



2024

Parliament of Tasmania

LEGISLATIVE COUNCIL SELECT COMMITTEE

FINAL REPORT

ON

**THE PROVISIONS OF THE
*UNIVERSITY OF TASMANIA ACT 1992***

Members of the Committee:

Hon Rob Valentine MLC (Chair to 3 May 2024)

Hon Mike Gaffney MLC (Deputy Chair from 7 June 2024)

Hon Meg Webb MLC (Deputy Chair to 14 February 2024; Chair from 7 June 2024)

Hon Sarah Lovell MLC (from July 2022)

Hon Nick Duigan MLC (to October 2023)

Hon Jo Siejka MLC (to July 2022)

Table of Contents

ACRONYMS AND ABBREVIATIONS	2
CHAIR'S FOREWORD	3
CONDUCT OF THE INQUIRY	6
BACKGROUND: UNDERSTANDING THE UNIVERSITY OF TASMANIA ACT	8
RECOMMENDATIONS	18
FINDINGS	20
EVIDENCE	28
Term of Reference 1: The constitution, functions and powers of the University	29
Term of Reference 2: The constitution, role, powers and obligations of the Council and Academic Senate	59
Terms of Reference 3: The appropriateness of the Act to ensure accountable executive, fiscal and academic decision-making	108
Term of Reference 4: The appropriateness of the Act to protect and promote academic freedom, independence and autonomy	159
Term of Reference 5: Any other matters incidental thereto	179

Appendices

APPENDIX A: List of Submissions, Hearings and Witnesses	
APPENDIX B: Meeting Attendance Record	
APPENDIX C: Chronology of Significant Events, Parliamentary Research Service	
APPENDIX D: Question on Notice Response, University of Tasmania, extract from 3 May 2023	
APPENDIX E: Alienation of Land in University Acts, Parliamentary Research Service	
APPENDIX F: Links between Australian Parliaments and University Councils, Parliamentary Research Service	
APPENDIX G: Jurisdictional Comparison of Australian University Acts: Governing Bodies, Parliamentary Research Service	
APPENDIX H: Elected Members of University Councils at Comparable Universities, Dr Peter McQuillan, extract from Submission #125	
APPENDIX I: Question on Notice Response, University of Tasmania, extract from 3 May 2023	
APPENDIX J: University Rankings and UTAS, Parliamentary Research Service	

Abbreviations and Acronyms

AAUP	Australian Association of University Professors
AMC	Australian Maritime College
AQF	Australian Qualification Framework
ARWU	Academic Ranking of World Universities
ATAR	Australian Tertiary Admission Rank
BCC	Burnie City Council
CALE	College of Arts Law and Education
CAPA	Council of Australian Postgraduate Associations
DESE	Department of Education, Skills and Employment
ESOS	Education Services for Overseas Students
HECS	Higher Education Contribution Scheme
HELP	Higher Education Loan Program
HESA	<i>Higher Education Support Act 2003</i>
ICCPR	International Covenant on Civil and Political Rights
MCU	Magna Charta Universitatum
NATSIPA	National Aboriginal and Torres Strait Islander Postgraduate Association
NDA	Non-Disclosure Agreement
NDC	Non-Disparagement Clause
NTEU	National Tertiary Education Union
PUA	Public Universities Australia
PRS	Parliamentary Research Service
TCAE	Tasmanian College of Advanced Education
TEQSA	Tertiary Education Quality and Standards Agency
TEU	Tertiary Education Union (Former NTEU)
TSIT	Tasmanian State Institute of Technology
TULS	Tasmania University Law Society
TUSA	Tasmanian University Student Association
TUU	Tasmania University Union
UC	University College
UFC	University Foundation Committee
UTAS	University of Tasmania
UPPL	UTAS Properties Pty Ltd
UWA	University of Western Australia

Chair's Foreword

The Committee is pleased to present this report of the Inquiry into the Provisions of the *University of Tasmania Act 1992*.

The Inquiry was established, in part, in response to considerable constituent communication in 2021 and 2022 raising concerns on a range of matters relating to the University of Tasmania (the University), some of which had received local and national media coverage. These matters included, but were not limited to, executive management practices, workplace culture, strategic decision-making, facilities management and infrastructure development, funding priorities, loss of academic staff and diminishing quality of student experience at the University.

While not in a position to adjudicate or seek to influence matters of operational management and decision-making at the University, it was determined that an appropriate avenue for the Parliament to examine the overall situation of the University was to inquire into the provisions of the *University of Tasmania Act 1992* (the Act). As the statute on which the University is established, this Act has been amended on three occasions, however it has not been comprehensively reviewed in thirty-two years.

As the sole university operating in the State, the University holds a place of significance for Tasmania. It is essential for the social, cultural and economic development of Tasmania that the University is able to successfully deliver on its central mission of teaching and research to a level of excellence. Challenges faced by the University include the need to provide tertiary education state-wide, including in regional areas with low populations, and changes to the Federal funding model for universities in recent decades, which has driven the need to pursue other sources of funding.

Extensive evidence was presented to the Inquiry in 151 submissions made in 2022 and during the 12 days of hearings in 2022 and 2023. It must be noted that the committee reports on the evidence as current at the time it was received, and some information and/or circumstances may have changed since that time. The Committee continued to receive and accept substantial correspondence after the submission period had closed. Material provided in this correspondence was not taken as evidence to the Inquiry, but was used for informational purposes.

With the Inquiry focused on the Act, the evidence included a range of concerns on specific matters and complaints that did not strictly fit within the terms of reference. However, in some cases the committee was able to consider these matters and complaints as illustrative of the impact of an underlying inadequacy or lack of clarity in the Act.

Amendments to the Act over time have significantly reshaped the governance and locus of decision-making power within the University from the original structure set out in the 1992 Act. A result of which is the opportunity for decision-making to be insufficiently consultative, and lack transparency and accountability. This is particularly significant in relation to decisions that have substantial opposition, both within the University and within the general community. These decisions are made even more controversial and contentious when there is a perception of inadequate consultation, transparency and accountability.

It was clear from the evidence provided that a substantial number of people connected with the University, including students, alumni, and current and past academics, are highly concerned and distressed by aspects of its governance, management and strategic direction.

There is a clearly expressed deficit of trust in the current University governance, management and decision-making. Comprehensive review and amendment of the Act, with key changes to the governance structure and accountability mechanisms, presents an opportunity to address this deficit of trust in a foundational way.

Under the first Term of Reference, the Committee considered the constitution, function and powers of the Act. Discussion of the nature of a university and the centrality of its purpose to create, preserve and transmit knowledge was raised in evidence, in particular the tension between that time-honoured purpose and the comparatively recent adoption of a corporate, managerial approach to governance and management of universities.

The matter of the University having the power to sell land gifted to it by the state is discussed in this section of the report and a recommendation made that the Act be amended to provide a constraint or prohibition on this power.

Term of Reference two considered the constitution, role, powers and obligations of the University Council and Academic Senate. Changes over time to these key governance structures within the University, and the consequences of those changes in relation to participation in and accountability of decision-making, are central to many of the concerns raised in evidence.

In particular, the reduction in both numbers and representation on the University Council, and the resulting risk of 'group think', was indicated as a cause of diminished accountability and quality in decision-making. The constitution and functioning of the Academic Senate were viewed as being too controlled by executive management. The loss of voice and influence in decision-making by academics at the University, especially on academic matters, in the context of a shift to a more managerial, corporate approach, was a key concern presented in evidence to the Inquiry.

Term of Reference three provided consideration of the adequacy of the Act to ensure accountable academic, executive and financial decision-making. Evidence indicated the Act did not provide nor require appropriate accountability. Criticisms in relation to decision-making processes at the University included apparently pre-determined decisions, a lack of genuine consultation or involvement by academics and students, a lack of transparency and openness, and an absence of accountability to those who constitute the University. The matter of oversight and scrutiny of the University by Parliament is also discussed in this section.

The Committee included a series of three case studies at the conclusion of Term of Reference three. These case studies relate to specific examples of recent decisions made by the University which illustrated the range of the concerns most commonly raised in evidence on deficiencies in accountable decision-making.

In Term of Reference four, the appropriateness of the Act to protect and promote academic freedom and independence and autonomy was considered, with views expressed that a legislative requirement to protect and promote academic freedom was required.

Significant evidence was presented pointing to a culture at the University in which staff and students felt constrained in speaking up or raising issues due to a fear of repercussions or reprisals. A casualised workforce felt this vulnerability even more acutely. The use of ‘gagging clauses’ further added to a sense the workplace culture would not tolerate views counter to management. It was clear that current complaints management processes within the University were not regarded as sufficient or effective, nor were the agencies of external recourse for complaints – the Ombudsman and Integrity Commission – regarded as effective in resolving those complaints.

Under Term of Reference five, the Committee chose to include additional key topics of concern, such as: a downward trend in the University’s performance; indications of a deterioration in respect and valuing of the heritage and collections of the University; the loss of distinct identities of previously well-regarded institutions such as the Conservatorium of Music and the Australian Maritime College; and, a loss of formal and important relationships between the University and alumni.

The Committee has made an overarching recommendation for a comprehensive review of the *University of Tasmania Act 1992* and prompt implementation of the recommendations of that review. There are 19 further recommendations, the majority of which relate to amending the Act. These should be considered as part of the comprehensive review and update of the Act, rather than undertaken as a piecemeal approach to future amendments.

This Inquiry has been lengthy, including a period in which it was paused due to the prorogation of Parliament in mid-2022 and again in early 2024 for a State election. However, it is evident that each stage of this inquiry has been valuable in allowing information to be brought forth and provided on the public record and also the public discussion of concerns held by those in the University and in the community. During the public hearings of the Inquiry, on a number of occasions, the University identified areas in which it had made or was making changes in response to matters raised in evidence to this Inquiry – a clear demonstration each stage of an inquiry process has merit and provides valuable opportunities to drive improvements.

The Committee would like to particularly thank the Hon Rob Valentine MLC, who was Chair of the Inquiry through until his retirement in May 2024, including during the public hearings. The Committee also acknowledges the contributions of former members of the Inquiry, the Hon Nick Duigan MLC and Hon Jo Siejka MLC.

Sincere thanks are also extended to Dr Catriona Ross from the Parliamentary Research Service for providing substantial research and briefings, and especially to the secretariat staff who provided invaluable support to the Inquiry, in particular Ms Jenny Mannering, Inquiry Secretary, and Ms Allison Scott, Committee Secretariat.



Hon Meg Webb MLC
Inquiry Chair
20 DECEMBER 2024

Conduct of the Inquiry

On Tuesday, 24 May 2022 the Legislative Council resolved that a Select Committee be appointed, with power to send for persons and papers, with leave to sit during any adjournment of the Council, and with leave to adjourn from place to place, to inquire into and report upon the provisions of the University of Tasmania Act 1992 with particular reference to –

1. *The constitution, functions and powers of the University;*
2. *The constitution, role, powers and obligations of the Council and Academic Senate;*
3. *The appropriateness of the Act to ensure accountable executive, fiscal and academic decision-making;*
4. *The appropriateness of the Act to protect and promote academic freedom, independence and autonomy; and*
5. *Any other matters incidental thereto.*

The membership of the Committee is:

- Hon Rob Valentine MLC (Chair)
- Hon Nick Duigan MLC
- Hon Mike Gaffney MLC
- Hon Jo Siejka MLC; and
- Hon Meg Webb MLC.

The Committee met in June 2022 and elected Hon Rob Valentine MLC Inquiry Chair and Hon Meg Webb MLC Inquiry Deputy Chair. It resolved at its first meeting to advertise in the three daily regional newspapers on 2 July 2022, with a closing date for submissions of 29 August 2022. In addition, the Committee directly invited individuals and organisations to provide the Inquiry with information deemed to be relevant to the Inquiry.

The Parliament of Tasmania was prorogued due to the resignation of Minister Petrusma on 25 July 2022, from 6:00 pm on 1 August 2022 until the reopening of Parliament at 11:00am on 16 August 2022.

On 16 August 2022, the Committee was re-appointed following the prorogation, and Hon Nick Duigan MLC, Hon Mike Gaffney MLC, Hon Sarah Lovell MLC, Hon Rob Valentine MLC and Hon Meg Webb MLC be of the Committee and its Terms of Reference be those agreed to in the Second Session of the 50th Parliament.

Hon Jo Siejka MLC resigned from Parliament in August 2022. Hon Jo Siejka is acknowledged for her initial membership of the Committee.

On 31 August 2022, Hon Rob Valentine MLC was re-elected Inquiry Chair and Hon Meg Webb MLC was re-elected Inquiry Deputy Chair.

Hon Nick Duigan MLC resigned from the Committee on 10 October 2023, following his appointment as a Member of Cabinet, having been assigned the portfolios of Minister for Energy

and Renewables, Minister for Parks, Minister for Heritage, and Minister for Small Business. The Committee thanks Mr Duigan for his contribution to the Committee.

On 14 February 2024, the Parliament of Tasmania was again prorogued due to the State Election that took place on 23 March 2024.

The Committee was re-established on 21 May 2024. The first meeting of the Inquiry in the 51st Parliament was on 7 June 2024. Hon Meg Webb MLC was elected Inquiry Chair and Hon Mike Gaffney MLC was elected Deputy Chair.

Hon Rob Valentine MLC retired from Parliament on 3 May 2024. The Committee acknowledges the contribution made to the Inquiry by Mr Valentine in his position as Chair.

151 submissions were made to the Inquiry. Hearings were held in Hobart on 6, 7, 8, 12 and 13 December 2022; 27 February 2023; 1 and 2 March 2023; 1, 4 and 12 May 2023; and 6 July 2023. The Committee received verbal evidence from thirty-two groups or individuals (Appendix A).

The meeting attendance record can be found at Appendix B.

The work of all individuals and organisations who contributed to the Inquiry is acknowledged. The written evidence provided was valuable and verbal evidence presented was thoughtful and informative.

The Committee would like to thank Dr Catriona Ross from the Parliamentary Research Service for the research work she undertook for this Inquiry, which included writing the background chapter for the Report and a number of the appendices.

This report should be read in conjunction with all evidence received by the Committee, including submissions and transcripts which are available on the Inquiry webpage: <https://www.parliament.tas.gov.au/committees/legislative-council/select-committees/lc20select20-20university20of20tasmania>).

Background: Understanding the University of Tasmania Act

This chapter of the Inquiry Report provides background information about the *University of Tasmania Act 1992* (Tas). It starts with a short overview of how Australian public universities are established by Acts of State and Territory Parliaments. It explains that the governing bodies of Australian public universities – most often called ‘University Councils’ – are created by these establishing Acts. It also explains key points of the legal framework that the University of Tasmania sits within as a public institution.

The background chapter secondly sets out a short legislative history of the University of Tasmania Act, and charts the changing size and composition of the University Council. For further details of the legislative history of the University of Tasmania Act, please see the Chronology of Significant Events attached as Appendix C to this Report.

Thirdly, the background chapter explains how Federal Government policy has influenced the provisions in State and Territory university Acts which prescribe the size and composition of University Councils.

Fourthly, the background chapter provides information about the Federal Government’s ‘Australian Universities Accord’, and its plan for Federal, State and Territory Education Ministers to work together to improve university governance.

The background chapter concludes by noting the Tasmanian Government’s introduction of the University of Tasmania (Protection of Land) Bill 2024 which, if passed, will make some consequential amendments to the *University of Tasmania Act 1992*. These would be the first amendments to the University of Tasmania Act since 2012.

Australian Public Universities are Established by Acts of Parliament

Australian public universities are established and governed by Acts of State or Territory Parliaments.¹ They are bodies corporate established by statute (statutory corporations).² Australian public universities are also registered charities for the purpose of advancing education and research for the public good.³

The Acts for Australian public universities share broad similarities. Each Act provides for the constitution, powers, and functions of the particular university.

Importantly, each Act sets out the size and composition of the governing body of the university, which is usually called the ‘University Council’. The Acts also set out provisions to do with property and finance.

¹ The two exceptions are: the Australian National University which has a Commonwealth Act; and the Australian Catholic University which (although it is a public university) has different legislative arrangements.

² University of Adelaide (2022) ‘[Legal Status of the University](#)’, Legal and Risk webpage, University of Adelaide website; A. Pelizzon et. al. (2022) ‘Australian Public Universities: A Crisis of Governance’, *Social Alternatives*, Volume 41, Issue 1, p. 19.

³ Australian public universities are charitable entities registered with the Australian Charities and Not-for-profits Commission. See: A. Pelizzon et. al. (2022) ‘Australian Public Universities: A Crisis of Governance’, op. cit., pp. 18-19.

The University of Tasmania is established by an Act of the Tasmanian Parliament - the *University of Tasmania Act 1992* (Tas).

Section 5 of the *University of Tasmania Act 1992* provides that the University consists of the University Council; the academic staff; the professional staff; the graduates; and the students.

As the University of Tasmania is a public institution, it is also subject to the *Right to Information Act 2009* (Tas), the *Public Interest Disclosures Act 2002* (Tas), and review by the Tasmanian Ombudsman and Auditor-General.⁴ The University of Tasmania is defined as a “Public Authority” in the *Integrity Commission Act 2009* (Tas) and can be investigated by the Tasmanian Integrity Commission.⁵

The University of Tasmania is part of the Tasmanian Education Minister’s portfolio.⁶ The University is required to submit a copy of its Annual Report to the Minister of Education who then provides the report to both Houses of Parliament for scrutiny.⁷

Notably, section 7(2) of the *University of Tasmania Act 1992* provides that the University is not to exercise its power to borrow money unless it has first obtained the written approval of the Treasurer.

Australian universities are also subject to Federal legislation, including the *Tertiary Education Quality and Standards Agency Act 2011* (Cth). The Tertiary Education Quality and Standards Agency (TEQSA) regulates and assures the quality of Australian higher education providers through a standards-based framework.⁸

Australian public universities are primarily funded by the Federal Government. Some funding is provided by the State Government. International student fees also provide a source of university income. Other funding sources include, but are not limited to, investment income and income from contract research and consultancy.⁹

The Legislative History of the University of Tasmania Act

This section provides a short, selected overview of the history of the legislation governing the University of Tasmania. For further details of the legislative history of the University of Tasmania Act (including further amending Acts), see the Chronology provided in Appendix C of this Report.

⁴ See: Part II of P. Kamvounias & S. Varnham (2010) ‘[Legal Challenges to University Decisions Affecting Students in Australian Courts and Tribunals](#)’, *Melbourne University Law Review*, Vol. 34, Iss. 1.; University of Tasmania (2024) [University of Tasmania Annual Report 2023](#), UTAS website, p. 33; Tasmanian Audit Office (2023) [Auditor-General’s report on the financial statements of State entities](#), Volume 1, TAO website, pp.71-73; Tasmanian Audit Office (2019) [University of Tasmania’s Management of Student Accommodation](#), Report of the Auditor-General No. 2 of 2019-20, TAO website.

⁵ Tasmanian Integrity Commission (2023) ‘[Our Focus](#)’, TIC website.

⁶ Administrative Arrangements Order (No. 3) 2021, Schedule 1, part 9.

⁷ Section 12 of the *University of Tasmania Act 1992* (Tas).

⁸ Tertiary Education Quality and Standards Agency (2024) ‘[TEQSA: How we regulate](#)’, Australian Government, TEQSA website. Also see: University of Tasmania (2022) Submission 113, Part 2, pp. 6-13.

⁹ University of Tasmania (2024) [University of Tasmania Annual Report 2023](#), UTAS website, pp. 72-73; Universities Australia (2024) ‘[How Universities are Funded](#)’, UA website.

Tasmanian University Act 1889 and University Property Act 1892

The University of Tasmania was established by the *Tasmanian University Act 1889* (Tas) which commenced on 1 January 1890.¹⁰ The Act provided for the creation of a University Council to govern the University.¹¹

The *University Property Act 1892* (Tas) provided for the former Hobart High School building on the Domain to be the new University. Teaching began in 1893. The University was situated on the Domain site until the move to the Sandy Bay campus in the mid-twentieth century.¹²

Tasmanian University Act 1951

The *Tasmanian University Act 1951* (Tas) repealed the *Tasmanian University Act 1889* and the *University Property Act 1892*, and granted the Sandy Bay site to the University for a new campus.¹³

Notably, section 11 of the 1951 Act provided that the Sandy Bay site was ‘vested in the University for the purposes of the university’ and ‘public parks or gardens’, and that the land was not to be ‘sold, mortgaged, or otherwise disposed of.’ Furthermore, if the land ceased to be used for the purposes of the University it would revert to being Crown land.¹⁴

Higher Education (Amalgamation) Act 1990

The *Higher Education (Amalgamation) Act 1990* (Tas) repealed the *Tasmanian University Act 1951* and provided for the amalgamation of the Tasmanian State Institute of Technology in Launceston with the University of Tasmania. The 1990 Act was intended as an interim Act to cover the two year period of amalgamation.¹⁵

Section 11 of the 1951 Act (that specified that the Sandy Bay site had to be used for the purposes of the university) continued to apply under the 1990 Act.¹⁶

Notably, the 1990 Act required the University Council to make recommendations to the Education Minister on how the University should be constituted and governed under a new forthcoming Act.¹⁷

The University Council’s report titled ‘*The Constitution and Governance of the University of Tasmania: Report to the Minister for Education and the Arts From the University Council*’, was

¹⁰ See: [Tasmanian University Act 1889](#), Governor of the Colony of Tasmania, UTAS Eprints; R. Davis (1990) *Open to Talent: The Centenary History of the University of Tasmania 1890-1990*, University of Tasmania, p. 19. Also see the Clause Notes for the Tasmanian University Bill 1951, Tasmanian Parliamentary Library Collection.

¹¹ See sections 1 – 4 of the 1889 Act. The 1889 Act also provided for the creation of a Senate to be made up of the male graduates of the University (section 5).

¹² R. Davis (2006) ‘[University of Tasmania](#)’, *The Companion to Tasmanian History*, Centre for Tasmanian Historical Studies, University of Tasmania.

¹³ Clause Notes for the Tasmanian University Bill 1951, Tasmanian Parliamentary Library Collection.

¹⁴ See: Section 11 of the [Tasmanian University Act 1951](#), Tasmanian Numbered Acts (No. 8 of 1951), Austlii website.

¹⁵ Fact Sheet for the University of Tasmania Bill 1992, Tasmanian Parliamentary Library Collection.

¹⁶ Clause 44 in the Clause Notes to the Higher Education (Amalgamation) Bill 1990, Tasmanian Parliamentary Library Collection.

¹⁷ See section 7 of the *Higher Education Amalgamation Act 1990* (Tas); Tasmanian University Council (1992) *The Constitution and Governance of the University of Tasmania: Report to the Minister for Education and the Arts from the University Council*, Tabled in the Parliament of Tasmania (No. 45 1992), p. 3; Fact Sheet for the University of Tasmania Bill 1992, Tasmanian Parliamentary Library Collection.

tabled in Parliament in 1992. The Report included recommendations on the composition of the University Council, and on the need to remove the section of the Act preventing the sale of the Sandy Bay campus site. The Report stated that 'With the agreement of the Minister for Education and the Arts, the substance of this report has been translated by Parliamentary Counsel into draft legislation in the form of a proposed University of Tasmania Bill, 1992.'¹⁸

University of Tasmania Act 1992

The *University of Tasmania Act 1992* repealed the *Higher Education (Amalgamation) Act 1990*, and created a new Act for the University. It set out the constitution, functions and powers of the University. It also set out the new governance structure for the University.

Notably, the *University of Tasmania Act 1992* did not include the provision that the Sandy Bay site had to be used for the purposes of the university. Furthermore, Section 26 of the new 1992 Act stated that:

26. Certain land to remain vested in University

Notwithstanding the repeal by this Act of the Amalgamation Act, the land specified in Schedule 3 remains vested in the University but free from any restrictions as to the power of the University to sell, mortgage or otherwise dispose of that land that may, but for this clause, restrict the power of the University in respect of that land.

Accordingly, the *University of Tasmania Act 1992* does not place limits on what the University may do with the Sandy Bay site.

University of Tasmania Act 1992, the University Council, and the Academic Senate

In the 1980s, the University Council had 30 members. Notably, the University Council membership included six elected members of academic staff, the Chair of the Professorial Board, one elected member of general staff, two students elected by the students, the President of the Tasmania University Union, and four members elected by the graduates of the University.¹⁹ (See the Chronology at the end of this Report for the full membership of the 1980s Council).

The *University of Tasmania Act 1992* reduced the size of the University Council to 24 members.²⁰

The 1992 Act also discontinued the University of Tasmania's Professorial Board. The Professorial Board represented academic staff and was responsible for the allocation of resources for academic matters.²¹ A former Chair of the Professorial Board in the 1980s, Professor Arthur Sale, explained that:

¹⁸ Tasmanian University Council (1992) *The Constitution and Governance of the University of Tasmania*, op. cit., pp. 3, 5-7.

¹⁹ R. Davis (1990) *Open to Talent*, op. cit., p. 200; Second Reading Speech for the Tasmanian University Amendment Bill 1979, Tasmanian Parliamentary Library Collection; [Tasmanian University Amendment Act 1980](#), Tasmanian Numbered Acts (No. 18 of 1980), Austlii; P. Chapman (2015) 'The De-democratization of the University of Tasmania 1990-2015: A Tale of Decline of Academic Sovereignty but with a Future Hope of the University', in D. Chalmers et. al. *Voices of a University: Celebrating 125 Years at the University of Tasmania*, University of Tasmania, UTAS website, p. 45.

²⁰ Section 8, *University of Tasmania Act 1992*, as passed in 1992.

²¹ A. Sale (2015) 'The Professorial Board', *Voices of a University*, op. cit., p. 37.

To a large extent, the Professorial Board ran the University internally. It disposed of 75% or more of the University Budget (all the salaries and running costs of the academic departments); it made all decisions on purely academic matters like course schedules, units and quality control, and on many others the Council was bound to listen to its advice, even if it decided to go against the advice.²²

The 1992 Act replaced the Professorial Board with a body representing academics called the 'Academic Senate'. The sole function of the Academic Senate is 'to advise the Council on all academic matters relating to the University'. The membership of the Academic Senate is prescribed by Ordinances created by the University Council.²³

The University Council Today

University of Tasmania Amendment Acts in 2001, 2004 and 2012 further reduced the size and composition of the University Council. Details about the 2001 and 2004 Amendment Acts are provided in the Chronology at the end of this Report.

Since 2012, the *University of Tasmania Act 1992* has provided for the University to be governed by a Council with a minimum of 10 and a maximum of 14 members. The Act provides for the University Council to consist of:

- the Chancellor, Vice Chancellor and Chair of Academic Senate (all ex officio)
- one member of academic staff (elected by the academic staff)
- one member of professional staff (elected by the professional staff)
- a minimum of one student (appointed by the University Council)
- two members appointed by the Minister (each of whom must not be a member of academic or professional staff, or a student – but at least one must be a graduate of the University)
- up to six members appointed by the University Council (each of whom must not be a member of academic or professional staff, or a student – but at least one must be a graduate of the University).²⁴

In addition to the reduction in the size of the Council, the proportion of elected academic staff and student representation on the Council has also been reduced. The proportion of members appointed by Council itself from outside the University has increased. These changes were legislated following advice from the University Council to State Government Education Ministers.²⁵

²² *ibid.*

²³ Section 13, *University of Tasmania Act 1992*, as passed in 1992.

²⁴ Factsheet and Clause Notes for the University of Tasmania Bill 2012, Tasmanian Parliamentary Library Collection; Section 8 of the *University of Tasmania Act 1992*.

²⁵ Tasmanian University Council (1992) *The Constitution and Governance of the University of Tasmania*, op. cit., pp. 3, 4; Fact Sheet for the University of Tasmania Amendment Bill 2001, Tasmanian Parliamentary Library Collection, pp. 1-2; Second Reading Speech for the University of Tasmania Amendment Bill 2004, Tasmanian Parliamentary Library Collection,

A comparative jurisdictional analysis undertaken for this Inquiry in 2022, found that the University of Tasmania has a relatively small Council with less staff and student representation than most Australian public universities' governing bodies. The analysis found that the average size of the universities' governing bodies in 2021 was 15.35 members.²⁶

It is notable that the minimum of one student member on the University of Tasmania's University Council is appointed by Council rather than elected. All other public universities' governing bodies have one or two student members elected by the students, except for the South Australian universities' governing bodies which each have two student members who may be appointed or elected.²⁷

Federal Government Influence on Amendments to the Size and Composition of University Councils

This section provides a short overview of how Federal Government policy has influenced the provisions in State and Territory university Acts, which prescribe the size and composition of public university governing bodies.

Dawkins Higher Education Reforms

In the late 1980s, the Hawke Government Education Minister, John Dawkins, began comprehensive reforms that reshaped the Australian university system.²⁸ The number of Australian universities increased as Colleges of Advanced Education became new universities. The number of university students also increased.²⁹

Student fees were reintroduced under the Higher Education Contribution Scheme (HECS). Vice-Chancellors were given more power, and corporate management structures were introduced. Universities were encouraged to become more entrepreneurial and source revenue from full-fee paying international students.³⁰

With the increase in student numbers, total Federal Government funding to universities increased by 30% between 1987 and 1993. However, the Federal Government contribution to university income overall fell from 83% to 56% during this period.³¹

Brendan Nelson's National Governance Protocols

Howard Government Education Minister, Brendan Nelson, implemented 'National Governance Protocols' for universities in 2004. The Protocols included limiting the size of university

pp. 1-2; Second Reading Speech for the University of Tasmania Bill 2012, Tasmanian Parliamentary Library Collection, pp. 2, 5.

²⁶ C. Ross (2022) 'Jurisdictional Comparison of Australian University Acts: Governing Bodies', Parliamentary Research Service, Parliament of Tasmania, p. 12.

²⁷ *ibid.*

²⁸ G. Croucher et. al (2013) 'Introduction', *The Dawkins Revolution: 25 Years On*, Edited by Croucher et al., Melbourne University Press, pp. 1-2.

²⁹ *ibid.*, p. 1.

³⁰ *ibid.*, p. 2; S. Macintyre et. al. (2013) 'Making the Unified National System', *The Dawkins Revolution*, op. cit., pp. 30, 40-41; R. Williams (2013) 'System Funding and Institutional Allocation', *The Dawkins Revolution*, op. cit., p. 98; R. Davis (2021) *The University Idea and its Enemies: Socrates to Scomo*, Sassafras Books, pp. 67-68.

