

## **A letter from the UCA President, Dr Deidre Palmer**

To all congregations and faith communities: Marriage and same-gender relationships

My dear Sisters and Brothers in Christ,

The Assembly, the national council of the Uniting Church, has been considering the issue of marriage and same-gender relationships. This long conversation over almost 30 years in our Church has been a difficult one, as it has been for many people of faith.

The 15th Assembly meeting in Melbourne have voiced a wide range of strongly and faithfully held views, from different theological and cultural perspectives. Assembly members have taken the opportunity to speak for and against a range of different proposals. In doing so, I am proud to say they have modelled a loving Christian community, holding together and caring for each other.

God's grace has been abundant... and together we have reached a decision on a way forward for our Church.

To honour the diversity of Christian belief among our members, we will hold two equal and distinct statements of belief on marriage. This decision will allow ministers and celebrants in the Uniting Church the freedom to conduct or to refuse to conduct same-gender marriages.

The existing statement of belief that "marriage for Christians is the freely given consent and commitment in public and before God of a man and a woman to live together for life" has been retained.

A new additional statement of belief has also been adopted. That statement reads "marriage for Christians is the freely given consent and commitment in public and before God of two people to live together for life."

What this means is that ministers who, in good conscience, are willing to conduct same-gender marriages are able to do so. This does not compromise the rights of those ministers who, in good conscience, cannot conduct same-gender marriages.

They will continue to be able to teach their belief that marriage may only be between a man and a woman, and can continue to use a marriage liturgy that reflects that conviction.

I want to acknowledge the ministry and struggle of LGBTIQ people in the Uniting Church over many years. I know that this conversation is painful and difficult for you.

At the same time I also acknowledge those who are not able to support this change – and your pain and difficulty in this space.

I offer my prayers that God grants you comfort and healing as we move ahead.

I want to reassure all members of the Uniting Church - your rights to follow your beliefs on marriage will be respected and protected.

Church councils will have the right to determine whether marriage services take place on their premises.

Grace and peace to you all. as we continue to witness to God's abundant grace, the liberating hope of Christ, and the wondrous movement of the Holy Spirit in our beloved Church.

Dr Deidre Palmer  
President  
Uniting Church in Australia Assembly  
14 July 2018

*Rev. Prof Andrew Dutney, Professor of Theology, Flinders University, Past President, Uniting Church in Australia*

## **"Uniting Church approves same-sex marriage."**

The headline conceals what actually happened in Melbourne at the 15th Assembly. Without setting out to do so, the Uniting Church recovered its stated vocation of making visible unity in diversity. Of course, the 15th Assembly of the Uniting Church in Australia did indeed make decisions that will allow ministers to conduct same-sex marriages. But it also reinforced the rights of ministers and congregations who remain committed to the traditional understanding of marriage as exclusively between a man and a woman.

No minister will have to conduct same-sex marriages if it conflicts with their beliefs. No congregation will have to make its property available for same-sex weddings if they don't believe gay marriage is valid for Christians. In fact it is very unlikely that many ministers and congregations will see any difference in the teaching and practices that they are used to.

The intention of the initial proposal was that ministers who, in good conscience, are willing to conduct same-gender marriages should be allowed to do so. But it was also intended that this should not compromise the rights of those ministers who, in good conscience, cannot conduct same-gender marriages. They will continue to be able to teach their belief that marriage may only be between a man and a woman, and can continue to use a marriage liturgy that reflects that conviction.

In other words, without disputing the biblical and theological validity of the traditional understanding of marriage - in fact the resolution reaffirms the Church's policy statement originally adopted in 1997 - the Assembly has approved an additional statement on marriage for the Uniting Church, also biblically and theologically valid.

The rationale to the proposal explained: "Within the diversity of our fellowship there are Ministers and Congregations who believe that the change in our social context that allows same-gender marriage is consistent with the Gospel, and want to be able to celebrate same-gender marriages as well as opposite-gender marriages. They are seeking the consent of the rest of the church to have this ability. They are not asking the rest of the church to agree with them, but allow them to follow their conscience in this way. The Working Group on Doctrine Report on Marriage and Same-Gender Relationships confirms the biblical and theological legitimacy of this request."

Two doctrines of Christian marriage? Two expressions of that in "the rites of the Uniting Church in Australia"? How does that work?

Well, that's the kind of thing that the Uniting Church was always supposed to be able to manage: unity in diversity.

The union of the Congregational, Methodist and Presbyterian churches in 1977 wasn't an amalgamation or a take-over. It wasn't for the sake of efficiency. It was three historic, proud denominations choosing to set aside the things that divided them for the sake of something bigger: the visible unity of divided people as a foretaste, sign and instrument of the reconciliation of the world to God in Christ.

In fact in its Basis of Union, the Uniting Church names the mission of God as "reconciliation and renewal for the whole creation". And it says that "The Church's call is to serve that end: to be a fellowship of reconciliation, a body within which the diverse gifts of its members are used for the building up of the whole, an instrument through which Christ may work and bear witness to himself".

Making unity in diversity visible, is what the UCA was built for.

