

8/17 Statement of Anglican doctrine of marriage

(A report from the Standing Committee.)

Key Points

- It is proposed that Synod approve a Use of Property Policy as a non-exhaustive statement of the doctrines, tenets and beliefs of the Anglican Church of Australia in the Diocese of Sydney in relation to the use of property.
- It is proposed that the Synod also pass a Bill for the Sydney Anglican Use of Property Ordinance 2018 to require diocesan bodies to only use or allow the use of Church property for acts or practices which conform to the doctrines, tenets and beliefs of the Diocese. This will involve undertaking or authorising acts or practices which are consistent with the Use of Church Property Policy and not allowing activities that are inconsistent with the Policy.
- The Bill will also vary the trusts of all Church Trust Property of the Diocese so that those trusts include that the property is held on trust for purposes which conform to the doctrines, tenets and beliefs of the Diocese.

Purpose of the report

1. The purpose of this report is to recommend certain initiatives to the Synod in response to resolution 8/17 concerning the Anglican doctrine of marriage.

Recommendations

2. That Synod receive this report.
3. That Synod pass the Bill for the Sydney Anglican Use of Property Ordinance 2018 in Appendix 2.
4. That Synod adopt the Property Use Policy in Appendix 1.

Background

5. Resolution 8/17 was passed by the Synod in 2017 as follows:

“Synod –

- (a) requests that Standing Committee appoint a committee of suitably qualified persons to consider whether the Diocesan Education Policy, the Corporate Governance Policy Statement of Faith, or any other relevant diocesan policies, statements or ordinances should be amended to state formally our Anglican doctrine that marriage is the union of a man and a women for life to the exclusion of all others, so as to assist the ability of our Anglican schools and other organisations to maintain that it is a genuine, legitimate and justified occupational requirement for their board members, principals, executive officers and other relevant staff and office holders to hold to this traditional Christian belief about marriage, in order to maintain the Christian religious ethos of our institutions,
- (b) affirms that such a committee could also consider any other core doctrinal matters currently relevant and contested in our society,
- (c) encourages Standing Committee to consider making any amendments suggested by the committee, and
- (d) asks that this be treated as a matter of urgency.”

6. The Standing Committee asked the Religious Freedom Reference Group to address the request in Synod Resolution 8/17. In consultation with the Rev Michael Kellahan of Freedom for Faith, Associate Professor Neil Foster of the University of Newcastle, and appropriate representatives of Anglicare and Anglican Schools within the Diocese.

7. The Religious Freedom Reference Group appointed a subcommittee (hereafter the Subcommittee) comprised of the following members: Associate Professor Neil Foster, the Rev Michael Kellahan, Dr Stephen Kinsella (Executive Director of EdComm), the Rev Dr Ed Loane, Mr Grant Millard (CEO, Anglicare), Mrs Emma Penzo, Mr Ross Smith (CEO, Anglican Schools Corporation), Bishop Michael Stead (Chair) and Mr Robert Wicks.

Three current and potential threats to maintaining a traditional Christian belief about marriage

8. A key threat to maintaining the Christian ethos of our Anglican institutions is in relation to the employment of Christian staff.

9. The law in NSW presently allows religious Institutions to preference the employment of staff who share and uphold the Christian ethos of the organisation. They are able to do this via what are known as “balancing clauses” in anti-discrimination laws, which allow religious organisations to do what would otherwise be discrimination if those acts are:

“[an] act or practice of a body established to propagate religion that **conforms to the doctrines of that religion** or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion”¹

or

“[an] act or practice of a body established for religious purposes, being an act or practice that **conforms to the doctrines, tenets or beliefs of that religion** or is necessary to avoid injury to the religious susceptibilities of adherents of that religion.”²

10. In order for an organisation to rely on these provisions (for example, to allow the organisation not to support same-sex marriage or unmarried heterosexual sexual relationships) it is necessary to show that the biblical view of marriage is one of the “doctrines” or “tenets or beliefs” of the organisation. While it may seem obvious to us that such is the case, this was not the conclusion of the Victorian Court of Appeal in *Christian Youth Camps Limited & Ors v Cobaw Community Health Services Limited & Ors* (“Cobaw”) [2014] VSCA 75 (16 April 2014) in the case of a conference centre operated by the Christian Brethren Trust, where Maxwell P, in giving the majority decision on the point, held at [276] that the views of the lower Tribunal member ought to be accepted, where her Honour said that:

“...the absence of any reference to marriage, sexual relationships or homosexuality in the creeds or declarations of faith which Christians including the Christian Brethren are asked to affirm as a fundamental article of their faith demonstrates the Christian Brethren beliefs about marriage, sexual relationships or homosexuality are not fundamental doctrines of the religion.”

