of the Boonwurrung people and realising that people had been pushed onto a reserve at Mordialloc, and then subsequently were pushed on to the reserve at
20 Coranderrk, and subsequently the horrendous results of the Act to which you refer. Yes. Recognising that is - is deeply affecting and distressing, so everything we are saying about this is - is true and terrible.

25 **COMMISSIONER LOVETT:** Can I ask, sorry. Identity, how important is - you as individuals, your identity to you? How important is it?

BISHOP TRELOAR: Very.

30 **REVEREND FOTHERINGHAM:** Very important.

COMMISSIONER LOVETT: Culture and your culture, right, you have culture, you are speaking in your language today.

35 **BISHOP TRELOAR:** Yes, we are.

REVEREND FOTHERINGHAM: Yes, we are.

40 **COMMISSIONER LOVETT:** English. Not one of your mob during your acknowledgements mentioned any word of language. Language is the heart of identity. That has been taken away from our people. Really important. How many of our people get to walk around - talking in language, practising culture? You are practising your form of culture by the work that you do every single day, but our people don't have the ability to do that. Haven't had the ability to do that. Forcibly put on your rations if you were caught sneakily teaching language,
45 practising culture. Rations, so cut off rations. Rations meaning not getting much at all, and then further cut from rations.

How does that - how does that sit with you? You get to speak language every day. I have had to learn, try to learn and reclaim language, myself. Like, we - we see our children growing up in schools. Very rarely is our language taught, our history taught. But we can learn other people's languages, English, many other
 5 multicultural communities' language. Churches played a significant role in taking that right, that is a human right, but a cultural right away from us. I would like to hear some responses to what I have just said then.

BISHOP TRELOAR: Commissioner Lovett, it is a terrible injustice and one of
 10 the worst legacies of the mission - the whole mission enterprise. And as you have explained, reminded us, it is a way of disempowering people to take their language. And one of the great stories of resilience that emerges through the horrible history that we are discussing now, is the capacity of First Nations people to - to recover language and retain language, and to find ways of holding on to that
 15 and other aspects of culture. But it is an absolutely lamentable result of the church's involvement in some of these government policies.

COMMISSIONER LOVETT: And before I get the other responses, the churches knew what they were doing. This is targeted, they knew what they were
 20 doing. You attack culture and identity, in particular, language. You start with that.

BISHOP TRELOAR: If I might just add one more comment to that very point. I think that the twin policies of segregation and assimilation both result in erasure,
 25 in disappearance. In different ways, but both, you know, absolutely reprehensible.

REVEREND FOTHERINGHAM: Yes. I can only acknowledge all of what you say and what you say is true. The - we recognise that our involvement in missions has - has very much contributed to that dispossession from language as
 30 well as culture and land. We - we do certainly recognise all that, yes.

ARCHBISHOP COMENSOLI: Can I offer a word at this point, maybe something of a different story that may be able to be told truthfully. While I absolutely acknowledge that to strip language, language not only by way of
 35 spoken word, but language of gesture and action and custom and so on, the speaking that comes by way of acting has been a deeply damaging reality in the past, in the history of Indigenous people here in our own country.

The context in which you have posed this question to us in and around this
 40 discussion around missions and so on, has not been a part of the story of the Catholic Church here. The Catholic Church was not involved in the missions -

COMMISSIONER LOVETT: With respect - with respects, we as Aboriginal people and Commissioners we understand who had an involvement and who
 45 didn't. We have had heard many a truth come before the Commission, with respects I say this, but this is - this is truth-telling, and I am asking the questions of the people particularly who represent organisations that forcibly undertook and

knowingly undertook these practices, as Aunty Vicki Couzens refers to it as linguicide, so.

5 **ARCHBISHOP COMENSOLI:** Can you explain that word, "Ling" -

COMMISSIONER LOVETT: "Linguicide." I think it speaks for itself with authority.

10 **COMMISSIONER HUNTER:** Can I just add something to that? If we go back to the Doctrine of Discovery before, how - your answer to that. Although you say you are not involved in the missions, and that the churches have sort of distanced themselves from it, but at the time you knew it was happening with the Doctrine of Discovery, but did you stop it? Did the churches stop it?

15 **ARCHBISHOP COMENSOLI:** Again, I can only speak on behalf of the Catholic Church. In the context of our particular colonialisation, the thing of the Doctrine of Discovery had shifted very much away from anything associated with the Catholic Church. Those who - in speaking on behalf of our church, those who had leadership at the time -

20 **COMMISSIONER HUNTER:** But did they try to stop it?

ARCHBISHOP COMENSOLI: Yes, could I quote directly from the Bishop of 1845?

25 **COMMISSIONER HUNTER:** Yes, please.

ARCHBISHOP COMENSOLI: Okay. So this is Bishop Polding, the first Catholic Bishop in Australia. This goes back to a Commission that was held in the New South Wales Legislative Council at the time, 1845 and he said this. So I will just quote from he described the settlement of the colony as occupation by force, accompanied by murders. He put himself in the place of Aboriginal and Torres Strait Islander saying:

35 "Putting myself in that position..."

Of the Torres Strait Islander or an Aboriginal:

40 "... and taking away all that I know except that this is my country, that my father lived by pursuing the emu and the kangaroo, that I am driven away from my hunting grounds, that my children and tribe are subject to the grossest barbarities."

45 What was shown up on the screen a little earlier talking about barbarians is just an enormously troubling reality that this is - was part of the language. But I want to sort of indicate here that was not necessarily the language of the leaders of the Catholic Church at that time.

COMMISSIONER HUNTER: It happened across - the Doctrine of Discovery has been used a lot to take lands and it is over a period of time. And now you have distanced yourself from it, but at the time when the Catholic Church was associated with it did they stop it? That is probably the best way to put it. Yes or a no?

ARCHBISHOP COMENSOLI: There was a whole sectarian question going on at this point where Catholics were disenfranchised as well in our society, which is part of - another part of the history of this land.

COMMISSIONER HUNTER: Can I just ask another question of all of you? The churches are like sacred, okay, and protected. During that time were our sacred sites protected? And are they still protected as much as the church is?

BISHOP TRELOAR: No, they were not.

COMMISSIONER HUNTER: And are they still?

BISHOP TRELOAR: I think we are seeking to be more attentive and guided to learn about our responsibilities in that regard. We have - I would think as bishops we would now seek to know how we can be helpful in that space. But I think we are seeking wisdom in a that regard.

BISHOP BLACKWELL: Can I take the opportunity to go back to your question? And I want to voice my acknowledgment as well. I haven't actually voiced that. I am not going to expand much more, but I just wanted to verbally voice that and echo what Bishop Richard said and also your further question in regard to knowledge and so on. So I just wanted to acknowledge that verbally. And I think again reiterate in terms of what you are asking about sacred sites.

I think we can say confidently at the time there would have been a complete lack of awareness or if there was any awareness it would not have been given much credence. In terms of now I think I would be simply saying that that is part of the journey that we are on. I don't think I can actually - I think I just want to say that it is a journey and awareness and we are very aware much more now I think of being either in partnership or in consultation with the appropriate First Nations -

BISHOP TRELOAR: If I could give you a very quick example further to that in Gippsland. So we are in respectful partnership with GLaWAC, Gunaikurnai Land and Waters Aboriginal Corporation, around areas, you know, in that part of Gippsland that are sensitive, that are sacred. So having a direct relationship with the Elders through that corporation is part of that journey that we are on, part of the way that we can be informed and inform ourselves about our responsibilities in that regard.