So, e.g., in addition to bringing together three contrasting, divided forms of historic church polity, the UCA's Basis of Union specifically acknowledged Calvinist Confessions of Faith alongside the Arminian sermons of John Wesley as witnesses the Uniting Church must listen to and which ministers must study, even though Calvinist and Arminian doctrines of salvation are famously in conflict with each other. In the same way, from the beginning the Uniting Church has accepted a wide variety of views of the presence of Christ in Holy Communion, ranging from Zwinglian to Calvinist and Wesleyan, and assumes that some members and ministers lean more towards Lutheran or Catholic views. Much of the dividedness of Western Christianity involves conflict between these contrasting doctrines of the sacraments.

Holding together two doctrines and practices of marriage within the one diverse Church is the kind of thing that the UCA was built for.

Of course, by introducing an additional approach to marriage into the Uniting Church's theology and practice the UCA is out of step with most other Christian churches in Australia. That's something that would have given the Assembly pause for thought.

From the beginning, the Uniting Church was intended to be an expression of what God was doing with the whole church. Anything that would make the UCA appear to be sectarian and anything which would unnecessarily "denominationalise" the UCA was to be avoided. What it seeks is to be Christian – in the broadest sense; an expression of the One Holy Catholic and Apostolic church.

That doesn't mean it can't have policies and commitments that are different from other churches. For example the Uniting Church welcomes and celebrates the leadership of women in all parts of the church's life, even though this is out of step with many – even most – Christian churches. The Uniting Church marries divorced people and accepts the leadership of divorced people even though many Christian churches would condemn this. And other churches know what the UCA's policies and commitments are in such matters without questioning the seriousness and authenticity of its desire to be Christian – as truly and deeply as it can in contemporary Australian society.

Nonetheless, it is always something for the UCA to reflect on honestly. How will this decision affect our relationships with other churches?

In my report to the 14th Assembly as the retiring President I said:

"God is calling us to be a church which receives its diversity as the precious gift of the Holy Spirit that it is; a foretaste, sign and instrument of "that reconciliation and renewal which is the end in view for the whole creation." Reconciliation doesn't mean everyone being the same. It doesn't mean one version of being human or being Christian replacing all the others. It means people and groups that are different and divided from each other being brought together in Christ to respect, value, trust and serve one another - in all our annoying, embarrassing, frustrating, frightening diversity. That's profoundly challenging. It's sharply counter-cultural. But it is the kind of church God is calling us to be"

That's the kind of church the 15th Assembly had in mind when it decided to approve same-sex marriage.

## **The Assembly's Decision on Marriage – a personal reflection**

*Posted on July 16, 2018 by Graham D Perry*

Like any national conference, Assemblies have their joys; catching up with interstate friends after years, hearing top quality speakers and sharing with international guests, relaxing over meals getting to know people with whom I don't normally spend enough time. On the other hand, please never fall for the idea that Assembly is some kind of junket. FAKE NEWS! Assembly is hard work. Long hours at tables or in Community Working Groups, concentration span sorely tested, impatient to get through the process to the guts of a matter, only to find that process has been our friend. Emotional labour as well: patience, empathy, listening to people you don't agree with, holding your tongue; feeling others' pain, presbytery ministering instead of arguing, holding the contradictory hopes and concerns of a diverse and disparate part of the church inside my own heart and head; trying to remember that in a Council of the Church I don't 'represent' you, but feeling likewise that I don't represent only myself.

I want to make some observations and reflection on the most significant resolution of Assembly 15 on the Uniting Church's definition of Marriage. My thoughts address matters only from my own point of view, and don't have any 'official' status other than that I was there.

### **PROCESS**

The Proposal from Assembly Standing Committee (ASC) was discussed in small Community Working Groups and many suggestions made. The CWGs, in which every member participates, had clearly indicated that the most profitable way forward was to offer two different definitions of marriage, essentially one between 'a man and a woman' and the other between 'two people.' The Facilitation Team laboured through the night to bring a revision as 'Proposal 61'. This Proposal was later tightened by amendment to uphold the wording and theology of our 1997 definition of marriage, so that the wording of both views was identical except for the above phrases. This amended Proposal became Proposal 64 and was eventually carried. The wording can be found in this unconfirmed Minute.

There were some legitimate protests about the overall process. Firstly, the resourcing paper from the Working Group on Doctrine was released much too late for widespread and detailed consideration. Secondly, this paper was not discussed in detail by Assembly. The ASC's answer was that the paper was provided by the WGD to the Standing Committee, who received it; it was a background resource only to the full Assembly and did not need to be received or debated. Many felt this reply to be a little tendentious. Nonetheless, ample time was given to express points of view from the floor, and few members chose to speak to the original paper.

The President recommended, and the Assembly strongly agreed, to hold the discussions in private session, without visitors; to waive the right to use indicator cards for or against speakers to reduce the pressure on vulnerable members; and ultimately, to a written (secret) ballot on the substantive issues. When it came to the decision under formal procedures, Assembly agreed to seek a two-thirds majority to pass. In declaring Proposal 64 carried, the President remarked that the count was 'significantly more than the two-thirds required.'