11. There is not currently any statement in the “Diocesan Education Policy, the Corporate Governance Policy Statement of Faith, or any other relevant diocesan policies, statements or ordinances” (as per Synod Resolution 8/17) that explicitly defines “man-woman” marriage as a doctrine, tenet or belief of the Anglican Church of Australia in the Diocese of Sydney. While the doctrine of the Anglican Church of Australia on marriage is evident in Jesus’ teaching in Matthew 19 and the Book of Common Prayer, it is considered prudent also to articulate the doctrine in the form of a Diocesan policy given the reasoning in the *Cobaw case*.

12. A second threat to maintaining the Christian ethos of our Anglican institutions is in relation to the use of property by third parties. There is a real risk that board members of Anglican organisations (for example, Anglican schools) may believe that they are legally required to hire out the school hall as a venue for a same-sex wedding, or otherwise allow the use of church property in ways that are inconsistent with the doctrines, tenets and beliefs of the Diocese.

13. A third threat to maintaining the Christian ethos of our Anglican institutions is that the boards of our institutions may become constituted by people who do not support the Christian ethos of the institution, for example with regard to same-sex marriage.

How a Property Use Policy can mitigate these three threats

14. The Subcommittee formed the view that the most appropriate way to address these three threats to maintaining a traditional Christian belief about marriage is through the implementation of a Property Use Policy, which would (at the same time):

- (a) articulate certain “doctrines, beliefs and tenets” to facilitate reliance on the balancing clauses in anti-discrimination legislation, and
- (b) provide clear guidance for ministers, wardens and board members as to the appropriate and inappropriate uses of church property, and
- (c) be binding on members of boards in their decisions about church property.

15. The Property Use Policy is attached as Appendix 1 to this report. The Policy is not limited to the single issue of the use of church property for same-sex marriages. The Policy brings together in one document the various ordinances and resolutions of the Synod regarding the use of church property, covering such issues as the use of property for the promotion of other religions, the production and sale of alcohol or drugs, the sale of production of pornography, or the advocacy of abortion or assisted suicide.

¹ Section 56(d), *Anti-Discrimination Act 1977 (NSW)*

² Section 37(1), *Sex-Discrimination Acts 1984 (Cth)*

16. The Property Use Policy demonstrates how our practice is grounded in theological principles (i.e., our doctrine). These theological principles are described using the language of “doctrines, tenets and beliefs” for the purposes and relevant State and Federal anti-discrimination legislation.

17. The heart of the policy is in clause 8 - ***church property must not be used for purposes which contravene the doctrines, tenets and beliefs of the Diocese***. These doctrines, tenets and beliefs are explained in terms of four doctrinal categories: Doctrine of Salvation, the Doctrine of the Human Person, the Doctrine of Marriage and Human Sexuality, and the Doctrine of Christian Freedom.

18. The Policy gives a succinct summation of these four doctrines and then offers examples of property use that would be inconsistent with the doctrines, tenets and beliefs of the Diocese as they relate to each particular doctrine. This description of doctrine with examples of property use offers helpful guidance to wardens, ministers, members of governing boards and others involved in decisions involving the use of church property.

How and to whom does the Policy Apply?

19. The effect of the Sydney Anglican Use of Church Property Ordinance 2018 (see Appendix 2) is to make the Property Use Policy binding on “Diocesan bodies”.