COMMISSIONER WALTER: Just one thing on the Doctrine of Discovery and I know it wasn't written - it was in place for 500 years and only repudiated in March last year. That is an awful long time to be in place and not to be revoked.

5 **COMMISSIONER LOVETT:** I just wanted to come back to the word "partnership". Can you just explain briefly what you mean by being in partnership with GLaWAC? The partnership - partnership can be many different things. I just want clarity on partnership, please.

10 **BISHOP TRELOAR:** Thanks, Commissioner Lovett. It is perhaps a clumsy word. It is without presumption. It's really about wanting to build relationships, beginning with personal, direct relationships. You know, with, you know, people like Grattan Mullet and other Elders in the region who, you know, we are in regular contact with so we can hear the stories and learn from them. So it is that
15 kind of, you know, with all due humility, you know, trying to listen and learn from - from the local Elders.

COMMISSIONER LOVETT: And when you listen and learn how do you translate that through your everyday practices?

20 **BISHOP TRELOAR:** I guess, you know, we do that by trying to raise awareness. So part of my role is to try and do that through all of the different teaching and communications opportunities we have through the diocese, through our diocese, you know, and newspaper. So we are constantly referring to these
25 things, trying to - trying to build that - that teachable spirit, I guess, in the environments in which we work and through our - with our schools as well. That is a really important space for this kind of activity.

COMMISSIONER LOVETT: Okay, thank you.

30

MR GOODWIN: Thank you, Commissioners.

REVEREND FOTHERINGHAM: May I add a few notes?

35 **MR GOODWIN:** Yes. Sorry. Yes. It takes me a little while to find who is speaking.

REVEREND FOTHERINGHAM: Can I add, Commissioners, since I spoke this morning, I said we had not been able to find reference to our Assembly making comments about the Doctrine of Discovery. I have been informed our
40 national Assembly has, indeed, repudiated that at a national level. Can I comment that various missionaries in the name of the church have acted in different ways. There were some - there were some at some points who were, you know, certainly some who were worse.

45

There were some who were perhaps a little better than others, such as John Green at Coranderrk, which - I believe that the Commission has explored this previously,

so we don't - don't need to go over that again. I would also mention that whilst I am not aware of any mission in Victoria that respected language, I am aware that in other parts of this land now called Australia that there have been missionaries and churches who have worked in language and to learn language. I regret that I
5 am not aware of that being part of the Victorian experience.

MR GOODWIN: Thank you. And I wanted to turn to that complicated nuance of history that you have just highlighted, Reverend David. I think everyone's agreed about the devastating impact of missions and reserves as an act, but you
10 have highlighted in terms of the running of the missions there is - there is a complicated history, and Professor Henry Reynolds gave some evidence on that very issue to the Commissioners and said:

"It is very difficult to put out a very single rule about what the missions were
15 like. Some of them were, indeed, extremely punitive, you know they controlled everything including marriages, they also punished the use of traditional languages. They frequently separated children from parents by setting up dormitories. All these things are very common, but there was a
20 great variety of how punitive they were. Particularly the German missionaries from the very start had insisted that you have to learn the languages..."

He is referring to Aboriginal languages there:

".. and teach the gospel in the languages. So that experience has to be dealt
25 with mission by mission, but overall, yes, there was a great deal of control which they, no doubt, felt was in the interests of the First Nations, that they had to be treated like children for their own good."

30 And your reference to Reverend Green is also an interesting one, in terms of his evidence before the inquiry in 1881 into the circumstances at Coranderrk. He was asked:

"Did you find them..."
35

The Aboriginal residents at Coranderrk:

"...good workers?"

"Yes".
40

"You never had any reason to complain?"

"No, never."

45 "How did you manage when they disobeyed?"

You can see the assumptions in certain questions:

"Reasoned with them."

"You would not call in the police?"

5

"No, never."

"Did you ever have to punish the blacks?"

10 I am using the language of the day:

"No, I always treated they will as free men and reasoned with them. I made a law with their own sanction and also fined them of them for drinking. But that was the Aboriginal law that if any got drunk they were fined. They were

15

"Did you find them truthful as a rule?"

"Very."

20

"And honest?"

"Honest."

25 How - how as a church do you grapple with the complicated nature of that history in terms of, no doubt, not allowing good acts to describe the ultimate consequence, but nonetheless grapple as a church with that complicated history? I know that is a big question, but I am just - but so is every question involving religion. So I am interested in your reflection on that.

30

REVEREND FOTHERINGHAM: I think in terms of how we grapple with that complexity, the best answer that I can give is through truth-telling opportunities, such as I have had with my own congregation in the past and where we have needed to confront the history of the lands on which we have been located. The -

35

the overall complexity remains difficult, and so we are reliant on our work with - with First Peoples, in particular for us the Uniting Aboriginal and Islander Christian Congress, in terms of how we can best unpack that and do what is best for where we are now.

40 **MR GOODWIN:** And, Bishops Genieve and Richard, a similar question and by reference to an example that is before the Commission around Lake Tyers, and in particular, the efforts of John Bulmer and his relationship, close relationship with the people at Lake Tyers to the extent that the government was essentially - when they took over the running of Lake Tyers could not kick him out, even though they

45

wanted to and when he passed away, I think four years later after the government had taken over the mission, his wife and daughter were going to be evicted and a petition was written by Aboriginal residents at Lake Tyers asking for them to stay,

for John Bulmer's widow and daughter to stay, which was refused by the Board and they were in fact evicted. Again, the same question, given that complicated nature of the history of these places, how - how have you, and particularly as Bishop of Gippsland, but, Bishop Genieve, feel free to also contribute, how do you
5 grapple that complicated history?

BISHOP TRELOAR: It is - it is another paradox, isn't it, Tim. I have actually written about this in the current edition of our diocesan paper as a result of my, kind of, thinking about these questions. And it is true by all accounts, including
10 those of local residents, you know, John Bulmer who was the Church of England lay manager of Lake Tyers for 47 years, he was only ordained in 1904, towards the end of his life when Gippsland became a diocese.

By all accounts he was a caring decent, compassionate man, you know, relatively speaking and I want to underscore "relatively speaking". He encouraged traditional cultural practices and hunting. In fact, he settled on Lake Tyers partly, you know, partly because of its proximity to some of those opportunities. During the period of so-called mission tourism of the 1870s and 80s he encouraged a degree of economic independence for the residents of Lake Tyers through the
15 selling of artefacts, something that the Board explicitly discouraged.
20

The National Portrait Gallery in Canberra says he is unusual amongst contemporaries for recognising the merits of Aboriginal customs and laws and, you know, you have referred to those two in fact petitions to the Board, which
25 were unsuccessful to allow his widow and daughter to stay on the mission after he died in 1918 headed, "Give to us the people we would love to have among us" which says something to the paternal way he was held. But again, I'd want to stress that that paternal affection bespeaks the heart of the problem.