³¹ Williams (2013) 'System Funding and Institutional Allocation', *The Dawkins Revolution*, op. cit., p. 97.

governing bodies to not more than 22 members, and specified that ‘There must be a majority of external independent members who are neither enrolled as a student nor employed by the higher education provider.’ Universities were required to comply with the Protocols as a condition of Federal funding.³²

Rudd Government Removes Requirement to Comply with Protocols

The Rudd Government came to power with a policy opposed to university funding being conditional on compliance with the 2004 Governance Protocols. The requirement to comply with the Protocols was removed in 2008.³³

Voluntary Code of Best Practice for the Governance of Australian Public Universities

The ‘Voluntary Code of Best Practice for the Governance of Australian Public Universities’ was developed and introduced under the Rudd/Gillard Governments in 2010-11.³⁴

The Code was developed by Universities Australia (formerly the Australian Vice-Chancellors’ Committee) and endorsed by the University Chancellors’ Council and the Ministerial Council for Tertiary Education and Employment.³⁵

The Code was amended in 2018 at a joint meeting of Universities Australia and the University Chancellors’ Council.³⁶

The Code has retained the provisions from the 2004 Protocols stating that university governing bodies should not have more than 22 members and that ‘There should be a majority of external independent members who are neither enrolled as a student nor employed by the university.’³⁷

State Governments Legislate Voluntary Code’s Governance Provisions

Although the Code is voluntary – and compliance is not required – State and Territory Governments have incorporated the Code’s governance provisions into university Acts.³⁸ There is a general movement across the Australian public universities towards decreasing the size of governing bodies. All the governing bodies of Australian public universities have a majority of external members. Staff and students elected from within the universities are in the minority. As

³² Department of Education, Science and Training (Cth) (2007) *Review of National Governance Protocols – Issues Paper*, p. 3; Parliament of NSW (2009) Legislative Council General Purpose Standing Committee No. 2, [Governance of NSW Universities](#), PoNSW website, p. 11; See Protocol 5, Department of Education, Science and Training (Cth) (2007) *Review of National Governance Protocols – Issues Paper*, p. 17

³³ Australian Parliamentary Library (2008) ‘Higher Education Support Amendment (Removal of the Higher Education Workplace Relations Requirements and National Governance Protocols Requirements and Other Matters) Bill 2008’, Bill’s Digest No. 74 2007-08, PoA website; Parliament of NSW (2009) Legislative Council General Purpose Standing Committee No. 2, op. cit., pp. 11-12.

³⁴ E. Chan (2018) [Legislative Changes Affecting the Governance of Australian Universities](#), University Chancellors Council, UCC website, p. 1.

³⁵ *ibid*; Universities Australia (2022) ‘[Our History](#)’, Universities Australia website.

³⁶ National Tertiary Education Union (2017) ‘Towards Open and Ethical University Governance’, Discussion Paper, NTEU website, pp. 19-20; Universities Australia & University Chancellors Council (2018) [Voluntary Code of Best Practice for the Governance of Australian Universities](#), UCC website.

³⁷ Universities Australia & University Chancellors Council (2018) op. cit., p. 4.

³⁸ Chan (2018) op. cit.

stated earlier, the University of Tasmania has a smaller Council with less elected staff and student representation than the majority of Australian universities.³⁹

The Australian Universities Accord and its Focus on University Governance

This Inquiry into the Provisions of the University of Tasmania Act has taken place in the context of the Federal Government's 'Australian Universities Accord'. The Australian Universities Accord is the Albanese Government's broad review of the Australian higher education system. Federal Education Minister, Jason Clare, announced the establishment of the Accord Review in July 2022.⁴⁰

Australian Universities Accord Interim Report

The Australian Universities Accord Interim Report (released in July 2023) made recommendations for five 'priority actions' to address immediate issues. Priority action 5 concerned university governance.

The Accord Interim Report found that widespread underpayment of staff, casualisation of staff, and sexual assault and harassment on campus are systemic issues across universities and suggest that 'governance arrangements could be improved'.⁴¹ The Report stated that:

While the Australian Government has legislative responsibility for the regulation and quality of the sector, universities are constituted by individual enabling Acts in the relevant jurisdiction. This means that most University Councils are appointed under state or territory legislation, except for the Australian National University. States and territories have a significant role to play in ensuring University Councils are appointed with the right mix of skills.

Over the last two decades there has been a particular emphasis on appointing people with business expertise to councils. Business expertise must be balanced by council members who deeply understand the functions of universities, including learning and teaching, research and management. Council members should also reflect the communities that universities serve, including representation from First Nations people.⁴²

Priority action 5 recommended by the Accord Interim Report is reproduced below:

Priority Action 5 - Through National Cabinet, immediately engage with state and territory governments and universities to improve university governance, particularly focusing on:

- universities being good employers

³⁹ *ibid.*; pp. 12-13; Ross (2022) 'Jurisdictional Comparison of Australian University Acts: Governing Bodies', *op. cit.*

⁴⁰ J. Clare, Federal Education Minister (2022) '[Reset, Rebuild and Reform](#)', Universities Australia 2022 Gala Dinner Speech, Jason Clare website, 6 July; M. Coade (2022) '[Education Minister underscores universities in 'solutions business for government', announces ARC review](#)', *The Mandarin*, 8 July.

⁴¹ Australian Education Department (2023) [Australian Universities Accord Interim Report](#), Australian Government, Australian Universities Accord website, p. 129.

⁴² *ibid.*, pp. 129-130.

- student and staff safety
- membership of governing bodies, including ensuring additional involvement of people with expertise in the business of universities.

Australian governments should work together to strengthen university governing boards by rebalancing their composition to put greater emphasis on higher education expertise. Governing bodies must as a priority do more to improve student and staff wellbeing and become exemplary employers.⁴³

Australian Universities Accord Final Report

The Final Report of the Australian Universities Accord was released in February 2024. It stated that the Australian Government had accepted the five priority actions recommended in the Interim Report. The Final Report noted the commencement of *The Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Act 2023* (Cth) in November 2023.⁴⁴ It also noted the Federal Government’s establishment of a cross-jurisdictional Working Group to provide advice on strengthening university governance.⁴⁵

Plan for New University Governance Principles and Recommendations

An Education Ministers Meeting Communique issued in April 2024 stated that in response to priority action 5 of the Accord Interim Report, Ministers had ‘considered actions to strengthen university governance and improve workplace relations compliance’.⁴⁶ The Communique said that the Ministers had ‘agreed to establish an Expert Governance Council, based on a proposal from the University Chancellor’s Council, to develop new ‘University Governance Principles and Recommendations’.’ The Communique further said that it is intended for the new ‘University Governance Principles and Recommendations’ to replace the current Voluntary Code.⁴⁷

University of Tasmania (Protection of Land Bill) 2024

On 20 June 2024, the Tasmanian Government introduced a Bill into the House of Assembly, titled the University of Tasmania (Protection of Land) Bill 2024. If passed, this Bill will become an Act which provides that Parliamentary approval will be required for the University to ‘dispose’ of vested land.⁴⁸ The Clause Notes to the Bill explain that: ‘The term ‘dispose’ includes, among other things, to sell or to lease for a term of not less than 99 years.’⁴⁹

⁴³ *ibid.*, p. 13.

⁴⁴ Australian Education Department (2024) [Australian Universities Accord Final Report](#), Australian Government, Australian Universities Accord website, pp. 42-43.

⁴⁵ *ibid.*, pp. 167, 241. See also: J. Clare, Federal Education Minister (2023) [Second Reading Speech for the Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023](#), 3 August, House of Representatives, Parliament of Australia website.

⁴⁶ Australian Education Department (2024) [‘Education Ministers Meeting Communique – April 2024’](#), Australian Government Department of Education website, pp. 3-4.

⁴⁷ *ibid.*

⁴⁸ Parliament of Tasmania (2024) [‘University of Tasmania \(Protection of Land\) Bill 2024 \(31 of 2024\)’](#), Bills webpages, Parliament of Tasmania website.

⁴⁹ See Clause 3 in the [‘Clause Notes: University of Tasmania \(Protection of Land\) Bill 2024’](#), University of Tasmania (Protection of Land) Bill 2024 (31 of 2024), Parliament of Tasmania Bills webpage, PoT website.

The Bill, as it was first introduced to the House of Assembly, defined the whole of the University's Sandy Bay campus site (both above and below Churchill Avenue) as vested land.⁵⁰

On 21 November 2024, the Tasmanian Government announced its intention to introduce amendments to Bill.⁵¹

On 28 November 2024, the Minister for Innovation, Science and Digital Economy, Madeleine Ogilvie, gave the second reading speech for the Bill in the House of Assembly. Minister Ogilvie also introduced amendments excluding the university land above Churchill Avenue from the definition of vested land, and rezoning two parcels of that land as 'Inner Residential' under the Hobart City Interim Planning Scheme 2015.⁵²

The majority of Members voted in favour of both the Bill and the Government's amendments. The amended Bill accordingly passed the House of Assembly and will next be debated by the Legislative Council when Parliament resumes in 2025.⁵³

If the Bill is passed by both Houses and becomes an Act, there will be some consequential amendments to the *University of Tasmania Act 1992*. They will be the first amendments to the *University of Tasmania Act* since 2012.⁵⁴

⁵⁰ See University of Tasmania (Protection of Land) Bill 2024, [Text of Bill as Introduced](#), Bills webpages, Parliament of Tasmania website.

⁵¹ M. Ogilvie, Minister for Innovation, Science and the Digital Economy (2024) '[Government backs transparency and accountability over UTAS land](#)', Media Release, Tasmanian Government website, 21 November.

⁵² Tasmanian House of Assembly (2024) Daily Hansard: Preliminary Transcript, 28 November, Parliament of Tasmania website, pp. 73-144.

⁵³ *ibid.*

⁵⁴ Parliament of Tasmania (2024) '[University of Tasmania \(Protection of Land\) Bill 2024 \(31 of 2024\)](#)', Bills webpages, Parliament of Tasmania website.

Recommendations

The Committee made the following overarching recommendation:

As a priority, the Government conduct a comprehensive review of the University of Tasmania Act 1992, including matters specified in recommendations in this report, and promptly legislate the results of that review.

The Committee made 19 recommendations:

1. The Act be amended to include a preamble.
2. The Act be amended to provide for casual staff to be included in the constitution of the University.
3. Section 6 of the Act be reviewed and amended to ensure contemporary and appropriate functions are included.
4. Consider a mechanism to assess the performance of the University against the functions in Section 6 of the Act.
5. The Act be amended to establish restrictions or prohibitions on the disposal or long-term lease of land that has been granted to the University by the Crown, land purchased with public money, or Crown land.
6. The Act be amended to provide for the constitution of the University Council to include a minimum of two student members, with at least one elected from the student body.
7. The Act be amended to provide for the constitution of the University Council to include a minimum of two members of the academic staff elected by the academic staff.
8. The Act be amended to provide for the constitution of the University Council to include a minimum of two members of the professional staff elected by the professional staff.
9. The Act be amended to ensure there is more balance between the number of appointed and elected members on the University Council.
10. The Act be amended to clarify the purpose and function of Ministerial appointments to the University Council.
11. The Act be amended to ensure when considering the best interests of the University, University Council must explicitly include consideration of the University's obligations to the Tasmanian community.
12. The Act be amended to prescribe key requirements for the constitution and method of appointment of the Academic Senate, to ensure a higher proportion of academic representatives rather than managerial appointments and fewer ex officio appointments.
13. The Act be amended to prescribe the functions of the Academic Senate to include a determinative role on core academic matters.
14. Amend the Act in relation to annual reporting by the University, including:
 - a. more specific detail on what the Annual Report is required to contain in relation to income and expenditure;
 - b. a requirement to report on the delivery of the functions of the University;

- c. a requirement to include detail of all salaries, remuneration and fringe benefits for executive management roles at the University; and
 - d. a requirement for more timely tabling of the University's annual report in Parliament.
- 15. In addition to the Annual Report, include a requirement in the Act for the University to produce:
 - a. an annual corporate plan to be published at the beginning of the year; and
 - b. an annual Environment, Society and Governance (ESG) report.
- 16. Review Section 7(2) of the Act to retain Treasurer's approval for University borrowings and ensure it reflects contemporary borrowing and borrowing-like arrangements.
- 17. Consider formalising processes for regular Parliamentary scrutiny of the University, including:
 - a. The Annual Report
 - b. The annual corporate plan
 - c. Major infrastructure projects
- 18. The Act be amended to include a requirement to protect and promote academic freedom.
- 19. The Joint Standing Committee on Integrity consider an inquiry into the performance of the Integrity Commission and the Ombudsman in relation to complaints regarding the University of Tasmania.

Summary of Findings

The Committee made the following key findings:

Term of Reference 1

1. The original *University of Tasmania Act 1889* contained a preamble which was removed in 1951.
2. There is broad support for reinstating a preamble in the Act.
3. The Dawkins reforms of the 1980s, and various reforms since, have resulted in significant changes to funding models, leading to corporatisation of the Australian higher education system.
4. With increased corporatisation, it is important universities achieve an appropriate balance between being a public institution and generating funds. There is a need for greater independent scrutiny, transparency and accountability to ensure this balance is being achieved.
5. Concern was expressed that the University appears to prioritise commercial over community interests in its core functions, with a significant focus on corporatisation, which undermines the University's core role and identity.
6. The University considers the current Act constitutes its membership as the active, living, collegial community engaged in the University's tasks of learning, teaching and research. The University is to serve and be accountable to these members.
7. Section 3 of the Act does not include casual staff in the definition of academic and professional staff, therefore in Section 5 of the Act casual staff are not included in the constitution of the University.
8. Witnesses pointed to inconsistencies between membership of the University and representation on the University Council.
9. The Committee received evidence of a perception the University has deviated from its core functions of education and research specified in Section 6 of the Act, and has shifted to a more commercial focus.
10. The University does not consider commercial activity should be prescribed as a function of the University in the Act.
11. The University recognises the physical, educational and financial barriers that impact access to higher education in Tasmania and outlined a number of measures to assist in overcoming these barriers, with regard to principles of merit and equity.

12. There is an opportunity to review Section 6 of the Act to ensure the functions of the University as prescribed are contemporary and appropriate, and provide a basis for accountability of governance and decision-making.
13. Calls were made for regular independent review of the University to provide greater accountability in relation to delivering on the functions in the Act.
14. There is a perception that the exercise of the powers outlined in Section 7 are not required to be accountable to the functions prescribed in Section 6.
15. There is a perception that there is not an explicit relationship between the exercise of the powers outlined in Section 7 to the functions prescribed in Section 6.
16. Section 7(1) provides for the University to exercise its powers “both in Tasmania and elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions.”
17. The powers prescribed in Section 7 of the Act are comparable to those provided for in the acts of other universities.
18. When the 1992 Act was passed by Parliament, the Hansard does not include any discussion of the intent or purpose of removing restrictions on the disposal of the land vested to the University in Sandy Bay (as specified in Schedule 3 of the Act).
19. In removing restrictions on the disposal of vested land in the 1992 Act, it is not clear whether the wholesale disposal of the Sandy Bay campus was contemplated.
20. Evidence provided to the Committee raised concerns about the absence of restrictions in the Act on the power of the University to dispose of the vested land in Sandy Bay.
21. The University regards the powers under the Act are appropriate and necessary in order to manage the financial position of the University and deliver its functions in a challenging funding environment.
22. Australian public universities operate on land that has been granted to them by the Crown, land purchased with public money, or Crown land. All the public universities in the Australian States – except for the University of Tasmania – are subject to legislative restrictions or prohibitions on the selling or dealing with land.

Term of Reference 2

23. Since the University was established in 1889, there have been several changes to the governance structures prescribed in the Act.
24. The Act was reformed in 2001, reducing the membership of the University Council from 24 to 17, as a response to the Federal Government’s drive to reform governance of Australian universities.

25. The Act was further reformed in 2004 aligning membership appointments with the national governance protocols, reducing the size of the University Council to operate with a minimum operating level of 10 members and maximum of 14.
26. The Act exists as part of a complex framework and legislation that regulates public universities in Australia, including the TEQSA act and its subordinate legislation.
27. Witnesses identified there was a need for balance between managerial leadership and academic leadership in the dual governance model employed by modern universities.
28. Witnesses expressed a view that values of managerialism can be inconsistent with the values of academic decision-making.
29. In response to national reforms and consistent with national trends, the Act has been amended in 2001, 2004 and 2012, decreasing the size and changing the composition of the University Council. The number of members on Council is consistent with other Australian universities, albeit at the lower end of the range.
30. By national standards, the proportion of elected staff and student positions on University Council is low compared to other Australian universities and concerns were raised that this decrease has resulted in reduced democratic representation on University Council.
31. There are contested views on the Act's current requirements regarding the constitution of the University Council.
32. Concerns were expressed regarding the lack of academic staff and professional staff representation on University Council and witnesses called for an increase in the number of these positions.
33. University governing bodies across the sector typically have two student members, with at least one elected by the student body.
34. Under previous iterations of the Act, the student member on the University Council was elected by the student body, via a process designed by the Tasmanian University Union.
35. While previously an elected position, currently the Act prescribes that the University Council appoints a student member to Council after consultation with relevant student associations. It is unclear whether the Act requires University Council to consult those associations on reappointment of student members.
36. Under Section 8 of the Act, the number of members appointed to the University Council may be up to four times the number of members elected to the Council.
37. Concerns were raised that the high proportion of members appointed to the University Council has resulted the development of a self-perpetuating culture, a lack of vigorous debate or dissenting views, and a tendency for 'group think' in Council decision-making.

38. While the Act prescribes two Council members are appointed by the Minister, there is no requirement for, or practice of, those members maintaining a relationship with, or providing reports to the Minister.
39. The Act prescribes the Minister appoints two Council members, however provides no guidance or requirements regarding the purpose or function of those appointments, as distinct from positions appointed through other means under the Act.
40. When recruiting for vacant positions, the University Council uses a skills and attributes matrix to identify the expertise required to ensure an appropriate and ongoing balance of skills among members of Council. Recruitment for vacant Council positions is then publicly advertised.
41. Historically, the University Council included a position for two members of Parliament, however these positions were removed when the Act was amended in 2001. No dedicated positions for members of Parliament are prescribed under legislation for any Australian university council.
42. Concerns were raised regarding the level of accountability of University Council under the Act, in particular the lack of accountability to the wider community which constitutes the University or the broader Tasmanian community it serves.
43. Evidence suggested there is potential for conflict under the Act between the University Council's consideration of 'the best interest of the university' and the overarching function of the University to 'promote the social, cultural and economic welfare of the community and make available for those purposes the resources of the university'. It is unclear how such a conflict should be resolved.
44. The Act prescribes the overarching function of the Academic Senate to advise the University Council on all academic matters relating to the university, while the constitution, functions, powers and proceedings are specified in Ordinance.
45. The University considers Academic Senate membership is best prescribed by ordinance rather than by the Act, as it allows for the necessary flexibility in membership, function and proceedings.
46. Concerns were raised regarding the membership of the Academic Senate, including:
 - a) a significant number of ex officio appointments;
 - b) a majority of members are in upper-level management roles;
 - c) elected members are a minority; and
 - d) a small proportion of members being senior academic staff actively engaged in significant teaching and research.
47. Concerns were expressed the Academic Senate is not constituted in a way which allows members to give frank and fearless advice, with a perception that the Senate is under the control of the executive management due to the top-down managerial structure and direct reporting lines.

48. Concerns were expressed that Academic Senate membership does not adequately represent the views of staff and students, and that academic decision-making is being undertaken by those with managerial rather than academic roles.
49. Concerns were expressed that the Academic Senate lacks genuine decision-making power, and instead performs a 'rubber stamp' function.
50. The Chair of the Academic Senate acknowledged evidence received by this Inquiry and outlined changes made to the operations of the Senate in response, including:
 - a) management now seeks exploratory feedback on new policies or initiatives;
 - b) the establishment of a new monitoring and assurance committee (5 academic staff representatives and 1 student representative) to increase input from academic staff who are not currently in management roles; and
 - c) recognition that student voice needs to be included in academic governance.

Term of Reference 3

51. The Act does not include any requirements to ensure accountability of executive decision-making.
52. Concerns were expressed regarding inadequate consultation with staff and students in executive decision-making processes, resulting in a detrimental impact on staff and student experience and outcomes.
53. The University has a Guide to Decision Making, however there does not appear to be a formal policy requiring consultation, nor does the Act contain a requirement for consultation in decision-making.
54. Under the Commonwealth Funding model, the University must generate independent sources of revenue and funding in order to deliver core activities.
55. Compared to other Australian universities, remuneration for the University Vice-Chancellor is above the median, however remuneration for academic and professional staff is at the lower end of the range.
56. While it is not necessarily appropriate to legislate to limit or direct the remuneration of executive management at the University, greater scrutiny and accountability for these decisions is desirable.
57. The Act's requirement that the Annual Report contain 'a full account of the income and expenditure of the University for the financial year to which it relates' (Section 12(2)), does not ensure an appropriate and accountable level of detail in the report.
58. As the Act allows 6 months after the end of the financial year for the Annual Report to be provided to the Governor, and 10 sitting days beyond that for the Minister to table it in Parliament, Annual Reports have commonly been tabled up to 8 months after the end of the financial year.

59. In addition to the Annual Report, a corporate plan published at the beginning of the year would provide a further mechanism for transparency and accountability.
60. The University has indicated a willingness to consider opportunities for more detailed and transparent financial reporting.
61. The University has indicated a willingness to produce an Environment, Society and Governance (ESG) Report to provide accountability for key non-financial obligations.
62. The Act prescribes a role for the University that directly references the broader Tasmanian community (Section 6(g)), however there is no requirement for accountability to the community in the delivery of that role.
63. The Civic Universities Movement is a response by universities internationally to develop more explicit partnerships with their communities to address recognised challenges.
64. While the Act requires Treasurer's approval for University borrowings, the University has other borrowing-like arrangements that are not captured by this requirement.
65. There is a lack of clarity on the relationship between the University and the State's respective financial positions.
66. The University has been established under statute, therefore it should be accountable to the Tasmanian public through the Parliament.
67. The relationship between the University and State Parliament has changed over time, with fewer formal connections and a lack of active scrutiny.
68. The reduction in connection over time between the University and the State Parliament has led to missed opportunities to identify and proactively address issues as they have arisen.
69. While some Australian states have a Minister for Higher Education, the Tasmanian government does not include this as an explicit portfolio responsibility.
70. While the University is a publicly-funded institution, there is no external scrutiny processes of its major infrastructure expenditure.

Term of Reference 4

71. The University considers academic freedom to be a fundamental value of a university, and that it is protected by its academic freedom and free speech policy.
72. The *University of Tasmania Act 1992* does not specifically include reference to academic freedom, independence and autonomy, which is consistent with legislation establishing many other Australian universities.
73. Academic freedom is supported under the *Tertiary Education Quality and Standards Agency and legislation such as the Higher Education Support Act 2003*.

74. The protection of academic freedom in policy does not provide the same level of protection as an enforceable requirement in legislation.
75. There are conflicting views on whether it is necessary to protect academic freedom through inclusion in the *University of Tasmania Act 1992*.
76. It was reported that managerial bullying and workplace culture issues have led to reluctance within the university workforce to speak out or criticise management for fear of reprisal.
77. Casualisation of the University workforce and associated lack of job security has contributed to a reluctance to speak out or criticise management.
78. The use of gagging clauses (including non-disclosure agreements and non-disparagement clauses) functions to reduce public criticism of the University by former staff.
79. The University's complaint management mechanism, the Safe and Fair Communities Unit, is not considered by some staff and students to be a reliable, safe or independent means to seek redress for managerial bullying.
80. Currently, in relation to the University of Tasmania, the Tasmanian Ombudsman has a statutory role for administrative complaints and the Tasmanian Integrity Commission has a statutory role for misconduct complaints.
81. There is a lack of confidence in the internal University and external statutory complaint handling and dispute resolution processes.

Term of Reference 5

82. The University needs to be mindful of its performance and ranking in order to continue to attract domestic and international students, and maintain the quality and rigour of its academic staff and research outputs.
83. It is challenging for a relatively small, state-wide university located across multiple regional and capital city campuses to maximise student access while also maintaining teaching and research of a high quality.
84. A regional presence is important to encourage student access to higher education, as well as providing the opportunity for the University to respond more effectively to skills needs state-wide.
85. There is an apparent reduction in the degree to which the University values its art, cultural, heritage and scientific collections, and a reduction in the provision of public lectures, music and theatre performances.
86. The Alumni Advisory Committee was inactive from 2017 to 2023, and there appears to have been no similarly structured mechanism for engagement of alumni and advice to the University.

87. A lack of opportunity for Alumni to be engaged and involved in the University risks diminishing support for the University, including financial contributions such as donations and bequests.
88. In 2018, the independently incorporated University Foundation was dissolved and the University Foundation Committee of the Council was established. Concerns were raised that this would result in a lack of transparency in relation to bequests and philanthropic donations.

Evidence

TERM OF REFERENCE 1

The constitution, functions and powers of the University

Opportunity to include a preamble

In evidence presented to the inquiry, attention was drawn to the opportunity for restoring a preamble in the Act to sit above its constitution, powers and functions.⁵⁵

Michael Wells, Managing Director, Wells Advisory, noted:

Across the country there are a range of preambles, particularly in Victoria and also with the University of Western Australia and preambles are not a bad way to, in this complex type of organisation, set more of a legislative view, reminding people of the history and the trajectory. Setting that out and in this case, there is very important history that could be captured and communicated that way.

There is also the question of your aspirations as a legislature for the institution, I think that could be a useful part of the act to set more of the tone and a framework against which reviews like this in future and indeed, by regulators like TEQSA and auditor-generals could be carried out.⁵⁶

The Chancellor of the University of Tasmania, Alison Watkins AM, the Vice-Chancellor, Professor Rufus Black and Professor Natalie Brown, Chair of the Academic Senate were asked to comment on the concept of a preamble in the Act:

Ms WATKINS - ... *I think it is a really interesting idea and thought, and something I think we'd be quite keen, and it has been instructive for me to appreciate. Coming in, I guess I found the commitment that we have to be a university for Tasmania - for all of Tasmania - really compelling and really important. However, it is clear there is a tension. Certainly, it has been a perception of some of the people who have appeared before you and made submissions that we have not always been a university truly for Tasmania, that we have been oriented to the south - too oriented to the south. I think some kind of expression in the form of a preamble of what parliament's expectations are of us in that regard, and what that means, would be extremely helpful.*

It then informs council's discussions about resource allocation and judgments about - and when I say resource I mean both our physical assets and also people and leadership - and how we think about the scope and representation, where we invest and how we invest across the state. While in one sense you may say a preamble, what does that achieve? I actually think it would be a really helpful framing and clarity of the expectations that would flow from that, which would be most helpful for council and for academic senate. ...

Prof BROWN - *I would agree. I think the kinds of things that we are talking about that might be included in a preamble are certainly very consistent with the discussions that we have as an academic senate.*

Prof BLACK - ... *in my submission, I actually quoted the piece from the original preamble. These things have enduring power when they state it. If I go back to that original preamble, it also says that ... the reason for establishing it, is:*

pursuing a regular and liberal course of Education.

We do not have a statement like that anymore, and that was the point I wanted to make - that there is a power in reminding everybody why we have these things, and having the rich debates that enable you

⁵⁵ See for example: Submission #14; Mr Wells, *Transcript of Evidence*, 27 February 2023, p. 35.

⁵⁶ Michael Wells, *Transcript of Evidence*, 27 February 2023, p.35.

to frame those words. People do look to them to be, if you like, the vision statement of parliament and the state for what this is about.

I certainly have found it very helpful. In fact, from time to time, I go back to the original founding words, in conversations in policy environments, to say, 'here is why we are here, and what we are about, it is all kind of here'. That is why I think there is a real power in that, and in finding those words that strike the balances that we have talked about in terms of our enduring commitments, the things that we would hold as core to what universities are about, and to get that balance of our dual tasks really right. It would be very nice to have that clear.⁵⁷

Emeritus Professor Stuart McLean, former Head of School and Member of the Academic Senate at the UTAS, outlined the value of a Mission Statement, noting that of the University of Cambridge as an example:

A university is best defined by its functions, usually encapsulated in a mission statement. For example, The University of Cambridge, UK, a world leader, states that "The mission of the University of Cambridge is to contribute to society through the pursuit of education, learning and research at the highest international levels of excellence."

UTAS has a statement of values, which starts with: "Our values rest on a thousand-year tradition of higher education and enduring foundations of shared purpose. We are a university: a diverse community that becomes more than the sum of its parts in its dedication to the stewardship of learning and knowledge, academic freedom, excellence and integrity. We continually evolve and transform to meet the challenges and opportunities that face us."

...

No one person can speak for the entire university community, diverse as it is. However, a brief statement of the essentials – education, learning, research, service, and excellence – would surely be generally supported.⁵⁸

FINDINGS:

- 1. The original University of Tasmania Act 1889 contained a preamble which was removed in 1951.**
- 2. There is broad support for reinstating a preamble in the Act.**

RECOMMENDATION:

- 1. The Act be amended to include a preamble.**

⁵⁷ Alison Watkins AM, Professor Rufus Black and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 16-17.

⁵⁸ Emeritus Professor Stuart McLean, 2022, *Submission #14*, pp. 1-2.

The obligation of a university to serve public ends and be accountable to the community

Concerns were raised the Act does not explicitly stipulate the University exists for the benefit of the Tasmanian community, and called for the Act to be amended to assert the fact the Tasmanian people are the moral owner of the University.⁵⁹

Alison Watson, in her submission to the Committee, provided the following observation:

*While UTAS is, of course, the technical owner of the University, I would like to see the Act amendment [sic] to support the view that the Tasmanian people are the moral owner.*⁶⁰

William Coats expressed concern there is no explicit mention in the functions that the University is to exist for the benefit of the Tasmanian community:

The Act at its core identifies the functions of the university as such (section 6)...

Each and every one of these is a meritorious function, however I believe that at its drafting, the intent and the context around which the University operates is vastly different to that of today and that the University has lost its way.

*Nowhere does the function of the University stipulate that it is to exist for the benefit of the Tasmanian community, and in large part as a tertiary extension of the Tasmanian education system.*⁶¹

Professor James Guthrie called for an alternative discourse to understand the public value of universities:

*I call for an entirely **different discourse** for universities in Australia, including University of Tasmania, one that is **not** based on financial accrual costs in the context of orthodox accounting arising from the neoliberal corporatisation of Australian public universities over decades. ... The functions, as outlined in the University of Tasmania Act 1992 make clear that the university's proper functions are to be publicly accountable for **public value** activities of the university in the interests of the people of Tasmania."⁶²*

The late Peter Bicevskis, architect and urban designer, considered the changing role of the University and its expected level of scrutiny, accountability and transparency:

I believe that the current university act has not responded to the changing role of the university. I acknowledge that the way universities now have to operate is different to the way they operated previously, that funding is more difficult to obtain, and that all universities now also have to consider the business side of their operations and need to be run in a business-like fashion.