20. “Diocesan body” is defined as –

- (a) a parish, and
- (b) any body corporate, organisation, school or association that exercises ministry within or on behalf of the Anglican Church of Australia in the Diocese of Sydney –
 - (i) which is constituted by ordinance or resolution of the Synod,
 - (ii) in respect of whose organisation or property the Synod may make ordinances, or
 - (iii) which is a trustee of Church trust property.

21. The Property Use Policy becomes operative in two ways.

22. Firstly, clause 4 of the Ordinance requires Diocesan bodies to use property in a manner which conforms to the doctrines, tenets and beliefs of the Diocese. The clause provides that a Diocesan body conforms if it undertakes or authorises acts or practices which are consistent with the Policy or involve not allowing property to be used for an activity that is inconsistent with the Policy.

23. Secondly, clause 5 varies the trusts on which all church trust property is held, to make it explicit that “church trust property is held for purposes which conform to the doctrines, tenets and beliefs of the Diocese.”

24. Clause 4 applies to all “Church property” (defined in the Policy as property that is under the control or management of a Diocesan body), whereas clause 5 only applies to “church trust property”.

25. The Policy can also become binding on an “Anglican body” (which would include, for example, independent Anglican Schools operating in the diocese), if the governing board of that body chooses to adopt the Property Use Policy as a policy of that body.

Changing the Statement of Faith?

26. Resolution 8/17 requested that consideration be given to incorporating a clause pertaining to marriage beliefs into the Diocesan Statement of Faith.

27. The Subcommittee considered this suggestion, but came to the view that, while affirming the teaching of Scripture on marriage is a key doctrine, it would not be appropriate to put a statement about marriage belief in the same category as our fundamental beliefs about the Bible, the atoning work of Christ and justification by faith alone.

28. The Committee also considered whether it would be appropriate to include within the Statement of Faith, a requirement that board members assent to the Jerusalem Declaration. While this has the advantage that a belief about marriage is embedded within the Jerusalem Declaration, the Subcommittee decided not to pursue this alternative suggestion because the Jerusalem Declaration has some Anglican-specific affirmations that may have the unintended consequence of excluding some non-Anglicans (such as Baptists and Presbyterians) from serving on our diocesan boards.

For and on behalf of the Standing Committee.

BISHOP MICHAEL STEAD
Chair, Religious Freedom Reference Group

17 September 2018

Appendix 1

Property Use Policy
A Policy of the Synod of the Diocese of Sydney

[Not reproduced here – see final form of policy starting at page 322.]

Appendix 2

Sydney Anglican Use of Church Property Ordinance 2018

[Not reproduced here – see final form of ordinance starting at page 308.]

Property Use Policy

A Policy of the Synod of the Diocese of Sydney

(see also 8/17 Statement of Anglican doctrine of marriage at page 304 of these Proceedings.)

Introduction

1. The Synod has from time to time passed ordinances and resolutions to articulate the kinds of uses of church property that are (and are not) consistent with the purposes of the Anglican Church of Australia in the Diocese of Sydney.¹ These ordinances and resolutions seek to ensure that church property is not used for inappropriate purposes.
2. The purpose of this policy is to bring these various policy resolutions into a single document, and to clarify the theological rationale.
3. The doctrines, tenets and beliefs of the Diocese include, but are not limited to, the doctrines, tenets and beliefs set out in this policy. A Church body conforms to the doctrines, tenets and beliefs of the Diocese if it undertakes or authorises an act or practice which –
 - (a) is consistent with this policy, or
 - (b) involves not allowing church property to be used for an activity that is inconsistent with this policy.

From time to time there are certain actions and practices that a Church body will need to undertake in order to avoid injury to the religious susceptibilities of a significant proportion of Anglicans in the Diocese. However the Synod, as the governing body representing Anglicans in the Diocese, considers that, as a minimum, these include any act or practice undertaken to conform to the doctrines, tenets and beliefs set out in this policy.

4. On 23 October 2018, the Synod approved this policy in respect to Diocesan bodies under the *Sydney Anglican Use of Church Property Ordinance 2018*. The policy also applies to an Anglican body that chooses to adopt it as a policy of the body.

Interpretation

5. In this Policy –

“Anglican body” means a body which has charitable purposes that include purposes for or in relation to the Anglican Church of Australia, which is not a Diocesan body, but is situated in the Diocese and the governing body of the body has resolved to adopt this policy as amended from time to time as a policy of the body.