As the Australian public last year approved the changes to the Marriage Act by 61.6% of eligible voters, the Uniting Church's figure 'significantly' greater than 66.6% demonstrates a clear indication of the Assembly in Council that the UCA is willing to embrace marriage equality. The process, ponderous as it seemed at times, slowly worked its way through revisions of the proposal (which left the 'progressive' side more unhappy than the 'conservatives'), through often unfounded points of order, through an unexpectedly helpful hour of two-minute speeches from the floor, through several counted procedural votes, to a strong affirmation that a decision must be made now, and a determined rejection of a subsequent proposal to seek concurrence of other Councils of the Church in line with Clause 39 of the Constitution. The Assembly worked hard and diligently to make a radical decision and achieved a high level of agreement on the way forward. The church may feel, even if the outcome is not welcome

in some parts, that the Assembly has done the work demanded of it through careful and prayerful discernment and deliberation.

## THEOLOGY

Two mutually exclusive views on marriage? Are we really such a paradox? The simple answer, propounded by Ex-President Rev. Prof. Andrew Dutney, is essentially YES.

Andrew demonstrated from the Basis of Union and in other ways that the UCA, in placing Unity in Christ above any other tests of unity or purity, that we have from the beginning chosen to hold together contradictory theological positions 'that we may be one.'

Those who have not experienced genuine Calvinism or Wesleyanism may not realise just how mutually exclusive much of the Westminster Confession and Wesley's Forty-four Sermons are, but Calvinism vs. Arminianism\* was a debate I had to have with my Presbyterian friends at Uni in the 80s. Uniting Church views on the Lord's Supper range from Zwinglian to neo-Ecumenical and everything in between. Likewise, though we affirmed Baptism as a 'once only' event, many church members ask only a blessing for their children in hope that they will seek baptism as believers in later life.

These issues, touching on the sacraments and the nature of salvation, are right at the heart of Christian faith, and the blood of saints has been spilt for both. Yet the Uniting Church has long been willing to diverge on these measures of 'Orthodoxy' for the sake of a deeper unity which human reason cannot formulate.

Marriage is, in terms of the Doctrine of the Church, a very minor matter. Reformed protestants chose to exclude it from the sacraments; many protestant churches around the world conduct, in effect, only blessings, as marriage is a secular contract governed by the State. In Australia, the State has already married many same-gender couples; these relationships exist, in law, within and outside our churches.

## CARE AND CONCERN

Doctrine aside, however, marriage is a major pastoral concern of the church, and the two-options decision was made for pastoral reasons. Radical members of Assembly hoped for a radical affirmation of marriage equality. Conservative members argued that offering two definitions, with two forms of liturgy and no compulsion against conscience, was the most radical outcome they could accept and that it would go a long way to bridging the gap for conservative rural, Indigenous or migrant-ethnic groups, as well as for more 'Evangelical' groups in the U.C.

Many members took a positive pastoral approach to the discussion. There was genuine concern among members, including some who were for marriage equality, about the pastoral impact this would have on their conservative congregations. Indigenous and migrant speakers warned of the impact in their communities, although others from the same communities affirmed that the cultural pastoral situation is much more complex than this. One Pacific Island woman declared "My heart is strangely warmed!"

Many members were deeply moved by the witness of a number of the gay and lesbian members present, who took the opportunity at some personal risk of declaring their own sexuality and the costliness of living in church and society on such a deeply personal margin. Their honesty and vulnerability certainly helped others put a human face to what they may previously have felt was an abstract 'issue.'

Overall, the President, though occasionally sorely tested, showed grace and patience and helped ensure that no legitimate view was excluded and that all who wished to contribute might be heard.

## IMPLICATIONS

In terms of Australian Christianity, our UCA has done a remarkable new thing. Many people in our Church (and some who are as yet outside it) are this week rejoicing and planning marriage services. Others are lamenting what they see as yet another departure from the Christian tradition and some may be intending to leave. Many others are in between, dealing with their curiosity, misgivings, or the simple process of coping with change in a changing world.

Our church communities are precious to us. They sustain us in faith, hope and love, and give us a framework, spiritual and intellectual, in which to hold our world and shape our lives. If we leave, we rarely find the grass to be greener in another paddock. The decision the Assembly has made will not force any sudden changes upon your own local church community (many of us are lucky to celebrate a wedding from one year to the next anyway). A conservative congregation is unlikely to experience any pressure to change their practice or belief. As the church lives with difference of opinion and freedom of conscience on so many other things, the question is more likely to be,

Can you live with what other Christians believe, with what other congregations faithfully offer of God's grace? And when such changes start to ripple across the surface of your own pond, how will you respond and grow as a follower of Christ? There is more than one answer to that question.

So, Uniting Church friends, my loving advice at this time is to take a breath and consider what we have done, quietly, prayerfully, with familiar faces in your mind's eye. You may find yourself thankful. There will be more information coming. There will be opportunities to reflect and have questions answered. In the meantime, do what you do best: be the most loving, caring and united Uniting Church you can be, by the grace of God, in the love of Christ, through the fellowship of the Spirit.

Blessings, Graham Perry

## **Marriage and the matter of being “vital to the life of the church”**

AUGUST 7, 2018

JOHN T SQUIRES

Marriage of same gender people is NOT a matter that is “vital to the life of the church”. Since the 15th Assembly concluded almost a month ago, there here has discussion in various places claiming that marriage is a matter “vital to the life of the Church”. The consequence of such a view is that the Assembly should be sending its decision to other councils of the church, seeking their “concurrence” on the decision made.

This is all in accord with what Clause 39 of the Constitution of the Uniting Church specifies. That clause itself depends on a sentence in paragraph 15(e) of the Basis of Union, which refers to “matters of vital importance to the church”.