*This also means that university executive and management have to acknowledge that as a business, they will need to be open to greater independent scrutiny, and they will have to accept the need for demonstrable accountability and expertise in the way they run their business.*⁶³

...

*The act needs to allow for greater scrutiny of the university's actions, ensure that these actions are transparent, there is greater accountability for these actions, and above all, the act must ensure that the primary role of the university as an education and research institution is maintained.*⁶⁴

⁵⁹ For example: Submission #79, Submission #99, Dr Sharon Rider, *Transcript of Evidence* 27 February 2023, pp. 9-10.

⁶⁰ Alison Watson, 2022, *Submission #99*, p. 1.

⁶¹ William Coats, 2022, *Submission #117*, p. 1.

⁶² Emeritus Professor James Guthrie AM, 2022, *Submission #3*, Part 2, pp. 7-8.

⁶³ Peter Bicevskis, *Transcript of Evidence*, 7 December 2022, p. 42.

⁶⁴ Peter Bicevskis, *Transcript of Evidence*, 7 December 2022, p. 44.

Professor Sharon Rider, Department of Philosophy, Deputy Director Centre for Higher Education and Research as Objects of Study (HERO), Uppsala University, commented on her concerns for the future of universities and how they are generally viewed:

I also want to add, and I made this as a passing remark in my submission, universities are under threat, and one of the reasons for that is that they are seen as these huge, bloated, bureaucratic enterprises that consist mostly of money-making and administration as opposed to teaching and research. There have been a number of voices, both among analysts of higher education, but also in the OECD and even in popular media, such as people like Bill Maher, who say 'Why is everybody going to university? There are much better ways of making people employable' and 'this is a racket'. It seems to me that if it is not going to be a racket, then we have to go back to basics and back to the core purposes of university, which, to paraphrase from the University of Tasmania Act, has to be the advancement, transmission and preservation of knowledge and learning. And if there is too much management overreach, then that will undermine the fulfilment of those purposes. I am saying that as someone who has studied these things and seen how it has worked in parts of Europe and North America.⁶⁵

Save UTAS Campus advocated for a change to the Act to ensure the University's actions are in the best interests of Tasmanians:

... the 1992 Act should be amended to include an obligation that UTAS act in a way which is consistent with it being a 'Tasmanian institution', 'in a unique setting', and 'actively partnering with the communities in which we live'. Specifically, the 1992 Act should require that in its conduct and decision-making UTAS will always recognise that as a Tasmanian institution with a unique role it will always act in a way which is consistent with the best interests of Tasmanians and with honesty and transparency.⁶⁶

Public institution vs profit-driven corporation

The Tasmanian University Student Association (TUSA) raised concerns the University appears to be prioritising commercial interests rather than community interests and its core functions:

... students are concerned about the increasingly privatised characteristics of the University of Tasmania. Students have a strong sense that the University is merely a vehicle for profit, fuelling property purchases and executive salaries. Private and community interests do not always align, and there is real concern in the community that the University is pursuing commercial interests rather than achieving its core function of promoting the social, cultural, and economic welfare of the community (s 6(g)), research (s 6(b)), and providing opportunities to apply knowledge (s 6(e)). This is exemplified by UTAS creating 'UTAS Properties Pty Ltd' as a wholly owned subsidiary operating to return funds for the University.

To address this, we believe there needs to be an amendment that requires the University to document its regard to the interests of its students and the broader community when exercising its powers. There needs to be a strong, independent governance mechanism that will provide impartial oversight to ensure that the University's financial decisions are for the purpose of advancing its core functions, the most important of which are research, learning and teaching, and the community.⁶⁷

Chancellor Watkins was questioned on whether there is a need for balance in prioritising being a higher-education provider or a sustainable business:

Ms LOVELL - *We have heard quite a bit of evidence from various witnesses ... on finding the right balance between working as a provider of higher education and being a sustainable institution. ... Do you feel that the way the act is structured in terms of where those elements are defined and sit within the act, do you feel that that enables you to find that right balance, in terms of priorities?*

⁶⁵ Professor Sharon Rider, *Transcript of Evidence*, 27 February 2023, p. 2.

⁶⁶ Save UTAS Campus, 2022, *Submission #149*, p. 6.

⁶⁷ Tasmanian University Student Association, 2022, *Submission #128*, pp. 2-5.

Ms WATKINS -... *I certainly do not think it inhibits us from that. The act sets out very clearly what is our job. We have spoken about the opportunities to sharpen that up with a clearer vision, particularly focused on our role as a university for the whole state of Tasmania. Then it is really council's job to discharge that as best it can to achieve those functions. To deliver on that to those various stakeholders with the resources available to it.*

*It is not a question of balance, in my mind, as much as it is a question of how do we use what we have, the resources we have to discharge the function and achieve our purpose overall as best we can? That involves some choices and trade-offs and it means we need to use those resources we have as effectively as we can.*⁶⁸

Vice-Chancellor Professor Black was questioned on whether commercial dealings distracted from the University's main focus:

... universities, in order to pay their way in the world, need to find ways in which they derive other sources of income. We couldn't provide those scholarships, we couldn't fund the gap that the Commonwealth has, to enable the breadth of courses we offer. We couldn't provide multiple regional campuses unless we had other sources of income. It is a necessary task to make sure we do it. Property happens to be, as for many universities, one of the assets that the university has. To leave that not at the service of our students and of our research would seem to me to not be fulfilling our duties, ...

Having a specific group of people who do look after that does enable you then to say the overwhelming majority of us, and the overwhelming majority of our time is spent on the core academic mission. Having a highly expert council means that you can have oversight of what are, some of them, complex commercial transactions.

*I think, quite to the contrary, it enables us to better fulfil our mission without getting distracted.*⁶⁹

Dr Damien Bugg, Chancellor 2006-2012, made the following observations regarding tensions between the obligations of the University and the need for accessibility as the single university in the State:

... the university has to have a budget. It has to operate to create a level of income that supports the structure and operation of the university...

If you are not getting the money in, you cannot run the business. I will stand to be criticised by calling it a business, but it is a complex business - a university. It has obligations to the students. It has obligations to research, and to teaching, and learning, and it has obligations to the broader community. When you are the only university in the state, that creates a more interesting tension, because if you want to [be] accessible to as many people as possible in the state, then you have to have an operating model that has campus presences on the north-west coast, and in the north, and that makes it an expensive model to run.

You cannot, as some of the principal universities in the bigger cities on the mainland do, cherry-pick your high-performing students. So, comparatives with what happens in Melbourne, and Sydney, or what happens at Oxford and Cambridge - you need to look at the whole picture. If you go to Oxford, nearly £6 billion from which you can run the colleges. All the colleges have their own endowment funds, but the total is about £6 billion so \$12 billion. On top of that, you are a magnet to high-achieving students.

*Tasmania has to educate, at a tertiary level, as many of the students and the population as it possibly can. They are not going to be the high achievers who go to Oxford and Cambridge. So your business model, or your operating model, if people want me to keep away from the word 'business', if you want to do your duty to the state and the people in it, then you have to have accessibility. Accessibility creates an expense. So, is the money there? The tensions should be resolved in an orderly way through forceful debate from academic senate, in my view.*⁷⁰

⁶⁸ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 27.

⁶⁹ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 30-31.

⁷⁰ Dr Damien Bugg, *Transcript of Evidence*, 6 December 2022, pp. 30-31.

The Honourable Michael Field AC, Chancellor 2013-2021, reflected on the question of corporate objectives of the university being in conflict with the academic function and purpose:

There will be tension between those two objectives. For example, if the wrong decisions are made - wrong in terms of my view - then you could jeopardise the future of the university itself and it would be an absolute tragedy for Tasmania. The financial viability of the university has to be paramount and the investment by the university has to be extremely well considered. ...

There are also people with a perspective of an academic in a particular area of the university who see the incursion of corporate objectives as restricting, but there is a balancing act between corporate and intellectual freedom and the rest of it, so that is continually the case. ...

In terms of the act, I think the act is pretty well suited to purpose as it stands.⁷¹

Emeritus Professor James Guthrie provided comment on corporatisation of the higher education system over time:

Corporatisation of the Australian higher education system started in about 1980 with the Dawkins reforms and various reforms since then.

In the last decade this has become quite rampant, in the sense of the business model that's been adopted by most public universities in Australia. Corporatisation means that they run the universities like a business rather than a public institution; all the powers of the business - accrual accounting; being a strong leader; being a vice chancellor; being wedded to what I call 'free cashflow' which was the international students as the way to fund property and research - has been part of the model that's happened, and that in the last 10 years has accelerated. ...

I've worked at Sydney; I've worked at Macquarie; I've worked at UNSW - they're all in this corporatised mode. That has led to the issue you raise, which is the democratic decision-making within the university which has marginalised the academic and professional staff and where senior executive sort of run a 'command and control' way of thinking about managing or administering a university. In that process, they've lost their way with regard to what the role of a university is, in terms of excellence in teaching and excellence in research.⁷²

The late Peter Bicevskis provided a view on the balance between being a public institution and generating funds:

UTAS must acknowledge that it is a government-funded public institution serving the people of Tasmania and not a private corporation whose main aim is to make a profit. This changing paradigm is not just restricted to UTAS, but is common to all universities around Australia, but no other university is proposing to sell off its entire campus and prioritise its business side over its academic role.

...

In summary, UTAS management has shown they are not capable of balancing the university's role as a public institution with a need to generate funds. It has become dominated by a management team that is focused on profit at the expense of its role as an educational institution.⁷³

Pat McConville, former University employee and former Secretary of NTEU (Tas Division), considered the focus on corporatisation undermines the University's core role and identity:

I strongly believe in a publicly funded and impartial university system. Some of those challenges are beyond the scope of this inquiry, but the point is that the university is founded on principles and enjoys privileges based on its distinctive, non-business status in our community and not on private entity status. An excessive focus on corporatisation undermines the university's core role and identity. I think

⁷¹ The Honourable Michael Field AC, *Transcript of Evidence*, 27 February 2023, p. 22.

⁷² Emeritus Professor Anna Yeatman, 2022, *Submission #105*, pp. 3-8.

⁷² Associate Professor James Guthrie, *Transcript of Evidence*, 7 December 2022, pp. 2-3.

⁷³ Peter Bicevskis, *Transcript of Evidence*, 7 December 2022, pp. 42-44.

*that resource constraints are not an excuse for compromising the principles on which the university was founded.*⁷⁴

FINDINGS:

- 3. The Dawkins reforms of the 1980s, and various reforms since, have resulted in significant changes to funding models, leading to corporatisation of the Australian higher education system.**
- 4. With increased corporatisation, it is important universities achieve an appropriate balance between being a public institution and generating funds. There is a need for greater independent scrutiny, transparency and accountability to ensure this balance is being achieved.**
- 5. Concern was expressed that the University appears to prioritise commercial over community interests in its core functions, with a significant focus on corporatisation, which undermines the University's core role and identity.**

⁷⁴ Pat McConville, *Transcript of Evidence*, 8 December 2022, p. 17.

Constitution of the University

Division 2, Clause 5 of the *University of Tasmania Act 1992* sets out the constitution of the University:

5. Constitution of the University

(1) The University consists of –

- (a) the members of the Council; and
- (b) the members of the academic staff; and
- (c)
- (d) the members of the professional staff; and
- (e) the graduates; and
- (f) the students.

(2) Notwithstanding [subsection \(1\)](#), a person referred to in that subsection may make a statutory declaration that he or she has a conscientious objection to being a member of the University and, on giving the declaration to the Vice-Chancellor, he or she ceases to be a member of the University.

(3) A person who makes a declaration under [subsection \(2\)](#) does not, by that declaration, prejudice any other position or status which that person holds or enjoys –

- (a) by virtue of his or her employment at, or participation in the affairs of, the University; or
- (b) as a student or graduate of the University.

Emeritus Professor Jeff Malpas noted in his submission that the structure of the University differs from a business entity:

... universities are communities. In the Act this is expressed in the specification of the University of Tasmania (under Division 1, S5[1]) as consisting in the entire body of its staff, including its academic staff and the professional staff who support them, and its students and graduates. This makes the structure of a university quite different from a business entity that is the property of its owners or shareholders. It also makes the academic and professional staff of the University no mere “employees”, but rather constituting members of the institution... Similarly, students cannot be considered mere “customers” either, since they too, along with the graduates or alumni, are constituting members of the institution to which they belong.⁷⁵

Vice-Chancellor Black commented on the constitution of the University, as prescribed in Section 5 of the Act:

The way the act is set up constitutes its membership as the active, living, collegial community that is engaged in the university's tasks of learning and teaching and research today. That is why it encompasses everything from the students who are doing the learning in it all the way, including our graduate students, our academic and professional staff. It is a coherent way of determining that it is that living community that holds at any one time the values of the institution who are in conversation,

⁷⁵ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, p. 4.

in relationship. I mentioned in my opening statement that a notion of relationality lies at the heart of how universities, in their deepest ways, think about what constitutes them. These are all people who are in current relationship with each other.

Alumni are an important group and community and we often refer to them as part of the university community in a broader sense. One of the things the act does is to recognise their role as a broader community because it does require that there is an alumni presence on the council. That goes on the second part of what universities can see to themselves. There are universities that the collegial community holds to a set of values through time. That is one of the features of them. It is this ability to have a conversation about an act in the 19th century where we recognise ourselves even today. Alumni represent the community of people who maintain that healthy conversation which stretches you to say, are we holding to those values of the past? Some alumni will also say, are we holding to the values needed for the future? Their involvement in that kind of dialogue is an important feature. The act does set that up and it strikes a pretty healthy balance in maintaining that.⁷⁶

Chancellor Watkins commented on the relationship to the constituents of the university as stated in the Act:

... The importance and significance of the description of the members who constitute the university is that, from a council perspective, those are the stakeholder groups that the university is set up to serve and is accountable to. That's how I think about it. We need to have regard to all those stakeholder groups and to be clear on how they would regard success and impact and to be sufficiently in touch with them that we can know what's on their mind, what they are concerned about, and how we are doing from their perspective. There are multiple perspectives, and even within these different groups there are many different perspectives.

Ultimately it is Council, as the governing body, that has to form judgments about what is in the best interests overall of the university which is constituted of this membership. We will never make judgments that satisfy everyone or keep everyone happy; but our role is to have regard to all those stakeholders and to then form - as best we can - fact-based judgments about what is in the best interests of the university overall.⁷⁷

Some submissions noted that casual members of staff at the University are not included in the definitions of academic and professional staff in Section 3 of the Act.⁷⁸

Accordingly, as highlighted by the National Tertiary Education Union (NTEU), casual staff are not included in the constitution of the University specified in Section 5.

While the casual workforce at the University of Tasmania varies depending on the moment and method of calculation, we estimate that UTAS consistently maintains an average casual workforce of about 50% of the total workforce. Casual staff undertake important work at UTAS, including providing core teaching and professional services.

Section 5 of the Act provides that the University of Tasmania consists of the members of the Council; members of the academic staff; members of the professional staff; graduates; and the students. Section 3 then defines the members of the academic and professional staffs quite broadly. Both of these definitions, however, explicitly state that casual employees are not included in these groups, effectively excluding them from the University community. This has consequences for staff in both academic and professional areas of the University. Casual staff are disenfranchised from any participation in elections to University Council, for which members are drawn from each of the academic and professional staff cohorts and elected by those same groups (as per Section 8 Constitution of the Council).⁷⁹

⁷⁶ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, p. 18.

⁷⁷ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 20.

⁷⁸ For example: *Submission #31; Submission #25*

⁷⁹ National Tertiary Education Union, 2022, *Submission #123*, p.11.

Professor Zoellner, Public Universities Australia (PUA) referring to the PUA Model Act⁸⁰, made the following recommendation in relation to strengthening the communal identity of the University in Section 5 of the Act, to clearly state the University consists of an academic community of equally important parts:

*... university management structures now treat themselves as comprising the university, rather forgetting that the students and the academics are also part of it. So we suggest there [in the Model Act] that a university consists of 'an academic community of equally important parts that are' - and just a short sentence there that emphasises that everybody in the university is part of the university.*⁸¹

The Committee heard evidence about inconsistency between the constitution of the University in Section 5 of the Act and representation on the Council.⁸² For example, Associate Professor Terese Henning noted:

*Section 5 recognises as key constituent elements of the University, the academic and professional staff, university graduates, and students. This is, of course, entirely appropriate. Yet academic and professional staff and students have negligible representation on Council, which is the governing body of the University, see s 8. Indeed, academic and professional staff representation on Council is expressly curtailed by sub sections (d) and (j) of s 8. However, under ss 6 and 7, the implementation of the functions and powers of 'the University' rests with 'the University' constituted by s 5. In practical terms, this is obviously necessary and could not be otherwise. After all, who else can achieve the University functions set out in s 6. Nevertheless, because of the small representation on Council of academic and professional staff, there is an operational inconsistency between ss 5 and 6 and ss 8 and 9.*⁸³

FINDINGS:

- 6. The University considers the current Act constitutes its membership as the active, living, collegial community engaged in the University's tasks of learning, teaching and research. The University is to serve and be accountable to these members.**
- 7. Section 3 of the Act does not include casual staff in the definition of academic and professional staff, therefore in Section 5 of the Act casual staff are not included in the constitution of the University.**
- 8. Witnesses pointed to inconsistencies between membership of the University and representation on the University Council.**

RECOMMENDATION:

- 2. The Act be amended to provide for casual staff to be included in the constitution of the University.**

[NB: For recommendations relating to membership of Council, see Term of Reference 2.]

⁸⁰ <https://puau.org/model-act/>

⁸¹ Professor Zoellner, *Transcript of Evidence*, 6 December 2022, p. 6.

⁸² See for example: Submission #14, Submission #19, Submission #25, Submission #27, Submission #60, Submission #77, Submission #89, Submission #97, Submission #101, Submission #119, Submission #125.

⁸³ Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, p. 2.

Functions of a university

Division 2, Section 6 of the *University of Tasmania Act 1992* sets out the functions of the University:

6. Functions of the University

The University has the following functions:

- (a) to advance, transmit and preserve knowledge and learning;
- (b) to encourage and undertake research;
- (c) to promote and sustain teaching and research to international standards of excellence;
- (d) to encourage and provide opportunities for students and staff to develop and apply their knowledge and skills;
- (e) to provide educational and research facilities appropriate to its other functions;
- (f) to promote access to higher education having regard to principles of merit and equity;
- (fa) to foster or promote the commercialisation of any intellectual property;
- (g) to engage in activities which promote the social, cultural and economic welfare of the community and to make available for those purposes the resources of the University.

Consideration of what should be the core functions of universities

PUA made the following observations in relation to what the core functions of a university should be:

The core functions of universities are to:

- *create new knowledge through research and scholarship;*
- *disseminate knowledge through advanced teaching;*
- *and to support all facets of society as a trusted source of expert, independent and honest advice.*

Core academic values have evolved to underpin the delivery of these core functions, and for this reason they must be inherent to the way universities are structured, governed and operate. Failing to implement and support any of these values renders proper service of a university impossible. These values are:

- *rigor in expertise;*
- *collegiality;*
- *freedom of speech;*
- *robust intellectual discourse;*
- *freedom of academic research;*
- *commitment to advancing and promulgating knowledge;*

- *and truth in all academic works.*⁸⁴

Professor Malpas considered two fundamental ideas on the nature and functions (or purposes) of a university. The following particular thoughts are noted:

a. The University as an epistemic community

The University Act enshrines two fundamental ideas about the nature and functions (or perhaps better, “purposes”) of a university.

The first is the idea that universities are communities. In the Act this is expressed in the specification of the University of Tasmania (under Division 1, §5[1]) as consisting in the entire body of its staff, including its academic staff and the professional staff who support them, and its students and graduates. This makes the structure of a university quite different from a business entity that is the property of its owners or shareholders. It also makes the academic and professional staff of the University no mere “employees”, but rather constituting members of the institution... . Similarly, students cannot be considered mere “customers” either, since they too, along with the graduates or alumni, are constituting members of the institution to which they belong.

*The second is the idea, specified in Division 2, §6(a), that universities are communities concerned “to advance, transmit and preserve” knowledge and learning (those three aspects of the function being implicitly tied together). The University is thus an academic or epistemic community, since even non-academic staff have a role defined in relation to that academic or epistemic focus.*⁸⁵

When considering the functions set out in Section 6 of the Act, Professor Black was asked to comment on their completeness:

... paragraph (g) is too narrow in scope. It does not reflect the reality or the importance of the university in its ability to work with Tasmania and Tasmanians to contribute to make a larger difference. There is a function we play globally which is not articulated directly. We make really important contributions on globally important topics. Climate change being perhaps one of the very pre-eminent ones. ... It would be nice to see that perhaps more explicitly stated.

I also noted in my opening observations that it does not really focus on the tasks of how we work in partnership in a world where we know now that to achieve many of the things we set out here, you would want to be able to say it is a function of the university to work in partnership. ...

...

*There are some evolutions of these functions that would bring it up-to-date. If we think about the total architecture, if the preamble has captured the notion of how the university is both defending therefore those traditional education for its own sake values, and research for its own discovery purpose, and at the same time working on the things that really matter, you could easily see that then reflected in the statement of functions.*⁸⁶

⁸⁴ Public Universities Australia, 2022, *Submission #27*, p. 2.

⁸⁵ Distinguished Emeritus Professor Jeff Malpas, 2022, *Submission #97*, p. 4.

⁸⁶ Alison Watkins AM, Professor Rufus Black and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 21-27.

Discrepancy between UTAS Constitution and Functions, and UTAS Governance

A number of submissions state that there is a disjunction between the Constitution and Functions set out in the Act, and the way the University is governed.

Emeritus Professor Anna Yeatman considers functions in the Act should be re-cast in the language of purpose:

Now, however, in context of managerialist governance and the expectation that the university operate according to business criteria, the language of functions is not adequate to securing the distinctive identity of the university as an academic entity. Managerialism can harness any function just as it can also break down and disaggregate a set of functions. The only way the language of functions can serve the academic identity of the university is that it be framed by and answerable to the language of purpose.

...

This section of the Act [Section 6] is its core. Everything else in the Act should either directly follow from or be congruent with it.

The language of 'functions' belies what should be really at stake in regard to how the University of Tasmania is legislatively constituted, namely, the purpose of the University.⁸⁷

Professor Malpas stated that there are inconsistencies between the values set out in the Constitution and Functions, and the way the Act sets up the University Council, Academic Senate and key offices of the University:

...there are serious inconsistencies between the constitution and functions of the University as set out in the University Act (in Division 2, ss 5-6), and the constitution and powers of the Council and Academic Senate, as well as some of the matters pertaining to the key offices of the University (as set out in Divisions 3-4, ss 8-17[a]). This has the result that the Act lacks any adequate structures or processes to ensure accountability in decision-making and that it effectively lacks any structures or processes to protect and promote academic autonomy or academic freedom (or to ensure conformity with the University's key teaching and research functions)...

I would thus contend both that the Act is seriously flawed in its own terms, as well as when measured against community expectations, and that the University's management (more specifically its Chancellor, Vice-Chancellor, and Council) operates, to a very large extent, in a fashion incompatible with the Act's own definition of the University and its functions.⁸⁸

Impact of change to corporate model on functions of university

Concerns were raised that it is not explicit within the functions identified in Section 6 of the Act that the University is to exist for the benefit of the Tasmanian Community.

Emeritus Professor Guthrie commented on the functions of the University as being public-value activities in Tasmania's public interest:

These functions, as outlined in the University of Tasmania Act 1992, make clear that the University's proper functions are public value activities of a public university in Tasmania's public interest. However, very different discourses about costs and value are embedded in the neoliberal policies that inform executive and senior managerial decision-making which are informed by accounting discourses that are better suited to commercial, for-profit corporations. A more spatially and ethically grounded accounting discourse of the costs and benefits to the Tasmanian community would more properly

⁸⁷ Emeritus Professor Anna Yeatman, 2022, *Submission #105*, pp. 3-4.

⁸⁸ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, p. 3.

*embed through functions as outlined in the Act, rather than those of commercial property development and investment corporations as is currently the case.*⁸⁹

Professor Malpas commented on the relationship between Section 6(g) and the other functions listed in Section 6 of the Act:

The Act also states, in s6(g), that a further function should include promoting the “social, cultural and economic welfare of the community” (presumably the wider community beyond that of the University alone) and making available the resources of the University to this end. This too surely has to be read in keeping with the primary epistemic focus of the University’s other functions. It cannot be taken to imply that the University should be engaged in any activity to promote the welfare of the wider community – its primary focus on epistemic activities must remain, and this also means that the resources that it makes available, which may well include its buildings and facilities, would be primarily its epistemic resources, namely, the expertise of its staff and the knowledge (including the material knowledge contained in its collections) that it is concerned “to advance, transmit and preserve”.⁹⁰

Janet Upcher expressed concern the functions of the University had been reinvented by the management team, and no longer worked in the best interests of the Tasmanian community:

The University of Tasmania Act of 1992 was originally designed to work in the best interests of the Tasmanian community: it seems that the powers and functions of UTAS have been drastically reinvented recently by a management team which has little regard for the traditional charter of our university. Some recent decisions made without consultation with academic staff, the student body or the community in general are leading to the rapid attrition of all the functions which the University of Tasmania was empowered to perform.⁹¹

Dr Patrick Naughtin asserted the University’s fundamental purpose was being treated as secondary to its operation as a large business:

I am deeply concerned, after a long career in teaching, that the University’s fundamental purpose of education and research is now secondary to its operation as a large business corporation. Decisions regarding the university’s operations seem to increasingly be made on the basis of short-sighted, rash so-called “business” reasoning that takes little account of the longer-term needs of students, staff and the community generally.⁹²

Alison Watson called for the Act to state the core purpose of the University as education and research:

It’s essential that UTAS to operate under an Act that explicitly states that its core purpose - first and foremost - is education and research, and subsequently ensuring that the organisation is sustainable and has what it needs to deliver excellent education and research outcomes.

From what I have seen over recent years, this focus has been lost. For example, marketing material released by UTAS has referenced matters such as UTAS stimulating small business in the CBD and providing green space in this city- to me, these matters are out of the University’s scope.⁹³

Council of Australian Postgraduate Associations (CAPA) and National Aboriginal and Torres Strait Islander Postgraduate Association (NATSIPA) expressed concern regarding the University’s pursuit of for-profit ventures in the area of student accommodation and the consequent impact on student affordability for such facilities:

⁸⁹ Emeritus Professor James Guthrie AM, 2022, Submission #3, Part 1, p. pp. 5-6.

⁹⁰ Emeritus Professor Jeff Malpas, 2022, Submission #97, pp. 4-11.

⁹¹ Janet Upcher, 2022, Submission #75, p. 1.

⁹² Dr Patrick Naughtin, 2022, Submission #130, p. 1.

⁹³ Alison Watson, 2022, Submission #99, p. 1.

... There is genuine concern from the postgraduate community that universities are pursuing these for-profit ventures in the student accommodation sector. It borders on exploitative practices to secure funding for other university operations instead of providing affordable housing for students and meeting their public good obligations. We reiterate that the sole focus of universities should purely be in the interest of the public good through teaching and research. We assert that universities cannot transparently meet their third responsibility (as stated previously) as the "rational arbitrator of public discourse" if they have a pervading and competing interest in fiscal expansion.⁹⁴

As an example of a view expressed in a number of submissions, alumna and University student parent, Jane Herbert raised concerns that:

Utas management has gone from having academic and educational success at the core of its concerns, to being effectively a real estate development authority with only financial aims and objectives.⁹⁵

In response to questions regarding commercial activity and functions in the Act, the following observations were made by Chancellor Watkins and Vice-Chancellor Black:

Mr DUIGAN - *A lot of what we have heard about through the course of this inquiry are the commercial objectives and imperatives of the university which aren't mentioned in the functions of the university. Is it an omission? Is having the university on a sustainable financial footing, which is important, should that be named up as a function of the university?*

Ms WATKINS - *My first reaction - and it is an interesting question - is no. I would strongly resist that as I don't see commercial activities as being an end in themselves, a function of the university. Rather, they are a means to an end.*

The University has finite resources. We have funding that we receive. We have some sources of other income each year and then we also have some assets. We have a set of resources and it is the role of Council to discharge the functions of the University with those resources as best it can and unfortunately our resources are not unlimited. They are probably not sufficient to do everything as well as we would love to do them but I don't see that, balancing the budget and resource allocation, being a function of the University in and of itself, no. ...

Prof BLACK - *... I see it exactly the same way. Commercial activity is not a function. It is not a purpose of the University. It may be that elements of it are necessary but that is dealt with in the powers of the act which does make an elegant way in which it says, University, be clear this is your task, but in order to do that there are some enabling things. The powers set out, they are quite clear and explicit, a range of capacities to do commercial things in order to fulfil its functions.⁹⁶*

Concerns regarding the ability to achieve function under section 6(f) of the Act

Vice-Chancellor Black was asked to reflect on access to higher education, with respect to merit and equity principles in relation to the University, in the context of Section 6(f) of the Act.

*.... The first piece is to ensure we have a full range of ways in which any Tasmanian can find a pathway to getting an education, recognising that many finish school without the normal qualifications for universities. Our structure is set up to create pathways that enable essentially anyone to find a way through various pathway units and courses to be able to do whatever it is in the end they want to do.
...*

We know if it is going to work we also have to have a regional presence. For many people to access that is a physically limited reality. We need to be able to be close to their communities so that can happen.

⁹⁴ CAPA and NATSIPA, 2022, *Submission #58*, pp. 4-8.

⁹⁵ Jane Herbert, 2022, *Submission #53*, p. 1.

⁹⁶ Alison Watkins AM, Professor Rufus Black and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 21-27.

We are also aware that for a range of people, even getting to a campus is a challenge. That is where a part of our offering is an ability to have online ways in which that can happen.

...

... Financial barriers are serious. We offer over 1700 scholarships a year to help reduce those barriers. We know that is not nearly enough. One of our submissions into the accord process is very much about how do we get the funding for students better addressed. Currently, it is not well designed to create better access to higher education. In some ways it creates a disincentive and we are keen to see that change in order to address that.

The basic accommodation is a real challenge and how do we ensure it. We provide a lot of accommodation. It is an important part of enabling people, particularly if they have to move any distance to be able to do that. Then people come from a range of backgrounds with needs that need to be addressed. Some of our units would have over 20 per cent of people who have a declared disability. We then have to write a wide range of disability support and access services, learning access plans - a big architecture for that for which, again, the Commonwealth Government does not provide generous funding. In a state where there is a very high burden of those needs, we need to be able to address that....