30 So he might have been a good man doing his best, but the system in which he was working in was irredeemably broken and so, you know, how do you try to work for good in a system that is so fundamentally flawed and broken? And so, you know, I have got - I have got just a very short excerpt of a 1962 poem by Kath Walker from her Aboriginal Charter of Rights poem. I wonder if I could have
35 leave to read. I think it sums up some of this. She says:

"Give us Christ, not crucifixion. Though baptised, blessed and bibles, we are still tabooed and libelled. You devout Salvation-sellers make us neighbours, not fringe-dwellers. Make us mates, not poor relations, citizens, not serfs on
40 stations".

And I think that is the kind of paradox that John Bulmer was operating in.

MR GOODWIN: And I know the Catholic Church was not involved directly in terms of the operations of missions and reserves, but just in terms of reflecting on a similar theme around the paradoxes as Bishop Treloar has mentioned, Bishop
45

Richard, Archbishop Peter, and, Mr O'Leary. The fifth Plenary Council of Australia in July 2022 acknowledged that the Catholic Church:

5 "Has been caught up in the history of dispossession, Stolen Generations, racism and the undermining of language and culture. Diocese eparchies..."

And I'm sorry if I am mispronouncing the word:

10 "...and religious institutes have made sincere efforts to create pastoral services with Aboriginal and Torres Strait Islander people. However, much suffering has been inflicted by the historically misguided attempts of those who were ignorant of the cultural richness of these peoples".

15 And I think your submission also highlights the Catholic Church's reaction to the Bringing Them Home Report in relation to Stolen Generations. In terms of that complicated here Uncle Brendan Kennedy, a Tati Tati Elder gave evidence before this Commission and in relation to his upbringing he said:

20 "I don't remember this, but my older siblings say that welfare tried to come and grab me and my little brother, because we had fair skin. We were safe at school. The Catholic school and that community kept us safe. The Catholic priest and nuns would come to our rescue from the welfare, they advocated for us. Our teachers were our godparents. My teacher's name is on my baptism certificate".

25

So again, there is a complicated history in relation to these matters and I presume you'd agree that that the Acts don't cancel each other out or things of that nature. But the same question, how do you as a church grapple with that complicated history?

30

ARCHBISHOP COMENSOLI: Yes. There has been - the reason why I asked if I could quote from Bishop Polding way back is that it gives something of the story of this, in a sense two paths that have happened within the life of Indigenous people in relation to the Catholic Church. There has been the path of always dignifying and seeking to find ways of enabling the Indigenous people to flourish. I think here schooling has been a crucial part of that across the country since the early 1800s, as a pattern around that.

35

40 But they are also a bit like I was going to say Father, you are not a Father, I am using the Catholic term, David, made reference of there being individuals and perhaps localised communities that have not followed that way in the history of that is there and that is where the apology comes out. This particular apology that I mentioned and this is what I was referring to, Commissioners, in the earlier session this morning. This was on top of apologies that had been offered on

45 various occasions in the past and actions taken in regards to it.

Going to Commissioner North's question that he posed prior to our break. The Plenary Council and national decision, a body of the church, put in place as part of what was acknowledged, also actions to be taken so we might be able to talk about that when that part comes. But it is a - it is a - two stories that have - one that has at times been terrible, and another story that at times has been dignifying and working towards justice. So you are naming of it as a very mixed reality of it is a fair point.

MR GOODWIN: And despite that would you accept that generally the Catholic Church and all - well, I will put it to you on the basis of the Catholic Church, but not limited to the Catholic Church, but the Catholic Church generally has benefited systemically from the dispossession of Aboriginal people from their lands?

ARCHBISHOP COMENSOLI: I am not sure if that is a - a story that can be told universally across the country. I think it is a different story in different parts of the country and my experience, at least here in, you know, the Victorian context, that has - there is little land grant was given, though there was some. And Tim might be able to speak to this more generally and I will pass that to him in a second. But that is not necessarily the story, say in the Kimberleys or in Far North Queensland, or so on.

But part of the story here is that the manner in - with the church founded itself here had some significant play into the relationship of Catholic Church into the State and so they had some different experiences. The Education Act of the 1870s is a significant thing here where, you know, the providing of schooling was significantly hampered because of the - of the Act itself, but there were ways in which then schooling was done by way of fund-raising. It was in local communities and that led to purchasing of lands, for instance, across - across the State that had been used for mission ever since. Might I be able to -

MR O'LEARY: I would certainly accept that the archdiocese has been the beneficiary of land and other supports from governments in the context of dispossession. I think that's right. I think as you have indicated, the church has made sincere efforts to translate those benefits into services for both Catholic First Peoples and non-Catholic First Peoples, for Catholics and non-Catholics. I think in our context particularly there has been a massive investment in education. The great bulk, I think of our assets, land and buildings has come with no government support, so that has been built up. The patrimony has been built up over a long period of time.

MR GOODWIN: Commissioners, I am going to move into land issues that has just been raised by Mr O'Leary. Were there any questions? I just wanted to provide an opportunity, whether there were any further questions in relation to particularly the history of the State and the operation of reserves and missions before I move on.

COMMISSIONER HUNTER: Yeah. Can I just talk about the system that you worked in, you said it was broken. I just want to make a comment. It was never broken. It worked intend - what it intended to do it did to First Peoples. This was no - as Commissioner Lovett put out, this was no mistake of what it meant to do and the superiority of it. So let us be really clear. And we are getting this sanitised version and I just want to point out the brutality of the history of First Peoples.

10 It was brutal and it was swift and the churches had a part in that, whether it is current history or current and we need to recognise and I just also wanted to point out for those in the room and those listening, that have had these past effects, that if you in any way shape or form, we have got 13YARN to call. But I just feel that we are getting this sanitised version of genocide of First Peoples, not only genocides of people, of language, of culture, of land.

15 And we are all sitting here talking like, yes, this happened, that happened, and we had the effects rippling through our communities today, and that is why we are in this room. And I just felt like it wasn't recognised and I just want to honour all those people who went through all those institutions, be it missions or institutions today who are sitting here listening to this, that we recognise the pain and the brutality that you or your people before you went through. Thank you.

BISHOP TRELOAR: Thank you, Commissioner Hunter. I agree categorically with those comments and I'm really helped by that connection and I return to some of my earlier language in relation to the point you make. Thank you.

MR GOODWIN: Did anyone else want to respond?

ARCHBISHOP COMENSOLI: Just to acknowledge and to thank you to indicate that you heard the different stories about the churches as distinct from the church more broadly.

BISHOP BLACKWELL: I think what I would add that I think part of what goes on in trying to acknowledge the nuanced story is that the danger becomes there is self-justification that goes on and that contaminates a truth-telling process. I use the word "contaminate", but actually in another way it is actually part of a journey of a truth-telling process that gets to the heart. So I just want to acknowledge that as well.

40 **REVEREND FOTHERINGHAM:** May I just make one comment that in the covenant that the Uniting Church made with the UIACC, there was recognition. And certainly Pastor Bill Hollingsworth made the remarks in his response that in many ways - and I don't have the quote directly in front of me, but in many ways we saw ourselves as smoothing the pillow for a dying race and we - we
45 acknowledge that to our shame, that this was what was occurring and was a reflection of the attitude at the time.

