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**IN THE APPELLATE TRIBUNAL OF  
THE ANGLICAN CHURCH OF AUSTRALIA**

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

Clergy Discipline Ordinance 2019 Amending Ordinance 2019

(Diocese of Newcastle)

**SUBMISSION BY FIONA D. McLEAN**

**Introductory remarks**

Much of the substance of my submission to the Appellate Tribunal in the Wangaratta matter is also relevant to this matter. For this reason, I have reproduced my earlier submission as an appendix to this submission and will refer to it throughout this submission.

**Response to the questions referred by the Primate**

**Question 1:** Is any part of the **Clergy Discipline Ordinance 2019 Amendment Ordinance 2019** of the Diocese of Newcastle inconsistent with the Fundamental Declarations or the Ruling Principles of the Constitution of the Anglican Church of Australia?

1. The answer is **Yes**, it is inconsistent with the Fundamental Declarations and the Ruling Principles of the Constitution.

**The Newcastle Ordinance is inconsistent with Scripture**

2. The Fundamental Declarations bind our Church to the authority of Scripture and commit us to teach Christ's doctrine. Clause 2 states that "This Church receives all the canonical scriptures of the Old and New Testaments as being the ultimate rule and standard of

faith given by inspiration of God". Clause 3 states, "This Church will ever obey the commands of Christ [and] teach His doctrine".

3. The Bible teaches us that the only right context for sexual expression is in a marriage between a man and a woman, and that therefore any same-sex sexual activity is contrary to the Bible, and inconsistent with the Fundamental Declarations. (See paragraphs 2 – 5.11.1 in the Appendix.)
4. The Church's teaching about marriage is part of its doctrine (see paragraphs 3 – 3.11 in the Appendix).
5. Accordingly, it is inconsistent with the Fundamental Declarations and the Ruling Principles of the Constitution of the Anglican Church of Australia to:
  - 5.1 Pronounce a blessing of a marriage-like relationship in which the persons being married (in the eyes of the law) are of the same sex, as this cannot be regarded as a lawful marriage in the eyes of God.
  - 5.2 Enter into a marriage-type relationship with a person of the same sex, as such a relationship is regarded as sinful by God, and therefore forbidden.

**The Newcastle Ordinance is inconsistent with our Church's expectations of church leaders**

6. The Newcastle Ordinance is incompatible with Biblical expectations of church leaders. Members of the clergy, as leaders of the church, are to uphold the Church's doctrine, both in their teaching and in their lives (e.g. 1 Timothy 3:12-16). Leaders are held to higher standards than other believers (e.g. James 3:1).
7. A minister must be "above reproach" and "the husband of one wife" (1 Timothy 3:2; Titus 1:6, 7). He must be "a lover of good, self-controlled, upright, holy and disciplined. He must hold firm to the trustworthy word as taught, so that he may be able to give instruction in sound doctrine and also to rebuke those who contradict it" (Titus 1:7-9).
8. The Newcastle Ordinance is incompatible with the principles of church leadership embodied in the Book of Common Prayer (BCP), which are included (in modernised language) in *A Prayer Book for Australia* (APBA). At their ordination, deacons and priests make promises to assent to and abide to the teaching and doctrine and discipline of the

Church.

8.1 Specifically, the BCP rite “The Form and Manner of Making Ordaining and Consecrating of Bishops Priests and Deacons” is recognised in Clause 4 of our Constitution as embodying “the doctrine and principles” of the Church. These doctrine and principles include that those serving in church leadership must both hold to sound doctrine and live holy lives, as the following excerpts from the BCP and the APBA demonstrate:

- “From all false doctrine, heresy, and schism; from hardness of heart, and contempt of thy Word and Commandment, *Good Lord, deliver us.*” (BCP)
- “From fornication, and all other deadly sin; and from all the deceits of the world, the flesh and the devil, *Good Lord, deliver us.*” (BCP)
- Those being ordained priest are warned that “you cannot by any other means compass the doing of so weighty a work, pertaining to the salvation of man, but with doctrine and exhortation taken out of the holy Scriptures, and with a life agreeable to the same”. (BCP)
- They must promise to “be ready, with all faithful diligence, to banish and drive away all erroneous and strange doctrines contrary to God’s Word” (BCP). (In our context, this includes the “erroneous and strange” doctrine that seeks to revise God’s teaching about marriage and sexuality.)
- In the APBA, those being deaconed must promise to “wholeheartedly accept the canonical Scriptures of the Old and New Testaments”, “to teach the doctrine of Christ”, “to shape your own life, and that of your household, according to the way of Christ” and “to accept the order and discipline of the Anglican Church of Australia”.
- Those being priested must promise to “faithfully and humbly minister the doctrine, sacraments and discipline of Christ, as he has commanded and as this Church has received them” and “to oppose and set aside teaching that is contrary to God’s word” (APBA).