There was a proposal to that effect presented to the 15th Assembly, immediately after the decision on marriage. The debate enabled members of Assembly to put their points of view about this idea. In the end, the Assembly decided that marriage was NOT a matter “vital to the life of the Church”, and so the Assembly did NOT need to seek the “concurrence” of other councils of the church.

But there has been continued discussion of this idea, and some Presbyteries either have already considered, or will soon be considering, such a proposal.

It's the business of each Presbytery to come to some decision about this, but I think that an airing of the issues involved is helpful. Indeed, a past President, the Rev. Professor Andrew Dutney, has provided a summary of the arguments for and against that were offered to the Assembly in July. You can read that here

<https://andrewdutney.wordpress.com/2018/08/07/matters-vital-to-the-life-of-the-church/>

I don't believe that marriage is a matter that is “vital to the life of the church”. Here are twelve reasons why:

**Our Scripture:** Marriage is not prominent in scripture. There are descriptive passages which refer to the wife (or wives) of various men, and there are passages in the Law which relate to marriage customs and practices. But there is no prescriptive definition of marriage, nor is there extensive debate about the conditions required for marriage, the ceremony or ceremonies to be conducted to implement marriage. When Jesus refers to marriage, it is something that is narrated in passing (in a discussion of divorce); it is not put forward as a definitive, prescriptive, in-principle statement.

**Our Creeds:** Marriage is not mentioned in the historic Creeds: the Apostles Creed, the Nicene Creed, or others which flow from these. There is no indication at all in the early centuries of the church, that this was a matter that was seen as significant, central, or vital to the church.

**Our Confessions:** Marriage is barely given any consideration in any of the confessional documents of the previous denominations. It is mentioned in passing the Heidelberg Catechism (1563) question 108 (but only in passing—the discussion relates to unchastity). There is one chapter in the Westminster Confession (1647), ch. XXIV Of Marriage and Divorce, and one chapter in the Savoy Declaration (1658), ch. XXV Of Marriage. The first four paragraphs are the same statements about marriage in both documents, then the Westminster Confession adds some further paragraphs about divorce. These statements set out an understanding of marriage and declare “marriage was ordained for the mutual help of husband and wife”, but nothing is said that in any way indicates it is central, essential, or vital, to the life of Christian faith. (I am grateful to the index of Michael Owen's Witness of Faith, 1984, for these references.)

**Our History:** Marriage has not been a “vital matter” for the Uniting Church over the past decades. When we look in *Theology for Pilgrims* (2008, ed. Rob Bos and Geoff Thompson), we find a collection of documents under the heading “Core Practices of the Church” which relate Ministry, Ordination, the Sacraments, and the use of the Bible, and further documents relating to Communion, Baptism, and the Ordination of Women, under the heading “Theology in Controversy”. There is nothing in any of these documents, or elsewhere in the book, that suggests that Marriage ought to be considered a “core practice” of the church. The same observation holds for Andrew Dutney’s *Backyard Theology* (2011), where discussion ranges over a number of matters, but not marriage. And this also applies to *Building on the Basis: papers from the Uniting Church in Australia 2000-2011* (2012, ed. Chris Walker) and *Being and Doing Church: a Uniting Church Perspective* (2015, ed. Chris Walker). (All of these works are indicative, not prescriptive; but their contents are telling.)

**Recent Debate:** Only in very recent times has it been specifically proposed that marriage should be regarded as a “vital matter” for the Uniting Church. This was done only when it became clear that the shifts in society relating to same gender marriage were leading to a shift in understanding of same gender marriage across the Uniting Church. In fact, when the discussion about ordaining people of the same gender was resolved (with such people now regularly being ordained and operating within ministry placements), more conservative elements in the church shifted their attention to the discussion about marrying people of the same gender. This is what Andrew Dutney has described as the continuation of the “culture wars” within the church. Since the earlier “benchmark” about faith had shifted, attention was now focussed on a new issue. But prior to this, there was never any claim that this was a matter that was “vital to the life of the church”.

**Our Theology:** Nobody within the Uniting Church argues that our Salvation depends on our marital status, or, indeed, on the spiritual health of our marriage. I can’t recall ever seeing that claimed at any point in the history of the church! The notion that salvation is impeded, or challenged, by being divorced, which might have held in some eras of church history and might still be the case in some denominations today, is certainly not something that would be held by the Uniting Church. So I can’t see how marriage, per se, would be in any way vital to our faith or theology or discipleship.

**Our Polity:** The practice within the Uniting Church is pastoral concerns about specific matters within the church do not receive blanket and overarching attention; rather, we work contextually and relationally, and decisions about such matters need to be dealt with on case by case basis. This is most certainly what has been happening, in all the discussions over the years about sexuality: about homosexuality (in the 1980s), about homosexuality and leadership (in the 1990s to 2003), and in the discussion about marriage of same gender couples (2012–2018). Indeed, what the 15th Assembly decided with the most recent decision about marrying people of the same gender, is that it is a matter for each Minister or Celebrant to decide whether they will conduct such marriages, and it is a matter for each Church Council to decide whether such marriages will take place on their property. This continues the pattern of sharing responsibility for such matters with the appropriate body within the church. Our Constitution: Clause 39 of the Constitution of the Uniting Church has never before been invoked, so there is no precedent for this being applied in this instance. That doesn’t mean that it can’t be invoked, but it does mean that we have no specific guidance from a precedent within our own UCA history.