One of the things that is important for the overall architecture of the university is our commitment to those things, when higher education is funded on the basis of your average metropolitan university. They do not have to do what we have to do. They do not have to provide multiple regional campuses... In some ways, that is not reflected in the way we construct the act, in the way we articulate what this university's unique mission is about. I go back to that first statement in the 1889 act; it was clear that the ability to provide it for everyone was foundational.⁹⁷

Vice-Chancellor Black was questioned in relation to equitable access to higher education as stipulated in the function under section 6(f) of the Act, in relation to the cost of University student accommodation:

Ms WEBB - *..., I am interested to understand how this function at (f) ... flows through to decision-making on those sorts of matters, which would seem to contradict it. For example, if student accommodation is being provided at rents that actually are not attainable for students, how is that fulfilling this function? ...*

Prof BLACK - *Absolutely. Our task in providing accommodation is to provide the full range of accommodation to enable access. Students have a wide range of choices and we have a wide range of different types of accommodation that do come at a whole series of price points. The objective, constantly, is to be at most, at, but wherever we can be, under market rates. Our city accommodation is pegged at 20 per cent under the market rate. ...*

In addition to that, we recognise that often we do need to provide scholarship support to students to access that accommodation...

... given that accommodation is very expensive ... to provide, we need to make sure that we can actually sustainably provide it That is why we seek to find the model that enables a sensible price point with scholarship support wherever we can ... That is something we, again, are in conversation with the Commonwealth about. We need more and better funding into that space. ...

Ms WEBB - *What proportion of the accommodation provided by the university could be regarded as being accessible to people coming in at that lowest income level, from the communities that you are quite passionately expressing that you want to bring in?*

Prof BLACK - *I would need to come back to you with an exact properly mathematically analysed figure, but a substantial portion.*

...

⁹⁷ Alison Watkins AM, Professor Rufus Black and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 21-27.

Ms WEBB - ... Where do the decisions about setting rents sit within the university management?

Prof BLACK - That would sit in our infrastructure division that looks after that. However, it is set within a broad policy frame of what we are trying to do, and in some cases in terms of some long-term commitments that we have in order to make that, that led to construction of that accommodation.⁹⁸

Chancellor Watkins added comment, describing the part that Council plays in the approval of student accommodation:

Ms WATKINS - I would add that this is a matter, accommodation is something that does come to council, particularly where we are investing in building new accommodation, we would look at a business case for that. We would challenge how we are thinking about that, what the income versus the outgoings would look like, what we are seeking to achieve, including access requirements. It is something that management would then be responsible for implementing in line with that overall business case and set of objectives, which relate to the need to have enough accommodation, where it is, how accessible it will be in an affordability sense.

... at the moment all our university accommodation is pretty much full. That does reflect, as you have alluded to, the very difficult situation that we have with housing availability. Many students are staying through for their full degree because there is not enough accommodation available externally.

... actually 40 per cent of our students are part-time and our average age is something like 32. Starting age is 29. ... many of our students are studying part-time. They are juggling families and jobs and they are living at home as well. Equity is also about how we are an accessible university for people who are later in life and wanting to continue to learn. ...

Ms WEBB - I think part-time students are often doing that because they are having to work in order to be able to pay their rent, for example. Do you have part-time students in your accommodation as well as full-time students?

Prof BLACK - It is a good question, Meg. I would need to take that on notice.⁹⁹

Questions on Notice were asked requesting detail on the affordability of student accommodation, the proportion of students in accommodation that are part-time students; the median age of students; and the proportion of Tasmanian enrolments and the age profile of those enrolments. See Appendix D for answers to questions taken on notice by the University.

Further questions were asked of the University in relation to assessing housing needs:

Ms WEBB - Does the university monitor or assess the housing needs of its student body so that it has a nuanced understanding of how those are being met either by the university or perhaps elsewhere, that it can then do that planning?

...

Prof BLACK - We look very carefully at current students, how they are evaluating, what we currently have, where the needs are. We model forward, actually, multiple years ahead to see what is happening in the Tasmanian housing market, what is our likely student demand and for what kind of accommodation, because people are changing their mix of preferences. Part of our work is how those mixes of preferences are changing, whatever we build next is both the right amount and is actually marrying up to the kind of need, the particular kind of ways in which students are looking to live. We monitor that all really closely and have a student living team.¹⁰⁰

⁹⁸ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, p. 28.

⁹⁹ Professor Rufus Black and Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 29.

¹⁰⁰ Alison Watkins AM, Professor Rufus Black and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 30-31.

Suggested additions to the listed functions in Section 6 of the Act

PUA made suggestions for two additions to the functions listed in the Act:

Part 2, Division 2.6 does not adequately recognise the range of important roles of the University. We suggest addition of the following statements on functions of the University:

- *to provide informed honest expert advice to government, industry and the community.*
- *to provide a forum for open honest respectful and robust discussion of ideas, irrespective of how unpopular those ideas may be, without prejudice to the interests of those who participate in the discussion.*¹⁰¹

The late Professor Jamie Kirkpatrick AM suggested ecological sustainability and participatory democracy be added to Section 6 of the Act after sub-section (g):

(h) to engage in activities that promote the ecological sustainability of the University and the broader community;

(i) to promote participatory democracy in the University and wider community.

*Rationale: ... I have added two important functions. The first of these reflects the outstanding achievement of the University in the sustainability area, which is so important to the State and World. The second exhorts the University to be an exemplar in participatory democracy, to move away from top-down control by a small group of employees.*¹⁰²

The late Adjunct Associate Professor Chapman suggested the following amendment to Section 6(a) of the Act to strengthen the standing of the University:

... I suggest a further reassurance as to the standing of the University could be given by a formal reference in the act to the University's adherence to the important international agreement Magna Charta Universitatum, which the University agreed to in 2012. See the reasons outlined below:

This would be to Part 2, section 6 (a):

This now reads:

(a) "to advance, transmit and preserve knowledge and learning;"

This might be amended to read:

"(a) to advance transmit and preserve knowledge and learning in ways consistent with the Magna Charta Universitatum to which the University is a signatory;"

*Argument: The reference to the Magna Charta Universitatum, would not only reinforce the commitment to the advancement, transmission, and preservation of knowledge and learning, but ensure that the intellectual and academic standing of the university, as a "true" university, would be enhanced by a reference in the act to this charter, signed by many European and other universities, which recognizes that "the future of mankind depends largely on cultural, scientific and technical development; and that this is built up in centres of culture, knowledge and research as represented by true universities".*¹⁰³

Accountability in relation to delivering on the functions in the Act

The University was asked how it assesses its performance against functions listed in the Act:

Ms WATKINS - *... we are continually assessing our compliance with all the legislative instruments that we are governed by, and the regulation as well. We have a very rigorous compliance plan, and that certainly includes very prominently the University of Tasmania Act. Council considers its compliance*

¹⁰¹ Public Universities Australia, 2022, *Submission #27*, pp. 3-4.

¹⁰² Professor Jamie Kirkpatrick AM, 2022, *Submission #19*, pp. 1-2.

¹⁰³ Adjunct Associate Professor Peter Chapman, 2022, *Submission #110*, p. 2.

against those requirements annually as well as the other regulatory requirements that we are subject to.

There are also other ways that we judge our compliance. I know the question of rankings and these metrics have been subject to your discussions and subject of a number of submissions as well, and these are other indicators. There are many indicators that we use as a Council to consider how we are doing against each of these areas. We have quite a number of metrics that we see in our monthly performance reporting, and we discuss most of them.

...

Prof BLACK - *I would only add that we look very carefully at the Tasmanian metrics. We are very concerned to see how we're going in terms of the educational participation, how we're going in terms of reaching into schools. We look very carefully at areas where we have direct impacts. We have constant conversations with the Department for Education, Children and Young People and the Department of Health, how we are going with meeting the kind of professional needs of the state.¹⁰⁴*

The late Peter Bicevskis made the following suggestion to improve accountability of the University:

There should be a mechanism under the Act for regular independent review of the functioning of the University and adherence to its legislated functions.¹⁰⁵

FINDINGS:

- 9. The Committee received evidence of a perception the University has deviated from its core functions of education and research specified in Section 6 of the Act, and has shifted to a more commercial focus.**
- 10. The University does not consider commercial activity should be prescribed as a function of the University in the Act. [NB: Refer to Finding 5]**
- 11. The University recognises the physical, educational and financial barriers that impact access to higher education in Tasmania and outlined a number of measures to assist in overcoming these barriers, with regard to principles of merit and equity.**
- 12. There is an opportunity to review Section 6 of the Act to ensure the functions of the University as prescribed are contemporary and appropriate, and provide a basis for accountability of governance and decision-making.**
- 13. Calls were made for regular independent review of the University to provide greater accountability in relation to delivering on the functions in the Act.**

RECOMMENDATIONS:

- 3. Section 6 of the Act be reviewed and amended to ensure contemporary and appropriate functions are included.**
- 4. Consider a mechanism to assess the performance of the University against the functions in Section 6 of the Act.**

¹⁰⁴ Alison Watkins AM, Professor Rufus Black and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 30-31.

¹⁰⁵ Peter Bicevskis, 2022, *Submission #114*, pp. 1-2.

Powers of the university

Division 2, Section 7 of the *University of Tasmania Act 1992* sets out the powers of the University:

7. Powers of the University

(1) The University has power to do, both in Tasmania and elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power –

- (a) to acquire, hold and dispose of real and personal property; and
- (b) to form, and participate in the formation of, companies; and
- (c) to subscribe for and purchase shares in, and debentures and other securities of, companies; and
- (d) to enter into partnerships; and
- (e) to participate in joint ventures and arrangements for the sharing of profits; and
- (f) to borrow money; and
- (g) to do anything incidental to any of its powers.

(2) Notwithstanding subsection (1) (f) , the University is not to exercise its power to borrow money unless it has first obtained the written approval of the Treasurer.

Chancellor Watkins was asked to comment on criticisms made of the way the University exercises its powers and the view expressed by some that the University acts as a power unto itself:

I would say that, if I speak from the perspective of the university council, first of all as directors, our obligation conveys with it some fairly significant legal responsibilities to act in the interests of the university and its members and we take those responsibilities very seriously.

I would also say we are a charity. We are regulated by the charity regulator and that means that we use our resources for the purpose of the organisation and not for profit. We are very mindful of those obligations and we approach optimisation of our assets and our funding with that to the fore. It is very much about directing our resources as best we can to achieving our academic mission - our mission on learning, teaching, research; our mission to serve the state of Tasmania and that is how we approach our decision-making.

...

The way that the act has been framed has been wise because it gives council the responsibility and flexibility to do that and to achieve those functions, to achieve that purpose as best it can with constrained resources, because that is the reality that we operate in. I feel these powers are actually very important. I really want to reiterate that any activities we take, for example, around our investment portfolio or property or construction - these are not an end in themselves; these are in the interests of furthering our impact as a provider of education, learning and research for this state. That

is what we are obliged to do, legally, and that is absolutely what drives us, ethically, and from a values standpoint.¹⁰⁶

Relationship between the powers and functions in the Act

Emeritus Professor Peter Dawkins AO observed the following in relation to the constitution, functions and powers in the Act:

The constitution, functions and powers of the University are very similar to the same section of the acts of the University of Melbourne and Victoria University.

Universities in Australia are large and complex organisations, with multiple objectives and diverse stakeholders. This is evident from the listed functions of the University. The powers, conferred on the University by the Act, are needed to be successful in this context.

In using its powers and carrying out its functions it needs to be recognised that the University is also subject to the oversight of the Tertiary Education Quality and Standards Agency, the national higher education regulator, whose job is to ensure that the University meets the national Higher Education Standards.¹⁰⁷

A number of witnesses expressed concern regarding inconsistency between the powers and core functions of the University.

Associate Professor Henning made the following observations:

The functions of the University are set out in s 6 of the Act. They are what one would expect of an institution of higher research and learning. However, these functions are not adequately reflected in the powers of the University set down in s 7.

*In the context of an institution of research and higher learning, the powers specified in s 7 are strange. Their emphasis on financial and corporate matters fits more readily with a commercial or financial enterprise than with an institution of higher learning. These powers may be necessary, but they are not sufficient. This is because the powers specified in s 7 are not adequately tied to or reflective of the University's functions in s 6. For example, no mention is made of the University's power to offer and prescribe degrees and courses, or of its power to institute ethics or other requirements for the conduct of research. **While s 7 mentions the University's functions, it does so loosely and does not link or subject the powers it contains or their exercise to the functions of the University in s 6. This should be remedied.***

This problem has manifested in recent years in the University Council and Executives operating more like administrators of a commercial corporate entity and property developer than of an institution of higher learning. The decisions to move the University to the Hobart CBD and develop the Sandy Bay campus as a real estate venture are probably the most obvious examples of this problem. ¹⁰⁸

Associate Professor Henning was asked to provide a comment in relation to the powers and functions in the Act, particularly regarding teaching and research:

Assoc Prof HENNING - ...

If you compare the functions of the university to the powers of the university under the University Act, there seems to be some kind of strange mismatch. Functions of the university are research and teaching, but the powers of the university are pretty odd in that context. They don't focus on research. They don't focus on teaching. They focus on something that you would expect in a major corporation, fine - but the functions of this body are to research and teach.

¹⁰⁶ Alison Watkins AM and Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 35-46.

¹⁰⁷ Emeritus Professor Peter Dawkins AO, 2022, *Submission #90*, pp. 1-2.

¹⁰⁸ Associate Professor Terese Henning, 2022, *Submission #89*, pp. 1-3.

Ms WEBB - ... I noted in your submission that you talked about the disjunct between section 6, the functions, and section 7, the powers. ...

Are you saying there should be a more explicit articulation of powers that directly go back to the functions in section 6? If so, can you give some examples of what that could look like?

Assoc Prof HENNING - Yes, absolutely. When you have that very general statement as an open statement, and then a number of enumerated powers that relate to something that doesn't actually specifically take into account the functions of the university, then what happens is - and we see this in law a lot, that the reading of that general statement tends to be governed by and interpreted in accordance with the specified powers. That's why you need to have a great deal more detail and a great deal more prescription around the powers of the university being targeted to those specific functions. It must be made a great deal more explicit.¹⁰⁹

CAPA and NATSIPA expressed concern in relation to the University's powers under the Act, which gives it the ability to pursue for-profit enterprise activities, with little relevance to the pursuit of knowledge:

CAPA and NATSIPA's primary concern in section 7 relates to the broad allowances afforded to UTas to pursue for-profit enterprise activities. For example, the unfettered ability to "purchase of shares, and other securities of companies" has little relevance to the pursuit of knowledge. Instead, it promotes conflicting priorities to pursue lucrative business ventures without state or federal approval.¹¹⁰

Judy Tierney, OAM expressed concern that the power to conduct business activities is becoming the main focus at the expense of the core roles of the University:

The 1992 Act introduced a new Section 7 with subsection 1 effectively given (sic) Utas the power and scope to conduct a range of business activities including share trading, property sale and development, joint ventures and partnerships in pursuit of its ambitions. This is patently becoming the main game for Utas with the neglect of its core roles viz academic and research.¹¹¹

FINDINGS:

- 14. There is a perception that the exercise of the powers outlined in Section 7 are not required to be accountable to the functions prescribed in Section 6.**
- 15. There is a perception that there is not an explicit relationship between the exercise of the powers outlined in Section 7 to the functions prescribed in Section 6.**
- 16. Section 7(1) provides for the University to exercise its powers "both in Tasmania and elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions."**
- 17. The powers prescribed in Section 7 of the Act are comparable to those provided for in the acts of other universities.**

¹⁰⁹ Associate Professor Terese Henning, *Transcript of Evidence*, 13 December 2022, p. 4.

¹¹⁰ CAPA and NATSIPA, 2022, *Submission #58*, pp. 4-8.

¹¹¹ Judy Tierney, 2022, *Submission #129*, p. 1.

Sale of land gifted to the University

Regarding the power of the University to sell land gifted to it, the following extract from the Parliamentary Research Service chronology provides relevant context:

The University of Tasmania Act 1992 did not include the provision that the Sandy Bay site had to be used for the purpose of a university.

... the 1951 University Act granted the land in Sandy Bay to the University, and stated that if the land ceased to be used for the purposes of a University it would revert to being Crown land. The Higher Education (Amalgamation) Act 1990 retained this provision, but it was removed in the drafting of the 1992 Act.

Furthermore, Section 26 of the new 1992 Act stated that:

26. Certain land to remain vested in University

Notwithstanding the repeal by this Act of the Amalgamation Act, the land specified in Schedule 3 remains vested in the University but free from any restrictions as to the power of the University to sell, mortgage or otherwise dispose of that land that may, but for this clause, restrict the power of the University in respect of that land.

*Accordingly, the University of Tasmania Act 1992 does not place limits on what the University may do with the Sandy Bay site.*¹¹²

A briefing paper was prepared by the Parliamentary Research Service providing a short overview of the power to sell and lease land provisions in public university Acts in each Australian state and territory (Appendix E).

The University outlined its discretion and autonomy to manage its assets to support core activities:

Another critical opportunity to overcome structural margin pressure is utilising our existing physical assets to support our access and research agenda, that we know the federal funding model cannot fully support.

The Act enables the University to manage investments and associated income in a way that supports core university activities. Like many other universities, we have an investment portfolio that provides a source of income generation to sustain financial viability, and a funding source for generating new infrastructure that ongoing funding does not provide.

Optimising our existing and soon-to-be surplus assets represents one of the most effective ways that we can achieve financial stability in the longer term. If we can do this innovatively and at the right scale, we can insulate the University against these very present and longstanding challenges, to benefit current and future generations of Tasmanians. To achieve this, the University has formed a small specialist team and established UTAS Properties Pty Ltd, a separate wholly owned subsidiary to manage these efforts.

*By optimising and effectively managing our property assets, we can complete our Campus Transformation in the North and the South, providing Tasmanians with contemporary best-practice facilities and, importantly, preserving the ability for the University to maintain, adapt and replace this infrastructure into the future, enabling us to focus on our mission of being a university for and from Tasmania.*¹¹³

The Minister for Education, Children and Youth, Hon Roger Jaensch MP made the following comments in relation to the University's power under the Act to buy and sell land:

Mr JAENSCH - *My interpretation of the legislation and how it's come to be the way it is, is that it has been built around a focus on the public interest being a robust and well-governed research and teaching*

¹¹² Refer to PRS Chronology of Significant Events in Appendix C of this Report.

¹¹³ University Submission #113, Part 10 – Managing the University's long-term financial sustainability, p. 8.

institution for Tasmania; and it having academic freedom, freedom of speech - the ability to teach people without political shaping or interference or influence on what they're being taught about the world around them. I think that's what the legislation is built to ensure. That separation from the government of the day in terms of its operational decisions is to preserve the university's purity as a teaching and research body.

It's not about whether the neighbours like or don't like a change in use of a property; those matters maybe more appropriately dealt with through local government planning rules and a range of issues there. I think that we have a discussion which at one level is about the appropriateness of the act to deliver the public's interest in there being a university, and a discussion about the public's interest in specific actions that the university may or may not be taking at certain specific sites. I do not think they are the same conversation. They should not be made like they are. It twists it a little bit and for those who are -

CHAIR - *Yet the powers here do fetter, or have the capacity to fetter, what the university does if the statements in here, in section 7 of the act. Quite clearly, it describes what the university can and cannot do, what it is allowed to do.*

Mr JAENSCH - *Again, it goes to the autonomy and the independence of the university to do all things necessary or convenient in connection with the performance of its functions. It ensures the university has the freedom to be able to deliver being a university for Tasmania.*

CHAIR - *You do not see any issue with the powers as stipulated in the act? I suppose that is the question.*

Mr JAENSCH - *If there is an examination of that through this inquiry and there is a case made for changes to that, we will certainly look at it and we [are] open, as I said before, to listening to the evidence that is received; to reading through the findings of this committee and to take, with an open mind, any of that advice on. As well as those broader governance and both governance of the institution and the academic governance, I suppose, of universities that comes through the federal process over this next six months or so.¹¹⁴*

Given the significant number of submissions made to the Inquiry on the subject of University land disposal, a number below have been singled out to cover a range of views presented.¹¹⁵

John Meehan called for the written approval of the Minister for dealings in real estate, in relation to the power to sell land:

The University is in the process of buying and selling land to move the entire Sandy Bay campus to the Hobart CBD. The land was vested in the University to use for educational purposes. [interestingly, doesn't appear to have been mentioned at all in the 1992 Hansard in both Houses when they changed the capacity for the University to deal with it as they wished] Failure of such a major move would be catastrophic for the University, and for the people of Hobart and Tasmania. I respectfully submit that legislators would not have ... foreseen that section 7 could enable the sale of the entire Sandy Bay campus by the University.

TasTAFE is a vocational education and training organisation operating at many locations in Tasmania.

*Section 5 of the **TasTAFE (Skills and Training Business) Act 2021** states that:*

(3) TasTAFE has the following powers, subject to this Act: ...

(c) to lease, sell, otherwise dispose of, or buy or otherwise acquire, property other than real property;

...

¹¹⁴ Hon Roger Jaensch MP, *Transcript of Evidence*, 12 May 2023, pp. 30-31

¹¹⁵ See also Submission #11, Submission #31, Submission #32, Submission #34, Submission #49, Submission #50, Submission #62, Submission #63, Submission #70, Submission#91, Submission #129 and Submission #149.

(e) with the **written approval of the Minister**, to lease, sell, otherwise dispose of, or buy or otherwise acquire, real property;... (Bold style added)

I respectfully submit that the authority provided by the University of Tasmania Act 1992 that allows the University 'to acquire, hold and dispose of real and personal property' requires amendment to ensure that all dealings in real estate by the University require the **written approval of the Minister**, similar to dealings in land by TasTAFE.

This would help to ensure that the authority provided to the University of Tasmania to engage in land dealings supports the functions specified by Section 6 of the Act and does not raise significant risks for the University or for the people of Hobart and Tasmania.¹¹⁶

John Titchen raised concern the University is using its powers in a manner that was not intended when the Act was drafted:

Under the Act, the University of Tasmania has powers to deal with all things needed to run the university. Some of these powers have been established in a manner that provides considerable flexibility to the University of Tasmania.

Section 26 of the act is as follows:

26. Certain land to remain vested in University

Notwithstanding the repeal by this Act of the Amalgamation Act, the land specified in Schedule 3 remains vested in the University but free from any restrictions as to the power of the University to sell, mortgage or otherwise dispose of that land that may, but for this clause, restrict the power of the University in respect of that land.

In recent times, the University of Tasmania has proposed using these powers in a manner that I expect was unintended when the Act was drafted. Clearly the University has the power sell the land. However, this would be an irreversible decision, with this public infrastructure permanently lost.

The Legislative Council should consider whether the plans the University of Tasmania has announced aligned with the long-term interest of the State or are the plans being driven by short term perspectives, ignoring the irreversible consequences on the fabric of Tasmania.

It is hard to contemplate the University of Sydney or the University of Melbourne or other similar institutions vacating their sites. The campuses are of huge value to the institutions themselves and to wider society, and they should be fostered and strengthened not weakened and closed.

I propose that the powers to divest the University of Tasmania Sandy Bay campus be withdrawn from the University of Tasmania and such powers be restricted to requiring a vote of Parliament.¹¹⁷

Robert Hogan, graduate of the University, reflected on land management strictures in the acts of other universities and suggested changes to the Act here in Tasmania:

Because it is common for universities to operate on land gifted by the community it is common for the statutes which create universities to contain a requirement that the alienation of land be approved by the responsible Minister. Examples include:

- Under the University of South Australia Act 1990 (s6), the University cannot alienate or lease land for more than 21 years except with the approval of the Governor.*
- Under the University of Melbourne Act 2009 (s37), the University cannot alienate or lease land for longer than 21 years without the approval of the Minister*
- Under the University of Sydney Act 1989 (s18(2A)), the University cannot alienate land acquired from the State at nominal or less than market value without approval of the Minister.*

¹¹⁶ John Meehan, 2022, *Submission #9*, p. 1.

¹¹⁷ John Titchen, 2022, *Submission #137*, p. 1.

- *Under the University of Western Australia Act 1911 (s15), the University is not permitted to lease land for longer than 21 years without approval of the Minister.*

As previously noted, the 1992 Act provided an explicit power for UTAS to acquire, hold and dispose of property, while removing the provision against alienation of the land at the Sandy Bay site vested in UTAS by the Tasmanian University Act 1951. This was in direct response to a request made by the UTAS Council.

This has allowed UTAS to potentially alienate its entire Sandy Bay campus without community approval or government oversight. At the very least, an amendment to the 1992 Act should be passed to require approval from the Government in respect of any significant land dealings on the Sandy Bay site. Given UTAS' propensity to operate as a property dealer and developer, it may also be reasonable to set a dollar threshold above which other property transactions by UTAS require approval by the State Government.¹¹⁸

The Save UTAS Campus raised concerns regarding perceived ambiguity in the powers and functions of the University under the Act:

Sections 6 and 7 of the 1992 Act are silent as to whether UTAS has the power to undertake the role of 'Master Developer' of real estate, the term adopted in his press statements by the Vice Chancellor, particularly on the scale envisaged by UTAS where the university would be landlord to 2700 homes and an extensive range of other commercial tenancies. Whether the 1992 Act presently permits that is a matter which may have to be determined by the Supreme Court.

However, we submit if the 1992 Act contained a provision, consistent with other universities, that Ministerial approval was necessary ... for the alienation of land then it is likely that public interest issues would be managed appropriately by the Minister making it unlikely that there would ever need to be any legal challenge based on the interpretation of Powers.¹¹⁹

Robert Moore and Henry Bethune drew attention to what they believe are contraventions of the Act by the University, in relation to land dealings and the University's powers under the Act:

Section (7) of the Act — Powers of the University

(a) to acquire, hold and dispose of real and personal property ...

(g) to do anything incidental to any of its powers

The "re-imagining" of the Sandy Bay Campus as an entirely new Hobart residential suburb, complete with infrastructure over which the University has no power or control (e.g. public transport and traffic) arguably falls foul of these two subsections of the Act:

- *To either sell or offer for long-term (e.g. 99-year) lease the Sandy Bay campus is to actually, or effectively, dispose of the property.*
- *The campus was granted to the University, and has since been maintained, by the Australian taxpayers. Since this grant, the community has invested in the real and personal property of the campus through public funding. Disposal of the campus without the explicit and overwhelming approval of the community flies in the face of the actual joint venture between the University and the community*
- *To develop the campus as real estate and put it for sale or lease is to engage in the commercial retail property. Competing in such a commercial market using government funded assets is to take an unfair advantage over independent real estate developers who have to raise their own financial backing. The retail of the Sandy Bay campus, involving property worth billions of dollars would be to unfairly interpret Section 7 (e) of the Act — seeking commercial advantage using a history of heavy tax-payer funding.*
- *To engage in a real estate development involving billions of dollars and the complete relocation of the University itself in buildings that were never designed to be fit for educational purposes (e.g. a*

¹¹⁸ Robert Hogan, 2022, *Submission #145*, pp. 10-11.

¹¹⁹ Save UTAS Campus, 2022, *Submission #149*, pp. 6-10.

building designed for and first occupied for a telecommunications call centre) cannot be regarded as being “incidental” to any of the purposes set out in Section 7(g) of the Act.¹²⁰

Louise Bloomfield and Paul Daniels expressed concern regarding the intent of the initial change to the Act in 1992 where the right to sell land was installed:

The 1992 Act introduced a new Section 7 with subsection 1 effectively giving the University of Tasmania the power and scope to conduct a range of business activities including

- 1. share trading*
- 2. property sale and development*
- 3. joint ventures and partnerships in pursuit of its ambitions*

Sadly the above new powers and investment in these functional areas has resulted in the neglect of student education and academic research - the core roles identified for any University in Australia.¹²¹

...

I have real concerns about the INTENT of the initial change to the University of Tasmania Act in 1992 where the right to sell off land was installed. The INTENT was merely to offload a small piece of land that had no future foreseen usefulness. To establish the wholesale offloading of all or majority of land holdings originally gifted for education purposes appears as a complete perversion of this legal alteration.¹²²

Chancellor Watkins provided her view on the notion of Ministerial approval being sought before gifted land was considered for sale:

Ms WEBB - *...I think it is of particular interest that prior to the 1992 act, of course, we are all aware that the sale or changed use of gifted land had to be approved by the minister or state government. That was removed in the 1992 act. It is still there in the Melbourne, Sydney, and Adelaide university acts where ministerial approval is sought for sale or long-term leasing of gifted land, not land you might acquire with your own resources, but gifted. I think there are two reasons that that was previously in our act and is in those other acts.*

One is because it is gifted by the state, so there is an interest for the state broadly about what is done with that. Also, because the decisions you make which, as you say, are being done with your view of the best interest of the university, often also then have significant consequences for the broader community, particularly if there is a significant parcel of land that might be repurposed or sold.

Both those reasons would then point to value in a recourse back to the state government, back to the minister for approval. What that would give is one measure of accountability around the decision-making that is not there now. Do you see that as being a valid expectation on gifted land and that the situation we are in now sort of highlights that for us?

Ms WATKINS - *I can definitely understand that view. I also point out that over that time frame and context when that land was given, the funding landscape has changed. Now our university is funded to the extent we receive government funding by the Commonwealth and in practice, we receive very little net support from state government these days.*

If we were to have that requirement, I think the consideration for the decision-makers for the parliament in deciding whether to approve such a power if they held it, would be to then consider how a decision to restrain the university from using resources at its disposal in a way that the council judged

¹²⁰ Robert Moore and Henry Bethune, *Submission #121*, pp. 1-2.

¹²¹ Louise Bloomfield and Paul Daniels, 2022, *Submission #91*, p. 1.

¹²² Louise Bloomfield and Paul Daniels, 2022, *Submission #91*, p. 1.

fit might impact the financial viability of the university and the ability to discharge its mission to be a university for Tasmania.

Those parliamentary decision-makers hypothetically might need to decide whether they would rather see the university preserve an asset base here in Hobart, for example and invest less in the north or have fewer scholarships available or pursue less research in a particular area.

I understand that view and I want to make it clear there will be trade-offs that go with that, just as the university council has had to consider those trade-offs. The university council has judged that we want to be a university for Tasmania, we do want to have a strong northern presence. We do want to, to the best of our ability, provide access to disadvantaged students who might not otherwise be able to study and in our judgment, we have viewed the totality of the resources we have and we have made some judgments having regarded the views of the members who we have consulted to the best of our ability about what that trade off looks like. Hence, it has led to the decisions we have made around our property and other assets.