8.2 In summary, blessing or entering into a same-sex sexual relationship is contrary to

the Scriptural principles embodied in the BCP that those in Holy Orders must both teach the doctrine of Christ and live in accordance with that doctrine.

9. The Newcastle Ordinance is incompatible with the Diocese of Newcastle's own standards required of clergy, as expressed in *Faithfulness in Service* (Anglican Diocese of Newcastle, August 2019, accessed at <https://www.newcastleanglican.org.au/wp-content/uploads/2019/08/Faithfulness-in-Service-Anglican-Diocese-of-Newcastle-August-2019.pdf>). This document states:

9.1 *The Church is the fellowship that nurtures and sustains Christians as they seek to follow Christ faithfully and participate in God's mission. Its leaders especially are to be examples of Christian faith and obedience as they exercise their vocation* (from Section 1 of *Faithfulness in Service*, "About this Code")

9.2 *The personal behaviour and practices of pastoral ministry required of clergy (bishops, priests and deacons) of the Anglican Church of Australia are specified in the Holy Scriptures as well as in its Constitution, canons, ordinances, the Book of Common Prayer and the Ordinal.* (from Section 1 of *Faithfulness in Service*, "About this Code")

9.3 *The absence of any reference to particular conduct in this Code [e.g. same-sex relationships] does not imply that it is acceptable for clergy and church workers.* (*Faithfulness in Service*, 3.2)

9.4 Clergy are bound to conform to Holy Scriptures above the law of the land: *You are to observe the law, other than any law that is contrary to the Holy Scriptures* (*Faithfulness in Service*, 6.14)

9.5 *The sexual conduct of clergy and church workers has a significant impact on the Church and the community.* (*Faithfulness in Service*, 7.1)

9.6 *Sexuality is a gift from God and is integral to human nature. It is appropriate for clergy and church workers to value this gift, taking responsibility for their sexual conduct by maintaining **chastity in singleness and faithfulness in marriage.*** (*Faithfulness in Service*, 7.2; *emphasis mine*).

10. It is clear that marriage in the Anglican Church of Australia means only marriage between a man and a woman (see Appendix, especially paragraphs 3.2 – 3.10), so

blessing, or entering into, a same-sex marriage would be in violation of *Faithfulness in Service*.

**Question 2:** Does the Synod of the Diocese of Newcastle have the authority under section 51 of the Constitution to pass the **Clergy Discipline Ordinance 2019 Amendment Ordinance 2019?**

**Answer:** No, it does not.

11. Section 51 of the Constitution gives a diocesan synod authority to “make ordinances for the order and good governance of this Church”, but those ordinances must be “**subject to this Constitution**” (emphasis mine). As elaborated above, this means that any ordinances made must be consistent with Scripture, the BCP, the Thirty-Nine Articles, the doctrine of this Church and the teaching of Christ. The Ordinance proposed by Newcastle is inconsistent with all of the above.
12. The Constitution “retains and approves the doctrine and principles of the Church of England embodied in ... the Articles of Religion sometimes called the Thirty-Nine Articles” (Clause 4). The 39 Articles recognise that, while Church councils have genuine authority and are part of the good governance and order of God’s church, they remain subject to the authority of Scripture. As Article XX says, “it is not lawful for the Church to ordain any thing that is contrary to God’s Word written ...” Article XXI recognises that Church Councils (including Synods) “may err, and sometimes have erred, even in things pertaining unto God”. I submit that, in the matter of this Ordinance, the Newcastle Synod has erred, and has acted contrary to God’s word.
13. The Newcastle Ordinance is inconsistent with requirements of deacons and priests laid down in the CANON CONCERNING HOLY ORDERS 2004.
  - 13.1 A person to be ordained deacon or priest must have “a sufficient knowledge of and **[accept] the doctrine, discipline and principles of worship of this Church**” (Clause 5(1) (h) & 6(1) (d) and (g)) [emphasis mine]

13.2 Clause 15(2) states that “a priest or deacon who has received authority from the bishop of a diocese to minister in that diocese shall declare acceptance of such codes of practice as are from time to time in force in the diocese”. Such codes of practice include *Faithfulness in Service*, which forbids sexual activity outside of marriage between a man and a woman.

13.3 Clause 18 states that “A person must not ... in submitting or offering himself or herself for ordination ... in this Church, knowingly act in contravention of this Canon” (Clause 18 (1) (b)) and “A person who breaches sub-section (1) will be taken to be in wilful violation of this Canon” (Clause 18 (2)). Any clergy person blessing or entering into a same-sex marriage would be in wilful violation of the CANON CONCERNING HOLY ORDERS and subject to discipline under the OFFENCES CANON 1962.