**Our Processes** (1): We need to think about marriage in the context of other very contentious issues which might have been considered to be matters “vital to the faith” according to Clause 39. The Uniting Church has discussed and made decisions about a number of controversial and significant issues over the years (as already noted). We debated long and hard about Baptism—and, even though it is one of the two Sacraments within the UCA, central to our communal expression of faith, and indeed central to the life of the worldwide church in all its denominational manifestations—it was not deemed to be “vital to the faith” in those dis-

cussions. We debated long and hard about Ordination—and, even though it defines a central and important way by which we order the life of the church and set apart people for specific ministries in church and in society, it was not deemed to be “vital to the faith” in those discussions. We introduced the ministry of Deacon, defining it in ways quite different from the way that ministry is understood in other denominations, but we never declared this to be “vital to the faith” in the discussions leading up to this decision.

**Our Processes (2):** Discussion about marrying people of the same gender has been underway for some years now. It has been discussed in numerous western countries over the past decade, and some countries have determined to introduce it. It has been a focus within Australian society for the past few years, and we have now legislated to enable this to take place. It has been the subject of extensive, open, and honest discussions across the Uniting Church. It has been discussed by the 13th Assembly (2012, Adelaide) and the 14th Assembly (2015, Perth), and now once again at the 15th Assembly (2018, Melbourne). All Synods were invited to make this a feature discussion in their 2017 meetings. Members of multiple Presbyteries and countless Congregations have considered and discussed this matter. It is not something that has been sprung on them without any warning!

**Our Ecumenical Relationships:** The fear has been invoked, that our ecumenical partners will cease to recognise us as a part of the One, Holy, Catholic and Apostolic Church, and refrain from speaking with us or working with us. I see this as plainly scaremongering. There has been no indication that this would be the case; indeed, I have recently been part of a conversation with the leader of one of the overseas partner churches who attended the Assembly, and when I put this proposition to him, he dismissed it, and said that his church would not act in this way. In fact, he observed, his church remains in partner relationships with denominations which have made similar decisions about same gender marriage, in the UK, the USA, Canada, and Aotearoa New Zealand.

**Our Pastoral Responsibility:** We have a pastoral responsibility to deal with this matter in a manner that is sensitive to members of the church and in a manner that ensures that we are providing a safe space for ongoing discussion. There is a long commitment to this, at least in principle:

In 1987, the Assembly Standing Committee affirmed that all baptised Christians belong in the church, regardless of their sexual orientation.

In 1997, the 8th Assembly rejected judgemental attitudes in sexual ethics.

In 2003, the 10th Assembly noted that the placement of ministers was to be undertaken on a case by case basis, and that the matter of a person’s sexual preference or identity was not to be considered.

In 2006, the 11th Assembly underlined the need to ensure that we provide safe communities where people may hold diverse beliefs about sexuality. Yet the continued debate about, and incessant scrutiny of, same gender attracted people is placing immense pressure on them. Pastoral sensitivity would suggest to us, that this is no longer an issue to be debated “in the abstract”, but that any such discussion we have involves real people in real situations, who have been through the emotional wringer in recent years, and whom we should be treating with much greater respect and compassion. Re-opening the matter for further consultation and discussion right across the church will not be helpful in this context.

Christian compassion should surely lead us to the point of saying, this was a difficult decision made in good conscience by faithful people through prayer and discernment. A significantly large proportion of the membership of the 15th Assembly, including people from a wide range of theological perspectives, supported the decision. The leadership provided by this designated council has set the direction, and we are enjoined to respect that decision. The 15th Assembly recognised that there was a diversity of theological and ethical views on the marriage of same gender people. Now, as a Church, we are called to work together to support one another across our diversity and to implement practices that honour and respect each other as members and participants in the one body, the Church.

How can that NOT be what we are now called to do?

## MATTERS VITAL TO THE LIFE OF THE CHURCH

August 7, 2018

Rev Prof Andrew Dutney

The decision of the 15th Assembly on marriage has been raising all sorts of questions. The President has given the church an explanation of the decision and the Assembly has also provided an FAQ resource. Questions about UCA theology and polity are also being raised. One of these concerns an obscure technical term, “vital to the life of the Church”. I’ll try to offer some explanation of that term and how it works within the UCA’s processes.

The phrase “vital to the life of the Church” originates in the Basis of Union (paragraph 15e) – that is, it’s not a traditional phrase in the church or theology. So it needed to be given content in the preparation for church union in 1977.

What the Basis says is, *“It is obligatory for [the Assembly] to seek the concurrence of other councils, and on occasion of the congregations of the Church, on matters of vital importance to the life of the Church.”*

Of course, it would have been anticipated that the Assembly would be constantly making decisions of very great importance in all of its areas of “determining authority” – decisions which are arguably “vital” to the life of the Church. But it would be impractical for all of that to be referred, after decisions had been made, back to the other councils for “concurrence” (which was also not defined). The Presbyterian Church had a “Barrier Act” which, as the name suggests, was designed to ensure that Presbyteries could maintain limits on the Assembly. There was no appetite for that to continue among Presbyterians coming into church union and Methodists and Congregationalists had never admired the process. So whatever was intended in the Basis of Union about seeking “concurrence” on “vital” matters, it wasn’t a version of the Barrier Act.