Ms WEBB - *To clarify that a little bit more and tease it out; for a start, it is not parliament that I am suggesting, because previously, it is ministerial approval. Yet those other jurisdictions have ministerial approval, so it is not a parliamentary decision, it is a government of the day decision. You are right, it would entail an interaction, which potentially could put a curtailment of some sort on a decision. However, do you see the value that the necessity to have that interaction to make the case that you have full confidence in, from what I hear, to the elected representative in the government, the minister, is that additional level of accountability many out there, certainly, from what we have seen in the evidence presented, would feel is not there at the moment for the university council?*

In terms of another step of accountability in the decision-making process, there is certainly no expectation that the minister of the day wouldn't sign off on it. However, it would be a level of external accountability for a potentially incredibly consequential decision being taken by a small group of people within the university. Do you see that from a public point of view there might be an appropriateness to that sort of accountability?

Ms WATKINS - *I struggle somewhat to be comfortable with it and it may be that I haven't thought about it enough. I have concerns about two things: one is the perception that it could have for political power over our academic freedom and an ability to exert some sort of influence. That troubles me slightly. The other is regarding the overall viability of the university and the possibility that it could impact that. As a council member, trying to make decisions about the long-run future of the university and where we invest being vulnerable to a decision outside of our control would add a layer of risk to your ability to be able to invest in the future with confidence because we would not be sure that we had complete control over the resources needed to sustain that investment.*

Ms WEBB - *Would it not be your expectation that the government of the day, the minister of the day, would not also be equally invested in the idea of the viability of the university and the consequences for the university and the state in ensuring its viability?*

Ms WATKINS - *I would certainly hope that would be the case. However, as a director with legal responsibilities, I could not be assured of that.¹²³*

Chancellor Watkins was questioned on the level of flexibility the Act provides when dealing with assets, and its appropriateness:

Mr GAFFNEY - *... does the current act, with particular attention to the 2012 amendments, provide too much flexibility and room for interpretation, especially in relation to the sale of property gifted to the university? Does it allow for the wholesale offloading of a majority of landholdings originally gifted? I am not so much concerned about the decision, but the process in making the decision. With the*

¹²³ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, pp. 37-40.

university being gifted some land for educational purposes, who is responsible for the decision to actually get rid of, sell or offload that land?

Ms WATKINS - Under the act, the way the framework is set up and the powers of the university are constituted, council is ultimately able to deal with the range of resources that it has as it judges in the best interests of the university, so that does give us that ability.

Now, it is not a decision that council takes lightly or would expect to be making on a frequent basis. These are infrequent, significant, and carefully considered judgments. They are also judgments that we recognise many people have points of view on. Therefore, the consultation that we undertake, the listening approaches that we employ are incredibly important and ultimately, as council, we have to step back and make a judgment about what it is in the best interests of the university, for the members of the university and the students of the university. Particularly, we have to look forward as best we can and make a judgment about what will be best for students of the future, not only students of today, it is the students of the future.

It is, ultimately, the right thing that the university does have the power to deal with its assets, including its property. That is really coming back to the reality that we do not have unlimited funding, we do not have complete support from the Commonwealth to cover our operating costs, let alone to be able to discharge our Tasmania-wide mission and continue to renew and update ourselves and grow in the future.

That means that our resources are scarce and we need to make sure they are deployed to the fullest against our academic mission. Where things change over decades, I think this is an appropriate flexibility that the council has to be able to move with the times and make sure that our assets and our current year funding are working as hard as we can for our University of Tasmania and for our academic mission.¹²⁴

Dr Bruce Scott made the following observations in relation to the ability of the University to dispose of its land, under Clause 26 of the Act:

Prior to 1992, the university Acts stipulated that any land vested in the University shall be vested back to the Government if no longer needed, where it was to be used "for educational purposes". Clause 26 of the 1992 Act now changes that and states that the University is free to sell its land.

While it is not the purpose of this Inquiry to explore the merits of relocation and sale of the Sandy Bay campus, it may nevertheless wish to consider the broader implications of Clause 26, and whether the Government should be able to vest land to any organization which then can sell it for financial gain, without proper scrutiny.

The Inquiry may wish to consider why the Government made the above changes to the Act in 1992, at the time when Alan Gilbert (1991-1995) was VC, and which later gave VCs, Peter Rathjen (2011-2017) and Rufus Black (2018-) the legal power to make sweeping changes to the University.

Furthermore, it may wish to consider whether these changes are beneficial for the University, the community or for the State of Tasmania.¹²⁵

The Committee notes that at the time of writing this Report, the Tasmanian Government has introduced a Bill seeking to amend Section 7(1)(a) of the *University of Tasmania Act 1992*. The Bill – titled the *University of Tasmania (Protection of Land) Bill 2024* – provides that Parliamentary approval would be required to dispose of University land. (If passed, the Bill will also amend Section 26 of the *University of Tasmania Act 1992*).

¹²⁴ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, pp. 36-37.

¹²⁵ Dr Bruce Scott, 2022, *Submission #32*, pp. 2-3.

FINDINGS:

- 18. When the 1992 Act was passed by Parliament, the Hansard does not include any discussion of the intent or purpose of removing restrictions on the disposal of the land vested to the University in Sandy Bay (as specified in Schedule 3 of the Act).**
- 19. In removing restrictions on the disposal of vested land in the 1992 Act, it is not clear whether the wholesale disposal of the Sandy Bay campus was contemplated.**
- 20. Evidence provided to the Committee raised concerns about the absence of restrictions in the Act on the power of the University to dispose of the vested land in Sandy Bay.**
- 21. The University regards the powers under the Act are appropriate and necessary in order to manage the financial position of the University and deliver its functions in a challenging funding environment.**
- 22. Australian public universities operate on land that has been granted to them by the Crown, land purchased with public money, or Crown land. All the public universities in the Australian States – except for the University of Tasmania – are subject to legislative restrictions or prohibitions on the selling or dealing with land.**

RECOMMENDATION:

- 5. The Act be amended to establish restrictions or prohibitions on the disposal or long-term lease of land that has been granted to the University by the Crown, land purchased with public money, or Crown land.**

TERM OF REFERENCE 2

The constitution, role, powers and obligations of the Council and Academic Senate

Changes to University governance structures over time

There have been a number of legislative changes to the governance structure of the University of Tasmania (UTAS) since it was established in 1889. The Parliamentary Research Service (PRS) provided a briefing paper outlining significant events in the history of UTAS which can be found in Appendix C.

In summary, the size of the Council of the University (the Council) has been reduced a number of times in the last 30 years. In the constitution of the Council, the proportion of elected academic staff and student representation has been reduced, while the proportion of appointed Council members from outside the University has increased. These changes were legislated in a series of amendments following advice from the Council to various State Government Education Ministers.

In the 1980s, the Council had 30 members including 6 academic staff, one member of general staff, two elected students and the President of the Tasmanian University Union, and four members elected from the Alumni. There was also a Professorial Board which represented academic staff and was responsible for the allocation of resources for academic matters.

Following the implementation of the Dawkins Reforms (refer to Term of Reference 1), the passage of the *University of Tasmania Act 1992*, and amending Acts in 2001, 2004 and 2012, the Council has been reduced to its current size and composition. The Professorial Board has been replaced by an Academic Senate which is limited to an advisory role.

Dr Damian Bugg AM QC, Chancellor of the University, 2006-2012, suggested there were distinct periods in history which identify the reasons why particular governance models were chosen.¹²⁶

Dr Bugg also provided an account of reforms to the Act in 2001, relating to the constitution of Council, outlining why he considered they were necessary as a response to the growing need for the governing bodies of universities to embark on a process of governance reform.¹²⁷

Dr Bugg highlighted concerns with governance in the sector in 2002, given the complexity of university bodies, referencing the *Higher Education at the Crossroads* paper of 2002 by then Federal Minister for Education, Brendan Nelson. Dr Bugg referred to the *2004 National Governance Protocols* document and the increase in assistance that would be provided to universities if they complied with the protocols. He went on to comment on actions taken by the University at the time:

In 2004, following the earlier reforms on the 2001 Amendment Act, our Parliament passed the University of Tasmania Amendment Act 2004 to include further reforms from the National Governance Protocols and fine-tuned the membership appointments for Council and provided for better definition of terms of membership to ensure turnover within appropriate time frames. These reforms were

¹²⁶ Dr Damian Bugg AM QC, 2022, *Submission #101*, p. 1.

¹²⁷ Dr Damian Bugg AM QC, 2022, *Submission #101*, pp. 2-5.

uncontroversial and once again undertaken through consultation with an agreement between the Minister and the Chancellor.

...

The capacity of Council to enlist outside expertise to committees and a better governance model had demonstrated to Council that a further reduction in the size of Council with some flexibility as to final numbers would create the optimum operating Council for the University and the community it serves. The University under the Amendment Act of 2012 has a minimum operating level of 10 members and a maximum of 14, aiming to operate usually with 12 members, as explained by the Minister in his second reading speech. ...

To provide consistency with accountability across Council section 17A was added to allow for the dismissal of the Chancellor and deputy Chancellor (who, being ex officio members, are neither elected nor appointed and therefore not covered by the 2001 inclusions of sections 11A and 11B).¹²⁸

Michael Wells, Managing Director, Wells Advisory provided observations as to university governance in relation to TEQSA and the Act:

3. Beyond the State establishing Act, the most relevant Commonwealth legislation affecting the way a university is designed, governed, and operates is the TEQSA Act, its subordinate legislation and the way in which the regulatory agency TEQSA gives effect to this regulation. To the extent State legislation (including subordinate legislation) is inconsistent, the Commonwealth requirements prevail. Some key TEQSA provisions of which the Committee should be aware:

- a) Corporate governance body (i.e., Council) must comprise:
 - i. fit and proper persons (meeting TEQSA definition);*
 - ii. at least two independent members (meeting TEQSA definition of independence);*
 - iii. higher education expertise (among other categories of expertise) – I would note that this requirement is surprisingly absent for numerous public university Council complexion stipulations (albeit this expertise is a current strength of the Council of the University of Tasmania) but is, in my experience, one of the most important skill sets to have on a Council as university operations become ever more complex and regulated; and*
 - iv. at least two Australian-domiciled members.**
- b) The Council must oversee and be accountable for all higher education operations in and from Australia – limiting the capacity to legislate divided accountability between say a Council and an Academic Board. In this provision, the primacy of Council over an Academic Board is confirmed and might invite consideration of an Academic Board being established and tasked by Council, rather than being established by the Act.*
- c) The Council must acquit a list of functions or responsibilities as set out in HESF Standard 6.2. These are extensive matters, and are to be independently audited once every seven years (ie within registration cycle). At present, the The University of Tasmania Act covers off most of these, although not as explicitly.*

...

4. The TEQSA legislation, including the Threshold Standards, may change from time to time (most recently November 2021). For this reason alone, but also for more pragmatic reasons, there is merit, in my experience, in designing the content of the primary legislation at a high level, and embedding more of the detail in the subordinate legislation and even in policy and process.¹²⁹

FINDINGS:

23. Since the University was established in 1889, there have been several changes to the governance structures prescribed in the Act.

¹²⁸ Dr Damian Bugg AM QC, 2022, *Submission #101*, pp. 1-5.

¹²⁹ Wells Advisory, 2022, *Submission #136*, pp. 7-9.

24. **The Act was reformed in 2001, reducing the membership of the University Council from 24 to 17, as a response to the Federal Government's drive to reform governance of Australian universities.**
25. **The Act was further reformed in 2004 aligning membership appointments with the national governance protocols, reducing the size of the University Council to operate with a minimum operating level of 10 members and maximum of 14.**
26. **The Act exists as part of a complex framework and legislation that regulates public universities in Australia, including the TEQSA act and its subordinate legislation.**

Concept of Dual Governance/Shared Governance

The Australian Association of University Professors (AAUP), UTAS Chapter, commented on the shared managerial/academic dual-governance model employed by universities and the need for balance in its implementation:

University governance is unique compared to other organizations because it is assumed that universities operate under a shared governance model (Magna Charta Universitatum, 2020; TEQSA 2019). This implies a dual leadership model consisting of a balance between managerial and academic leadership is necessary for the modern university to function well.

The problems in universities fundamentally arise, not from the different values and perspectives underlying each form of leadership, but from the domination of the managerial over the academic. For shared governance to work effectively, there needs to be a balance of power between these forms of leadership. The governance of Australian public universities, including UTAS, must become more collegial, consultative, transparent and accountable.¹³⁰

Adjunct Associate Professor John Kenny, AAUP (UTAS Chapter) made the following observation on managerialism versus academic decision-making:

In the more corporate university, the values of managerialism - of efficiency, effectiveness, quick decision-making, lines of authority - tend to work against the values that drive academic decision-making. So, the two are naturally not going to fit together very well. But the assumption is from TEQSA and these other bodies that that does happen, and the academic senate at the University of Tasmania is assumed to be the body where that happens.¹³¹

Professor Kenny commented further on the operating model for universities:

Prof. Kenny - ... *If you read the high-level documents, the documentation of TEQSA ..., or another more international one, the Magna Charta Universitatum, all start from the assumption that it is a shared governance model operating in universities. A shared governance model implies equal power and tensions, ... That would naturally cause tensions. But the unique nature of the university as a functioning entity is not to avoid tensions or to avoid debate, it's to drag it in and find workable solutions.*

Ms LOVELL - *Professor, you talk in your submission about finding the balance between managerial and academic leadership I just wanted to ask if you, or if AAUP, had a view on what that balance looks like, and how you find the right balance? Further to that, whether in your view there are universities that are doing that really well or have managed to find that balance in other parts of Australia?*

Prof. KENNY - ... *I think this is a systemic problem. I am not aware of any universities that are doing it well.*

¹³⁰ Australian Association of Universities UTAS Chapter, 2022, *Submission #46*, p. 2.

¹³¹ Professor John Kenny, *Transcript of Evidence*, 6 December 2022, p. 17.

...

Prof. KENNY - *Just from my research, I'm not saying that there aren't, but I'm not aware of any. My research shows this is not only systemic to Australia, it's systemic to many overseas organisations as well because the performativity, the neoliberal thinking that's been driving changes in universities for a long time is not only happening here, it's happening in Europe, the UK and the US.*¹³²

Michael Wells made observations about the relationship between corporate and academic governance in universities:

In my experience, increasingly across the sector, the terms of reference of corporate and academic governance bodies are drawn with an eye to the TEQSA requirements, especially Standards 6.2 and 6.3 respectively. To the extent these are embedded in State or Territory Acts, this may create somewhat of a hurdle to maintaining alignment with Commonwealth requirements in future. In my experience, such terms of reference are important in guiding governance members of such bodies as to their roles and priorities. ...

6. The TEQSA framework places a significant amount of pressure on corporate and academic governance bodies of a university. Expectations are high, and ongoing. Disclosure to TEQSA is almost without limit. The peak bodies are expected to attend to all relevant matters, and be able to evidence deliberation and the basis for decisions in their minutes. The only mechanism to reduce this heavy compliance load is to formally delegate a range of matters to suitably equipped sub-committees. In my experience, Councils are increasingly delegating a significant part of the compliance role to Audit and Risk Committees. And Academic Boards must in effect do the same, having a substantial system of sub-committees tasked to do much of the hard work. It is critical that such delegations are effectively monitored and reviewed periodically, which is done on an annual basis at the University of Tasmania.

7. A key facet of governance design in universities is the relationship between corporate governance and academic governance. These days it is common for Chairs of Academic Boards or Senates to also sit on Council as a deliberate cross-over. Chairs now go beyond conveyance of the minutes of the last Academic Board meeting, but are expected to actually report and give advice to Council. There have also been moves more recently to have Chairs or Deputy Chairs of the Academic Board become a member of a Council's Audit and Risk Committee, especially to ensure joint approach to academic risk within the university, and this is the current practice at the University of Tasmania.

*8. A further key dimension is the relationship between governance and management. The TEQSA governance model, in line with other sources of good governance practice, gives emphasis to a separation between the two, to enable governance to set the strategy, targets and policies, and provide financial oversight, and for management to carry out the program and operate day-to-day, and governance to monitor management's performance against target and institutional risk. This accountability model is central. Universities are undoubtedly some of the most complex organisations to manage.*¹³³

Emeritus Professor Jeff Malpas shared his view that the University governance structure is no longer aligned with the purpose of the university:

The current configuration of the University's management and governance as reflected in the Council and Academic Senate, is thus such that the institution, although defined as primarily an epistemic or academic community by the Act itself, is neither managed nor governed by those with experience or expertise in academic or epistemic matters. Moreover, the manner in which the University is managed and governed is almost entirely severed from the community that constitutes the institution and from the wider community that it also serves.

¹³² Professor John Kenny, *Transcript of Evidence*, 6 December 2022, pp.18-19.

¹³³ Wells Advisory, 2022, *Submission #136*, pp. 9-11.

*The inevitable conclusion is that the current configuration of the University's management and governance is significantly at variance with the founding character of the University as laid down in the Act and that key elements within the Act are similarly at variance with that founding character.*¹³⁴

Emeritus Professor Kwong Lee Dow, former member of the University Council, commented on the conflicting and competing priorities that may be present in relation to a dual governance model at a university:

... I would be talking about shared governance. I would be talking about real decision-making within the academic senate.

*There are areas of decision-making that are the responsibility of the academic senate and as I said at the outset, the relationship between the council, the academic senate and the executive, the vice-chancellor is leading with his senior staff in both the academic and the professional areas. It's that interplay that is critical. I don't think myself that the academic senate is a kind of subservient body.*¹³⁵

FINDINGS:

- 27. Witnesses identified there was a need for balance between managerial leadership and academic leadership in the dual governance model employed by modern universities.**
- 28. Witnesses expressed a view that values of managerialism can be inconsistent with the values of academic decision-making.**

¹³⁴ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, p. 14.

¹³⁵ Emeritus Professor Kwong Lee Dow, *Transcript of Evidence*, 27 February 2023, p. 28.

University Council

The constitution of the University Council

The University of Tasmania is governed by the University Council, chaired by the Chancellor, and assisted by its committees.

The current Council consists of not less than 10 and not more than 14 members. Section 8 of the Act prescribes the constitution (makeup) of the Council as follows:

Division 3 - The Council of the University

8. Constitution of the Council

(1) The University has a Council consisting of not less than 10 and not more than 14 members, comprising the following:

- (a) the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Chairperson of the Academic Senate or, if the Vice-Chancellor occupies that office, the Deputy Chairperson of the Academic Senate;
- (d) 2 persons appointed by the Minister, each of whom must not be a student or member of the academic staff or professional staff and of whom at least one must be a graduate of the University;
- (e) one member of the academic staff elected by the academic staff;
- (f)
- (g)
- (h) one member of the professional staff elected by the professional staff;
- (i) a minimum of one student appointed by the Council, after consultation with any relevant student associations;
- (j) up to 6 persons appointed by the Council, each of whom must not be a member of the academic staff or professional staff or a student and of whom at least one must be a graduate of the University.
- (k)

(2)

(3) A member of the Council is responsible and accountable to the Council rather than to any constituent body by which he or she was appointed or elected.

(4) Schedule 1 has effect with regard to the members, proceedings and activities of the Council.

(5) Before making an appointment to the Council, the Minister and the Council must –

- (a) give public notification of the vacancy; and
- (b) consult with each other about any intended appointment; and
- (c) have regard to the balance of skills and experience, regional representation and an appropriate gender balance.

(6) In respect of the constitution of the Council on 1 January 2013, this section has effect subject to Schedule 4.

(7) For the purposes of subsection (1)(e) ,

academic staff does not include the Vice-Chancellor, Provost, any Deputy Vice-Chancellor or any Pro Vice-Chancellor.

The University outlined amendments to the Act over time, particularly referring to changes to Council composition in 2001, 2004 and 2012. In summary:

University of Tasmania Amendment Bill 2001

- the size of the Council of the University was reduced from 24 persons to 17 persons (18 if an additional person was resolved by Council)

University of Tasmania Amendment Bill 2004

- the number of Council members appointed by the State Minister for Education was increased from 3 to 4
- the Chairperson and Deputy Chairperson of the alumni were removed as members of the Council
- '2 students elected by the Council' was changed to '2 students appointed by the Council after consultation with any relevant student associations.'
- the number of 'persons appointed by the Council, each of whom must not be a member of the academic staff or a student and of whom at least one must be a graduate of the University' was increased from 3 to 4 and included reference to general (professional) staff
- the conditions in relation to making appointments to Council were altered by referring to a balance of skills and experience and requiring that the Council and Minister consult with each other about any intended appointment

University of Tasmania Amendment Bill 2012

- reduce membership from 18 members to a maximum of 14 and minimum of 10 members
- the number of Council members appointed by the Minister decreased from 4 to 2 and their terms reduced from four to three years
- the number of students members on the Council reduced from 2 to 1
- the number of members appointed by Council increased from 4 to 6 ¹³⁶

Dr Damien Bugg provided his perspective as the Chancellor at the time the amendments were made to the Act in 2012, in relation to the structure and constitution of the Council and reasoning as to why the amendments were made:

The reason why a lot of those amendments were occurring was as a result of significant leading of the federal government for reform of the councils or governing bodies of universities and as I point out, I guess, not quite in accordance with the constitution because there is no referral of power to the federal government under the constitution for it to have any legislative authority over education, however, it is the primary funder of tertiary and higher education in Australia.¹³⁷

Some witnesses expressed the view that changes to the composition of the University Council, while in line with national reform initiatives, have resulted in a range of negative impacts, including: a decreased focus on education as the core function of the University and an increased focus on business management; a diminished role of academic and student representatives in

¹³⁶ University of Tasmania, 2022, *Submission #113*, Part 2, pp. 3-6.

¹³⁷ Dr Damien Bugg, *Transcript of Evidence*, 6 December 2022, pp. 27-28.

governance of the University; and, the potential for the Council to self-replicate leading to group think, without off-setting such a risk with increased accountability requirements.¹³⁸

The AAUP - UTAS Chapter provided its view on changes that have occurred over the last decade:

During the last decade, particularly during the time that Peter Rathjen was VC, and continuing under the leadership of Rufus Black, the scope for academic leadership at UTAS has been severely restricted. Specific examples of this include, in 2012, moves by Peter Rathjen and then Chancellor, Damien Bugg, to reduce staff and student representation on University Council. This resulted in the number of staff and student elected representative [sic] being halved and the terms of elected representative being reduced from four to two years.

At the time the UTAS Division of the NTEU wrote to Nick McKim, who was the Minister responsible, to express its concern about these proposed changes to the University of Tasmania Act The reduction to the size and composition of University Council resulted from an external review of Council and its operations in 2011. We note that the reduction from 18 to 14 was achieved solely by a reduction in elected representatives. This was indicative of a deterioration in democratic processes given that there was no reduction to either ex-officio members or those appointed from outside the university by Government.

While the changes were supported by the then Council, there was no consultation with the broader UTAS staff and the concerns of the NTEU were not addressed by Nick McKim. The attack on staff representation continued under Peter Rathjen when, in early 2014, there was a move to reduce the number of elected staff representatives on Academic Senate from 22 to 12.¹³⁹

Emeritus Distinguished Professor James Reid commented on the reduction of members in his time on Council:

I certainly supported the reduction to 17-18 at that time in the late 1990s. I supported the idea that the parliamentary people were not on it any longer. I was not quite so convinced about losing the secretary of the Education department who was on it in those earlier days. I was certainly happy to come down to that size, I thought it was a workable size and I thought the council of 17-18 people worked well.

I heard all the governance experts telling us what good governance was in the early 2000s and was prepared to accept the notion, the coming down to a smaller size still, 12-13 sort of size was a reasonable way to go. I was not comfortable about the reduction in numbers of elected representatives at that time. I thought there should have been and I argued for at least a second academic elected member at that time. I certainly was not comfortable with moving to a student representative who was not elected. I sat on council with probably half a dozen different presidents of the TEU, as it was then and they were superb, they were very good. Some of them had political agendas, but they were really good. They were engaged, contributed, they made a difference to council. I think the loss of that person, there were two of them, one from the north and one from the south originally, was a real loss. That was a real pity.

I guess my views as to how good governance occurred by having experts chosen because of their area of expertise on council, I accepted to some extent to start off with, although I argued long and hard that there should be some of the external members should be appointed who had expertise within the core business.¹⁴⁰

Robert Hogan, a graduate of the University, reflected on changes to the Act that have occurred since 2012 involving changes to Council membership:

¹³⁸ See for example: Save UTAS Campus, 2022, *Submission #149*, pp. 3-4; Professor Aynsley Kellow, 2022, *Submission #104*, pp. 4-5, *Submission #27*, p.4; Professor Jamie Kirkpatrick, *Transcript of Evidence*, 7 December 2022, p. 34; Professor Pam Sharpe, *Transcript of Evidence*, 6 December 2022, pp. 42-3.

¹³⁹ Australian Association of University Professors, 2022, *Submission #46*, p. 2.

¹⁴⁰ Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 66.

The first thing is that 17-person council as it then was, I believe would have fitted quite easily into the university chancellors national code of governance, subject to there being the right skill mix which, having looked at the membership of council, I think there probably was. So, you could argue that the whole change was unnecessary. There was an argument that council should be reduced from 17 to 14. That argument was based largely on the fact that they had been streamlined enough to be able to meet monthly; whereas I note that in recent years at least it has only met seven times a year. That streamlining argument appears to have gone a little bit by the wayside.

... in many ways the one [change to the Act] in 2012 was the most radical in reducing numbers from 17-18 to 10-14. It has basically operated at 14. Two places were taken off elected academic representatives. Two places were taken off ministerial appointees. Direct appointments by the council went up from four to six. It's quite clear that council-appointed members were the beneficiary of that. At the same time you had a vice chancellor and you had a chancellor elected or appointed by the council.¹⁴¹

Pat McConville's submission presented the changes in Council membership over time in a table form, and reflected on changes to the Act and reduced democratic representation on the Council:

Years	Members				
	Total	Staff	%	Student	%
1992 – 2001	24	7	29	2	8
2001 – 2012	17/18	4	24/22	2 ^b	12/11
2013 – Current	8 – 14 (13) ^a	2	25-14 (15)	1 ^b	12 – 7
<p>^a Up to six members may be appointed by Council. The current UTAS Council includes five members appointed by Council, resulting in a total Council of 13 members.</p> <p>^b From 2005, students have been appointed by Council, not elected. This aligns with federal reform to abolish universal student representation / unionism.</p>					

Since the initial passage of the Act and the establishment of the Council, amendments have reduced the number of democratic representatives on and thereby democratic accountability of the Council. Staff representation has been halved from almost 30 percent of Councillors to just 15 percent. In 2005, student representation was reduced from two students to one, who is now appointed by Council after an Expression of Interest (EOI) process run by Council rather than elected or nominated by the student body. Members appointed by the Council itself more than double those democratically elected.¹⁴²

Amanda Wojtowicz, alumna and retired staff member, suggested that reduced Council membership and changes to means of selection resulted in a lack of respect for the heritage of the University:

The University Council is a body which should preserve and properly respect the staff, students, alumni and community of individuals as stakeholders in the academic enterprise rather than acting as a controlling corporation. I believe that the much-reduced membership and the means of selection of members has resulted in a lack of respect for and recognition of the history, heritage and significance of the institution as the only university in the state.¹⁴³

Emeritus Professor Peter Dawkins AO, current member of the Council, commented favourably on changes to Council membership:

¹⁴¹ Robert Hogan, *Transcript of Evidence*, 2 March 2023, p. 48.

¹⁴² Pat McConville, 2022, *Submission #100*, p. 3.

¹⁴³ Amanda Wojtowicz, 2022, *Submission #60*, pp. 1-2.

This section of the Act is also similar to the comparable sections of the University of Melbourne and the Victoria University acts. I think the University of Tasmania Act, however, is superior to the Victorian ones.

Over the last twenty-five years, universities, in general, with support from their State Parliaments, have made great progress in modernising the constitution of their Councils, to enable them to operate in a more contemporary way.

This has been critically important because of the growing size and complexity of universities. Having gained some knowledge of that history at the University of Tasmania, the University of Melbourne and Victoria University, I think that the University of Tasmania has been a leader in these changes.

In particular, back in the 1990s Councils were very large and the numbers of people from different 'constituencies' quite heavily prescribed. This made strong and consistent governance, in the best interests of the universities, very difficult to practice

The University of Tasmania has gone from a Council of 24 persons, prior to 2001, to a Council of not less than 10 and not more than 14, now, with much less prescription about categories of people from which they need to be drawn. The University of Melbourne and Victoria University Councils have also reduced in size and prescriptiveness but not as much as the University of Tasmania. I think the University of Tasmania has superior provisions to the Victorian universities, and is very likely best practice.

I should add that in my period of a year on the University Council, I am very impressed by the way that the Council and the Academic Senate are operating. The composition of the Council, which is made possible by the Act, draws together an appropriate range of expertise and experience from business, education and the broader community, mostly from within Tasmania, to provide strong governance of the University. Having a member from outside Tasmania, currently myself, with extensive experience of both governance and senior management of universities in another part of Australia, I think, helps to ensure that governance meets the highest standards practised nationally.¹⁴⁴

The current constitution of the University Council – size and representation

The University described a concern of the Council's current elected 'Academic Staff' member with the reducing numbers of the Council but noted the majority were satisfied it struck a good balance:

This change in membership raised some concerns that Council would be insufficiently informed of the ideas, views, and needs of University members, apart from those of itself and the Executive. Indeed, this is the strongly held view of Council's current elected academic staff member, Distinguished Professor Jamie Kirkpatrick.

The majority of Council members hold the view that the Act's current requirements, regarding Council membership, strike a good balance. There is a level of flexibility to ensure important skills and experience (which change according to strategy and priorities) are covered. The smaller size promotes alignment and decision-making, focused on the best interests of the University and its mission to serve Tasmania rather than individual constituencies or factions.¹⁴⁵

Further comment was provided on other skills and attributes taken into consideration when appointing Council members:

...Council works to safeguard gender balance and strives for diverse membership which reflects our key stakeholder groups by considering candidates from first nations peoples, alumni, and regional representatives.

¹⁴⁴ Emeritus Professor Peter Dawkins AO, 2022, *Submission #90*, p. 2.

¹⁴⁵ University of Tasmania, 2022, *Submission #113*, Part 4, p. 4.

Appointed members of Council are expected to have skills in one or more of the following priority areas, complementary to those skills offered up by elected members of Council. This set of skills is referred to as the 'Skills Matrix' and includes:

- Higher Education strategy/teaching quality management
- People and culture
- Legal experience
- Regionally located
- Technology/social media marketing/data mining
- Chief Financial Officer level financial management/accounting
- Economic development/infrastructure planning
- Chief Executive Officer level operational and people management
- Research commercialisation
- Property management/construction.¹⁴⁶

Chancellor Watkins was questioned on the provisions of the Act to provide for adequate numbers and representation on the Council:

... I would say in what the act prescribes, it's quite a sensible and logical make-up that it proposes. For example, we have one member of academic staff. We also - and I want to focus on the academic, because it's the heart of what we do, it is our academic mission. You could take issue and say perhaps we should have two members of academic staff, or perhaps more.