MR GOODWIN: Thank you. So I just want to ask some questions around - around ownership of land. And, Mr O'Leary, thank you for introducing the topic. Just before I ask some general questions, Mr O'Leary, you'd accept that whether or not purchased or granted by government, ultimately any land held by the churches
5 involved in some shape or form the dispossession of Aboriginal people from their land?

MR O'LEARY: I suppose you would need to make distinction around whether it was land obtained very early in the period or are we talking about something, a
10 recent purchase of land in the last 10 years? I think perhaps it is a bit more nuanced that all land is treated like that.

MR GOODWIN: I mean from the original act of dispossession. I am not seeking to put or ascribe a particular responsibility to particular acts of sale, purchase or grant, but generally as a proposition that - that all dealings with land
15 has, as a necessary foundation, all dealings in land that don't involve First Nations people, as a matter of first principle must have involved dispossession of Aboriginal people of ownership of that land.

MR O'LEARY: I certainly acknowledge the archdiocese is part of that history of dispossession and I also accept that we have been the beneficiary of land and
20 others.

MR GOODWIN: Thank you. My understanding from the submissions is each church holds land through property trusts established primarily for that purpose. If
25 I have got that understanding correct.

MR O'LEARY: Yes.

MR GOODWIN: And although each of you has acknowledged that the records are poor in that regard, and I think the Catholic Church have already acknowledged that its likely to have received grants of land from government, but likely to be small in nature, given the circumstances of the Catholic Church in the
30 19th century in Australia. But turning to each of the other churches, Reverend David, is it likely that the predecessor churches to the Uniting Church received grants of land for little or no consideration in the 19th century?
35

REVEREND FOTHERINGHAM: Yes, it is. Some of our predecessor churches refused such grants, because they did not want to be beholden to the government and they had a strong - strong sense of that. But certainly yes, I agree that some of our predecessor churches received land in that way.
40

MR GOODWIN: The same question to Bishops Genieve and Richard.

BISHOP BLACKWELL: Yes, we did. The Anglican Church did and that is listed in our submission in what we are aware of from our records.
45

MR GOODWIN: And they are - at least in the time that has been available to the churches, it's difficult to differentiate what current holdings might have been as a result of grants of land by government for little or no consideration, or at least less than market value and other purchased land that might have been purchased on the market. I think I am right, Bishop Genieve by saying that, that it is difficult to
5 unpick some of those distinctions.

BISHOP BLACKWELL: I think what I would say is that we gave you, to the best of our ability what we could in the timeframe. What - I think it is important
10 to point out that there was sources of land over time come from Crown grants. This is my understanding, so stand corrected - if anything needs correcting from the diocesan office, please, take that note. But my understanding from both my submission and just from my knowledge of working there in the diocese, is that land comes from both Crown grants, purchases and also bequests.
15

And I think it is important to acknowledge that as well, in part of the fact there were people as members of the Anglican Church who could actually, I suppose be wealthy enough to make bequests. So I think that is important to acknowledge and what we tried to do for the diocese of Melbourne was give two snapshots in
20 time, but we fully recognise that a fuller picture would really go through right to the present day and some form of reconciliation of that in terms of what the proportions were.

MR GOODWIN: And just to put some figures on the table. So for the Anglican Church to the best estimate that has been provided to the Commission, the
25 property trust holds an estimated 260.05 hectares of land in Victoria, which is estimated to be worth approximately \$1.49 billion. The diocese of Melbourne itself holds \$1.838 billion worth of that total, but acknowledges that that value does not include the value of buildings and improvements on the land.
30

In those circumstances, given that some of that value will be ascribed to grants of land by government for little or no consideration, doesn't that in and of itself highlight - well, I should go a step back. The information before the Commission is that under Native Title and Traditional Owner Settlement Act settlements, First
35 Nations Traditional Owners - there would not be a First Nations Traditional Owner group that has such land and to that value. In those circumstances, doesn't that itself highlight a disparity in the treatment of churches and First Peoples, and particularly given the dispossession of First Peoples from their land as being a central or part of the story of this State?
40

BISHOP BLACKWELL: Yes.

BISHOP TRELOAR: I think that is absolutely right. It is a shameful irony that at the same time as some of those policies we were speaking about a little earlier
45 were being enacted that there was a kind of colonial project of State aid to churches in the mid-1850s to 1870s, until the Abolition Act came into force. And

there is no question that there is a incredible disparity of land injustice, land justice outcomes between the Anglican Church and First Nations Victorians.

5 **COMMISSIONER LOVETT:** Just while we have been talking about the figures, I will just jump in here and recognise the transparency in which you have come to this process around the - being able to articulate the figures here, so I just wanted to recognise that.

10 **MR GOODWIN:** Reverend David, I am not going to discuss the value or size of land holdings, but just generally as a proposition in terms of grants of land that you acknowledge are likely to have occurred to the church for little to no consideration again, the same question. Doesn't that highlight a disparity in the treatment of churches and First Peoples that is particularly egregious in the circumstances of the dispossession of Aboriginal Victorians?

15 **ARCHBISHOP COMENSOLI:** Yes, it does, yes.

20 **MR GOODWIN:** And I know that the Catholic Church is in a slightly unique position in relation to its property holdings, but, nonetheless, in terms of any grants of land that might have occurred for little to no consideration, would the church also accept that that highlights a disparity between the treatment of churches and First Peoples?

25 **REVEREND FOTHERINGHAM:** I think that disparity is - we certainly would accept that.

30 **MR GOODWIN:** The State Aid to Religion Abolition Act was passed in 1871 and this is particularly relevant to the Uniting and other churches, particularly in grants of land. That Act provided that no further money would be set aside by the Victorian government for the advancement of the Christian religious that all lands previously granted to denominations may be disposed of. It requires an application to government as I understand it to dispose for certain lands set aside for religious purposes.

35 A number of sales have occurred, no doubt in the past 10 years, and the Anglican Church have provided a figure of 108 properties being sold in the past 10 years for sales of just less than \$68 million. Has any of that money been set aside - acknowledging that there will again, be a difference in terms of the grant of that land or purchase, or the nature of that land. But has there been any setting aside of
40 any moneys for either Traditional Owners or Aboriginal Victorians more generally?

45 **BISHOP BLACKWELL:** Can I speak particularly in the diocese of Melbourne? I am only aware of one thing and it is not specifically the State of Victoria. There was a sale of a property that - and the proceeds of that was very consciously contributed towards to help fund, I believe it is the national - not so much NATSIAC, but the appointment of an Aboriginal Bishop. Now, I think if

Archbishop Phillip was here he would be able to speak to that more confidently on the details, because it precedes my time in Melbourne, but I am aware that that is actually one thing. In terms of other proceeds particularly from sale of property to then the money then going specifically to Indigenous either Ministries or in terms
 5 - or Indigenous Corporations and so on, I think the answer is no. I am not aware of anything in the diocese of Melbourne I am speaking of.