“Diocese” means the Anglican Church of Australia in the Diocese of Sydney.

“Diocesan body” means –

- (a) a parish,
- (b) any body corporate, organisation, school or association that exercises ministry within or on behalf of the Anglican Church of Australia in the Diocese –
 - (i) which is constituted by ordinance or resolution of the Synod,
 - (ii) in respect of whose organisation or property the Synod may make ordinances, or
 - (iii) which is a trustee of Church trust property.

¹ Examples include:

- (a) The *Anglican Church Property Trust Diocese of Sydney Ordinance 1965* prohibits the corporate trustee of the Diocese from licensing or allowing property to be used for purposes the Synod and Standing Committee may be resolution disapprove (clause 10(1). The disapproved purposes are set out in the Social Covenants Policy - section 11.2 <https://www.sds.asn.au/sites/default/files/ACPT%20User%20guide%20Leasing.and.Licensing.Church.Trust.Property.Current.1.pdf>
- (b) Use of churches by non-Anglican congregations - see s5.6 of the *Parish Administration Ordinance 2008* - only if "the profession of faith of the non-Anglican congregation is Bible-based"
- (c) The Ethical Investment Policy of the ACPT, defines “prohibited activities” as
 - (i) The manufacture or sale of Abortifacient or abortifacient-like contraceptives, or Alcohol, or Armaments, or Pornography, or Tobacco.
 - (ii) Undertaking medical and/or surgical elective abortions.
 - (iii) Undertaking stem cell research involving the destruction of embryos.
 - (iv) Gambling.

The Glebe Administration Board, the trustee of the Diocesan Endowment, is subject to similar ethical investment requirements.

- (d) Yoga and other such activities: <https://www.sds.asn.au/sites/default/files/reports/Y/Yoga.OtherSuchActivities.Rep2015.pdf>

“Church body” means a body that is an Anglican body or a Diocesan body.

“Church property” means –

- (a) Church trust property, and
- (b) the property of an Anglican body.

“Church trust property” has the same meaning as in section 4 of *Anglican Church of Australia Trust Property Act 1917*, being property that is held “for the use, benefit, or purposes” of the Anglican Church of Australia in a particular diocese.

“Synod” includes the Standing Committee of the Synod.

Policy Principles

6. The priority use of church property is for Christian ministry conducted in accordance with the doctrines, tenets and beliefs of the Diocese.
7. Where church property is not suitable for ministry, is temporarily not required for current ministry purposes, or there are periods of time during the week in which a ministry property is not required for ministry purposes, it may be good stewardship of these resources to employ them for the general benefit of the community or for income-producing purposes, provided that all such income is used for the “use, benefit or purposes” of some part of the Diocese.
8. However, it is inappropriate for church property to be used to facilitate, or generate income from, activities which are inconsistent with the doctrines, tenets or beliefs of the Diocese. As a matter of policy, therefore, **church property must not be used for purposes which contravene the doctrines, tenets and beliefs of the Diocese**. Without limiting the generality of this principle, the following sections provide a theologically grounded application of this policy to specific examples, in order to provide guidance for wardens, ministers, members of governing boards and others involved in decisions involving the use of church property.
9. The application of this policy is intended to be informed by other policies and guidelines endorsed by the Synod, including –
 - Sydney Anglican Policy on Responding to Domestic Abuse
 - Ethical Investment Policy
 - Gender Identity Initial Principles of Engagement
10. For the avoidance of doubt,
 - (a) This policy does not prevent discussion and debate about contentious issues on church property, including dissent from the doctrinal statements in this policy. As Articles 20 and 21 remind us, Christians have erred in the past “in things pertaining to God”, and therefore as a church we must always be open to reform our doctrine, if that doctrine is contrary to God’s Word written.
 - (b) This policy does not override the terms of residential tenancy or occupancy agreements, commercial leases and contractual and statutory requirements for retirement living or residential aged care. The conformity with the doctrines, tenets and beliefs of the Diocese in relation to leased and licensed property is administered through the inclusion of the relevant “social covenants” in the lease or licence document pursuant to the *Church Trust Property (Declaration of Certain Purposes and Objects) Ordinance 1979*. In relation to the investment of church property, such conformity is administered through the *Investment of Church Trust Property Ordinance 1990*.
 - (c) This policy does not prevent an act or practice on Church property that is necessary for a body or person to comply with the law.