**Question 3:** Where an Ordinance is passed by a Synod of a Diocese in the Province of New South Wales and referred to the Appellate Tribunal prior to the Bishop giving her/his assent in accordance with Constitution 5(c) of the Schedule of the Anglican Church of Australia Constitution Act 1902, may the Bishop give assent to the Ordinance on receiving the opinion of the Appellate Tribunal or is the Synod required to pass the ordinance again?

**14. Answer:** The answer is **No**.

**15.** The Clergy Discipline Ordinance 2019 Amendment Ordinance 2019 itself states that “The Bishop shall indicate his/her support within 30 days of the conclusion of an ordinary or special session of the Synod in which the resolution is considered” (Clause 4). As the Bishop has not given his support within the required 30 days, the Ordinance has lapsed and will need to be passed again.

## Final remarks

16. A further reason that the Newcastle Ordinance should not be passed is that it is divisive and schismatic. It undermines the unity we share as Anglicans. Our Church's doctrine and principles uphold the traditional and historic view of marriage. For example, the statement from the National Bishops' Conference in March 2018, "Responding to Recent Changes in the Marriage Act", states:

*"The doctrine of this Church is that marriage is a lifelong union between a man and a woman. If we as a Church are to change this doctrine to permit same-sex marriage, the appropriate mechanism is through the framework of the Constitution and Canons of the Anglican Church of Australia. Bishops should give leadership in demonstrating trust in this framework as the way to move forward together ... The bishops commit to working together to manifest and maintain unity ... The bishops commit to act within the framework of the Constitution and Canons of this Church, and to encourage those under their episcopal oversight to do so."*

If a bishop were to give assent to the Newcastle Ordinance, this would go against the commitment expressed in this resolution.

## In conclusion

17. In response to the question whether any part of the **Clergy Discipline Ordinance 2019 Amendment Ordinance 2019** of the Diocese of Newcastle is inconsistent with the Fundamental Declarations or the Ruling Principles of the Constitution of the Anglican Church of Australia, the answer is **Yes**, it is inconsistent.

18. In response to the question whether the Synod of the Diocese of Newcastle has the authority under section 51 of the Constitution to pass the **Clergy Discipline Ordinance 2019 Amendment Ordinance 2019**, the answer is **No**, it does not have this authority.

19. In response to the question whether, where an Ordinance is passed by a Synod of a Diocese in the Province of New South Wales and referred to the Appellate Tribunal prior to the Bishop giving her/his assent in accordance with Constitution 5(c) of the Schedule of the Anglican Church of Australia Constitution Act 1902, the Bishop may give assent to the Ordinance on receiving the opinion of the Appellate Tribunal or whether the Synod

is required to pass the ordinance again, the answer is **Yes**, the Synod would be required to pass the ordinance again.

## **APPENDIX A**

### **Fiona McLean's submission to the Appellate Tribunal in the Wangaratta Matter, December 2019**

#### **IN THE APPELLATE TRIBUNAL OF THE 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

#### **SUBMISSION BY FIONA D. McLEAN**

##### **1. How I am an interested party**

1.1 I am a lifelong Anglican, involved in my local Anglican church, St Stephen's, Greythorn (Diocese of Melbourne), and on staff at St Jude's, Carlton (Diocese of Melbourne) as an authorised stipendiary lay minister. In my role at St Jude's, I work with a congregation of young adults, most of whom are university students, who are confronted with questions about how their Christian faith affects their sexuality and morality. A number of them experience same-sex attraction. Those who are Christians are seeking to know and obey God's commands regarding sexuality, and so it is of vital pastoral importance that the Church is clear about what is and is not



blessed by God in this regard.

1.2 I serve the Anglican Church of Australia in various governance roles, including on the Council of the Diocese of Melbourne (Archbishop in Council), General Synod, the Standing Committee of General Synod and on the Board of Electors for the Primatial Election.

1.3 I am on the board of Gafcon Australia, and so acutely aware of how this issue has been divisive and painful in many other parts of the world. I value our connection with other Anglicans worldwide (and in centuries past) and am deeply concerned about the fact that this issue has impaired or broken fellowship in many parts of the world – including in the USA, Canada, Scotland, Brazil, and, more recently, New Zealand.<sup>1</sup> I am also concerned for those in the Anglican Church of Australia who are troubled, confused or distressed by the conflict in our church over these issues.

## Response to the questions referred by the Primate

**A.** Whether the regulation *Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019* made by the Synod of the Diocese of Wangaratta is consistent with the Fundamental Declarations and Ruling Principles in the Constitution of the Anglican Church of Australia.

The Wangaratta regulation is **not** consistent with the Fundamental Declarations and Ruling Principles in the Constitution, for the following reasons, elaborated further below:

- It is contrary to Scripture and therefore not consistent with the Fundamental Declarations and Ruling Principles
- It is contrary to the Church's doctrine of marriage

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<sup>1</sup> See the book by Vaughan Roberts and Peter Jensen, *Faith in a Time of Crisis: Standing for the Truth in a Changing World* (Matthias Media, Sydney: 2017) for a clear explanation of why differences about the issue of sexuality have had such significant effects.