BISHOP TRELOAR: If I might just speak on behalf of the diocese of Gippsland, we have a policy that from all land sales in the diocese, whatever their
 10 provenance, 1.5 per cent is set aside for Aboriginal Ministry and by "Ministry" here I'm alluding to the two Aboriginal priests I mentioned in my opening comments. I am talking about more than religious activities. This is - includes
 outreach to the community through rites of passage in times of grief and crisis, material support referrals, pastoral care and school and agency governance. 1.5
 15 per cent is a woefully inadequate figure, and I want to acknowledge that and I want to acknowledge that land injustice causes systemic disadvantage and legacy trauma.

COMMISSIONER HUNTER: In acknowledging that, is that 1.5 per cent going
 20 to go up at all?

BISHOP TRELOAR: That is our hope. Our sincere hope.

COMMISSIONER HUNTER: That would be our hope as well.
 25

BISHOP TRELOAR: Just to clarify in a little bit. I don't want to over nuance this, but that is 1.5 per cent of the 20 per cent that the diocese retains from land sales. So it is - you know it is a slightly higher factor of that smaller pie, but our
 30 aspiration is that number increases.

COMMISSIONER HUNTER: And what does that go to? Like, what is something it has gone to that you could -

BISHOP TRELOAR: That directly supports Aboriginal Ministry in the diocese,
 35 which is funded entirely by the diocese through land sales through grants, applications, through individual donations and as I mentioned earlier -

COMMISSIONER HUNTER: Sorry to interrupt. If you are also getting grants that would mean that that 1.5 is not enough or is that the grants out of 19.5.
 40

BISHOP TRELOAR: We fund any shortfall from reserves, so we are committed to supporting Aunty Phyllis and Kathy in their Ministries and in their communities and so we fund that through the 1.5 per cent of land sales plus, you know, any other contributions that we receive. But we will fund any shortfall from our
 45 reserves.

COMMISSIONER HUNTER: If I went and asked them, would they say it is enough?

5 **BISHOP TRELOAR:** I don't - I hesitate to speak for them. We work very closely with them and you know, I mean in kind of weekly contact with them and certainly if they have any needs over and above what we provide in terms of - of supporting their Ministries, they - they are in touch and we respond to those, you know, at the time. We would - we would love - we just recently increased Kathy's fraction of engagement and we would love to be able to continue that journey. So, 10 yes, we need to be contributing more, you know, to that.

COMMISSIONER LOVETT: One of the - we use the word "investment" - it seems to be back internally, as you have articulated yourself there. And it is important to, obviously, do that, but we have heard and we have spoken a lot 15 about the trauma and the taking away of culture, identity, you know, practices, language. I am trying to grapple in my mind around how come there hasn't been enough investment, given the role of churches on the missions to take that away.

20 But the lack of investment to empower our Traditional Owner groups and you talk about Gunaikurnai, around a partnership, which is - I know we were going to get to this, which is why I asked you the words about partnership a little bit earlier. But I am grappling with how much investment, if any, well, how much investment is going back into Traditional Owner groups to strengthen their ability to invest in language, culture and traditions. So we are hearing about land and the sales of 25 land and the reinvestment there, but what about - what is going out to our people to, you know, to right the wrongs that you have articulated that has been wrong?

BISHOP TRELOAR: Thanks, Commissioner Lovett.

30 **COMMISSIONER LOVETT:** The same to also Genieve as well.

COMMISSIONER WALTER: Genieve.

35 **BISHOP TRELOAR:** I am glad you asked that question, because I can understand how what I have just described could be seen to be circular or self-serving. So I just – that's why I tried to explain a little bit about what Ministry means in our context. And so, you know, Aunty Phyllis and Kathy really work outside the church structures in their community groups and they are deliberately and intentionally set free to do that.

40 **COMMISSIONER LOVETT:** I understand that. Yes. And I know the individuals. But again, the question is how much investment has gone from your organisation as a whole, back to Traditional Owner groups to help them reclaim their culture, their identity, which the organisations that you represent knowingly 45 and strategically took away from our people?

BISHOP BLACKWELL: As I answered to Mr Goodwin, as a diocese in terms of sale of land the answer is none to this point. I am aware of a parish within Melbourne who does actually include in its budget an amount given to the Wurundjeri Corporation, that very thinking that you are talking about. I want to
5 emphasise I am talking about one parish. I want to emphasise I am talking about a very small part of their budget, but I just want to name that. The other thing I can only say, so in one sense I could just stop there and say that is the end.

10 In the submission that we gave we did - if you look through the sections that actually refer to Synod motions and submissions that have been made, including from an Aboriginal Council to - group at that stage to the Provincial Council. There was definite mention of an amount to come from property to be invested as you are talking about, or handed back in that sense, and that at the moment has not
15 eventuated. Where we are up to as a diocese is looking at our strategy around property.

We are aware both of wanting to be informed by the Provincial Aboriginal and - the pilot project of which Bishop Richard spoke earlier, as well as what comes from the Yoorrook Justice Commission, because since that - from when that was
20 first proposed it was since then the Yoorrook Justice Commission was established and that was proposed just pre-COVID, so - no, a couple of years before COVID. So I am saying it is a work-in-progress. It is very much there in the thinking of how does this - as we move forward as a diocese looking at our property strategy, which includes what happens terms of sale of land, where does that thinking fit.
25

I want to ask openly acknowledge that within the church there will be a debate and this is where I think it is also important what comes from the Yoorrook Justice Commission recommendations to government and then how government acts in response. There will be a debate about whether things - should that support
30 Aboriginal Ministry or should that support as you are indicating, Aboriginal Corporations and you know recognise leadership. So, though - what comes from the Yoorrook Justice Commission to government I think will be important in that in helping to shape the debate and form the consideration in the church leadership is what I am trying to say.
35

COMMISSIONER LOVETT: I mean, you know, the investment internally could be further seen by Aboriginal community as investing yourselves or protecting yourselves. So I just want to make that point.

40 **BISHOP BLACKWELL:** Yes.

COMMISSIONER LOVETT: It is really important. Yes, we have had the ability to read all the statements that come before Yoorrook, but our community you know don't have the ability and the time to be able to work through everyone's
45 statements here as well. But I had just like to give the opportunity to Reverend David, I think it was, to respond to my question.

MR GOODWIN: And just to set up the factual foundation for the answer to that question as well, the Uniting Church as we know from its submission had a program of transfer of real property in the mid-1980s and now also has a policy around provision of funds from sales since - in some shape or form since 2011,
5 with those funds going to the operation of Congress. So I thought I would quickly highlight that before you answer.

REVEREND FOTHERINGHAM: Thank you, Counsel. And yes, indeed, I was going to highlight those items as well, that certainly we did make some direct
10 transfers of land in the 80s, and we - we do - a proportion of sales proceeds in a similar sort of fashion goes to Congress, but our funding to Congress is topped up and not limited to that proportion of sales proceeds in a very similar sort of manner. I think to your - to the heart of your question, though, we don't have an ongoing policy of transfer to Traditional Owners or - or working with Traditional
15 Owners in that respect. So, yes, we have to own that we don't have that.

COMMISSIONER LOVETT: And how does that sit with you? Just hearing what you have today and shared.

20 **REVEREND FOTHERINGHAM:** Uncomfortably.

COMMISSIONER LOVETT: Any other words?