In preparation for the inauguration of the UCA, a Constitution Commission had the task of designing the constitutional structure for the Uniting Church in a way that was consistent with the Basis of Union – operationalising the vision of the Basis of Union, if you like. Among its many challenges was to give some content to the part about “matters of vital importance to the life of the Church”, and it did so in s.39:

*On matters which, by a two thirds majority vote, the Assembly deems to be vital to the life of the Church, the Assembly shall seek the concurrence of Synods and/or Presbyteries and/or Congregations as the Assembly may determine;*

That is, in practice a matter is “vital to the life of the Church” if the Assembly determines that it is by a 2/3 vote. And if it so determines, it will also determine what will amount to “concurrence” and from which other councils it will seek “concurrence”.

A proposal to that effect was before the Assembly in Melbourne after the decision on marriage and it was debated. Arguments in favour of declaring the decision “a matter vital to the life of the Church” included:

1. that this decision on marriage was a fundamental departure from the Christian tradition and/or
2. that it would threaten ecumenical relationships and/or
3. that it would cause deep division within the UCA and/or
4. that people would leave the UCA because of it.

Arguments against the proposal included

1. that the doctrine/s of marriage is not and has never been central to Christian doctrine and/or
2. the Doctrine Working Group had demonstrated in their report how support for same-gender marriage could have a sound biblical and theological basis and/or
3. that our ecumenical partnerships were more robust than was being claimed and included an understanding that the UCA took a different line on some important matters (e.g. women in leadership, accepting divorce) without ceasing to be genuinely Christian and/or

4. not only was there already a clear difference of opinion within the UCA on this and related matters but the decision actually strengthened the traditional view and practice while it allowed for an innovation in line with previous Assembly decisions concerning homosexual people in leadership and the full participation of LGBTIQ members in our fellowship. It was further argued,

5. that this Assembly was bringing to a conclusion a 6 year process of discussion and study on marriage which had tried to involve the wider UCA (admittedly without getting the kind of engagement it would have liked). Using the “vital to the life of the Church” trigger would simply commit the church to a period of intense, divisive, probably hurtful debate on something which, in all honesty, isn’t actually “vital”.

The proposal that the Assembly deem its decision on marriage as “vital to the life of the Church” was not supported.

S.39 of the Constitution then adds a further avenue for something to be deemed “vital to the life of the Church”:

*(i) If within six months of a decision of the Assembly, or its Standing Committee, at least half the Presbyteries within the bounds of each of at least half the Synods, or at least half the Synods, notify the President that they have determined that in their opinion*

- *a decision includes a matter vital to the life of the Church; and*
- *there was inadequate consultation prior to the decision the President shall notify the Church that the decision is suspended until the Assembly has undertaken further consultation;*

Some Presbyteries and Synods will probably have proposals to that effect before them. So what would happen a sufficient number of Presbyteries or Synods passed those proposals? Well, this:

The Assembly would determine what “further consultation” would take place – and I have no insight into what that might be. It could be anything from a gathering or gatherings of interested parties to a process like the one used for Constitutional changes (which requires the approval of “a majority of the Synods and two-thirds of the Presbyteries” s.72). I would be very surprised if it involved anything remotely like a plebiscite.

The Constitution goes on:

*(ii) Following this consultation, the Assembly shall determine whether to affirm, vary or revoke the original decision and report its decision and reasons to the Church;*

*(iii) No action taken in reliance on a the original decision of the Assembly prior to the President’s notification to the Church under clause 39(b)(i) shall be invalid by virtue of that notification;*

*(iv) This sub-clause can only be used a second or subsequent time on the same matter if the Assembly determines to vary the original decision.*

That is, in the end it still remains the Assembly’s decision. Moreover, if the Assembly decided not to vary its original decision on marriage, that would be the end of the matter.

My gut feeling is that the energy being expended on having the decision on marriage declared “vital to the life of the Church” would be better spent on finding ways to live together in our disagreement on this issue – faithfully and with integrity. As I’ve said elsewhere, this is the Uniting Church’s particular vocation in a divided society and a divided world. The so-called “culture wars”, in which this is just one battle field, are carried into the life of the church by its members, but it is our calling to show what it means to love our “enemies” within the Body of Christ.

**Frequently asked questions (Assembly website) <https://assembly.uca.org.au/marriage-faq>**

**The full resolution of the Assembly was:**

(a) To acknowledge:

- (i) that within the Uniting Church there is a diversity of religious beliefs and ethical understandings, developed through continuing faithful discernment and held with integrity on matters relating to sexuality and marriage; and
- (ii) that marriage is a gift God has given to humankind for the well-being of the whole human family.

(b) To determine that the Church is able to accept this diversity within its life and make the decisions necessary to enable its ministry and members to act with integrity in accordance with their beliefs.

(c) To vary its policy on marriage by recognising two statements of belief:

(i) the belief expressed in the 1997 statement on marriage as follows:

“Marriage for Christians is the freely given consent and commitment in public and before God of a man and a woman to live together for life. It is intended to be the faithful lifelong union of a woman and a man expressed in every part of their life together.