I think the real question is, first of all, when we constitute council overall, do we make sure that we have an adequate number of people who understand the academic perspective? ...It is not only about the strict, literal constitution, it is about how we step back more broadly and say, what is really important for us to have on council as far as skills, expertise, and experience, and how do we make sure we have a sufficient mix of all of those? It is very workable in enabling that as it stands. As I say, having one member of the academic staff does not mean we only have one person who understands and cares about the academic mission completely, far from it.¹⁴⁷

Chancellor Watkins commented further on the current size and composition of the Council:

We are currently 12 members. We can be up to 14. ... Generally speaking, we were wise to use the 14. It's good I think to have the flexibility, because sometimes there are reasons why somebody might need to leave at short notice or we may take some extra time to find the right appointment. ...

... if you asked, would 16 work? I would not be concerned about that working at all. If you asked, would 20 work? I would start to be more concerned that we would get that fragmentation. I think the rationale for the changes to reduce the size and to really promote a focus on decision-making in the interests of the organisation overall is absolutely the right direction.¹⁴⁸

Michael Wells reflected on the number of members on the Council:

As to council membership, I think you have heard that councils of universities across the country have been reduced in number over time. They used to be in the mid-twenties, and many people particularly from corporate backgrounds, found that to be quite shocking and unworkable so there was pressure across the country to reduce the number of members of the ultimate corporate governing body. They have come down mostly across the country into the mid-teens. UTAS, which is specified at 14, currently has 12 members, and I think it is fair to say is at the lower end. It is not out of step but it is at the lower end of range of membership. Considering the heavy responsibilities that the institution carries as the only ... university of the state, with a particular range of things it has to achieve across the board,

¹⁴⁶ University of Tasmania, 2022, Submission #113, Part 4, p. 4.

¹⁴⁷ Alison Watkins AM, Transcript of Evidence, 1 March 2023, p. 47.

¹⁴⁸ Alison Watkins AM, Transcript of Evidence, 1 March 2023, p. 47.

certainly a consideration might be given to that membership. I am thinking in terms of range of expertise and experience.

...

One question you are probably reflecting on in terms of numbers is, how might the right complexion be achieved and how might the important relationship between, I will call it 'owner', the State of Tasmania and the institution be achieved. I think it would certainly be open to consider making additional appointments, maybe between two and four. Again I don't want to be too prescriptive there but I am thinking 'a few' puts you back into the middle of the pack.¹⁴⁹

The Hon Michael Field AC, Chancellor 2013-2021, expressed the need to ensure the number of Council members facilitates effective decision-making:

... In Tasmania it's particularly difficult because you can't have a self-perpetuating oligarchy, which is a danger, but you have to try to balance, regional representation and a representation of specialists At the moment, ex-officio members are the chancellor, the vice chancellor, then there is the academic senate head, an elected student representative and then there is an elected staff representative. So that is five. Then we have two - one from the north and the north-west - that is seven. Then you have to have the specialist areas which means you really have to be disciplined in terms of how you can balance the size that enables proper decisions to be made with having sufficiently qualified people in a specialist area to contribute.¹⁵⁰

The current Council structure, including the role of the Remuneration and Nominations Committee, was further described by the University as important to provide the mix of skills necessary over time:

Of the 14 positions on the University Council, six of these are available to be used for adding specific skills or experience to Council that may be missing and required. The Remuneration and Nominations Committee of Council, chaired by the Chancellor, monitors the balance of skills and experience of Council members using the skills matrix above and ensures appropriate succession planning is in place to utilise vacancies in the Council's appointed positions (not including student appointments) to target members with specific skill sets.

Planning for the end of terms for key Council appointments such as the Chair of Audit and Risk Committee, begins months and in some instances years prior to a term ending and involves the Remuneration and Nominations Committee closely monitoring the skills of current Council members and recommending that Council look to recruit specific skill sets.

To help Council to make these decisions and provide additional scrutiny, it has established an Extended Nominations Committee. This Committee is made up of independent members (i.e., members who are not Council members nor employees or students at the University) including people from Industry, State Government and Higher Education who can assist in the selection of appropriate members.¹⁵¹

Emeritus Professor Kwong Lee Dow offered an alternative view on the Council, reflecting on its size and efficacy, also in relation to the Academic Senate and Executive:

I say to you that it is unhelpful to look only at the composition of the council. I think with governance and for the management of the university as well, not a separate issue, you have to look at the council, at the academic senate and the executive, the size, composition structure of each and the way they interact. Before one jumps to any points about inadequate representation on the council, it is wise to think in terms of governance as a whole, as I have just outlined. ...

...

¹⁴⁹ Michael Wells, *Transcript of Evidence*, 27 February 2023, p. 34.

¹⁵⁰ The Honourable Michael Field AC, *Transcript of Evidence*, 27 February 2023, p. 17.

¹⁵¹ University of Tasmania, 2022, *Submission #113*, Part 4, pp. 4-5.

... My view is that the size of university councils has been significantly reduced in recent decades and that the current sizes of councils - Tasmania is 14 - are probably working well overall.

...

However, if the government decides that it is a good thing to increase the size of the council a little bit and to increase that representation, I do not think there is harm done by that. I think, really, that it won't make much difference at all in practice, but it may give some comfort to people whose views on many aspects of the university I have great respect for.¹⁵²

Academic, Student and Alumni Representation on University Council

The University of Tasmania has a relatively small Council with less elected staff and student representation than most Australian universities' governing bodies.

A large number of submissions expressed concern about the current composition of the University Council, stating that the appointment of the majority of members from outside the University meant the Council may not have sufficient experience in higher education to make informed decisions. Many made arguments that the representation on the Council of academic staff from the university should be increased.¹⁵³

Dr Andrew Grosse, former University staff member (2003-2020) and alumnus, commented on the lack of academic and professional staff representation on the Council, and argued this cannot be offset by representation on Academic Senate:

The Council is now constrained to between ten and fourteen members. There are only TWO elected representatives from staff – one Academic and one Professional staff member. This diminishes the input of the many thousands of staff members to only two voices, a tiny minority in the Council that is responsible for governing all aspects of their workplace and conditions. The ability of staff to contribute to the development and agency of the University is at its' lowest ebb, despite the obvious fact that they are the people who are best positioned and motivated to drive the Uni forward.

...

Some have claimed that Academic staff are appropriately represented by the Academic Senate; this is untrue. The Academic Senate is not a decision-making body in the way that the Council is. It can readily be overridden by the Council, and in effect acts only as a consultative body. Moreover, the aegis of the Senate is much narrower than that of the Council, and it has no real powers to affect the important conditions which govern the work of all staff. ... The Academic Senate is a very poor substitute for actual participative involvement in the management and direction of the University.¹⁵⁴

Emeritus Professor Stuart McLean spoke on the need to increase membership of the Council, in particular, academic representation:

It probably should be a bit larger, but especially, it should be more diverse. At present there is only one member who is drawn from the academic staff. There are other appointments and academics are precluded from being appointed. I think it should have a majority of people with an academic background who are current academics on the council and with the diversity to reflect the huge range of activities of a modern university, like UTAS.

¹⁵² Emeritus Professor Kwong Lee Dow, *Transcript of Evidence*, 27 February 2023, pp. 25-26.

¹⁵³ For example: see Submission #22, Submission #14, Submission #97, Submission #27, Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 64; Adjunct Associate Professor Terese Henning, *Transcript of Evidence*, 13 December 2022, pp. 3-4.

¹⁵⁴ Dr Andrew Grosse, 2022, *Submission #25*, p. 1.

... That sort of diversity should somehow be reflected in the council membership but also council members, most of them, should have experience of working in the business end of the university, academic activities.

*It is like democracy. It is not perhaps the most efficient thing, but in the end, you get the best outcomes you would generally think by having the contest of ideas. Oxford struggles along with 22 members out of 26 who are drawn from the academic community. They manage. It is the best university in the world, probably.*¹⁵⁵

Robert Hogan noted *The Voluntary Code of Best Practice for the Governance of Australian Universities (2018)* provides significant latitude when considering the constitution of a university's governing body, arguing for a greater academic presence:

It may be possible to identify Australian universities with similar constituencies of their governing bodies to UTAS. It is certainly possible, however, to identify others that are dissimilar in providing, for example, for greater participation by academic staff and/or elected representatives, such as Sydney University or the Australian National University.

*The Voluntary Code of Best Practice for the Governance of Australian Universities (2018) also provides significant latitude in regard to the constitution of the governing bodies of universities. Given the issues which have emerged around UTAS, I believe there is a strong argument for an increased academic presence on the UTAS Council and for more elected representatives.*¹⁵⁶

Pat McConville, past staff member of the University and Workplace Union Representative for the National Tertiary Education Union, considered Councillors do not have higher education experience:

A number of studies have shown that Councillors with knowledge and understanding of the higher education sector are the exception, rather than the rule, on University Councils. Of the seven appointed members on the current Council of the University of Tasmania, only one has substantial higher education experience.

*Unaccountable and inexperienced University Council have [sic] contributed to significant problems in the higher education sector, many of which are evident at UTAS. These include executive salaries which are well beyond community expectations or reasonable in relation to the UTAS workforce; extraordinarily [sic] authority delegated to executives, with little or no obligation to consult, explain or justify their decisions; a lack of transparency in strategic decisions which bear on the broader community; and university operations and activities which do not clearly align with its core goals of education and research.*¹⁵⁷

Emeritus Professor Brian Yates, former Dean and Executive Dean of Science, Engineering and Technology held a similar view in relation to the Council:

According to the Act, the University Council is predominantly composed of external people appointed by the Minister or University Council itself. While these are good people with experience in business, school education, government and the community, they lack an intimate experience and understanding of the actual practice of teaching and research in higher education in a university setting. There are very few people on University Council who have spent any significant amount of time grappling with the challenges of carrying out teaching and research in higher education.

*... This can lead to decisions being made without a good understanding of their impact on academic staff and students.*¹⁵⁸

¹⁵⁵ Emeritus Professor Stuart McLean, *Transcript of Evidence*, 7 December 2022, p. 16.

¹⁵⁶ Robert Hogan, 2022, *Submission #145*, p. 11.

¹⁵⁷ Pat McConville, 2022, *Submission #100*, p. 4.

¹⁵⁸ Emeritus Professor Brian Yates, 2022, *Submission #55*, p. 1.

Professor Kwong Lee Dow added his perspective on the make-up of the current Council in comparison to other Australian university councils, and the difference that may come from increasing academic membership:

Prof LEE DOW: ... *I don't think there is a big discrepancy between the way in which academic staff are represented or involved on the University of Tasmania council from that of other Australian university councils.*

Maybe there are some that have two elected academic members of the council. My own view is that whether it is likely augmented in that way that, in itself, is unlikely to have the impact on the culture and the relationship with the university's executive that some of the people making submissions to you have the hope that it might.

Ms WEBB - *If we are talking about a body of 14, two in 14 sounds like considerably more than one in 14 - that's a 100 per cent increase. You still don't believe that would make a tangible difference to the discussions being made in that decision-making body and the way things might be considered?*

Prof LEE DOW ... - *I think if you increased the academic staff representation from one to two, there would be a good case to be made for increasing the professional staff representation and a good case to be made for increasing the student representation. It is true that a governing council, ... has ultimate responsibility. That word is prominent in legislation. It is certainly the case, but the way in which councils in universities act in relation to academic governance and bodies - which in Tasmania is called the Academic Senate and in many other places is called the academic board - those bodies have very substantial involvements from the academic community. That, I think, has more significance than a shift from one to two on the council.¹⁵⁹*

It is notable that the one student member on the University of Tasmania Council is appointed by Council rather than elected. All the other Australian public universities' governing bodies have one or two student members elected by the students (except for the South Australian universities' governing bodies which each have two student members who may be appointed or elected).

A number of submissions highlighted the significance of the shift to the student position on Council being appointed rather than elected, and called for an increase in student representation on the Council.¹⁶⁰

The Tasmanian University Student Association (TUSA) called for the inclusion of two student members on the Council, with at least one of them elected by currently enrolled students:

Currently, the Council only appoints the minimum of one student through a panel selection which includes the State President of TUSA. It is noteworthy that in 2021, the University failed to follow this process and re-appointed the existing student member without any consultation of TUSA.

While we appreciate having input into the appointment of student members, we note that the academic and professional staff members are elected to Council. The Act does not require the student member to regularly liaise with the TUSA State President on matters that are of student concern, and although it is encouraged during the appointment process this has rarely translated into action. Illustratively, since 2020, the respective student members of Council have only met with the TUSA President once.

This means that while the academic and professional elected staff have the network of their colleagues to support and inform their decision-making, the student member does not. In fact, we argue that the deliberate delineation of an appointed student member as opposed to an elected student member seeks to ensure that the student member only relies on their own personal experience to inform decision-making. We believe that isolating the student member in the name of governance, combined with only

¹⁵⁹ Emeritus Professor Kwong Lee Dow, *Transcript of Evidence*, 27 February 2023, pp. 25-26.

¹⁶⁰ See for example: Submission #89; Pat McConville, *Transcript of Evidence*, 8 December 2022, pp. 20-21.

have one student member on the Council, severely limits the important influence that students should have in determining the strategic future of the University.

...

Despite the University being given opportunity to provide more student diversity on the Council through the current wording of s 8(1)(i), it has proved to be insufficient to encourage them to do so.¹⁶¹

Sophie Crothers, outgoing President of TUSA, commented on the student member on Council no longer being elected to Council:

More recently the student member on the university council is now an appointed member and no longer an elected member. I know that some other submissions have touched on this. My understanding is that it was a result of low voter engagement and a perceived conflict of interest between the elected student advocating for student interests rather than the broader interests of the university. I note that it is already protected by the legislation.¹⁶²

Further comment was added on the student understanding of the role on Council:

... By moving it away from being an elected role I don't think the student members who are being appointed necessarily understand the gravity of the university as a public institution. I think it tends to be viewed now more as an opportunity for a bit of career development. You get board experience, you get financial experience but it really removes that entire aspect of accountability and transparency.¹⁶³

When considering student membership on Council, Michael Wells made the following comments:

Student members: across the country typically have two members. At the moment there is only one. There is a postgraduate member. There is not an undergraduate member.

...I think it would be more common across the sector to have a specified two-member, two student representatives, one undergraduate, one postgraduate, again, there are considerations as to types of expertise and perspectives.¹⁶⁴

Evidence presented drew attention to the benefit and accountability that may be delivered by ensuring greater representation from University of Tasmania alumni on the Council.¹⁶⁵

Emeritus and Current Distinguished Professors in Science Disciplines at the University commented on the makeup of Council:

Of the 8 appointed members, 6 are appointed by Council itself and 2 by the Minister (and even here after discussion with senior Council members). This means that Council is self-perpetuating, appointees being known to existing members and coming from a small elite in the community (even though vacancies are notified). There is no external/stakeholder/alumni body with oversight as would occur even in a normal corporate structure with shareholders. This has the potential for conflicts of interest, as occurred when Council members voted themselves payment for their services without any declaration of a conflict. More elected members including staff and alumni could address this issue without increasing its size and without losing necessary expertise.¹⁶⁶

¹⁶¹ Tasmanian University Student Association, 2022, *Submission #128*, p. 5.

¹⁶² Sophie Crothers, *Transcript of Evidence*, 13 December 2022, p. 35.

¹⁶³ Sophie Crothers, Tasmanian University Student Association, *Transcript of Evidence*, 13 December 2022, p. 41.

¹⁶⁴ Michael Wells, *Transcript of Evidence*, 27 February 2023, pp. 34-35.

¹⁶⁵ See for example: *Submission #22*; *Submission #85*; *Submission #19*, Emeritus Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 64; Pat McConville, *Transcript of Evidence*, 8 December 2022, p. 21.

¹⁶⁶ Emeritus and Current Distinguished Professors in Science Disciplines, 2022, *Submission #22*, p. 3.

The late Professor Jamie Kirkpatrick, Council member, made the following comments on the current composition of the Council, and outlined specific changes to the Act to address representation which could mitigate the chances of poor decision-making:

... the university is defined under the act as 'its staff, students and alumni'. Successive changes to the act have reduced the members on council that represent these major groups. For the last six years, I have been on university council as the sole elected academic, apart from the chair of the academic senate.

So, the decisions made by members that are essentially appointed by the council itself have tended - as a result of the movement of the composition of the council away from representing its members to some degree - to result in what seem to be a few bad decisions - or decisions that have not been accepted by either the populace in general and the members of the university. The move to the city and the move away from face-to-face lectures have both been received rather badly by the public, and the university has lost a lot of its social licence as a result of these things.

I would argue that if the university council was restored to its past situation of representing alumni, students and staff at a reasonable level, then these decisions would not have been made in those sorts of circumstances.¹⁶⁷

The late Professor Kirkpatrick further commented:

... I've worked in the university for a bit over 50 years now. In the first half of my career, the decisions came up largely from below. Sometimes there would be a little bit of decision-making from above, and then it was a two-way process. Now it's very much a top-down process, which has been partly reversed by the present vice-chancellor at the moment. It's a situation where the commands come from above, and don't necessarily suit the needs of the individual departments that get the commands, because they're coming from a centralised source. That mightn't happen if you had a good representation of academics and students and alumni on the council. The tendency to do that might be removed.

I think it's a governance problem, and the governance problem has resulted in a problem of top-down direction in an institution that's really not suited to top-down direction.¹⁶⁸

Chancellor Watkins and Vice-Chancellor Black provided the following comments regarding alumni membership on the Council and the provisions of the Act:

Ms WATKINS - ... *When we think about the constitution of the make-up of the council, the university council membership, a connection with Tasmania and University of Tasmania alumni are an important part of our criteria. The vast majority of our council members are alumni of the university and the Vice-Chancellor also conducts a number of regular activities. I am involved in a number of activities where we are closely connected to alumni during the year, listening and also seeking to keep connected with our alumni. That might be something that could be more explicitly called out. I am not sure in practice that it would make a difference because we do pay a lot of attention to it. ...*

Prof BLACK - ...

Alumni are an important group and community and we often refer to them as part of the university community in a broader sense. One of the things the act does is to recognise their role as a broader community because it does require that there is an alumni presence on the council. ... Alumni represent the community of people who maintain that healthy conversation which stretches you to say, are we holding to those values of the past? Some alumni will also say, are we holding to the values needed for the future? Their involvement in that kind of dialogue is an important feature. The act does set that up and it strikes a pretty healthy balance in maintaining that.¹⁶⁹

¹⁶⁷ Professor Jamie Kirkpatrick AM, *Transcript of Evidence*, 7 December 2022, pp. 32-3.

¹⁶⁸ Professor Jamie Kirkpatrick AM, *Transcript of Evidence*, 7 December 2022, pp. 33-4.

¹⁶⁹ Alison Watkins AM and Professor Black, *Transcript of Evidence*, 1 March 2023, pp. 17-18.

Appointment of University Council members

Division 2, Section 8 of the Act provides detail on the process of making an appointment to the Council:

- (5) Before making an appointment to the Council, the Minister and the Council must –*
- (a) give public notification of the vacancy; and*
 - (b) consult with each other about any intended appointment; and*
 - (c) have regard to the balance of skills and experience, regional representation and an appropriate gender balance.*

In the University submission, the process of recruitment was detailed with specific reference to Council academic, professional and student member vacancies:

Vacancies for Council appointed positions are always advertised publicly and these advertisements ... refer to the specific skills from the Skills Matrix that are required at any one time to ensure an appropriate and ongoing balance of skills among members of Council.

The last vacancies for Council appointments in 2021 advertised State-Wide and called for nominees experienced in governance, strategy, finance and people and culture. ...

Academic and Professional staff members self-nominate bi-annually and are elected by their constituencies in accordance with the Act, a process supported by the University Secretary as Returning Officer. University Council have no official role other than to confirm the result of these elections when the outcome is known.

Similarly, there is an expression of interest process for the identification and selection of the Student Council Member. In 2020, 101 expressions of interest were received and considered by a special Selection Panel chaired by the Chair, Academic Senate, with representatives from the Tasmanian University Student Association (TUSA) and the University's Executive Director, Student Life and Enrichment.¹⁷⁰

Chancellor Watkins provided the following detail on the process of appointments:

It is incumbent on us as a council to make sure we are using transparent processes to appoint council members. The composition where we have a mix of elected and appointed members is a good thing in that it gives us the flexibility to make sure we can cover all of the skills and experiences needed to make good decisions in a complex organisation. The important thing is that we do use a rigorous process, particularly concerning those council-appointed decisions.

The things that we've sought to do are, first of all, to be clear about what we need to solve. What are the skills, experiences, attributes, we are trying to cover on council? Then, to have a rigorous and transparent process for those appointments; advertising and inviting people to apply; and being clear about the particular attributes that we're seeking to emphasise; and using our remuneration and nominations committee with independent members. We've sought to have a member representing the Department for Education, Children and Youth, to have industry representation and people of general community standing who are independent thinkers and are prepared to put the time in to interview and to help us reach a judgment about the best fit for the next appointment. That process, in my experience, has been quite seriously followed and has yielded some good results.¹⁷¹

The University outlined the responsibilities of Council members and standards they are expected to meet, including:

Members are required to complete a Tertiary Education Quality and Standards Agency (TEQSA) fit and proper person declaration and a request for registration as a director with Australian Securities and

¹⁷⁰ University of Tasmania, 2022, *Submission #113*, Part 4, pp. 3-5.

¹⁷¹ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, pp. 52-53.

Investments Commission (ASIC) and/or the Australian Charities and Not-for-profits Commission (ACNC).

Council members act with care and diligence (section 11A) and in good faith (section 11B) and each member of Council is responsible and accountable to the Council, rather than to any constituent body by which they are appointed or elected (section 8 (3)). Council acts in the way it considers will best advance the interests of the University (section 9 (2)). Members are encouraged to participate in the work of Council committees and most members are involved in one or more committees in addition to their role on Council; they are also asked to participate in selection panels, attend official events and importantly are involved with graduation ceremonies.

Schedule 1 to the Act provides for members resignation and dismissal. A member may be dismissed if, in the opinion of a two-thirds majority of Council, any member has failed to discharge their obligations or is incapable of doing so. Council members are also individually accountable for their ongoing performance.

Members performance, and their level of involvement and commitment to their roles, is monitored by Council, with any issues raised through regular check-in conversations between individual members and the Chancellor, where members may raise any concerns they have with their own performance or those of other members. The Chancellor may request further information, clarification or provide instruction to a member. If a member is considered to have not done a good job during their term of office, they may not be re-elected or re-appointed.¹⁷²

Concerns were raised in evidence that the relative proportions of University Council members appointed by the Council versus elected or independently appointed presents a risk of consolidating power in a small number aligned in their thinking and less challenging debate in relation to decision-making.¹⁷³

John Lawrence, economist and accountant, set out the legislative basis of Council appointments and its lack of a feedback mechanism:

How members of council are appointed is set out in section 8 of the act. The effect is that council itself largely determines who sits on council. A fifth column takeover by managers is not the unsurprising result of section 8. Without a feedback mechanism from members, say, as may occur under Corporations Law, what's to stop council from alienating staff, students, and the community, as has happened? You wouldn't set up a body to run the public health system where members comprise the current board of management, staff and the patients, plus those ex-patients who have been treated successfully - where those who make it to the governing board have a substantial say as to who else is appointed, who then become responsible to no-one but themselves, with wide powers to sell public assets that have been gifted to them. Why do we choose to run a public education body in that manner?¹⁷⁴

Adjunct Associate Professor Terese Henning shared her concerns on Council being a self-perpetuating body:

The Council is essentially a self-perpetuating body in terms of its makeup, given that it has power to appoint six members as well as the student member of Council: s 8(1)(i) and (j). This is unhealthy. Whilst it is to "have regard to the balance of skills and experience, regional representation and an appropriate gender balance" (s 8(5)(c)) in making appointments, no requirements are stipulated or guidance provided in the Act about what this means or how it is to be achieved, other than that Council members

¹⁷² University of Tasmania, 2022, *Submission #113*, Part 4, pp. 5-6.

¹⁷³ See for example: Errol Phuah Council of Australian Postgraduate Associations and National Aboriginal and Torres Strait Islander Postgraduate Association, *Transcript of Evidence*, 12 December 2022, p. 3; Louise Elliot, 2022, *Submission #79*, pp. 1-2; Professor Jamie Kirkpatrick, *Transcript of Evidence*, 7 December 2022, p. 33; Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 66; Professor Jamie Kirkpatrick, 2022, *Submission #19*, p. 1.

¹⁷⁴ John Lawrence, *Transcript of Evidence*, 12 December 2022, p. 38.

and the Minister must consult with each other about appointments (s 8(5)(b)). This provision, along with the requirement in s 8(5)(a) that public notification must be given of any Council vacancy, are the only procedural requirements imposed on Council by the Act for appointing members. Accordingly, that process lacks transparency and accountability. No requirements are imposed by the Act on Council to report why and how Council-appointed members have been appointed. Members of the University and the community cannot therefore be confident that Council members have been justifiably appointed. While Council has specified by Ordinance what skills appointed Council members are expected to have, the Ordinance is a creation of Council not Parliament, and accordingly may perpetuate the vision of Council for its own makeup rather than conforming to the broader University and community needs.

175

Anne Caughey commented on the process and conventions involved in appointments to the Council and other governance positions:

The Public Universities Australia Document says that while financial, commercial and community expertise should be maintained, it must NOT dominate the composition of any university governing body. It seems apparent that there is a trend at UTAS to appoint members from business, corporate and financial backgrounds to the university governance positions at the expense of appointing respected academics. This trend is going against what is set out in the Public Universities Australia Document.

In researching the process for selecting members onto the University Council and other governance positions, it became very clear that it is a flawed process whereby the Vice Chancellor is quite easily able to overly influence who is appointed to the university council and other governance positions. The flawed process which gives the Vice Chancellor enormous power and sway in these appointments, needs to be reviewed and amended to ensure the most appropriate candidates are appointed. For example, I found it most surprising (and disappointing) that just last year, UTAS appointed Allison Watkins to the position of University Chancellor. Ms Watkins is a highly respected and successful member of the business community, having been appointed as director to many large corporations and even receiving an OAM for significant service to business. However, a university chancellor would generally be chosen because of their long association with and commitment to rigorous academia. There is no such history in Ms Watkins illustrious career. This appointment highlights the UTAS governing bodies concern with financial and corporate matters over academia and quality education.¹⁷⁶

Professor Reid commented on the need to have a majority on the University Council that are independent of 'group think':

... There was never an elected majority on council and I must admit it did aggrieve me at times, having been on council for about 15 years over various iterations. I am not saying there has to be a majority but I think there has to be a majority that is not nominated by and controlled directly by the Chancellor/Vice-Chancellor. In other words, there has to be sufficient members who are independent of the 'group think' that you can have a broad discussion and if an issue comes forward it can be debated and a consensus come to rather than the end result being put on the table and somebody in the chair tolerating a little bit of discussion about it but then the thing that is tabled going through unquestioned.¹⁷⁷

The Honourable Michael Field AC provided an alternative view:

Mr FIELD - ... I do not believe groupthink is there.

...

Mr FIELD - I acknowledge the risk, but I think this is the best way we have devised to establish a body to properly supervise and lead the university. If we went back to it being any bigger, groupthink would be higher because there would be less capacity for people to be intimately involved. If you interviewed individual members of council, they would all say, and I can see their faces, that they are not subject to

¹⁷⁵ Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, pp. 3-4.

¹⁷⁶ Anne Caughey, 2022, *Submission #70*, p. 3.

¹⁷⁷ Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 65.

*groupthink. It's a very subjective view to put forward something, that a group has groupthink. If someone agrees with me, I do not say you were agreeing with me because it's groupthink. I say you are agreeing with me because of the potency of my arguments.*¹⁷⁸

Government Appointed Members to University Council

The Parliamentary Research Service prepared a briefing for the Committee titled 'Links between Australian Parliaments and University Councils' [Appendix F]. The briefing noted all university councils, except for three in South Australia, included Government appointed members, usually Ministerial appointments. Some jurisdictions have Governor-in-Council appointments. The convention is Government appointments to university councils are made on the recommendation of the university councils themselves.

Minister Jaensch drew attention to the function of government-appointed Members to the Council being to represent the public interest:

Mr JAENSCH - *It might well be that the government of the day, which is, contra-accountable to the interests and priorities of Tasmanians more broadly, might have a different view to what the council might have on who should be on the board.*

Ms WEBB - *...Can you describe, then, what you see is that responsibility, that consideration that has been brought by the minister in undertaking the responsibility in the act? What function does it have for the minister of the day?*

Mr JAENSCH - *To ensure, as far as the governance structure allows and the decisions that are to be made, that there are people on the University Council who the government has confidence would be working for the best interests of Tasmania as a whole as part of the University Council.*¹⁷⁹

The Minister was questioned further on processes in place to ensure the outcome he described, and in particular the cessation of appointing senior public servants to Council:

Ms WEBB - *Hearing you describe what you see as that function, bringing that element of consideration of the broader interests of the state and the Tasmanian community ... is that something that you believe is built into the selection process from the minister's point of view and has been built-in in the past to ensure that that consideration of public interest ... comes into play?*

Mr JAENSCH - *I'm not aware of a prescribed process which ensures any particular type of outcome. The merit of having positions appointed by the minister who is part of the government is that the minister can then apply judgment as to how those appointments can best serve the interests of the people of Tasmania.*

Ms WEBB - *... When did that practice of appointing a senior state servant to the council in those roles cease? Why did it cease, I am interested to know? I am interested if it was a deliberate decision to stop appointing senior state servants into that role, given their easy ability to bring that public interest to bear and to bring that connection from the state government into the role on council.*

Mr JAENSCH - *The way that the act is set up, that decision is made by the minister of the day, each time as a separate decision. I'm not aware of any policy that's changed over time. You may have researched the history of the individuals appointed. As far as I see the act and my role in it, that's a decision for the minister each time as a stand-alone decision.*¹⁸⁰

¹⁷⁸ Honourable Michael Field AC, *Transcript of Evidence*, 27 February 2023, pp. 18-19.

¹⁷⁹ Minister Jaensch, *Transcript of Evidence*, 12 May 2023, pp. 15-16.

¹⁸⁰ Minister Jaensch, *Transcript of Evidence*, 12 May 2023, pp. 16-17.

The Minister commented further when questioned, on how the key function of the government appointments to Council were actually being satisfied:

Ms WEBB - ... Given that you've identified that a key function of a ministerial appointment to the council is to make sure that the public interest of the state and the community can be brought to bear in that arena, how do you satisfy yourself that that is indeed what's occurring?