- It is contrary to the BCP
  - It is contrary to the Anglican doctrine of the authority of Scripture
2. The Wangaratta regulation, which allows for the blessing of same-sex couples who have entered into a civil marriage, is contrary to Scripture, and therefore not consistent with Clause 2 of our Fundamental Declarations, which states that “This Church receives all the canonical scriptures of the Old and New Testaments as being the ultimate rule and standard of faith given by inspiration of God”. These scriptures teach us that same-sex sexual practice is not in accordance with God’s word and therefore cannot be blessed.

### **The Bible’s teaching about same-sex sexual relationships**

2.1 The Bible teaches that marriage is between a man and a woman, and that the only appropriate context for sexual activity is within marriage (e.g. Genesis 2:24; Exodus 20:14; Matthew 19:4-6; Romans 7:2-3). The doctrine that marriage is between a man and a woman has been the “Christian Faith as professed by the Church of Christ from primitive times” (Clause 1, Constitution).

2.2 God is the Creator of the world, the one to whom every person is accountable, and who has the right to make laws and commands, and to punish those who disobey, ignore or defy him. He cares about sin. Fundamental to sin is the rejection of God – a failure to honour him, to listen to his word, or to obey his commandments. For example, Jesus says, “If you love me, keep my commands” (John 14:15). *Whoever believes in the Son has eternal life, but whoever rejects the Son will not see life, for God’s wrath remains on them. (John 3:18, 36).*

2.3 Sexual immorality is clearly identified in Scripture as sinful; and the Bible regards wilful persistence in sexual (and other sin) as so grave as to jeopardise one’s salvation.

*It is God’s will that you should be sanctified: that you should avoid sexual immorality ... The Lord will punish all those who commit such sins, as we told you and warned you before. <sup>7</sup> For God did not call us to be impure, but to live a holy life. <sup>8</sup> Therefore, anyone who rejects this instruction does not reject a human being but God, the very God who gives you his Holy Spirit. (1 Thess.*

4:3-8)

*For of this you can be sure: No immoral, impure or greedy person—such a person is an idolater—has any inheritance in the kingdom of Christ and of God. <sup>6</sup> Let no one deceive you with empty words, for because of such things God's wrath comes on those who are disobedient. (Ephesians 5:5-6)*

*Put to death, therefore, whatever belongs to your earthly nature: sexual immorality, impurity, lust, evil desires and greed, which is idolatry. <sup>6</sup> Because of these, the wrath of God is coming. (Colossians 3:5-6)*

*Flee from sexual immorality. (1 Corinthians 6:18)*

*Those who are victorious will inherit all this, and I will be their God and they will be my children. <sup>8</sup> But the cowardly, the unbelieving, the vile, the murderers, the sexually immoral, those who practice magic arts, the idolaters and all liars—they will be consigned to the fiery lake of burning sulphur. This is the second death. (Rev. 21:7-8)*

2.4 Any sexual activity outside of marriage is regarded by the Bible as sexual immorality, something to be avoided by God's holy people: *Marriage should be honoured by all, and the marriage bed kept pure, for God will judge the adulterer and all the sexually immoral (Hebrews 13:4)*. This includes sexual activity before marriage, adultery, homosexuality, bestiality, prostitution and cultic sexual practices.

2.5 Same-sex sexual activity is explicitly prohibited in several passages, including Leviticus 18:22; Romans 1:26-27; 1 Corinthians 6:9-10.<sup>2</sup> As the contributors to the Doctrine Commission book acknowledge (e.g. Matthew Anstey on page 69-70; cf. Dorothy Lee on page 138), the Bible doesn't say anything at all positive about homosexual sexual relationships. Both the OT and NT are clear and unequivocal about this.

2.6 We cannot bless what God has called sin. To bless an activity is to endorse and

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<sup>2</sup> For further detailed argument, see Robert A.J. Gagnon, *The Bible and Homosexual Practice: Texts and Hermeneutics*. Abingdon Press: Nashville, TN, 2001. For a brief popular treatment of the topic of homosexuality from a Christian point of view, see Sam Allberry, *Is God Anti-Gay?* (The Good Book Company: 2016).

accept it; to say that it merits God's approval; that it is good and holy. By blessing same-sex marriages (or any other forbidden sexual activity), people are calling good what God calls sinful (see Isaiah 5:20; Malachi 2:17). There are some things that God blesses, and others that merit his terrible curse (e.g. Leviticus 26; Deuteronomy 27:11-26; Psalm 37:22). We must be very careful to be acting in accordance with God's will before we pronounce either blessing (declaring that an action or doctrine is pleasing to God) or curse (declaring that an action or doctrine is not pleasing to God).