In marriage, the man and the woman seek to encourage and enrich each other through love and companionship. In the marriage service:

- The woman and man make a public covenant with each other and with God, in the company of family and friends;
- The couple affirm their trust in each other and in God;
- The Church affirms the sanctity of marriage and nurtures those who pledge themselves to each other in marriage and calls upon all people to support, uphold and nurture those who pledge themselves to each other in marriage.

Where sexual union takes place the partners seek to express mutual delight, pleasure and tenderness, thus strengthening the union of their lives together.

In marriage, children may be born and are to be brought up in love and security thus providing a firm foundation for society”.

(ii) the belief expressed in the following statement on marriage:

“Marriage for Christians is the freely given consent and commitment in public and before God of two people to live together for life. It is intended to be the faithful lifelong union of two people expressed in every part of their life together. In marriage, the two people seek to encourage and enrich each other through love and companionship.

In the marriage service:

- The two people make a public covenant with each other and with God, in the company of family and friends;
- The couple affirm their trust in each other and in God;
- The Church affirms the sanctity of marriage and nurtures those who pledge themselves to each other in marriage and calls upon all people to support, uphold and nurture those who pledge themselves to each other in marriage.

Where sexual union takes place the partners seek to express mutual delight, pleasure and tenderness, thus strengthening the union of their lives together.

In marriage, children may be born and are to be brought up in love and security thus providing a firm foundation for society”.

(d) To affirm that Ministers and celebrants authorised by the Uniting Church in Australia may exercise freedom to decide whether the minister’s or celebrant’s religious beliefs allow the minister or celebrant to accept requests to celebrate marriages, as authorised under the Marriage Act and according to the rites of the Uniting Church in Australia.

(e) To request the Assembly Officers to arrange for the preparation of an additional authorised marriage liturgy which reflects the understanding of marriage as outlined in the mar-

riage statement contained in (c)(ii) above for approval by the Standing Committee at its August 2018 meeting, for use according to the rites of the Uniting Church in Australia.

(f) To note that Church Councils:

(i) have the authority under Regulation 4.4.1 to permit or refuse the use of any property held for the use of the Congregation for the celebration of marriages, as authorised under the Marriage Act and according to the rites of the Uniting Church in Australia.

(ii) do not have the authority to require a Minister in placement in their Congregation or to prevent a Minister in their Congregation from celebrating marriages as authorised under the Marriage Act and according to the rites of the Uniting Church in Australia.

(g) To request the Standing Committee, taking account of advice from the Assembly Legal Reference Committee, to consider and take such action as it considers appropriate, including (if necessary) the making of additional Regulations, to enable Church Councils acting under Regulation 4.4.1 to make decisions regarding use of property for celebrating marriages, in conformity with one of the statements of belief mentioned in (c)(i) and (ii).

Also available at: <https://uniting.church/unconfirmedminute/>

## **Q2. Can you put that more simply?**

As our President's pastoral letter put it, "To honour the diversity of Christian belief among our members, we will hold two equal and distinct statements of belief on marriage. This decision will allow ministers and celebrants authorised by the Uniting Church the freedom to conduct or to refuse to conduct same-gender marriages. . . I want to reassure all members of the Uniting Church - your rights to follow your beliefs on marriage will be respected and protected. Church Councils will have the right to determine whether marriage services take place on their premises".

## **Ministers & Celebrants**

### **Q3a. Can I now conduct same gender marriages?**

Yes, the authorised liturgy, and the date that this liturgy takes effect has been approved by the Assembly Standing Committee at its August 2018 meeting.

### **Q3b. When will this take effect?**

The General Secretary has advised all marriage celebrants in the Uniting Church that the Uniting Church in Australia Additional Marriage Liturgy (2018) has been authorised for use from 21 September 2018.

### **Q4. What if I don't agree with same gender marriage?**

All Ministers and lay Celebrants authorised by the Uniting Church, have the right to act according to their religious beliefs and refuse to conduct same gender marriages if they wish.

### **Q5. Can I still use the previous marriage liturgy?**

Yes. You may still use the previous marriage liturgy if it suits your religious beliefs and the circumstances of the couple.

### **Q6. Can I use the new liturgy for a heterosexual couple?**

Yes. If the new liturgy expresses your religious belief as a celebrant and the beliefs of the couple it may be used for any couple regardless of sexuality.

### **Q7. I have been authorised as a lay Celebrant, does this apply to me?**

If you have been authorised by the Uniting Church in Australia as a Celebrant, then yes, this freedom to conduct same gender marriages or refuse to conduct same gender marriages according to your religious beliefs applies to you.

### **Q8. Can my congregation stop me from conducting or require me to conduct same gender marriages?**

No. The decision regarding conducting marriages rests with the Minister or the Celebrant, but Church Councils may decide whether same gender marriages are performed on property for which they are responsible.

**Q9. What happens if I want to conduct same gender marriages, but my Church Council has decided not to allow same gender marriages on their property?**

You are able to conduct a marriage in another location outside of the church or at a church whose Church Council is happy to have same gender marriages on their property.

**Q10. If I refuse to conduct a same gender marriage am I at risk of an anti-discrimination claim?**

According to the Marriage Act, as a Minister or authorised Celebrant of the Uniting Church, you can refuse to perform a same gender marriage if your religious beliefs do not allow you to do so. You are also exempted and therefore protected in the Sex Discrimination Act on the same ground.