Mr JAENSCH - I didn't appoint the two members who are there. I know one of them better than the other. I consider that it's part of my job to know who they are, and so I have introduced myself to both of them and I do intend to meet them again.

On the other hand I'm also very clear that they have an obligation to the university and to the council. They have no reporting obligation to me and they don't take any direction from me. But, as the result of the decisions that have been made by my predecessors as minister, I have responsibility to know who those people are, what their background is, and be familiar with them - not least because they may be eligible for reappointment at the end of their terms and it's important that I've satisfied myself as to their suitability.

Ms WEBB - Is that something where you would have a way that you determine the degree to which they are fulfilling that function, as a ministerial appointment, of bringing consideration of public interest and the Tasmanian community interest to bear in that arena of the University Council?

Mr JAENSCH - Yes, I'd need to satisfy myself that they were making a contribution, that they were still the right people to be the government's appointments to the council.¹⁸¹

Minister Jaensch was asked whether the government representatives on Council ever briefed the Minister:

CHAIR - ... The two positions that the minister appoints to the council, do you get briefings from those people from time to time?

Mr JAENSCH - The answer is no. I have met them and I am due to meet them again in relation to their terms and their interest in continuing. But the act is very specific that the members of the council have obligations to the council, rather than those who nominate them.¹⁸²

Ms WEBB - Right; so there is no accountability back in terms of monitoring -

Mr JAENSCH - Under the act, similar to the board of a company, the obligations of those members are to the best interests of the university - which include its relationships with external stakeholders, with government, as a corporate citizen, as well.

Ms WEBB - Distinct from the board of a private company, there is no accountability of the University Council back to a broad membership or stakeholder group, which is something we have discussed in this inquiry quite a bit. The function of ministerial appointments into the council as representative and as bringing the public interest into that decision-making space helps, to some extent, to offset the fact that there isn't a group of stakeholders to which the council is accountable; unlike a corporate board. How do you satisfy yourself that role is being undertaken by those ministerial appointments?

Mr JAENSCH - Ms Webb, the opportunity is there for the government to ensure, for the positions that it has the ability to appoint, that there are good people in those roles, whose motives for being there and qualifications and life experience help to ensure that the council can work in the best interests of the university and Tasmania.¹⁸³

¹⁸¹ Minister Jaensch, *Transcript of Evidence*, 12 May 2023, pp. 18-19.

¹⁸² Minister Jaensch, *Transcript of Evidence*, 12 May 2023, pp. 9-10.

¹⁸³ Minister Jaensch, *Transcript of Evidence*, 12 May 2023, p. 19.

Members of Parliament as previous members of University Council

The Parliamentary Research Service review [Appendix F] found none of the Australian university councils presently include dedicated positions for Members of Parliament. The University of Tasmania Council previously included a position for a Member of the House of Assembly (elected by the House of Assembly) and a position for a Member of the Legislative Council (elected by the Legislative Council). However, the *University of Tasmania Amendment Act 2001* (Tas) removed these positions from the University Council. It also removed the position on the Council for a person appointed by the University Visitor, and at the same time provided for the Visitor position to be solely ceremonial.

The Briefing noted that in 2004, Howard Government Education Minister, Brendan Nelson, introduced 'National Governance Protocols' for universities. Universities were required to comply with the Protocols as a condition of Commonwealth funding. The Protocols stated: 'There should not be current members of any State or Commonwealth parliament or legislative assembly other than where specifically selected by the governing body itself.' In 2008, the Rudd Government removed the requirement for universities to comply with the National Governance Protocols. The 'Voluntary Code of Best Practice for the Governance of Australian Public Universities' implemented by the Rudd/Gillard Governments (and still current today) retained the same provision regarding Members of Parliament (with the exact same wording).

Dr Richard Herr reflected on the prior relationship between Parliament and Council, and identified that the representation of Parliament on Council was not valued and the role was not clear:

The Parliament once had two representatives on the University Council. I have been advised that these representatives were selected by ballot; one from each chamber basically to fill two obligate positions. This method of engaging the Parliament with the University may have contributed to the mutual disinterest that resulted in the uncoupling of the Council tie between the Parliament and University. From what I have gathered in speaking with some of those involved, the decision to end the Parliament's seats on the University Council was amicable. A sense by University administration that Council was too large coincided with a feeling that parliamentary representation was an unproductive sinecure. Sadly, neither side seemed to value the relationship.

Effective representation on University Council is necessary for the Parliament to meet its obligation to the public of Tasmania for several reasons. It is already clear that ministerial oversight has been lax for decades. In part, this can be attributed to relative absence of sustained and close oversight by the Tasmanian Parliament over the state Government through the routine mechanisms of accountability such as Estimates hearings, question time and the like. Direct engagement with the University is desirable to allow the Parliament to know what questions to ask and where to probe for further information.

Equally important is the role of the people's representatives to advocate to the University through Council. The public has legitimate concerns regarding the University's impact on the community including its campuses, parking, student housing, opportunities (commercial and private) for involvement in University activities, etc. No less important, it is important that such interests be addressed, explained, defended and knowledgeably pursued on the floor of Parliament and in its committees by parliamentarians well versed in the University's views and circumstances.

I hope that this Committee will consider re-establishing a meaningful role for the Parliament through the University Council. I realise that some 30 years ago there were grounds on both sides for feeling that the two seats on the Council were more about symbolism than substance. I believe both sides were mistaken then and that it would be a mistake now not to correct the resultant error in breaking the direct link between the University and the Parliament. I am not convinced bicameralism dictates two seats for the Parliament on University Council. Rather a single seat for an MP or MLC who takes the job

seriously should be adequate if there is an effective and confidential mechanism within Parliament to share University Council discussions. Further the parliamentary representative needs to be a reflective voice rather than a gatekeeper for transmitting Parliament's views to the University.

Thus, I hope the Committee will recommend that Parliament does resume a place in the governance of the University of Tasmania through the University Council.¹⁸⁴

Emeritus Distinguished Professor James Reid provided his reflection on parliamentary representation on the Council:

I was on council when we had parliamentary representatives, one from the Legislative Council and one from the House of Assembly, and while they were good members of council and did contribute constructively, occasionally political issues would arise and that would impact on council and it wasn't particularly helpful.¹⁸⁵

Appointment of Chancellor

The University submission noted Sections 14 and 16 of the Act outlines the process for appointing the Chancellor and Vice-Chancellor:

As per the Act (Section 14), the University has a Chancellor who is elected by the Council. Council has defined the skills and experiences it looks for when selecting a suitable person to become Chancellor. The person must be an exemplary leader who understands the complexities of large organisations and has a broad spectrum of strategic, financial, and organisational skills. The Chancellor must understand the role of governance versus management in the context of a university and possess a strong commitment to the mission of the University to serve the future of the State, confident in their ability to navigate the often-complex politics of the State.

As per the Act (Section 16), the University has a Vice-Chancellor who is the chief academic and executive officer of the University and is appointed by the Council. Council determines the terms and conditions subject to which a person is appointed to the office of Vice-Chancellor and has agreed a selection process to recruit a Vice-Chancellor, approved by Council and involving a specially appointed selection committee and interview panel, chaired by the Chancellor, and including higher education sector representation, a state government representative, a commercial sector representative and Council members. The Selection Committee's final recommendation is submitted to Council for approval.¹⁸⁶

Professor Natalie Brown, Chair Academic Senate, outlined the process in relation to appointment of the Chancellor:

Prof BROWN - *The chancellor is obviously a very important role and the way that is done is we do have a committee. Our reg and noms [Regulation and Nominations] committee is one that looks at appointments. For the chancellor, it is actually extended and we draw in members of the community to be part of a committee that also includes the chair of academic senate and includes other council members. For example, the deputy chancellor would be involved in that. There is a call for expressions of interest that goes out. There is also in my experience a search where an independent search company looks across Australia knowing the kind of calibre of person and their connections to Tasmania, and all of those kinds of things we deem as a council should be in candidates and then proposes candidates for that consideration of that committee.*

I guess I should have probably gone back a little step before that to say prior to that process taking place, individual members of the Council and the Council as a whole have input into the sorts of attributes we would be looking for as a council in a chancellor to lead the council.

¹⁸⁴ Dr Richard Herr, 2022, *Submission #127*, pp.1-2.

¹⁸⁵ Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 64.

¹⁸⁶ University of Tasmania, 2022, *Submission #113*, Part 4, pp. 2-3.

Ms WEBB -.... Given the way it is expressed in the UTAS submission, that Chancellors exemplifying the high standards of the university within the wider community, ... I would like to understand what consideration was given to any challenges presented by having a chancellor elected who was not resident in Tasmania. I believe it is the first time.

Prof BROWN - I guess where somebody lives substantially is one attribute. When we considered what kind of person we wanted for our next chancellor, we saw it was very important that they were deeply connected to Tasmania and to the University of Tasmania. Our current chancellor has obviously deep connections to Tasmania. She is a distinguished alumnus of our university and continues to have connections in Tasmania and is often in Tasmania. At that stage we were aware Alison had family and remained very closely connected to Tasmania.

As we are talking through, or, I was not privy to those conversations, but in speaking with potential candidates, that is something we absolutely would explore to make sure we were comfortable with that. The overriding opinion of the committee was that having somebody of Alison's calibre, who had such a strong and deep connection and a continued connection of Tasmania was the most important thing.¹⁸⁷

Current constitution of University Council compared to other Australian and international universities

The Parliamentary Research Service prepared a briefing for the Committee comparing the size and composition of university governing bodies, and indicated the general movement across jurisdictions towards decreasing the size of university governing bodies.

All governing bodies of Australian public universities have a majority of external members and a minority elected from within the university. The briefing noted the University of Tasmania has a small council with less students and staff representation than most Australian universities' governing bodies.

The Parliamentary Research Service briefing '*Jurisdictional Comparison of Australian University Acts: Governing Bodies*' is attached as Appendix G.

In their submissions, both Professor McLean and Professor Malpas¹⁸⁸ compared the composition of the University Council to that of Oxford in relation to number of members and proportion of members drawn from outside their respective universities, for example:

*The UTAS Council has 13 members, 2 elected from staff and one appointed from students. There are another 8 appointed members, 2 by the Minister and 6 by Council, none of whom can be a member of academic or professional staff. In contrast, Oxford University, possibly the world's best, has a Council of 26 members, only 4 from outside the University.*¹⁸⁹

The National Tertiary Education Union (NTEU), commented on the proportion of elected members versus appointed members on Council, and how the University compares to other Australian universities:

By national standards the proportion of elected staff (and student) positions on UTAS Council is extremely low as it is common for Australian universities in other states to have 5 or more elected positions. The University of Sydney Act allows for a variation in the number of positions on the equivalent body, up to 50% of whom may be elected. ANU [Australian National University] has 3

¹⁸⁷ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 54-55.

¹⁸⁸ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, p. 12.

¹⁸⁹ Emeritus Professor Stuart McLean, 2022, *Submission #14*, pp. 2-3.

elected staff and 2 elected student positions, making up 33% of their Council. UWA [University of Western Australia] has a total of 6 elected positions, making up 35% of their equivalent body.

Our broader analysis shows that 76% of Australian universities have a higher proportion of elected positions on their Council (or equivalent body) compared to the University of Tasmania.

The dominance of appointed members on UTAS Council creates at the very least the perception that, when new appointments are required, UTAS Council deliberately facilitates the appointment of people who are unlikely to question, critique or alter the directions of the UTAS Senior Executive.¹⁹⁰

Dr Peter McQuillan, former PhD student, staff member and current Honorary Senior Research Associate, drew comparisons between the University and others around the world in relation to the elected members of Council:

Elsewhere, Councils (sometimes called Senates) range in size from 11 to 36. All that I checked had more elected students than UTAS (which has one appointed student). All modern universities have the skills and infrastructure to conduct efficient elections so we can do better.

I offer a list of some comparable universities as a comparator (Table 1) [refer to Appendix H]. The academic world has moved to ever more collaborative projects in teaching and research as the expertise of more and more professionals is more easily tapped and synergised. The insular unreformed Council of UTAS increasingly looks like a stranded asset against comparable global universities.

Exemplars in my view are the University of Oslo and Aix-Marseille University; the latter has a council of 36 and is deeply embedded in the life and future of its city.¹⁹¹

Review, Scrutiny and Accountability of University Council

The University outlined the accountability mechanisms the Council is expected to comply with and the internal and external reviews that measure their progress:

There are multiple accountability mechanisms to ensure that University Council is executing its responsibilities under the Act, complying with the TEQSA Higher Education Standards Framework, and ensuring that the University complies with the Voluntary Code of Best Practice for the Governance of Australian Public Universities.

At an organisational level the University produces public accounts that are audited by the Tasmanian Audit Office, certified by the Auditor General and approved by University Council in February each year. Internal audits are conducted regularly by independent parties who assess University processes and controls which are in place to manage risks associated with all aspects of the University, with recent focus areas including Cyber Security and Admissions.

The University's Annual Report contains a full account of the income and expenditure of the University for the financial year, prepared in accordance with the Department of Education's Financial Statement guidelines and highlighting its compliance with the Voluntary Code of Best Practice for the Governance of Australian Universities (clause 14). The Annual Report is tabled in State Parliament and published on the University's public website. It is presented to the Governor of Tasmania and the Minister for Education in June each year (Section 12).

The University also undertakes regular and substantial reporting to the Commonwealth Department of Education, and TEQSA comprehensively audits the entire University on a seven-year cycle (and more frequently if it deems necessary). The Audit and Risk Committee is regularly advised of the ongoing status of the University's TEQSA registration.

Council further uses external reviews to consider its effectiveness, its ability to support the University in the delivery of its Strategic Direction and to evaluate the extent to which the University complies with

¹⁹⁰ National Tertiary Education Union, 2022, *Submission #123*, p. 3.

¹⁹¹ Dr Peter McQuillan, 2022, *Submission #125*, p. 2.

the requirements of Domain 6 (Governance and Accountability) of the Higher Education Standards Framework. External reviews are completed every 3-4 years with the last External Review of Council conducted between January and May 2020 by an independent governance expert.¹⁹²

The University further outlined the 2020 TEQSA review (for full detail provided, refer to Submission #113, Part 4):

The 2020 review of Council included survey results from Council members along with individual interviews with members and management that assessed Council performance across the several dimensions that drive Council performance. These included how the role of Council is interpreted and performed, whether Council members are properly skilled, how well the Council's work is organised and whether the behaviour around the Council table is conducive to effective work. The Survey results indicated that members overwhelmingly agreed that the Council supports and challenges Management and adds value.

...Through regular audits, reviews and reporting Council closely monitors the execution of its responsibilities and those of the University executive. The schedule of reviews and reports ensure that the University is appropriately accountable to Council and to the public and that the decisions that are made are based on clear and accurate information and that these outcomes are well communicated and understood.¹⁹³

Powers and Obligations of the University Council

9. Role and powers of the Council

- (1) The Council is the governing authority of the University.
- (2) The Council is to act in all matters concerning the University in the way it considers will best advance the interests of the University.
- (3) The Council has power to do all things necessary or convenient to be done for or in connection with the performance of its function as the University's governing authority and, in particular, has power –
 - (a) to appoint persons to positions of responsibility within the University; and
 - (b) to allocate funds and otherwise determine the best use of the resources of the University.
- (4) The Council must establish an audit committee and may establish other committees to perform or exercise any of its functions or powers.
- (5) A committee may include persons who are not members of the Council.

...

11A. Obligation for care and diligence

- (1) In this section, ***business judgment*** means any decision to take or not to take action in respect of a matter relevant to the functions of the Council.
- (2) A member of the Council is to exercise his or her powers and discharge his or her duties with the degree of care and diligence that a reasonable person would exercise if he or she –
 - (a) were a member of the Council in the Council's circumstances; and
 - (b) occupied the office held by, and had the same responsibilities within the Council as, the member.

¹⁹² University of Tasmania, 2022, *Submission #113*, Part 4, pp. 7-8.

¹⁹³ University of Tasmania, 2022, *Submission #113*, Part 4, p. 8.

- (3) A member of the Council who makes a business judgment is taken to meet the requirements of subsection (2), and his or her equivalent duties at common law and in equity, in respect of the judgment if he or she –
- (a) makes the judgment in good faith for a proper purpose; and
 - (b) does not have a material personal interest in the subject matter of the judgment; and
 - (c) informs himself or herself about the subject matter of the judgment to the extent he or she reasonably believes to be appropriate; and
 - (d) rationally believes that the judgment is in the best interests of the University.
- (4) The member's belief that the judgment is in the best interests of the University is taken to be a rational one unless the belief is one that no reasonable person in his or her position would hold.

11B. Obligations to act in good faith

- A member of the Council is to exercise his or her powers and discharge his or her duties –
- (a) in good faith in the best interests of the University; and
 - (b) for a proper purpose.

The University outlined the responsibilities of the Council according to the Act:

The Act is detailed in its prescription of Council's responsibilities, principally to act in all matters concerning the University in the way it considers will best advance the interests of the University. Council also has the power to appoint persons to positions of responsibility within the University, this includes the Chancellor and Vice-Chancellor, and Council is also able to allocate funds and otherwise determine the best use of the resources for the University.

The Act also outlines how Council can delegate its powers (and reserve them for itself).¹⁹⁴

CAPA and NATSIPA argue there is a disparity in the Act, requiring amendment for the University to meet its community obligations:

CAPA and NATSIPA broadly agree with the powers afforded to the Council as the governing body of UTAs, as per the Act. However, Under Division 3, section 9:

(2) The Council is to act in all matters concerning the University in the way it considers will best advance the interests of the University.

Section 9(2) should be amended to include that the Council is also responsible for ensuring UTAs meets its obligations to the community (especially the Aboriginal Community), consistent with Division 2, Section 6(g) of the Act. We note that the 'interest of the university' is open to interpretation and will not always align with the community's social, cultural and economic interests.

We argue that disparity exists between the UTAs' responsibility to the community and the Council's responsibility. The current wording of section 9(2) doesn't require the Council to question decisions that may be in the interest of UTAs. Still, it may potentially harm the community it participates in and contributes to.¹⁹⁵

Emeritus Professor Stuart McLean argued there is a lack of understanding between academic and support staff, and the managerial group:

On campuses there are two classes of staff: academic and support staff who carry out the teaching, research and service activities, and a managerial group who take the big decisions and increasingly seek to micromanage the traditional university activities. In my experience there is little or no personal contact between these two groups, and few in either group have much knowledge or appreciation of the work undertaken by the other group. The consequence of detachment of UTAS governance and

¹⁹⁴ University of Tasmania, 2022, Submission #113, Part 4, pp. 1-2.

¹⁹⁵ Council of Australian Postgraduate Associations and National Aboriginal and Torres Strait Islander Postgraduate Association, 2022, Submission #58, p. 8.

*management from the University community leads to decisions that are not always taken in the best interests of the University.*¹⁹⁶

Chancellor Watkins added the following observation in relation to the University's accountability and the functioning of the University Council:

*The most important thing is that we are clear and the university, at the direction of the parliament, is clear on who we are set up to serve, who we are accountable to, that we can demonstrate we are taking adequate steps through a whole host of means, including our representation on council and the way we listen and take views on board. The way we analyse. That we are understanding as best we can the needs, the current needs, of those stakeholders and making the trade-offs which inevitably we must, because they all have different views. There are many different segments and ultimately, we also have resource constraints which mean we have to make trade-offs. We have to make choices. That is our role as a council. We ought to be able to satisfy these members that we have done our very best in making those choices and trade-offs, having regard to their expectations.*¹⁹⁷

Public Universities Australia reflected on the governance structures as being autocratic, not subject to oversight and with no mechanisms to ensure accountability:

*At present, the governing body of the University of Tasmania (UTas), the University Council, is neither accountable to the University nor to the broader community the University serves. The operations and decisions of University Council ..., as well as of those persons to whom the Council delegates its governance powers (such as the Vice-Chancellor and the Vice-Chancellor's Executive team), are not subject to significant oversight from the Tasmanian Parliament and there are no other mechanisms of note to ensure accountability. As a result, the Council is able to operate with a degree of autocratic independence not found in any other statutory body.*¹⁹⁸

Adjunct Associate Professor Terese Henning reflected on the level of accountability of Council:

*As it is under the act, the members of council make decisions qua [in the capacity of] members of councils. They don't make decisions as representatives of anybody. ... That effectively says that you do not have any accountability to anybody; you are just there to make a decision in your own right, on your own behalf, for what you think is best. And that's the minimum guidance you get under the act, not representing anybody, so you're not accountable to anybody. You are just there as you.*¹⁹⁹

Professor Brian Yates reflected on the need for greater accountability for the Council:

... some consideration should be given to creating a more independent environment for University Council to make its deliberations. Although the University Council is indeed constituted as in section 8 of the Act, it seemed to me during my time that senior members of the executive (e.g. Provost, Chief Operating Officer, and one or more of the Deputy Vice Chancellors) were also often present at meetings as observers or invited to give presentations to University Council. On the other hand, Deans or other academic leaders were rarely if ever consulted by University Council. Advice from members of the senior executive is clearly important, but the University Council should operate at arm's length and should not simply rubber stamp the decisions of the executive.

*... In terms of obligations, I feel it is important that University Council is more broadly accountable to staff and students of the University and the external community.*²⁰⁰

Professor Yates also suggested a more open approach be adopted for Council operations:

¹⁹⁶ Emeritus Professor Stuart McLean, 2022, *Submission #14*, pp. 2-3.

¹⁹⁷ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, pp. 20-21

¹⁹⁸ Public Universities Australia, 2022, *Submission #27*, pp. 1-2.

¹⁹⁹ Adjunct Associate Professor Terese Henning, 2022, *Submission #8*, p. 7.

²⁰⁰ Emeritus Professor Brian Yates, 2022, *Submission #55*, pp. 1-2.

... Essentially, I would like to see more reporting to staff and students of the university, reporting to the community ...and indeed, reporting to government in some way. That probably is the way that university council can demonstrate their accountability in these ways.

To the external community, I guess this is where - and I'm not sure what it was like in the past, 10 or 12 years ago - but possibly making available summaries of the university council meetings or a regular update of what is going on at university council. There might even be, these days opportunities to have open university council sessions or meetings where they're broadcast or something like that for part of the time; trying to, as much as possible, open up the representation and the governing body to the community.²⁰¹

In a range of evidence, it was raised that University governance, planning, deliberations and decision-making appears to lack visibility and accountability to students, staff, Parliament and the general Tasmanian community.²⁰²

The late Peter Bicevskis, made the following recommendations regarding possible improvements to the Act in relation to the Council operations and accountability:

It should meet on a much more frequent basis, so that they have the opportunity to examine issues in more detail, and make more appropriate decisions. They should also be presented with any background information well beforehand, so they can make a considered decision.

The agenda, minutes and reporting presented at Council meetings should be made publicly available, and where deemed Commercial-in-Confidence should be assessed by an independently appointed person or body.

....

The views of individual Councillors should be made public, and they should have the right to express their views publicly. This may mean a higher level of remuneration, but given the importance of the Council's decisions, this would be well justified.²⁰³

Jenny and Peter Turner, graduates of the University, suggested increased scrutiny of the performance of the Council:

An independent oversight of the operation of the University Council would provide an opportunity for the performance and directions of the University to be scrutinised. Crucially, it would open discussion on whether the University's policies are fiscally and academically on track to meet the expectations of the Tasmanian community for the provision of quality teaching and research. One way to achieve this critical feedback to the government and the Tasmanian community is to mandate that the Vice Chancellor presents in person the University of Tasmania Annual Report and a report on future directions to a parliamentary committee. This could be in a similar manner to that of the Budget Estimates Hearings for State Government departments where there is opportunity for questions and discussion. The University is already legislated to produce and provide an Annual Report to both houses of State parliament.²⁰⁴

Corporatisation without accountability

Ian Howard, an engineering graduate of the University, believed the management structure of the University is subject to little scrutiny:

The management structure of UTAS is similar to that of many public and private organizations. There is a Chancellor (Chairman of the board) Vice Chancellor (Managing Director) and Council (Board

²⁰¹ Emeritus Professor Brian Yates, *Transcript of Evidence*, 7 December 2022, p. 61.

²⁰² See for example: Fletcher Clarke, TULS, *Transcript of Evidence*, 12 December 2022, p. 11; Professor Pam Sharpe, *Transcript of Evidence*, 6 December 2022, p. 40; Judith Timbs, 2022, *Submission #82*, p. 1.

²⁰³ Peter Bicevskis, 2022, *Submission #114*, pp. 2-4.

²⁰⁴ Jenny and Peter Turner, 2022, *Submission #77*, p. 1.

directors executive and non-executive). Unlike these other organizations the performance of the UTAS management is subject at present to little scrutiny:

- There are no public performance targets to be assessed against.
- There are no annual meetings where stakeholders and customers can question the board.
- There is no shareholder approval of executive salaries.
- There is no shareholder re-election of board members
- UTAS Management selects council members (with the exception of two state government nominees) who are often its own graduates so a perception of groupthink and agreement to the VC's initiatives pervades.
- There are no board papers minutes available to scrutinize the UTAS activities.
- In reality UTAS's only obligations are to conform to the 1992 Act the subject of this enquiry [sic] and hence its importance.
- Other than the need to seek Sate [sic] Government approval to borrow funds it's almost a law unto itself. Interestingly this latter provision has been recently bypassed since 2017 by having the Spark Living Consortium finance capital building works in exchange for the future student rental income. This allows UTAS not to borrow the capital, nor have the assets on its balance sheet and hence bypass normal State Government approval.
- The only other permissions required are that of the Hobart City Council building approvals on an ad hoc basis where the HCC secretly agreed to "collaborate" with UTAS on its move to the city.²⁰⁵

Emeritus Professor Reid reflected on the prevailing view of a corporatised model for a council and the issues of accountability it raises:

There has been suggestion of a model of what a council should be. That is, it should be more of a board of directors in a corporate mode. ...

... The difference is that universities do not have a group of stakeholders who - in the case of the company - have shares and can vote or senior executives who fall on their sword if they made very bad decisions and they are removed quick smart by the shareholders and another group of people come in. We have no body like that, it is not the alumni. As a university, we are even more remote from the government - even though we report to Parliament - we are more remote than most other government business enterprises ... where the Minister makes direct appointments to the board and so on. There is nobody that the council is accountable to, apart from themselves. That can lead to potential conflicts of interest....²⁰⁶

Emeritus Professor Stuart McLean stated:

The corporatisation of Australian universities has been accompanied by a change in their governing bodies, so that only about 1 in 3 members have experience of working in the sector. The governing body of UTAS is the University Council that has ultimate responsibility for the running of the University. Clearly, it should have a deep understanding of the purpose and activities of the University, and encompass a diversity of views that reflect the diversity that is characteristic of the University itself. My criticism is of the constitution of Council and not of its individual members and their contributions to the University.

Under the UTAS Act (Section 9 (2)) "Council is to act in all matters concerning the University in the way it considers will best advance the interests of the University". The UTAS Act (Section 5) states that, as well as Council, the University consists of members of staff and current and former students, but corporatisation has seen them largely excluded from decision-making. ...

²⁰⁵ Ian Howard, 2022, *Submission #11*, p. 3.

²⁰⁶ Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 64.

Current corporate government standards require a large proportion of board members to have experience in their industry. They are also accountable to shareholders, but university councils are not accountable in the same way to either the university community or the wider community.²⁰⁷

FINDINGS:

Changes to composition of Council

- 29. In response to national reforms and consistent with national trends, the Act has been amended in 2001, 2004 and 2012, decreasing the size and changing the composition of the University Council. The number of members on Council is consistent with other Australian universities, albeit at the lower end of the range.**
- 30. By national standards, the proportion of elected staff and student positions on University Council is low compared to other Australian universities and concerns were raised that this decrease has resulted in reduced democratic representation on University Council.**
- 31. There are contested views on the Act's current requirements regarding the constitution of the University Council.**

Staff and Student Members on Council

- 32. Concerns were expressed regarding the lack of academic staff and professional staff representation on University Council and witnesses called for an increase in the number of these positions.**
- 33. University governing bodies across the sector typically have two student members, with at least one elected by the student body.**
- 34. Under previous iterations of the Act, the student member on the University Council was elected by the student body, via a process designed by the Tasmanian University Union.**
- 35. While previously an elected position, currently the Act prescribes that the University Council appoints a student member to Council after consultation with relevant student associations. It is unclear whether the Act requires University Council to consult those associations on reappointment of student members.**

Ministerial and Council appointments

- 36. Under Section 8 of the Act, the number of members appointed to the University Council may be up to four times the number of members elected to the Council.**
- 37. Concerns were raised that the high proportion of members appointed to the Council has resulted the development of a self-perpetuating culture, a lack of vigorous debate or dissenting views, and a tendency for 'group think' in Council decision-making.**
- 38. While the Act prescribes two Council members are appointed by the Minister, there is no requirement for, or practice of, those members maintaining a relationship with, or providing reports to the Minister.**

²⁰⁷ Emeritus Professor Stuart McLean, *Submission #14*, pp. 2-3

39. The Act prescribes the Minister appoints two Council members, however provides no guidance or requirements regarding the purpose or function of those appointments, as distinct from positions appointed through other means under the Act.

Recruitment of positions on Council

40. When recruiting for vacant positions, the University Council uses a skills and attributes matrix to identify the expertise required to ensure an appropriate and ongoing balance of skills among members of Council. Recruitment for vacant Council positions is then publicly advertised.

Parliamentary positions on Council

41. Historically, the University Council included a position for two members of Parliament, however these positions were removed when the Act was amended in 2001. No dedicated positions for members of Parliament are prescribed under legislation for any Australian University Council.

Accountability of Council

42. Concerns were raised regarding the level of accountability of the University Council under the Act, in particular the lack of accountability to the wider community which constitutes the University or the broader Tasmanian community it serves.
43. Evidence suggested there is potential for conflict under the Act between the Council's consideration of 'the best interest of the university' and the overarching function of the University to 'promote the social, cultural and economic welfare of the community and make available for those purposes the resources of the university'. It is unclear how such a conflict should be resolved.

RECOMMENDATIONS:

6. The Act be amended to provide for the constitution of the University Council to include a minimum of two student members, with at least one elected from the student body.
7. The Act be amended to provide for the constitution of the University Council to include a minimum of two members of the academic staff elected by the academic staff.
8. The Act be amended to provide for the constitution of the University Council to include a minimum of two members of the professional staff elected by the professional staff.
9. The Act be amended to ensure there is more balance between the number of appointed and elected members on the University Council.
10. The Act be amended to clarify the purpose and function of Ministerial appointments to the University Council.