### **Scripture is the primary source of the Church's doctrine**

2.7 The Church's doctrine is derived from the Book of Common Prayer (BCP), the 39 Articles and the Creeds, but primarily from Holy Scripture, which underpins all other teaching of the Church. As Clause 2 of our Constitution says, "This Church receives all the canonical scriptures of the Old and New Testaments as being the ultimate rule and standard of faith given by inspiration of God".

2.8 While the Fundamental Declarations and the 39 Articles are vitally important, they do not and cannot elaborate every important point of doctrine, but instead point us to the authority of Scripture. The 39 Articles do not address the question of same-sex marriage, not because leaders and theologians of the time thought it best to leave this an open question, or regarded this as merely a matter of conscience, or because it was under dispute and they wished to avoid controversy, but because there was no question at the time that homosexual sexual practice could ever be endorsed by the Church. If the writers of the 39 Articles had been asked to include an Article addressing the current question before this Tribunal, we can say with confidence that they would have upheld the teaching of the Bible and the historical teaching of the church from primitive times that the only form of marriage allowed by God is between a man and a woman.

3. Secondly, the Wangaratta regulation is not consistent with Clause 3 of the Fundamental Declarations and Ruling Principles: "This Church will ever obey the commands of Christ,

teach His doctrine, ... follow and uphold His discipline ..." The doctrine of the Church includes its teaching about marriage, and the decision of the Wangaratta synod is counter to the doctrine of the church regarding marriage.

3.1 The decision of the Wangaratta synod is counter to the commands of Christ (outlined above), including Matthew 19:1-12. The Anglican Church is committed to teaching Christ's doctrine.

3.2 It is clear from General Synod and Standing Committee of General Synod motions that the church's teaching on marriage is regarded as doctrine:

3.3 In the General Synod resolution of 2017 regarding "Marriage, Same-Sex Marriage and the Blessing of Same-Sex Relationships" (seconded by the Rev'd Canon Professor Dorothy Lee), the General Synod:

3.3.1 "recognises that **the doctrine of our church**, in line with traditional Christian teaching, is that marriage is an exclusive and lifelong union of a man and a woman"

3.3.2 asked the Doctrine Commission to "facilitate a respectful conversation in our church ... that explores Scriptural and theological issues relating to: (a) **The doctrine of marriage** expressed in the formularies of the Anglican Church of Australia"; (b) "exploring the relationship between the State's definition of marriage and **the church's doctrine of marriage**"

3.4 In that same year (2017), the General Synod, in response to the decision of the Scottish Episcopal Church to change the definition of marriage, "notes with regret that this step is contrary to **the doctrine of our Church** and the teaching of Christ" and "prays that the Scottish Episcopal Church will return to **the doctrine of Christ** in this matter".

3.5 In its meeting of 9-10 November 2018, the Standing Committee of General Synod moved a motion in response to the decision of the Anglican Church in Aotearoa, New Zealand and Polynesia to authorise clergy to bless same-sex unions. The motion read, in part: *"The Standing Committee ... noted that this step [to bless same-sex*

*unions] is contrary to Resolution I.10 of the 1998 Lambeth Conference and is **not in accordance with the teaching of Christ** in Matthew 19:1-12”.*

3.6 It is also clear from the Doctrine Commission book, *Marriage, Same-Sex Marriage and the Anglican Church of Australia: Essays from the Doctrine Commission* that marriage is regarded as part of the doctrine of our church:

3.6.1 Matthew Anstey argues that “**the BCP doctrine of marriage** should be taken as pertaining only to ‘the BCP **doctrine** of heterosexual marriage’” (page 50)

3.6.2 Matthew Anstey again: “we seek to interrogate the role Scripture plays in the discernment of the Anglican Church of Australia in its decision regarding **the doctrine of same-sex marriage**” (pages 59-60).

3.6.3 Stephen Pickard says “the confession of Christ as Saviour and Lord is not of the same order as belief in the church or, in the present context, **the doctrine of marriage**” (page 243)

3.7 Bishop John Parkes himself has stated that marriage is part of the doctrine of the Church:

In Bp John Parkes’ open letter (dated 15th August 2019) in response to the letter from New Cranmer Society of Melbourne, he states: “*What we will put to the Wangaratta Synod has nothing to do with **the doctrine of marriage** ... [M]arriage in the church ... is between a man and a woman .... This is **the doctrine of holy matrimony** which I uphold. I accept that the marriage of two persons of the same sex cannot take place within the Anglican Church of Australia”.*

3.8 Finally, this view of marriage as doctrine is held across the Anglican Communion. (The following quotes are from Michael Stead’s essay in the Doctrine Commission book.)