The Application of this Policy

Doctrine of Salvation

11. We believe in one God, who is Father, Son and Spirit. Our triune God alone is to be worshipped, in the way he requires. There is only one way of salvation, which comes through faith in the atoning work of Jesus Christ. The gospel calls us to turn from sin and abandon our idolatrous or syncretistic worship, and to worship the true God, through Jesus Christ, by the Holy Spirit.
12. Church property must therefore not be used for the worship of other gods, or to profess and promote a different doctrine of salvation.
13. The use of a church building by another Christian congregation for the purposes of worship is only allowed if “the profession of faith of the non-Anglican congregation is Bible-based” (section 5.6 of the *Parish Administration Ordinance 2008*). This “Bible-based” profession of faith must (at least) conform

to the 4 core principles articulated in the statement of faith required of those who serve on the boards of our diocesan organisations - that is:

- (a) The Christian faith as set forth in the Apostles' and Nicene Creeds;
 - (b) That God's word written, the canonical Scriptures of the Old and New Testaments, is the supreme authority in all matters of faith and conduct;
 - (c) That there is only one way to be reconciled to God which is through his Son, Jesus Christ, who died for our sins and was raised for our justification; and
 - (d) That we are justified before God by faith only.
14. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
- (a) Use of church property for the promotion of non-Christian religions such as Hinduism, Buddhism and Islam, or for events the purpose of which is to attack, denigrate or undermine Christian beliefs;
 - (b) Use of church property by other (Christian) groups, whose basis of faith differs from the four principles articulated above;
 - (c) Use of church property for activities which promote a spirituality that is in conflict with true Christian Spirituality. For example, those yoga classes which go beyond mere "positional yoga" and involve spiritual practices such as meditative practices and chants derived from Hinduism.

Doctrine of the Human Person

15. We believe that all human beings are uniquely created in the image of God, loved by God and precious to him. We believe that God created humanity with two complementary sexes – male and female – and that both male and female are equally made in God's image. We believe that God made people of all races and abilities as equal in his sight, and offers salvation through faith in the atoning work of Jesus Christ to all people without distinction. We believe that God alone determines the beginning and end of life.
16. Church property must therefore not be used for purposes which destroy human life or devalue the inherent worth of human beings in the image of God.
17. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
- (a) Abortion advocacy;
 - (b) Undertaking or making referrals for medical and/or surgical elective abortions;
 - (c) Production of abortifacient or abortifacient-like contraceptives;
 - (d) Undertaking any activity that involves or leads to the destruction of human embryos;
 - (e) Advocacy for, or assistance with, euthanasia;
 - (f) Manufacture of armaments or other weapons of war;
 - (g) Activities that incite racial hatred;
 - (h) Advocacy of or activities that incite discrimination against people with disabilities.

Doctrine of Marriage and Human Sexuality

18. We believe that there are only two expressions of faithful sexuality: marriage between a man and a woman or abstinence in singleness.
19. Church property must therefore not be used for activities which promote sexual intimacy outside of marriage, or which promote a version of marriage that is inconsistent with God's plan for marriage. The use of an Anglican Church building for a wedding by those from another denomination is only appropriate where the marriage rites to be used are consistent with authorised Anglican marriage services.
20. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
- (a) Production or distribution of pornography;
 - (b) Commercialisation of sexual services (e.g., a brothel);
 - (c) Solemnisation or blessing of a same-sex wedding;
 - (d) A reception venue for a same-sex wedding;

- (e) Events for the purpose of advocacy for expressions of human sexuality contrary to our doctrine of marriage.