**Q11. What about the forms I need to use for recording marriages?**

All Celebrants, including Ministers and Celebrants authorised by the Uniting Church, are required to use the officially prescribed stationery available through the Attorney-General's Department. This stationery was changed at the time of the commencement of the changes to the Marriage Act (9th December 2017), and all Celebrants (including Ministers) are required to comply with these changes in order to ensure that marriages they perform are legally valid. This is a requirement of the change in law and is not related to the UCA's recent decision. The changes to forms to be used were sent to all registered Celebrants, and are detailed here: <https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Documents/Fact-sheet-Changes-to-marriage-forms-and-certificates.pdf>

In summary:

There is a new Notice of Intended Marriage (NOIM). All Celebrants MUST use the new NOIM. The only exception is for the case where a Celebrant is already in possession of a signed NOIM, which was completed prior to the commencement of the changes in the Marriage Act (9th December 2017).

There is a new Official Certificate of Marriage Form (the form sent to the registering authority), and all Celebrants (including Ministers) MUST use the new form. Current stocks of the old form (including Certificate Form 'booklets') are NO LONGER legally valid. The new Official Certificate of Marriage Form is available for free download here:

<https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/Forms.aspx>

Because 'Red books' (Registers) no longer conform to the legal form of the new Official Certificate of Marriage Form, they can NO LONGER be used as is. Congregations, or Celebrants who have a personal register must EITHER purchase a new Register, OR print out the new Official Certificate of Marriage Form for each new marriage and affix this into the Marriage Register.

There is a new Form 15 Certificate of Marriage (the commemorative Certificate of Marriage given to the couple). Existing stocks of the current Form 15 Marriage Certificate, which refers to 'bride' and 'bridegroom' MAY be used, provided the certificate is suitable to the particulars of the marrying couple.

There are also amended forms relating to interpreters, Defence Force marriages and marriages of minors. Please see the website (above) for further details.

Please note that these changes are not related to the recent decision by the UCA. They are legal changes enacted by the Government after the change to the Marriage Act, and they apply to all Ministers and Celebrants authorised by the Uniting Church regardless of your religious beliefs regarding same gender marriages.

**Congregations & Church Councils**

**Q12. Can we now have same gender marriages take place in our church?**

Yes, the Assembly decision means that Church Councils on behalf of their Congregations have the freedom to decide whether or not property for which they are responsible can be used for same gender marriages.

**Q13. What if we do not wish to have same gender marriages take place in our church?**

The Marriage Act provides that a body established for religious purposes may refuse to make a facility e.g. a church, available for the solemnisation of a marriage, or for purposes that are intrinsic to, or directly associated with, the solemnisation of the marriage, if the refusal “conforms to the doctrines, tenets or beliefs of the religion of the body”. The Assembly resolution authorises Church Councils to make a decision regarding the use of Church property that accords with this provision of the Marriage Act.

**Q14. Does the Church Council have the right to make this decision?**

According to the Uniting Church Regulations (4.4.1(e)), the Church Council which is responsible for the management and administration of all property held for the use of the Congregation, shall “consult with a Congregation regarding any proposal concerning property that would have a substantial effect on the life, witness and service of the Congregation.” The Church Council should consider whether any decision regarding the use of the property for same-gender marriages would be strengthened through consultation with the Congregation. Your Church Council can make a decision whether a marriage shall take place on Church property at any time and should not feel pressured into making a decision on the basis of religious beliefs until it is ready to do so.

**Q15. If we refuse to allow same gender marriages on our property are we at risk of an anti-discrimination claim?**

The decision made by the 15th Assembly recognises two statements of belief relating to marriage. Its decision provides a strong foundation for Church Councils to make decisions as to whether same-gender marriages are celebrated in Church property. Decisions regarding the use of church property which are not directly associated with the solemnisation of a marriage are not covered by the Marriage Act and are subject to the relevant anti-discrimination law.

**Q16. What if we have a different point of view to our Minister or Celebrant?**

Ministers or Celebrants have the freedom to make their own decision regarding whether or not to conduct same gender marriages according to their religious beliefs. A Church Council cannot require a Minister to act against the Minister’s religious beliefs. On the other hand, the decision regarding the use of the church property is made by the Church Council not the Minister or the Celebrant.

**Q17. What if our Congregation meets on the same property as another group?**

If you rent your property to another group, then your Church Council has the authority to make the decision regarding the use of the property. If you share the property with another Uniting Church Congregation then decisions are made in accordance with the practices agreed with the Presbytery (Reg. 3.4.2). This could be through both Church Councils agreeing to a decision or through a joint meeting of the Church Councils (Reg 3.4.5(d)). If you belong to a group or faith community who either rent or are allowed to use the property owned by a congregation you would need to approach that Congregation’s Church Council for permission to conduct same gender marriages.

**Q18. What about the Congregation’s Marriage Register (“Red book”)? Can we still use it?**

As detailed in Q9 above, there have been legal changes to the stationery which is required to be used for recording Marriages. Because ‘Red books’ (Registers) no longer conform to the legal form of the new Official Certificate of Marriage Form, they can NO LONGER be used as is. Congregations must EITHER purchase a new Register, OR have the Minister or Celebrant print out the new Official Certificate of Marriage Form for each new marriage and affix this into the Marriage Register.