- “*At their meeting in Canterbury in 2016, the Primates of the Anglican Communion described TEC’s change in their marriage canon as ‘a fundamental departure*

*from the faith and teaching held by the majority of our Provinces on **the doctrine of marriage***” (page 16).

- In Canada, the Primate’s Theological Commission advised in 2005 *“that  **blessing of same-sex relationships was a matter of doctrine**”* (page 17) and needed to be considered *“in relation to **the doctrine of marriage**”* (page 17).
- The Anglican Church of Aotearoa, New Zealand and Polynesia has not altered their Church’s doctrine of marriage (page 23).
- In England in 2014, the House of Bishops affirmed *“The Church’s **doctrine of marriage** is (only) between a man and a woman. The changes of the State’s definition of marriage does not change the Church’s doctrine of marriage”* (page 27).

### **The significance of the church’s doctrine of marriage**

3.9 Marriage is a critical aspect of the Bible’s doctrine. Marriage is used throughout the Bible as a metaphor for God’s relationship with his people: see, for example, Isaiah 54:4-8; Jeremiah 3:1, 8, 20; Hosea 1-3; Mark 2:19-20; Revelation 19:6-9 and (most clearly) Ephesians 5:22-33. The significance and pervasiveness of the metaphor of marriage is seen by the way adultery is repeatedly used as a metaphor for idolatry.

3.10 Marriage is a creation ordinance. God’s design for marriage applies to all people, in every culture and time. There is no distinction in God’s eyes between Christian marriage and secular marriage: that is, there is not one form of God-approved marriage for Christians and another form for unbelievers. The Bible does not differentiate between a civil marriage and a church marriage, only between marriage in the eyes of God (which can be marriage only between a man and a woman) and other sexual relationships which are not lawful in God’s eyes (even if authorised by the state). The existence of the *Blessing of Civil Marriage* ordinance in the first place is recognition that a marriage doesn’t have to take place in a church, under Christian rites, in order to be acknowledged as a marriage in the eyes of God.

3.11 The Church cannot, therefore, authorise or bless or condone any form of sexual relationship (whether called “marriage” or not) that is not marriage as defined by God in his Word (contra. the Wangaratta submission, Clause 6.2).

3.12 **The consistent teaching of the Anglican Church of Australia is that marriage is the only appropriate context for sexual expression**

3.12.1 As the Wangaratta submission notes (para. 53), “The Church’s teaching on marriage ... can also be found in codes of conduct such as *Faithfulness in Service ...*” *Faithfulness in Service* states that clergy and church workers must maintain “chastity in singleness and faithfulness in marriage” (*Faithfulness in Service*, 7.2). The “Standards for clergy and church workers” state, “You are to be chaste and not engage in sex outside of marriage and not engage in disgraceful conduct of a sexual nature” (7.4). The Anglican Church does not allow for sexual activity in any context other than marriage between a man and woman.

3.12.2 The Wangaratta submission draws too artificial a distinction between “doctrine” and “teaching” (practical instruction about how to live). As *Faithfulness in Service* demonstrates, it is not just what one believes but how one lives that matters. “The personal behaviour and practices of pastoral ministry required of clergy (bishops, priests and deacons) of the Anglican Church of Australia are specified in the Holy Scriptures as well as in its Constitution, canons, ordinances, the Book of Common Prayer and the Ordinal.” (FIS, page 5). If the doctrine we believe does not affect how we live, then it is fair to question whether we really believe it. It matters very much to God not just what we believe but how we behave. The Bible has, for example, clear warnings about the dangers of persisting in wilful sinful behaviour (e.g. 1 Thess. 4:1-8; Hebrews 6:4-8; Jeremiah 6:10, 15, 19; 7:8-15, 23-29).



### **The Wangaratta resolution is not consistent with the doctrine and principles of the BCP**

4. Thirdly, the Wangaratta regulation is **not** consistent with the Fundamental Declarations and Ruling Principles in the Constitution because it is contrary to the BCP. As Clause 4 states, "This Church ... retains and approves the doctrine and principles of the Church of England embodied in the Book of Common Prayer [BCP] ..."

4.1 The BCP clearly upholds the principle that marriage is between a man and a woman and that "no other" form is in accordance with the teaching of Christ. The principles embodied in the BCP do not regulate only heterosexual relationships, but **all** sexual relationships. Thus when the BCP says that unlawful relationships are not joined together by God, this includes any same-sex sexual relationships.

4.2 The doctrine and principles embodied in the BCP are derived from Scripture, not from the cultural context of the time (contra Para. 59 of the Wangaratta submission).

4.3 While Clause 4 allows the Church to make changes, this is only "provided all such statements, forms, rules or alteration or revision thereof are consistent with the Fundamental Declarations contained herein" and "that the above-named Book of Common Prayer ... be regarded as the authorised standard of worship and doctrine in this Church, and no alteration in or permitted variations from the services or Articles contained therein shall contravene any principle of doctrine or worship laid down in such standard".