Doctrine of Christian Freedom

- 21. We believe that the gospel of salvation brings freedom from our captivity to sin. Christian freedom is not a freedom to indulge the sinful nature. Rather, Christians should seek to throw off everything that hinders and the sin that so easily entangles and should seek not to cause others to sin by leading them into temptation.
- 22. Church property must therefore not be used for activities which profit from addictive desires, or which will cause others to become entrapped by addictive desires.
- 23. Some examples of property use which would be inconsistent with the doctrines, tenets and beliefs of the Diocese:
 - (a) The production, promotion or sale by wholesale of tobacco;
 - (b) The commercial manufacture, distribution or sale of liquor (other than the sale and consumption of liquor on premises where the liquor is intended to be consumed with food sold on those premises for consumption on those premises);
 - (c) Any use in connection with narcotic drugs (including any prohibited drug, prohibited plant or drug of addiction) except as part of the normal trading practices of a registered medical practitioner, accredited residential aged care facility, pharmacist, chemist, dental or veterinary surgeon;
 - (d) For the purposes of gambling or betting.

I Certify that the Policy as printed is in accordance with the Policy as reported.

P COLGAN
Chair of Committees

I Certify that this Policy was passed by the Synod of the Diocese of Sydney on 23 October 2018.

D GLYNN
Secretary

Sydney Anglican Use of Church Property Ordinance 2018

No 33, 2018

Long Title

An Ordinance to clarify the doctrines, tenets and beliefs of the Diocese for the use of church property.

The Synod of the Diocese of Sydney ordains as follows.

1. Name

This Ordinance is the *Sydney Anglican Use of Church Property Ordinance 2018*.

2. Interpretation

"Diocesan body" means –

- (a) a parish, and
- (b) any body corporate, organisation, school or association that exercises ministry within or on behalf of the Anglican Church of Australia in the Diocese of Sydney –
 - (i) which is constituted by ordinance or resolution of the Synod,
 - (ii) in respect of whose organisation or property the Synod may make ordinances, or
 - (iii) which is a trustee of Church trust property.

"Church property" means property that is under the control or management of a Diocesan body.

"Church trust property" has the meaning set out in section 4 of the *Anglican Church of Australia Trust Property Act 1917*.

"Diocese" means the Anglican Church of Australia in the Diocese of Sydney.

"Doctrines, tenets and beliefs" has the meaning set out in clause 3.

"Policy" means the policy known as the Property Use Policy approved by the Synod, as amended from time to time in accordance with clause 5.

"Synod" includes the Standing Committee of the Synod.

3. Doctrines, tenets and beliefs

The doctrines, tenets and beliefs of the Diocese include, but are not limited to, the doctrines, tenets and beliefs set out in the Policy.

4. Use of Church Property

- (1) A Diocesan body must only use or allow the use of Church property for acts or practices which conform to the doctrines, tenets and beliefs of the Diocese.
- (2) A Diocesan body conforms to the doctrines, tenets and beliefs of the Diocese if it undertakes or authorises acts or practices which –
 - (a) are consistent with the Policy, or
 - (b) involve not allowing Church property to be used for an activity that is inconsistent with the Policy.
- (3) Any dispute about whether a use or proposed use of Church property conforms to the doctrines, tenets and beliefs of the Diocese is to be determined by the Archbishop.

5. Amendment of the Policy

The Policy may be amended –

- (a) by resolution of the Synod, or
- (b) by resolution of the Standing Committee unless before such amendment is made, any 3 members of the Standing Committee request in writing that the amendment be referred to the Synod and provided any amendment made by the Standing Committee is reported to the next ordinary session of the Synod.

6. Application

Notwithstanding any other provision of this Ordinance,

- (a) this Ordinance does not apply to an act or practice on Church property which is permitted or authorised under a lease or licence (or other legally binding agreement) that is in effect at the date of commencement of this Ordinance, and
- (b) this Ordinance does not prevent an act or practice on Church property that is necessary for a body or person to comply with the law.

I Certify that the Ordinance as printed is in accordance with the Ordinance as reported.

P COLGAN
Chair of Committees

I Certify that this Ordinance was passed by the Synod of the Diocese of Sydney on 22 October 2018.

D GLYNN
Secretary

I Assent to this Ordinance.

GN DAVIES
Archbishop of Sydney
25/10/2018