



IN THE APPELLATE TRIBUNAL

ANGLICAN CHURCH OF AUSTRALIA

IN THE MATTER OF questions referred by the Primate under section 63(1) of the Constitution

AND IN THE MATTER OF the *Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019* of the Synod of Wangaratta

In answer to the questions referred to the Appellate Tribunal I submit:

1. The *Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019* is **subject** to the Fundamental Declarations and Ruling Principles of the Constitution of the Anglican Church of Australia, and **is not consistent with them** on the basis that it promotes the Formalised Blessing of a marriage union other than that of the lifelong union of one man and one woman to the exclusion of all others.
2. That the use of any other form of service, purportedly made in accordance with section 5 of the *Canon Concerning Services 1992*, to bless a civil marriage which involved a union other than between one man and one woman **is subject** to the Fundamental Declarations and Ruling Principles of the Constitution of the Anglican Church of Australia, and **is not consistent with them** on the basis that it promotes the Formalised Blessing of a marriage union other than that of the lifelong union of one man and one woman to the exclusion of all others.
3. That, considering the above determination, that the current Regulations **are not validly made**.

#### Appellate Tribunal jurisdiction

4. The Appellate Tribunal has jurisdiction where a matter arises under the Constitution (section 63) or where an Act or Proposal of the General Synod is referred (section 29).
5. In this case the proposed Regulations fall under the Appellate Tribunal's jurisdiction as they are not consistent with the "doctrine and principles of the Church of England embodied in the Book of Common Prayer" (Section 4 Constitution).
6. Any claim that the proposed Regulations make no change to "doctrine" should be rejected by the Appellate Tribunal as it is clear in the Constitution that "the Book of Common Prayer, together with the Thirty-nine Articles, be regarded as the authorised standard of worship and doctrine in this Church" (Section 4 Constitution). Here, "worship and doctrine" is whatever the Book of Common Prayer and the Thirty-nine Articles articulate, and the Book of Common Prayer does include the worship and doctrine of marriage in fulsome theological detail.
7. The Regulations of the Synod of Wangaratta do amount to a change of the doctrine of marriage provided by *the Book of Common Prayer*, by recognising, validating and

blessing a marriage union other than the lifelong union of one man and one woman to the exclusion of all others.

8. The General Synod has a Doctrine Commission which has considered same-sex attraction, marriage and blessing at length, and which lends further weight to my contention that these matters are considered as Doctrine within the Anglican Church of Australia.

#### General Response to the Wangaratta Regulations

9. The Regulations of the Synod of Wangaratta are an unfortunate attempt to circumnavigate the usual processes of the good order and government of the Anglican Church of Australia, specifically the bringing of an Act to be passed by the General Synod and assented to by all member Diocese of the Anglican Church of Australia.
10. The above process of good government should be reinforced by the Appellate Tribunal as the only method available to make a change to the Doctrine of the Anglican Church of Australia.
11. The process undertaken by Wangaratta has its antecedents in the schismatic politics that beset the Episcopal Church of North America (TEC) and their disobedience to the Instruments of Communion following the 1998 Lambeth Conference.
12. This Regulation of the Diocese of Wangaratta further endangers any national unity within the Anglican Church of Australia.
13. The Appellate Tribunal is provided with an opportunity to prevent the Diocese of Wangaratta from exiting Communion with the Anglican Communion, given the clear guidance from the Primates Council (and subsequent Windsor Report) and the clear definitions provided by the Lambeth Conference 1998 at Resolution 1:10 which held in part that “[the conference] cannot advise the legitimising or blessing of same sex unions nor ordaining those involved in same gender unions”.

#### Specifically relating to the Wangaratta Submission

14. Point 13 should be rejected as the Appellate Tribunal’s jurisdiction exists given that the Submission is not consistent with the Fundamental Declarations and Ruling Principles, in that it contravenes principles of doctrine and worship laid down in the *Book of Common Prayer* in its section on Marriage.
15. Points 18 is wholly incorrect and should be rejected. The constitutional status of doctrine is not one of an open legal question – it is actually defined in the Ruling Principles which state that “the Book of Common Prayer, together with the Thirty-nine

Articles, be regarded as the authorised standard of worship and doctrine in this Church” (Section 4 Constitution). Here, “worship and doctrine” is whatever the Book of Common Prayer and the Thirty-nine Articles articulate, and the Book of Common Prayer does include the worship and doctrine of marriage in fulsome theological detail.