REVEREND FOTHERINGHAM: Look, I think it is a matter that we need to
25 address as a church and I think as Bishop Genieve said, the recommendations and directions of this Commission are going to be helpful to us as we navigate a way forward.

COMMISSIONER HUNTER: Can I just have a follow-on question about that?
30 So many of the lands of the churches are on stolen lands and the proceeds of selling these churches or these lands goes directly back to the churches. How does that sit with your - with your Christian beliefs?

ARCHBISHOP COMENSOLI: Can I offer something in that regard? Certainly
35 from our perspective it goes back into mission work not into -

COMMISSIONER HUNTER: It goes back to your work, and your values or your systems of structured of churches. It's stolen land and you collect of
40 proceeds of that. And you have those beliefs and values, how do you work this out?

ARCHBISHOP COMENSOLI: It goes to something like Catholic Aboriginal
45 Ministry which is run and operated and focused on Indigenous peoples, not only Catholic, but non-Catholic as an example.

COMMISSIONER HUNTER: So that is an example, but if you want to use that example how much of those proceeds are going to them?

ARCHBISHOP COMENSOLI: So we fund the full - both the location, the staff that are employed, the programs that are run, the ancillary aspects, something like Open the Door Foundation. So the funding of Aboriginal and Torres Strait
5 Islander children in any non-government school in the State, whether Catholic or not, so there is some examples. I went through them with you early on.

COMMISSIONER HUNTER: I guess we can't talk about the dollars of the estate of the Catholics, but to me I don't think after hearing one it would not be a
10 very huge amount.

ARCHBISHOP COMENSOLI: It would be very substantial, though, yearly.

COMMISSIONER HUNTER: If you can't talk about the dollars, then we can't
15 say it is substantial, can we?

REVEREND FOTHERINGHAM: Commissioner, if I may, I think you ask an interesting question and important, interesting not just in an academic sense. Part of the reality is all the assets we hold are held in charitable trust and so we - so we
20 - we have some responsibilities to act in accordance with the trust and so we have to ensure whatever mechanisms we might find for transfers or the realisation of property in some way, it has to fit. For us in the legal sense, we - we have to abide by our obligations under the trust.

COMMISSIONER HUNTER: Yes, and I appreciate that, but it is a white
25 system on stolen land - just putting that out there.

REVEREND FOTHERINGHAM: Not disputing that at all.

COMMISSIONER WALTER: And just to follow on from that, the moneys
30 didn't put themselves in the trust by themselves, did they?

REVEREND FOTHERINGHAM: Correct.

COMMISSIONER NORTH: Mr Goodwin, I have a few things to raise.
35

MR GOODWIN: Perfect timing. I was going to turn to your homework.

COMMISSIONER NORTH: Thank you. Firstly, Archbishop when a moment
40 ago Commissioner Hunter described the situation as "the land was stolen", I noticed that your expression - you winced as if I thought you were questioning whether that was a proper description of the situation. Do I get that wrong?

ARCHBISHOP COMENSOLI: You got that very wrong. Sorry, but not at all.
45 Whatever my face was doing at that time I do not - it was not a rejection of what the Commissioner was putting forward.

COMMISSIONER NORTH: So this really is very important. You accept, do you, that the land on which we meet and which is called Victoria was, in fact, stolen from the Indigenous people? It was illegally acquired. Not a difficult question. It is either right or it is wrong and you responded to it -

5

ARCHBISHOP COMENSOLI: Sovereignty remains.

COMMISSIONER NORTH: Sorry?

10 **ARCHBISHOP COMENSOLI:** Sovereignty remains, and land is caught up in sovereignty.

COMMISSIONER NORTH: Maybe you could expand on that.

15 **ARCHBISHOP COMENSOLI:** So that this sovereignty was not ceded. That sovereignty is not just a matter of civil structure or so on, but that it goes to the actual identity and life of, including the land. We began I think a very first part of our conversation today was just how spiritually, that was it, I am remembering
20 sense of sovereignty.

And so how then might the work be considered as to how that is - continues to be acknowledged, not only acknowledged by way of word, but by way of action and how that might be worked towards systems of justice going forward I think is
25 going to be very much the work of the Commission to be able to make recommendations around that.

COMMISSIONER NORTH: When you talk of sovereignty not being ceded, you speak about it as a concept coming from Indigenous people. I am asking
30 about what your concept of the land acquisition was, not what they say, but do you accept that the land was stolen?

ARCHBISHOP COMENSOLI: I would accept that parts - I would accept that the concept of land generally has - it was stolen, but I can't talk about that in terms
35 of this parcel of land and that parcel -

COMMISSIONER NORTH: I am not asking you about parcels.

40 **ARCHBISHOP COMENSOLI:** The land, the land.

COMMISSIONER NORTH: If the territory of Victoria was acquired illegally at the time of settlement? It is a very basic foundation of our whole inquiry.

45 **ARCHBISHOP COMENSOLI:** Yes. And that has been already determined by us as a nation. We have said no to terra nullius. Good that we have said no to terra nullius.

COMMISSIONER NORTH: Right. The second thing I would like to observe is that the questions that have been asked, particularly of the Anglican Church are based on submissions which are public. No questions have been asked of the other two churches by reference to figures of land ownership, because there is in
5 place a - an application to keep those figures confidential, a matter which we have stood over for another day. But I would not want those who are commenting on the evidence to focus on the forthcoming nature of the Anglican Church without at the same time understanding that the absence of questioning to the others is for a technical legal reason.

10

And the third thing is and I am sorry it is come at the very end and we are limited in time but I would like a response if you are able to concisely answer the questions I asked earlier on notice to you.

15 **BISHOP BLACKWELL:** Can you reiterate the question? Because it just - in one sense there has been Mr Goodwin's question, but if you can just reiterate for conciseness?

COMMISSIONER NORTH: The question was really this, that we have heard
20 an acceptance about and details of the injustice directed to Indigenous people. That is part of our remit to report on that, but very importantly for both the Indigenous citizens of Victoria and the non-Indigenous citizens, we need to know what you think about "where to from here". You are all part of large organisations with capacity to assist society, redress the wrongs and you are here because you
25 are the voice of the conscious of large parts of Victoria. Against that background, my question is – what are the positive steps that you say we should be recommending that your organisations undertake in response to the acknowledged injustices which you have described?

30 **MR GOODWIN:** And just while I give you an opportunity to pause and reflect to answer to that question, I should say Archbishop Peter had to leave at 1.30. So I will leave to you if you have to – if you have to – or you would like to go first.

35 **ARCHBISHOP COMENSOLI:** Yes, it is okay. Unfortunately, I have to get on a plane and they don't stay.

COMMISSIONER LOVETT: Bonza.

40 **MR GOODWIN:** (Indistinct).

ARCHBISHOP COMENSOLI: Five things came out at the Plenary Council you might remember I mentioned. I will summarise them. You can read them, and I am sure we can provide them to you. So these are recommendations that came to us from the National Catholic Aboriginal and Torres Strait Islander
45 Council, so from amongst the Indigenous peoples of the Catholic Church. These are what they recommended to the church in Australia and which we have adopted just to say that.

