

## PRESIDENTIAL RULING No. 27

### Background

A Request ("Request") has been received from Rev Dr Hedley Fihaki, a member of the 12<sup>th</sup> Assembly, seeking a Presidential Ruling regarding certain actions of the Presbytery of North Queensland ("the Presbytery").

The Request dated 7 July, 2012 can be regarded as being "presented in writing" and "accompanied by a Statement of Relevant Facts". Accordingly, the formal requirements for such a request pursuant to Regulation 3.6.4.3 are satisfied.

Following receipt of the Request the Presbytery was invited to submit a statement and did so.

Additionally, there would not appear to be a genuine dispute as to material facts in respect of which the ruling was sought (Reg 3.6.4.3(b)(iii)) nor does the Request relate to "hypothetical circumstances" (Reg 3.6.4.3(b)(ii)) and therefore on the face of it the President is able to give a ruling.

### Factual matrix

As evidenced in a letter dated 29 June, 2012 from Rev Bruce Cornish, Chairperson and Presbytery Minister of the Presbytery, it was directed that a Special Congregational Meeting of the Cairns Emmanuel Congregation take place on Wednesday, 11 July.

This meeting was purportedly called pursuant to Regulation 3.5.1(d)(ii).

The letter also includes three possible proposals ("the Proposals") for discussion at that meeting as follows:

- (a) *That the congregation of Cairns Emmanuel Uniting Church request that the Presbytery of North Queensland cease to recognise it as a congregation of the Uniting Church;*
- (b) *That the congregation authorise the church council to negotiate with the Presbytery to seek a mutually satisfactory arrangement as to the orderly vacation of the current worship and administrative space at 327 Brown Street, Manunda and the manse at 6 Harper Close Manunda including mutually satisfactory arrangements with respect to assets including rolls and other records;*
- (c) *That the congregation notes that the Presbytery will follow through on Regulation 3:4:3(d) with respect to the pastoral care and support of those individual members who wish to remain within the Uniting Church of Australia. Such arrangements will include the re-establishment of a Uniting Church congregation in addition to the Korean congregation and the Cook Islander Faith Community on the Manunda site in the near future.*

The letter continues -

*"If proposal (a) is not passed the Presbytery requirement is that the Congregation will liaise with the Presbytery Leadership to take immediate steps to abide by decisions of the Synod and make the manse available for an Interim Intentional Minister."*

### The questions on which a Ruling is sought

- A** "Is the attached directive from the Rev Bruce Cornish
- (i) in his letter 'Letter Cairns Emmanuel Congregation 29 June 2012'
  - (ii) and the follow-up email of 6 July 2012

lawful according to UCA polity"?

- B** Was proposal (a) in that letter a competent proposal?

These questions should be dealt with separately.

### Question A (i)

In his letter dated 29 June, 2012 the Presbytery chairperson advised the Congregation that he was calling the Special Congregational Meeting in his "capacity as Chairperson of the Presbytery as

directed by the Presbytery Leadership Team (which in North Queensland incorporates the Presbytery Pastoral Relations Committee) under Uniting Church Regulation 3.5.1(d)(ii) (2012 Edition)".

Regulation 3.5.1(d)(ii) provides:

*"If in the opinion of the Pastoral Relations Committee of the Presbytery, circumstances warrant, the chairperson of the Presbytery ..... may convene a general or special meeting of the Congregation."*

The first issue for consideration is whether the Presbytery Leadership Team (the "PLT") was acting as the Presbytery Pastoral Relations Committee (PPRC) at the time when it "directed" the Chairperson to convene the meeting of the Congregation.

It seems that it was.

Resolution PY/2007/5 of the Presbytery Meeting held on 23-25 February, 2007 (at which the Rev Fihaki was present) provided:

*"That the Presbytery Leadership Team fulfil the functions of the Pastoral Relations Committee and Standing Committee as defined in the Uniting Church Regulations - Agreed by consensus."*

Regulation 3.7.3(a) provides:

*"That the Pastoral Relations Committee shall consist of the Presbytery's representatives to the Placements Committee together with at least three other persons appointed by the Presbytery, provided that the membership shall include at least two Ministers and two lay persons."*

Of particular concern is whether the membership included the representatives to the Placements Committee. The Chairperson of the Presbytery is the Presbytery representative to the Queensland Placements Committee and hence that and the other requirements of Regulation 3.7.3(a) were satisfied. In effect, the PLT acted as the PRC for the purposes of Regulation 3.5.1(d)(ii), and did so legitimately.

The other issue raised by Regulation 3.5.1(d)(ii) is the need for the PRC to reach an "opinion" that "circumstances warrant" the convening of a meeting for the Congregation.

The Minutes of the PLT indicate that it "directed" the Presbytery Minister to call a meeting on 11 July, 2012. The Minutes of that meeting (dated 19 June, 2012) also indicate that the persons present at that meeting of the PLT satisfied the requirement of Regulation 3.7.3(a).

Finally, and to the extent that it is an issue, the Presbytery Chairperson, having received the opinion of the PLT (PPRC), took steps to convene a meeting of the Congregation.

Question A (ii)

By email dated Friday 6 July from Mr Bob Walter, Chairperson of the congregation to Rev Bruce Cornish, Mr Walter advised: "... it is not possible to arrange any meeting for Wednesday". In response by email sent on the same day, Rev Bruce Cornish advised Mr Walter: "... I want to inform you that the meeting will go ahead next Wednesday evening. It has been advertised in the Cairns Post and I trust that the letter advertising the meeting will be distributed on Sunday at worship so that everyone, not just the church council, has the opportunity to have all the information to hand before the meeting."

Regulation 3.5.1(e) specifies the manner in which notice of a congregational meeting must be given.

If notice has not been given in accordance with the Regulation, any meeting that is held has not been validly convened in accordance with the Regulations may not be a formal meeting of the congregation.

#### Question B

The Request raises issues with proposal (a) on the basis that, in the opinion of the applicant, it fails to satisfy the requirements of Regulation 3.4.3, which deals with the dissolution of a Congregation.

Proposal (a) itself is, on the face of it, competent. It was open for the congregation to support or reject it. Where such an acceptance or rejection would fit within the framework of Regulation 3.4.3 is

another matter entirely, but has not arisen. Regulation 3.4.3 is silent about the place of a resolution of a congregation in the process of the dissolution of that congregation, but presumably it may be a factor to be taken into account by a Presbytery in forming its opinion under Regulation 3.4.3(a).

Questions A and B are the only matters raised in the Request, on which a President may rule under Regulation 3.6.4.3(a)(ii).

### Conclusions

Accordingly, the questions raised in the Request should be answered as follows:

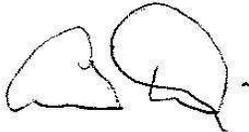
- A. (i) Was the calling of the Congregational Meeting by the Presbytery Chairperson in the letter of 29 June, 2012 in conformity with the Constitution, the relevant Regulations, By-laws or Rules?

Answer: Yes.

- A. (ii) If a meeting is held that has not been convened in accordance with Regulation 3.5.1(e), it may not be a formal meeting of the congregation.

- B. Is the proposal (a) in the letter of 29 June, 2012 competent?

Answer: Yes

A handwritten signature in black ink, appearing to read 'Rev Dr Andrew Dutney'. The signature is stylized and somewhat cursive, with a large initial 'A' and 'D'.

Rev Dr Andrew Dutney  
President  
12 October 2012