16. Points 21 to 23 should be rejected, for the reasons outlined above at my section 6, 13 & 14.
17. Point 24.1 should be rejected, as the open nature of the Regulations cannot guarantee that this form of service could not be used to bless those things which are contrary to the standard of faith articulated in Fundamental Declaration 2.
18. Point 24.2 and 24.3 should be rejected, for the reasons outlined above at my section 6, 13 & 14.
19. Point 27 should be rejected. It is a weak contention indeed that would argue that any Diocese might make any Regulation that directly contradicts the clearly defined theological position of the Anglican Church of Australia and her doctrine, but hope that because it does not use the defined term (in this case, the word Marriage) it might be unassailable to challenge, review or repeal.
20. Point 29 should be rejected, for the reasons outlined above at my section 6, 13 & 14.
21. Point 30 should be rejected, as it fails to consider the definition of doctrine outlined in the Guiding Principles (see my section 6, 13 & 14 above).
22. Point 51 is correct, and should be upheld by the Appellate Tribunal, however it is immediately misapplied in Point 51.2 by artificially limiting doctrine to those parts of BCP which “include the Creeds and the Catechism which represent part of the Fundamental Declarations and which are doctrine.” This is an entirely artificial construct not known either to the drafters of BCP or the Constitution, and it should be rejected. BCP also contains much doctrine of the church in teaching the faith in circumstances of sickness, baptism, confirmation, marriage, death and so on. There will no doubt be other submissions that will better undertake an outline of the doctrine of Marriage that is outlined in BCP which I would commend.
23. Points 53 and 54 are correct but diminished by the description given as “teaching” rather than correctly assigning this as “doctrine”. The sentence that should be endorsed is “The Church’s doctrine of marriage is to be found in its forms of service for marriage, most particularly in the BCP...”
24. Point 56 should be rejected, as the previous examples and statements of the Tribunal related to a significantly different case, namely the Ordination of Women. There can be no question that there is significantly more said expressly in the BCP about marriage than there is about the gender of presider, and that what is said is theological and doctrinal in seeking to give a summary of all the scriptural witness. The attempted correlation and/or conflation of these two vastly different issues should be rejected.

25. Point 57 articulates clearly the position I would commend to you.
26. Point 58 and the attached quotation again seeks to link the Ordination of Woman and the present argument. Further to my point 23 above, there was no scriptural warrant for the prohibition of women ministers in contrast to those well-known scriptures that prohibit homosexuality which undercuts the application of the quoted reasoning of Vice-President to this present case.
27. Point 59 should be rejected completely for the reasons given above at my points 21, 23 & 25.
28. Point 63 should be rejected as it is my contention that the BCP marriage service provides precise and relevant worship and doctrine for how people in a civil marriage may be blessed by the church, and also the limitation of that blessing to a man and woman to the exclusion of all others for life.
29. Point 64 should be rejected, largely on the grounds of its understatement. At the level of the One, Catholic and Apostolic Church of which we claim to be a part, the overwhelming majority of historic and present scholarship, doctrine and canon law support the orthodox position of marriage as being between one man and one woman to the exclusion of all others for life, and the majority would cite the "few phrases" as an authoritative guide for this position. Within the Anglican Communion the overwhelming majority of the world's Anglicans, along with the clear guidance of Lambeth Resolution 1:10 and the subsequent Primate's Councils, have likewise affirmed the same, citing those same "few phrases" as an authoritative guide for their position. There are clear definitions that have existed here for centuries and so the Appellate Tribunal should not be slow to call to account those that have sought to push the boundaries of our very Communion.
30. Point 65 should be rejected for the reasons given above at my points 21, 23 & 25.
31. Point 66 should be rejected as it fails to accurately convey the import of the matter before the Appellate Tribunal: an issue that has caused the almost irreparable tearing of the fabric of the Anglican Communion, and a clear 'red-line' issue for Anglicans from a conservative theological persuasion across Australia. The Appellate Tribunal is certainly not the ideal forum in which this debate is to be had – that would have been at General Synod and following the good and proper processes of government of our Church.

However, that most appropriate option was not selected by the Diocese of Wangaratta and so it is the case that the Appellate Tribunal is equipped to resolve the debate, and I submit it must do so by reinforcing the historic doctrine of marriage as articulated in the BCP and which is appealed to by the Fundamental Declarations and Guiding Principles.

Yours faithfully,

The Reverend Stephen Conway  
13 December 2019