So just I am shortening it, so you haven't - so cross-cultural competency training and appropriate Ministerial training, and formation and into courses of cultural appropriation and retreat work. Symbols and rituals that are appropriately used
 5 and to enrich our own celebrations, and to facilitate welcoming environment for Indigenous peoples. That our schools and our parishes, organisations acknowledge in a prominent and appropriate manner the lands of the Indigenous peoples in which those places are located, and to always have an acknowledgment of that in meetings and at our celebrations. And finally, to unearth and discover
 10 the genius and the gifts of our Aboriginal and Torres Strait Islander people through inclusion in committees, boards, decision making bodies.

COMMISSIONER NORTH: So there is no provision for a financial reparation scheme to address the question of land acquisition?
 15

ARCHBISHOP COMENSOLI: Not at this stage nationally, yes.

COMMISSIONER LOVETT: Can I just say before you do take off, we talk in the Aboriginal community about unfinished business. Now, we have been able to
 20 uncover and unpack quite a lot today, but there are still quite a lot of subject matters and areas we haven't been able to get to due to time and you having to rush off. I recognise you have stayed on a bit longer than we initially anticipated, but if we are required to ask you to come back at a later stage to further, I guess, the conversation would you be open to that?
 25

ARCHBISHOP COMENSOLI: Yes.

COMMISSIONER LOVETT: Thank you.

COMMISSIONER NORTH: Thank you very much for attending anyway, Archbishop.
 30

ARCHBISHOP COMENSOLI: I do apologise to Commissioners, I do.

COMMISSIONER HUNTER: Can I ask a quick yes or no question? It's really a yes or no, really. Do you support Treaty or Treaties for First Peoples in this State?
 35

ARCHBISHOP COMENSOLI: I think they should be examined, yes.
 40

COMMISSIONER HUNTER: Thank you.

MR GOODWIN: I should note the submission says that too, Commissioner. Yes.
 45

REVEREND FOTHERINGHAM: Certainly. Thank you, Commissioner North, for your question. The - picking up some of those things, the Uniting Church -

first of all, let me say to with respect to Treaty, I think Treaty is very important and the Uniting Church, in fact, since 1981 I think has been advocating for treaty. And I think ongoing advocacy by the church is - is certainly one thing that we can offer and will offer.

5

In the same way that we sought to advocate for Voice and we certainly support the truth work of this Commission, and I think - I think the ordering is important. This work of truth-telling is going to inform the shape of Treaty, so - so - so that is going to be helpful. I recognise that in terms of when making Treaty this needs to be First People-led, and so in some ways I want to be cautious about what kind of formula or approach we should be wanting to take. But we are certainly open to the conversation. We are committed to the conversation.

10

COMMISSIONER NORTH: You don't have a policy, an action statement that involves a scheme of reparation to address, for instance, land and water injustice of the past?

15

REVEREND FOTHERINGHAM: No. Not beyond any of the actions that we have previously taken.

20

BISHOP BLACKWELL: In terms of the diocese of Melbourne, the answer is no, but the qualification to that is what I mentioned earlier around the property strategy being looked at, and that that has been named as one of the considerations that needs to come into that, but I can't say that it is a determined policy at this stage. The other thing I would say in terms of the Province is I think that it is important the role - that we are establishing - that the Council is being established, and the appointment of the Reverend Canon Glenn Loughrey as an archdeacon in that role. And what the Council is hoping to achieve and some important things around encouragement - sorry - the enlarging of numbers of Indigenous people in leadership in the church, both lay and ordained. And Bishop Richard referred to other things in terms of the ongoing sustaining nature of that.

25

30

In terms of now what is been put into that is the diocese of Melbourne and the diocese of Bendigo supporting the appointment - the financial appointment - financially the appointment of the - of the archdeacon, so. And - it is Bishop - as Bishop Richard said earlier, what it is hoped to achieve as well, not just the Council but the Council informing, our Provincial Council that we can actually make that an ongoing sustainable trust, to sustain that work and so on. So - but I can't say that it is actually achieved yet, but I can say that to all five dioceses have committed to that, through the Provincial Council and two dioceses have taken the lead in terms of financially supporting that.

35

40

BISHOP TRELOAR: Mr Goodwin, can I pick up something that Reverend David said on answering that question? I think I said earlier that it is hard to preach the gospel with integrity on stolen land and I think it goes towards the entire proclamation. And part of our journey as church leaders is to help the

45

clergy and people grapple with the heart of the spiritual and material issues that are at stake in the questions we have been discussing today.

5 I was mindful of Uncle Robbie Thorpe, you know, when he expressed some reservations about coming before the Commission on the basis that he would not expect to hear the truth from people and organisations that have created - that have done the damage. And I think one of our is aspirations would be to shift that expectation and to be, as David said, you know, to really deal with our truth-telling piece. We of all people ought to know that the truth will set us free. I
10 just want to echo what you said about that David as part of the process.

MR GOODWIN: Thank you, Commissioners. I have no further questions arising out of that. So -

15 **COMMISSIONER LOVETT:** I just want to make a statement here. I'd just like to acknowledge in all our discussion today the missions run by churches as places supposedly to protect First Peoples, they were the places where families were separated through the Half-Caste Act and from which children were taken away, off to institutions. As mentioned by community member, Sissy Austin on our
20 livestream today we remember the beautiful and heartbreaking songs of Uncle Archie Roach.

I also wanted to open up the opportunity for you to - is there anything further you would like to share with Aboriginal people listening today? Again, precursing that
25 they may not have had an opportunity to read your statements and then secondary, to your own commitment moving forward. So first, to our people is there anything further you would like to share?

30 **BISHOP TRELOAR:** Just echoing your statement, Commissioner Lovett, I would just want to reiterate the apologies to First Nations peoples who were traumatised and dispossessed. That cultural genocide piece we spoke about earlier, I just want to acknowledge the truth of that and offer our commitment to continue to work towards reparation.

35 **MR O'LEARY:** Perhaps I just might echo the acknowledgement in our statement around the importance with which the archdiocese holds the Yoorrook Justice Commission in investigating and reporting on the historical and systemic injustices perpetrated on First Peoples in the State of Victoria and I am very grateful to be part of the opportunity to be part of this today.
40

REVEREND FOTHERINGHAM: And I would also like to acknowledge the intergenerational harm and the harm that has come from the involvement of churches in missions and the injustice that we are recognising in terms of land
45 injustice and the consequent intergenerational injustice. So we certainly acknowledge that. Did you want us to speak to our membership in the same -

BISHOP BLACKWELL: Can I just add one more thing? To the First Nations people I would like to also acknowledge your continued willingness to be speaking with us, as evidenced by being present today, but also the willingness to be consulted say, for example, through the Wurundjeri Council and so on, in many
5 different ways. I just want to acknowledge that it is an incredible sign of grace and I just want to acknowledge that.

COMMISSIONER LOVETT: I think just the secondary comment about not just people who are attending church, but society more broadly. Aboriginal people
10 carry a lot of trauma, but also the resistance. We have resisted from day one. What is your role in the ongoing education and in society more broadly about truth-telling. But also what needs to change? Anyone can go first, no preference. It was raised by Counsel earlier.