### **The Wangaratta regulations threaten our Anglican doctrine of the authority of Scripture**

5. Fourthly, the Wangaratta regulations are not consistent with the Fundamental Declarations and Ruling Principles of the Constitution because they are not consistent with the Anglican doctrine of the authority of Scripture.

#### **5.1 The Anglican doctrine of Scripture is that it is God's authoritative word**

5.2 This doctrine is derived from the Bible itself, which teaches us that Scripture is God's

authoritative word, breathed out by God, to which we must pay attention, and which we ignore at our peril (e.g. 2 Timothy 3:16-17; 1 Thess. 2:13; 2 Peter 1:19-21; Hebrews 4:12).

5.3 This doctrine of Scripture is affirmed in the BCP, for example, in the Collect for the Second Sunday in Advent: *Blessed Lord, who hast caused all holy Scriptures to be written for our learning: Grant that we may in such wise hear them, read, mark, learn and inwardly digest them, that by patience and comfort of thy Holy Word, we may embrace and ever hold fast the blessed hope of everlasting life, which thou hast given us in our Saviour Jesus Christ.*

5.4 This doctrine of Scripture is affirmed in the 39 Articles, which repeatedly uphold the authority of Holy Scripture: in Article VI; in Article XVII, which says, “we must receive God’s promises in such wise, as they be generally set forth to us in Holy Scripture: and, in our doings, that Will of God is to be followed, which we have expressly declared unto us in the Word of God”; and in Article XX, which says, “it is not lawful for the Church to ordain any thing that is contrary to God’s Word written, neither may it so expound one place of Scripture, that it be repugnant to another”.<sup>3</sup>

5.5 This doctrine of Scripture is affirmed in our Foundational Declarations: “This Church receives all the canonical scriptures of the Old and New Testaments as being the ultimate rule and standard of faith given by inspiration of God and containing all things necessary for salvation” (Clause 2).

#### **The doctrine of Scripture is undermined by the Wangaratta regulation**

5.6 The Wangaratta Regulations present us with a choice about whether we will uphold and submit to the Bible as God’s authoritative word to us, or whether we will reject it in favour of experience, reason and culture.

5.7 Same-sex marriage is a controversial and emotional issue. It is not just a social issue, but a profoundly theological issue; not a matter of conscience, but a matter of church discipline. What is at stake in this issue is the identity and integrity of our

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<sup>3</sup> Similarly, Article XXI states that “things ordained by [General Councils] as necessary to salvation have neither strength nor authority, unless it may be declared that they be taken out of Holy Scripture”; Article XXXIV states that “nothing be ordained against God’s Word”, distinguishing between “man’s authority” and the authority of the Bible.

church.

5.8 The Wangaratta submission undermines the perspicuity and authority of Scripture.

For example, in Para. 65, it is argued that “it is not always possible to discern from scriptural texts a single unified and consistent meaning”; that “ancient texts ... are the subject of ...widely divergent interpretation and explanation ...” (Para. 65.1); that “questions of marriage and personal relationships ...are matters about which faithful Anglican people of good conscience can differ” (Para. 66).

5.9 But if Scripture is not able to be understood, we cannot know what it means to obey

it. When a diversity of views are accepted on significant issues of doctrine, then obedience and holiness become optional and church discipline becomes toothless. When it is argued that the Bible is so unclear that it is open to completely contradictory interpretations, then confidence in the Bible as the Word of God – reliable, trustworthy and authoritative – is undermined. Thus Scripture loses its relevance and authority as a guide to our lives and as our ultimate authority in faith and practice.

5.10 As we have seen from the essays in favour of same-sex marriage in the Doctrine Commission book, and from Bishop John Parkes himself, “lived experience” has become a more important guide than God’s word to what is right. This is in contravention of our Fundamental Declarations. For example, in Bishop John Parkes’ Presidential Address to Wangaratta Synod on 30<sup>th</sup> August 2019, he emphasises experience as key to theology. While he acknowledges “the danger of subjectivism in this approach”, he talks positively about “theology from below – starting with the human experience of the holy and seeking a framework within which to articulate and make sense of that experience”. Further undermining the authority of the Bible, he introduces a false dichotomy between Jesus and the Bible, arguing that “[w]e are Christocentric and not bibliocentric”. He challenges both “the infallibility of the Bible” and its inspiration:

“Scripture is one way, an important way but not the only way by which the community of faith keeps access to the primordial revelation on which it is founded. Scripture does not automatically

lay this primordial revelation before us but *when read in conjunction with the present experience* of the community of faith, the scriptures come alive ... This is what we mean by the inspiration of scripture. *'Such inspiration does not lie in the words* (it is not 'verbal inspiration'), but belongs to the scriptures only as they are set in the context of the whole life of faith in the community'" [italics mine].

5.11 In response to this challenge to the authority of Scripture, the Tribunal must uphold the authority and relevance of the canonical Scriptures. It becomes meaningless to say that as a church we submit to the authority of Scripture if the Scriptures are seen as so unclear that they cannot guide our Church in any formulation of doctrine. It is impossible to keep our promise to obey the Scriptures if we cannot tell whether an action is obedient or disobedient. In order to honour Christ and his words, we need to trust that God is able to reveal himself; that the Bible makes sense; that it can be understood, and therefore obeyed (or disobeyed).

5.11.1 Our society's view of marriage has changed profoundly; but that does not mean that God's view has. Francis Schaeffer's warning is worth repeating here. He writes:

*[T]he Christian must resist the spirit of the world **in the form it takes in his own generation.** ... It is our generation of Christians more than any other who need to heed these words attributed to Martin Luther: "If I profess with the loudest voice and clearest exposition every portion of the truth of God except precisely that little point which the world and the devil are at that moment attacking, I am not confessing Christ, however boldly I may be professing Christ. Where the battle rages, there the loyalty of the soldier is proved, and to be steady on all the battlefield besides, is mere flight and disgrace if he flinches at that point".<sup>4</sup>*

**B. Whether the regulation is validly made pursuant to the *Canon Concerning Services 1992*.**

<sup>4</sup> Quoted in Francis Schaeffer, *The God Who Is There*, IVP: Leicester, UK, 1990, page 11 (emphasis mine).

The Wangaratta regulation is **not** validly made pursuant to Canon Concerning Services 1992, for the following reasons:

6. Section 5(1) of the Canon states that variation to forms of service are permitted “which are not of substantial importance”. However, the variation introduced by Wangaratta Synod is of substantial importance, as it is counter to the doctrine and practice of our church, and has huge pastoral impact.
7. Section 5(3) states that “All variations in forms of service and all forms of service used must be reverent and edifying and must not be contrary to or a departure from the doctrine of this Church”. The Wangaratta regulation is contrary to the doctrine of this church, as shown above.
8. The Wangaratta regulation is a departure from General Synod resolution 62/04, which states that “this General Synod does not condone the liturgical blessing of SSRs”.
9. The form of service in Appendix A of the Wangaratta regulation (“A Service of Blessing for persons who have been married according to the Marriage Act 1961”) is contrary to the trial liturgy, “The Blessing of a Civil Marriage”, authorised by General Synod, in the following key ways:
  - 9.1 The Wangaratta form of service omits any mention of gender or the possibility of children. In contrast, the trial liturgy refers to the **procreative function of marriage**: “Through marriage a new family is formed where children may be born” (para. 4); and Paragraph 13b includes a prayer that “**husband and wife** may ... share with you the joy of creating new life”. This presumes a marriage between a man and a woman; a union between two men or two women cannot result in children without the introduction of a third party to the marriage.
  - 9.2 The authorised trial liturgy, “The Blessing of a Civil Marriage”, is explicitly about the blessing of a civil marriage between a man and a woman:
    - 9.2.1 In paragraph 2, the minister says, “Marriage is a gift of God our creator. It is a symbol of God’s unending love for his people, and of the union between Christ and his Church.” This symbolism is based on the difference between men and women; it is a union of one with another, not of two of the same

(cf. Ephesians 5:22-33).

9.2.2 Also in paragraph 2, the minister says, "Scripture teaches that marriage is a lifelong partnership uniting a **woman and a man** in heart, mind and body." It is very clear from this that any marriage to be blessed according to this rite is a marriage between a man and a woman. (In the next line, the minister refers to "**husband and wife**".)

9.2.3 The "Affirmations" in paragraphs 7a-8 reference "**husband**" and "**wife**", again making clear that this is a rite for marriage between a man and a woman:

9.2.3..1 "The minister asks the husband: 'N, you have taken N as your wife'" (para. 7a) ; "The minister asks the wife: 'N, you have taken N as your husband'" (para. 7b)

9.2.3..2 Alternatively, "The minister addresses the couple, 'N and N, you have taken each other as husband and wife'" (para. 8), with questions then asked "to the husband" and "to the wife"

9.2.4 In Paragraph 12, one of the prayers asks God to "Pour out the abundance of your blessing on **this man and this woman**".

**In conclusion:**

10. In response to the question whether the regulation *Blessing of Persons Married According to the Marriage Act 1961 Regulations 2019* made by the Synod of the Diocese of Wangaratta is consistent with the Fundamental Declarations and Ruling Principles in the Constitution of the Anglican Church of Australia, the answer is **No**.
11. In response to the question whether the regulation is validly made pursuant to the *Canon Concerning Services 1992*, the answer is **No**.