REVEREND FOTHERINGHAM: Perhaps, Commissioner Lovett, if I could respond in terms of the way you invited us to speak to our membership, if I can respond in those terms.

COMMISSIONER LOVETT: And then more broadly the Victorian community
20 if that's okay, as well.

REVEREND FOTHERINGHAM: Okay. I guess to our own membership I would want to take this opportunity to remind ourselves that we are on stolen land and to recognise the importance of acknowledging Country in - in all that we do.
25 Hearing the truth such as is being brought to light through this Commission for - for - for those who perhaps haven't investigated this fully before now. It is - it is really important for us to hear this, and to look forward for more just outcomes for First Peoples, recognising the intergenerational harm that has come about.

30 So I would say that to our membership, and - and to the Victorian people, I would equally encourage engagement with this understanding of what has happened - what is the history of this - these lands now called Victoria, and to engage with the recommendations from this Commission and to work forward, towards treaty and truth. And we look forward to walking together for a better outcome for all of our
35 children and all of our people.

BISHOP TRELOAR: For our own people I would ask that we remember that so much of what we take for granted is on stolen land, is built on the lie of terra nullius, on the original sin of Australia's colonisation and to take to heart the
40 spiritual nature of that. And as Bishop John McIntyre, one of my predecessors said, the unhealed wound that lies at the heart of our church and our nation. And until we really face into that it is going to be very difficult to move forward.

45 As a church in society tradition, I guess, I would say to the wider community that the church wants to be part of a society-wide solution or a way of means of addressing this problem with the advice of the Yoorrook Justice Commission, that we do not seek to have a separate jurisdiction. That we want to work with you,

and we - that we look forward to the outcomes of this - of this process in which we are - we feel very privileged to be invited to participate.

5 **BISHOP BLACKWELL:** I think what I would add to what Bishop Richard said in terms to our own membership, in terms of the importance of confronting truth and history is also the recognition that that can be painful, that it is important to sit with, but also to recognise that moving forward and moving forward justly, costs and that part of the - that will only make sense if one sits with truth and so I just would say that to our membership.

10 And the other - to the wider society is to recognise and to own the fact that as the Christian Church we have been complicit in that injustice, that at the same time want to move forward and be part of the solution and recognise that - that whereas other peoples have come later we are part of that story from the start of that
15 injustice.

COMMISSIONER LOVETT: Thank you. And my last question is about truth, but also Treaty and you have all mentioned it. Have you thought about whether there should be settlement agreements or Treaties between your church and First
20 Peoples whose Country your churches operate on?

BISHOP BLACKWELL: You will be aware from the submission that the cathedral, our home church of the diocese and - of the Province - sorry - and I am a member of the chapter of the cathedral, has made that commitment. I think to
25 date - commitment to Treaty, but I think - and to furthering that advocating for it. In terms of the detail you mention, I don't think there has been detailed discussion to this point.

30 There has been a request from our - to our sub-committee because it is only a recent commitment that we have made, for them to make recommendations to us for the chapter to consider. So I think the short answer to your question is it is not that the question - well, it is simply that there hasn't been consideration to that detail to this point.

35 **COMMISSIONER LOVETT:** But you are open to it is probably the point I am trying to -

BISHOP TRELOAR: Correct. Yes.

40 **COMMISSIONER LOVETT:** - understand -

BISHOP TRELOAR: Should there be - yes, yes.

45 **REVEREND FOTHERINGHAM:** Commissioner, likewise, we have not given consideration to a Treaty between the church and Traditional Owners as such as much as we support the Treaty process. However, if that is - we would certainly

be open to considering that and I am - obviously that would need to work through various governance things, but we would absolutely be open to considering that.

COMMISSIONER LOVETT: Thank you, thanks.

5

MR GOODWIN: I don't know if, Mr O'Leary, you wanted to mention anything at that point.

MR O'LEARY: That is not something that we have considered. I am not aware that is something we have considered at this point.

10

COMMISSIONER LOVETT: Open to considering it?

MR O'LEARY: I think as the Archbishop indicated that he was open to considering the issue of Treaty, what form or what shape that takes.

15

COMMISSIONER LOVETT: Yes, I think there is two different parts. There is the Treaty with the State and what I am talking about is a Treaty directly with the church. So we'd need to seek clarity on that, maybe that one can be taken on notice. Thanks.

20

MR O'LEARY: Certainly.

COMMISSIONER NORTH: Mr Goodwin, the Land Injustice block is about to conclude possibly at the end of this session and during the hearings we have heard, particularly from government, many statements of acceptance of the injustice of the past. And I treat those as having been genuine expressions and that is a considerable advance for our society in Victoria. What was often lacking in the evidence of the State was any commitment to actions apart from policies and frameworks, and pieces of paper. And there was, I think, revealed a fairly unhappy state of inconclusiveness about many of the policies.

25

30

We come here today on probably the last day, hearing evidence from conscience leaders of our society and again, the same acceptance of the truth about the past. But again, and, in fact, more so a shattering silence about actions to redress it, taken internally on your own initiative. I find that really saddening and I am hoping, against hope, that this Commission, at least, will spur organisations like yours that have leadership of the conscience of our community at heart to look within the organisations for ways of tangibly addressing.

35

40

Now, there have been some small movements that have been referred to, but this is a shattering overall impression of, at least mine, from this block of hearings that we have had many expressions of genuine acceptance of the past, but no effective ways of addressing them, despite those good feelings. Treaty is one answer. It is not the only answer. So I hope that my expectations of a change can come to fruition.

45

MR GOODWIN: I have got no questions. It only remains to adjourn.

COMMISSIONER HUNTER: I just have a comment. I don't expect a response. And Commissioner Lovett brought this up and it just reminded me that Uncle
 5 Archie - and I hope I don't get emotional - who couldn't give evidence, he took the pain and the hurt inflicted by the churches in his song to the world, that it is just - I am going to do this for him. And I want you to reflect on this:

10 "...they fenced us in like sheep.
 And said to us come take our hand.
 They set us up to mission land.
 Taught us to read, to write and pray.
 Then they took our children away."

15 I'm just going to leave you with that, because he is unable to do that. And in saying that, that evidence today concludes Yoorrook's Land Injustice hearings. Yoorrook will resume hearings at the end of this month as part of the inquiry into Health, Education, Housing and Economic Life, and I thank all those who supported Yoorrook's hearings processes.

20 First of all, Commissioner Lovett, for his strength and leadership with Yoorrook's Land Injustice Inquiry. To the Yoorrook staff, in particularly the leadership from our First Nations people who even got us out on Country, so thank you to them for that. For our Counsel Assisting, thank you. Solicitors Assisting, thank you. Our
 25 technical team who handle all the livestreaming and recording, and when we turn our microphones off.

Our Auslan interpreters online, contractors, videographers and photographers, thank you. All the witnesses, particularly First Nations who come at the detriment
 30 to themselves. The other Victorians who also fronted the Commission. They have taken the time to prepare material and appear before this Commission. And finally, Traditional Owners and First Peoples who provided invaluable evidence, shared their experiences that will form part of Yoorrook's official public record and to all those who have listened in online. We thank you. Thank you. That is
 35 the end of today's hearings.

<THE HEARING ADJOURNED AT 2.01 PM