- 11. The Act be amended to ensure when considering the best interests of the University, Council must explicitly include consideration of the University's obligations to the Tasmanian community.**

Academic Senate

Division 4 - Academic Senate, Officers and Visitor

13. Academic Senate

- (1) The University has an Academic Senate.
- (2) The function of the Academic Senate is to advise the Council on all academic matters relating to the University.
- (3) Subject to [subsection \(4\)](#), the constitution, functions, powers and proceedings of the Academic Senate are as prescribed by Ordinance.
- (4) The Academic Senate has a Chairperson and a Deputy-Chairperson.

Academic Senate membership

The University of Tasmania outlined the membership of the Academic Senate, its standing orders and governing procedures:

To reflect the remit of Academic Senate as a collegial body, membership is also prescribed in the Academic Senate Ordinance. To ensure a cross-sectional and diverse representation of academic views and experiences, Academic Senate is comprised of ex officio members, inclusive of Executive Deans and Heads of School, as well as elected members from colleges, and student members. Four members are elected per college, in addition to two members from University College, one member from a central division unaligned to a college, and one externally funded Research Fellow.

To ensure full and transparent membership and operations, Academic Senate membership is facilitated through the Academic Senate Membership Procedure²⁰⁸ ... which further encourages a diversity of representation and views.²⁰⁹

Professor Brown, Chair of the Academic Senate, described the current membership, their positions in the University and general appointment processes:

We have, I think, at last count 72 members of academic senate, and a number of those members are there by virtue of their position. It's important to say overall that 89 per cent of members of academic senate are academics, and they bring that academic expertise and their connections to disciplines and disciplinary colleagues. ... Of those who are not, we have four members of professional staff who have particular focuses that are to do with our academic mission -for example, our executive director of student life and enrichment - and we have four student representatives.

Our heads of schools are academics and there are 24 of them. A large number of ex-officio members of senate are heads of school. The majority are at professorial level, and they are senior members of the university community. They are also academics who are definitely at the coal face, as they are running their schools and the teaching and research programs within their schools.

We have elected representatives from each of our colleges, from the university college, and we also have an elected representative from our central division, as are our research fellows. Those elected positions are open to any member of the academic community, the academic staff, to apply for. Given that they are elected, there isn't any centralised control over what level of academic staff member puts themselves forward for election. Being elected, we wait and see how the colleges vote for those people.

... If we think about academic senate as a whole, we have 31 members of the professoriates. That includes two elected members, and the remainder are ex-officio members.²¹⁰

²⁰⁸ University of Tasmania, 2022, *Submission #113*, Part 5, Appendix C

²⁰⁹ University of Tasmania, 2022, *Submission #113*, Part 5, pp. 3-4.

²¹⁰ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, p. 68.

Michael Wells, Managing Director Wells Advisory, commented on the level of prescription of the Academic Senate in the Act and its membership:

Briefly, the academic senate- there is not much prescription in the act. You could consider giving it a prescription if you wanted, there are plenty of acts around the country that set out a set of dot points for the role. At UTAS, those are set out in the next level down in the legislative framework.

In terms of membership, at UTAS, this is not prescribed at all, but at the moment UTAS has a large academic senate, not uncommon of traditional universities with a fully broad function, which I think UTAS is. My understanding is that there are 70 plus members, quite traditional, the membership is dominated by academic members, senior management make up a minority. Importantly, in my counting in that, I am splitting the difference between executive deans and school heads, so in my experience in the sector, school heads are more representative of their discipline and are often seen as the discipline lead of an area within a university, so I am counting school heads and the elected academic members on one side. I am counting everyone who is one or two direct reports to the vice-chancellor on the management side.

At the moment, on that basis, UTAS has, in its key academic committee, about two thirds academic, one third management representative. It has the students and the independent chair of the academic senate in there as well and is moving in the direction of having independent chairs of sub-committees. In the past, there have been times when senior executives have chaired. There are, currently in Australia, examples of universities where a provost chairs the academic senate and senior deputy vice-chancellors chair all of the committees.

*I think UTAS has moved in and is in the right direction with its academic governance arrangement.*²¹¹

Professor Brown provided comment on the membership of the Academic Senate being specified in Ordinance rather than in the Act:

CHAIR - *So, the suggestion that the academic senate membership be included in the act as opposed to in an ordinance?*

Prof BROWN - *It is very interesting, because in preparing for today, I've looked at the make-up of Academic Senate a number of times, and it does change. For example, we have just introduced a new committee, the monitoring and assurance committee. We think it's very important to get timely eyes on key issues that we want to monitor - such as teaching quality and student satisfaction. We can have a group of five academic staff and a student representative to look at that in-depth and be able to inform both senate and the senate subcommittee. We think that is important. Those five members have very recently been added to Academic Senate.*

We also have a call out for additional members through expression of interest, to ensure that we have diversity of representation. Much like council have their REMS and NOMS committee, we have a small subcommittee of Senate that is looking to see where we might need some additional representation to make sure those views are there.

To answer your question, that flexibility for the senate to examine itself and to think where we might need some additional members, or where we might add some diversity, or what sort of representation, is better and more agile if it is held in an ordinance rather than in the act itself - which prevents some of that flexibility and ability to respond to changes and the sorts of things that we want to do as an Academic Senate to further our academic mission.

CHAIR - *The inferences coming through are that it is an academic institution and yet, the academic side of it is not even mentioned in the act. That's one of the concerns. ...*

Prof BROWN - *I can see that is something that we would consider. My reservation is about some of that flexibility in terms of prescription of functions. The act at the moment provides a good foundation for us to perform our functions, which are described in the act. If we read it in conjunction with the higher education standards framework, particularly 6.3 about academic governance, it's very clear about what those functions might be.*

²¹¹ Michael Wells, *Transcript of Evidence*, 27 February 2023, p. 35-36.

*A question could legitimately be asked, does it need to be in the act? It may be that it is a duplication of what is in other places, like the higher education standards framework. I guess the trade-off would be, might that cause any tension if we want to respond in a more robust way or in a different way? They're the sort of tensions that I would be thinking of. The act, as it stands, enables us to function well, and to discharge our responsibilities both under the act and under the higher education standards.*²¹²

In a range of evidence presented, the view was expressed that the Academic Senate was dominated by upper-level management and lacked a majority of elected members, and further, the Senate has a predominance of more junior academic members rather than senior staff actively engaged in significant teaching and research.²¹³

The late Professor Kirkpatrick expressed an opinion on the current Academic Senate structure and its impact on decision-making:

*The academic senate, they have the majority of people as head of school and upwards. Most heads of school spend most of their time administering because we have very large schools now. In fact, the majority of people on the academic senate are in upper-level management positions, and the minority are elected from the academics, so it is not really giving an academic perspective on the courses and the teaching and learning programs and so forth. It is a perspective that is dominated by the people who are managing the university, rather than those who are creating the knowledge and disseminating the knowledge.*²¹⁴

Professor Malpas made comment on the membership of the Academic Senate, being heavily weighted toward management:

The membership of the Senate (which is not specified in the Act but is also made entirely subject to the Council Ordinance – again see Division 4, s13 [3]) has itself been heavily juniorised with only a small proportion of the professoriate represented and only a small proportion of the Senate being made up of senior staff who are actively engaged in significant teaching and research.

Much of the Senate membership is comprised of individuals who occupy managerial positions with direct lines of reporting (and so also of supervisory oversight) through to the Directors, Deans, Pro-Vice-Chancellors, Executive Deans, Deputy Vice-Chancellors, Provost, Chief Operating Officer, and Vice-Chancellor, many of whom are themselves members of Academic Senate. Whilst this creates a very particular problem in relation to Senate (which was previously composed largely of senior academics – professors and heads of school), it is also indicative of a more general problem within the institution, namely the way many of the institution's decision-making bodies are composed of managers who are directly subordinate to (and whose positions are therefore dependent on the favour of) more senior managers who sit on those same committees.

In an organisation with as top-down a managerial structure as the University of Tasmania, and such a strongly disciplinary managerial culture, this is a very effective deterrent to any form of independent thinking, critique or dissent

In the case of Academic Senate, this means that the Senate is, as with so much of the University's current operation, very much under the control of the Vice Chancellor. Moreover, although the Chair of Academic Senate remains an elected position, the election is by members of the Academic Senate. Since that membership is so heavily weighted towards management (leaving aside the other mechanisms that can also be brought to bear), this implies, once again, effective control by the Vice-Chancellor. And as the Chair of Academic Senate is also an ex officio member of Council, it further consolidates the Vice-Chancellor's control of the latter body as well as the Senate.

²¹² Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 68-69.

²¹³ See for example: Submission #22; Submission #97; Submission #104; Submission #119; Submission #129.

²¹⁴ Professor Jamie Kirkpatrick, *Transcript of Evidence*, 7 December 2022, p. 39.

*The Academic Senate is thus no longer a properly academic body, and academic decision-making is now almost entirely made according to managerial criteria and is undertaken primarily by those with managerial and not academic responsibilities who often lack significant academic experience or expertise.*²¹⁵

Tasmania University Law Society commented on the predominance of management representation on the Academic Senate:

*The Senate's extensive ex-officio members sourced from the University's management means it is ineffective in being a genuine voice for academic staff members on academic issues. The consequence of this is that the Senate becomes more concerned with supporting the management of the University rather than responding to the academic needs of staff and students.*²¹⁶

Associate Professor Dr Richard Doyle reflected on the current structure and operation of the Academic Senate and the need for change:

*University Academic Senate is not a fully elected nor democratic body either as the name purports with nine more unelected members than elected members. ... I believe the structure of the Academic Senate needs to change to ensure the voting majority are elected active teaching and researching academics and that it is no longer dominated by ex-officio members on high salaries and loadings who tend to toe-the-line of the corporatised hierarchy. Collegiality needs to return and joint decision-making following robust debate of contested ideas.*²¹⁷

Emeritus and Current Distinguished Professors in Science Disciplines at the University, pointed to the need to ensure the membership of the Academic Senate were not constrained in giving free and frank advice:

*... Academic Senate needs to be constituted in such a way that it can give free and frank advice. It therefore needs a large majority of members to come from the disciplines (not administrative divisions) and have a minimum of people who have direct reporting lines to the managers on which they depend for promotion and performance management. If this is not the case academic freedom is restricted and frank advice will not be given. The current situation allows bullying to occur.*²¹⁸

Professor John Kenny of the AAUP (Tas. Chapter), also cautioned on the effect of managerial hierarchy dominating the Academic Senate:

The academic staff must have control of that body [Academic Senate]. At the moment, as I said before, it's a paper tiger. It's dominated by managerial - there are a lot of academics on it, but they're also part of the managerial hierarchy - and unfortunately, when someone is appointed to a position in the managerial hierarchy, often their allegiance will go to the corporation. You're expected to be a team player, you're expected to implement what comes down from above. You're expected to park your academic scepticism over here and do what -

*I have seen that happen to many of my colleagues, unfortunately. That's why I think we need something like a framework which spells out that the academic values are your predominant values. If you get into a position like this, then you have to balance them up but you still have to maintain your academic values in decision-making. Unfortunately, those things tend to get overruled. But the key thing is that the senate must be controlled by the elected academic members.*²¹⁹

²¹⁵ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, pp. 13-14.

²¹⁶ Tasmania University Law Society, 2022, *Submission #119*, pp. 6-7.

²¹⁷ Dr Richard Doyle, 2022, *Submission #129*, p. 1.

²¹⁸ Emeritus and Current Distinguished Professors in Science Disciplines at UTAS, 2022, *Submission #22*, p. 4.

²¹⁹ Professor Kenny, *Transcript of Evidence*, 6 December 2022, p.19.

Emeritus Professor Aynsley Kellow commented on the membership and governance of the Academic Senate, its impact on decision-making and lack of alignment with more traditional university governance structures:

The Senate at the University of Tasmania, called 'Academic Senate' in a way that restricts the scope of its deliberations unduly, has a broad representation of staff, including relatively junior staff who are more likely to be reluctant to speak truth to power than the Professoriate, which is represented in much diminished numbers.

Without Faculty Meetings, and with something far removed from a traditional Senate, the governance of the University is a long way from being participatory and collegial, with an effective Senate as a counterbalance to the executive team.²²⁰

Academic Senate functions and role

The University set out the functions of the Academic Senate under the Act:

The Act provides that the University has an Academic Senate. The function of the Academic Senate, as prescribed by the Act, is to advise the Council on all academic matters relating to the University. The Act also establishes the University, and the University Council as the governing authority of the University, and pursuant to Section 10, that Council may delegate to any body (such as Academic Senate) its functions or powers. A function or power performed or exercised by a delegate has the same effect as if performed or exercised by the Council.

To discharge this duty, Academic Senate agendas are constructed to allow members to provide collegial advice to Council and the Vice-Chancellor related to academic matters. Academic Senate also monitors and receives reports on policy implementation, academic standards and academic performance. Additionally, Academic Senate provides the primary collegial forum for discussion, debate and recommendations on academic matters in addition to its role in maintaining academic freedom and academic integrity.

Advice to University Council from Academic Senate is received through the following channels:

- *A written summary report following each Academic Senate meeting together with minutes of any Academic Senate meetings that have been held since the previous Council meeting. The Chair of Academic Senate speaks to the report as a standing item at each meeting of Council;*
- *A written annual report, along with a summary of significant items considered by Academic Senate, which are cross-referenced against the obligations under the HESF and the Academic Senate Ordinance; and*
- *Any updates as requested or recommended, from the Chair of Academic Senate, who is also an ex-officio²²¹ member of University Council.*

In addition to formal reporting, all University Council members are invited to attend any Academic Senate meeting as they wish.

To inform the University community of the activities of Academic Senate, a newsletter is published on the staff intranet following each meeting. Minutes of meetings are available to all staff on the Academic Services Database.²²²

²²⁰ Emeritus Professor Aynsley Kellow, 2022, *Submission #104*, pp. 1-2.

²²¹ Ex officio denotes or relates to a member of a body who holds the role as a result of their status or another position they hold.

²²² University of Tasmania, 2022, *Submission #113, Part 5 – Academic Senate*, p. 2.

The University outlined the role and functions of the Academic Senate as detailed in the Ordinance:

The Act specifies that Academic Senate's constitution, functions, powers and proceedings are prescribed by an Ordinance. ... These functions and powers include:

- *Approval of awards; and*
- *Determination of the qualifications to be required of candidates before they may be admitted to an award.*

In addition to these delegated powers from Council, Academic Senate has a broad range of responsibilities that are described in the Ordinance. The Academic Senate Ordinance has been informed by the specific responsibilities of Academic Governance as defined by HESF Standard 6.3 Academic Governance (Table 1, below).²²³

Table 1: Higher Education Standards Framework (Threshold Standards) 2021: 6.3: Academic Governance

<p>6.3 Academic Governance</p> <p>1. <i>Processes and structures are established and responsibilities are assigned that collectively:</i></p> <ul style="list-style-type: none"><i>a. achieve effective academic oversight of the quality of teaching, learning, research and research training</i><i>b. set and monitor institutional benchmarks for academic quality and outcomes</i><i>c. establish and maintain academic leadership at an institutional level, consistent with the types and levels of higher education offered, and d. provide competent advice to the corporate governing body and management on academic matters, including advice on academic outcomes, policies and practices.</i> <p>2. <i>Academic oversight assures the quality of teaching, learning, research and research training effectively, including by:</i></p> <ul style="list-style-type: none"><i>a. developing, monitoring and reviewing academic policies and their effectiveness</i><i>b. confirming that delegations of academic authority are implemented</i><i>c. critically scrutinising, approving and, if authority to self-accredit is held, accrediting or advising on approving and accrediting, courses of study and their associated qualifications</i><i>d. maintaining oversight of academic and research integrity, including monitoring of potential risks</i><i>e. monitoring and initiating action to improve performance against institutional benchmarks for academic quality and outcomes</i><i>f. critically evaluating the quality and effectiveness of educational innovations or proposals for innovations</i><i>g. evaluating the effectiveness of institutional monitoring, review and improvement of academic activities, and</i><i>h. monitoring and reporting to the corporate governing body on the quality of teaching, learning, research and research training.</i> <p>3. <i>Students have opportunities to participate in academic governance.</i></p>

²²³ University of Tasmania, 2022, *Submission #113*, Part 5, pp. 2-3.

Professor Natalie Brown, Chair of the Academic Senate, outlined the three key roles of the Senate and how these roles are undertaken:

The first, delegated by council, is to approve all courses and awards. The second, prescribed under the higher education standards framework is to undertake academic governance. The third, as specified under the University of Tasmania Act, is to provide advice to university council on academic matters. We agree, with other witnesses, that the academic and student voice must be central to the work of our university.

In our first role, as approver of courses and awards, academic senate sets a framework that draws on disciplinary learning and teaching and assessment expertise from across the university. Academic staff contribute at all levels of the approval process at the school, at the college and at the central level. Academic senate then draws on this expertise to inform its approval of what is taught at the university. The higher education standards framework provides us with clear direction to oversee the systems and processes that align to the higher education standards framework and you will have received those standards in our written submissions.

It is the members of academic senate who set and monitor institutional benchmarks in relation to the standards. As an example, quality standards are set in relation to teaching quality, which might include percentage retention in a course, or the performance of a course against a national average in the student experience survey. We review the analysis of the data and we discuss and give feedback on proposed action plans.

As the academic governance body, academic senate also provides advice on academic matters to council and this is done in a number of ways. Firstly, through a written and verbal report at each meeting. We have recently changed to move this report toward the beginning of the council agenda, to provide additional scene-setting for council members to inform deliberations. In addition to these reports, all council members have a standing invitation to attend senate meetings.

As an ex-officio and voting member of the council, the Chair of Academic Senate also provides advice on who and how academics should be involved in decision-making and informing decisions. ... the Chair of Academic Senate also sits on the audit and risk committee.

Academic senate has a clear role in determining and monitoring the academic delegations framework that is approved by council to define academic decision-makers across the university. This framework allows for academic decisions to be made at the most appropriate local level. It incorporates a range of decision-makers from unit coordinators through to executive deans of colleges and senate itself. For some decisions, council requires the endorsement of academic senate. For example, if we are considering third-party arrangements for teaching, senate must approve courses that are offered.²²⁴

Michael Wells provided the following observations with respect to the Academic Senate's functions and governance:

Academic governance must be structured and established to be effective across a range of critical areas, and in effect delegated or assigned the role of setting academic standards, approving academic-related policies, approving courses (as a self-accrediting institution), providing academic leadership, and ensuring quality assurance and monitoring academic risks. Academic governance, as governance, is expected to be distinct or separate from management, and is expected to be populated by those with relevant, academic expertise. Whilst there is no single standard that prescribes the above, this is, in my experience, the key net effect of the requirements embedded within the standards and TEQSA's interpretation of them. At present, the University of Tasmania Act does not stipulate these matters in respect of Academic Senate functions nor membership. These are matters left to ordinance and are set out in the University of Tasmania Academic Senate Ordinance.²²⁵

²²⁴ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, p. 11.

²²⁵ Wells Advisory, 2022, *Submission #136*, pp. 7-9.

Many submissions expressed concern about the diminishing authority of the Academic Senate, and the fact that the constitution, functions, powers and proceedings of the Academic Senate are prescribed by University Council Ordinances rather than being prescribed in the Act.²²⁶

CAPA and NATSIPA commented on the functions of the Academic Senate prescribed by Ordinance and its operation in practice. They called on changes to be made to the Act to improve accountability and transparency:

The function of the Academic Senate, as per the Act, refers to its responsibility to "advise the Council on all academic matters relating to the University". Powers and functions of the Academic Senate are prescribed by Ordinance through the Council and Chairperson of the Academic Senate. Regardless, the Senate's responsibility for academic governance is explicitly a secondary priority to the Council's duty to the University's interest – however, it chooses to interpret it.

We highlight the importance of the Academic Senate as the safeguard within UTAs' governance structure that ensures academic interests and integrity are upheld. Accordingly, we argue that the composition of the Academic Senate be amended to include more individuals representing the academic community than managerial appointments and that amendments are made to the Act to protect these seats.

In its current form, we argue that the Act promotes an autocratic and managerial form of operation. Membership into governing bodies is appointed mainly to university executives and corporate experts from sectors outside of higher education. At the same time, elected representatives representing the students and academic community are limited by quota. We assert UTAs' current governance model is alarmingly similar to an oligarchy with no accountability and transparency to the general public.²²⁷

Professor Reid commented on changes to the role of the Academic Senate over time, in particular the broader role in decision-making it previously undertook:

It is almost a quality assurance body to make sure that the degrees tick off all the required elements and so on. Academic Senate, in the act, says it reports to council on all matters affecting the academic wellbeing of the university, or words to that effect. That is exactly how it used to operate in the late 1990s. I was chair of Senate from 1994 to 2001 and it used to operate on that basis.

On that basis, the academic wellbeing of the university was broadly interpreted. It included the nature of the courses we taught, what should be in the degree programs, making sure that we met the national standards and all the other things that are required, purely at the academic quality assurance level.

It also discussed where we should be going in terms of what new programs should be put on. For example, at one stage ... the full budget as presented to the university council would have gone to Academic Senate prior to discussion at council.

The Senate, therefore, would have had the opportunity to express a view as to where the money was and the resources were being spent.²²⁸

According to the Emeritus and Current Distinguished Professors in Science Disciplines at the University, the role of the Academic Senate has changed in regard to its functions and the distribution of resources, resulting in a call for changes to the Act:

The Act also allows for an Academic Senate that provides advice to the Council on all academic matters relating to the University. This advice used to include substantive matters but Academic Senate has recently become primarily a body to provide academic quality assurance. This is an essential role but Academic Senate should also provide advice on the distribution of resources and whether the budget

²²⁶ See for example: Submission #22; Submission #25; Submission #46; Submission #58; Submission #82; Submission #97; Submission #119.

²²⁷ Council of Australian Postgraduate Associations and National Aboriginal and Torres Strait Islander Postgraduate Association, 2022, *Submission #58*, p. 10.

²²⁸ Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 69.

allows teaching and research objectives to be met. For example, research infrastructure is essential for research in the science-based disciplines but the transfer of the University to substantially reduced space in the CBD makes no plans to replace this vital infrastructure. In the past Senate was given the opportunity to provide advice on the budget but management has now reduced Academic Senate's role to a very narrow interpretation of advice under the Act. The Act should therefore include detail of Senate's role, rather than leaving it to Council to produce Ordinances under the control of managers with often limited or no academic experience.²²⁹

Professor John Kenny of the AAUP (Tas. Chapter), was asked whether the Academic Senate was, in any sense, a decision-making body:

Your Academic Senate at UTAS, I don't think it is, to be honest, because they don't have any power, they don't get a chance to question policies. Policies are largely presented, except certain ones on the periphery, to do with new courses, or things like that. But the decisions about the budget, academic senate has no power over that. Who is appointed to senior positions, there's no representation of Academic Senate on that. Maybe the chair in some cases, but there is no formal requirement for academics to have a say in that.

There's no formal mechanism for academic senate to form policy or to look at federal requirements for the university and how they might be best implemented. Those decisions are usually presented to academics. They can say yay or nay. Generally, they say yay, they go along with what management has put forward because most of the body is part of the management hierarchy. The elected members, of which I'm one, there have been a lot of occasions where I've opposed the decision and I can just hear the crickets in the room, because it is essentially a rubber-stamping body in my experience. I think that's unfortunate and we need to find ways to re-empower that body. It needs to genuinely reflect the opinions of the academic body. I don't mean that if you're part of the corporate I don't count you as part of that because of the other demands on you. But the general broader academic body should be able to elect representatives to academic senate and control the chair of senate and the decision-making of senate. In many cases, that might lead to much more questioning and challenging of decisions being made by the other side. There would have to be some way of reconciling those.²³⁰

Professor Kenny further commented on the Academic Senate's lack of power:

I was on academic senate at UTAS for seven years, and I can only describe it as a toothless tiger. There is no power to effect or to challenge corporate decision-making. There is no power to challenge resource allocation. In fact, as an elected member of senate, I had to ask that the budget be presented to senate, so senate could see it. We had no input into the budget. We had no opportunity to challenge it. It comes to us as a pre-set entity, which had been decided within the corporate managerial regime.

So, essentially there is no power.²³¹

The NTEU provided their perspective on the down-grading of academic voices, resulting in one recommendation being made to improve NTEU representation in the Academic Senate:

The function of Academic Senate is to advise the University Council on academic matters relating to UTAS. Academic Senate is a much larger body, combining many (~ 30) ex officio appointments from within UTAS management with 22 elected representatives drawn from academic areas.

Many NTEU members who have served on Academic Senate describe it as an exercise in rubberstamping of decisions taken elsewhere, most items listed in Academic Senate papers are flagged for noting only, and there is little time or opportunity for debate to occur.²³²

²²⁹ Emeritus and Current Distinguished Professors in Science Disciplines at UTAS, 2022, *Submission #22*, p. 4.

²³⁰ Professor Kenny, *Transcript of Evidence*, 6 December 2022, pp. 20-21.

²³¹ Professor Kenny, *Transcript of Evidence*, 6 December 2022, p. 17.

²³² National Tertiary Education Union, 2022, *Submission #123*, p. 5.

TUSA described the role of the Academic Senate, its view on current operations and the need for changes to membership:

Academic Senate is supportive of student voice, and we thank the Chair and members for the space they provide to hear student issues in each agenda.

... we wish to take this opportunity to comment on s 13(2) [of the Act], which states the function of Academic Senate is to advise Council on all academic matters relating to the University. We believe the current structure of Senate is not fit for purpose to achieve this function.

Academic Senate must be able to encourage robust debate, facilitate academic freedom, and provide a forum for both University staff and students to raise academic matters without concern of prejudicial action being brought against them. Most of Senate meetings are occupied by receiving reports from lengthy agendas, which staff members have admitted to not having time to read. Due to the pandemic, the last three years of Academic Senate have been predominantly hosted online. This has created a space where members only pay attention to issues directly related to them, creating a massive loss of diversity in decision-making.

We believe that for student interests to truly be represented and acted upon at Academic Senate, it is essential that the membership shifts away from ex-officio roles and has a substantial increase in teaching and research staff. The election of academic and non-academic staff would allow for the broader university community to have more autonomy and influence over the direction of the University, as those issues are reported back to the University Council.²³³

The AAUP considered the Academic Senate had essentially become a rubber stamp and advocated the AAUP Framework as a way to deal with tensions that arise in the dual governance model:

While it is recognised that tensions may arise under this dual leadership model in universities (TEQSA, 2019), the Framework sees this as a strength and argues that university governance structures and processes should be set up with the expectation of tensions and should be designed to deal with them.

If high quality academic outcomes are to be achieved, proposals must be able to be scrutinised closely to ensure academic standards are maintained. Unfortunately, the result of the above developments at UTAS is that Academic Senate at UTAS has largely become a rubber stamp for management.

This domination of managerial leadership over academic leadership has been shown to reduce academic power and introduce fear of retribution, which reduces the willingness of individuals to speak out. At UTAS, several anonymous surveys of staff in recent years, such as the “your voice” surveys and the most recent one, bear this out. When staff consistently express seriously low levels of trust high levels of concern about how the university is being run, it should ring alarm bells for all Tasmanians that their university may not be fulfilling its mission.

What is sorely needed at UTAS is for university governance structures and processes to not only enable and encourage academics to speak out or challenge proposals without fear of retribution, but to expect them to do so, as part of a thriving university culture. Academics, through Senate, need to be able to influence the strategic direction of the university through the ability to initiate strategic proposals and critique those put forward by management. They need a say in how resources are to be allocated and into senior appointments to the university. Autonomy and academic freedom are crucial elements in establishing and maintaining such a culture. The reductions in academic representation at UTAS have been a clear example of how UTAS management has been able to severely curtail the ability of academics to scrutinise proposals.

Unfortunately, Academic Senate at UTAS has become tokenistic and its work largely reduced to one of quality assurance (Kenny et al. in review).

The Framework argues that Academic Senates in universities, including UTAS, need to be empowered so they can genuinely influence strategic decision-making and resource allocation. To do this, they need

²³³ Tasmanian University Student Association, 2022, *Submission #128*, pp. 5-6.

*to be restructured so that they are controlled by academic leadership and are primarily accountable to the broader academic body.*²³⁴

Fletcher Clarke, TULS, concurred with the ‘rubber stamp’ analogy of the Academic Senate and the need for a greater academic voice:

The concerns for an academic senate at the moment and others have touched on this, is it is more commonly viewed as a rubber stamp. I would agree with that assertion. I would also say it is worrying the majority of membership on the academic senate is not elected. While we can debate about the mix of skills we want and that is important to have, with a purely academic body we should have a majority of elected academics on that senate. From my perspective, the concerns are with a majority of ex officio members more concerned with supporting the management of the university rather than being a robust opportunity for academic debate and decision-making.

From the perspective of law students, it seemed that academic senate was very much missing in action when it came to the law school classes earlier this year. If academic senate was perhaps more broadly reflective of the institution, it would have been a place where these issues could have been debated and put forward to the university council in that advisory capacity. I never personally heard of this or came across that at all in terms of academic senate’s position with respect to the law school.

*In the broader sense, if it has more power to decide on these academic matters, then I think we would get a better decision-making process because we would suddenly inject a greater academic voice in the university where we can have that debate with those people of more of a business mindset compared to an academic mindset and work out a mutually beneficial solution.*²³⁵

Max Atkinson, former Dean and retired Head of the Law School, commented on the silence of the Academic Senate in relation to the CBD move:

*Although this move [of the Law School to the CBD] is widely criticised, the Academic Senate, which advises the University on matters affecting its academic reputation, has been silent. It does not appear to have met to consider the implications of the financing policy or the decision to leave the Sandy Bay campus.*²³⁶

The NTEU provided a selection of its members opinions on the operation of the Academic Senate:

‘Academic Senate is not a body led by elected teaching and researching academics, instead, it is loaded with ex officio staff who very often simply toe the senior management line lest they get replaced.’

‘We need an academic senate that is dominated by elected staff and students and can hold the senior management to account for the quality of teaching research needed to maintain standards in teaching, learning, mentoring, and the social environments conducive to deep learning and research.’

‘I was told recently by the Chair of the Academic Senate that they don’t take votes. What kind of representation is that where you don’t discuss the pros and cons of motions and then vote on them? No wonder we have had the loss of real, live lecturing imposed on us.’

‘I thought [Academic Senate] were a group with [academic] power and influence but that does not seem to be the case anymore.’

‘...I do not see that it [Academic Senate] has any real power or standing at least from a standpoint of actual governance.’

‘While it has baked in functionality in the ongoing operation of the university, I do not believe it has any relevance in the wider strategic operation of the university and has been complicit in permitting academic standards to be undermined.’

²³⁴ Australian Association of University Professors, 2022, *Submission #46*, pp. 2-3.

²³⁵ Fletcher Clarke, Tasmania University Law Society, *Transcript of Evidence*, 12 December 2022, pp. 19-20.

²³⁶ Max Atkinson, 2022, *Submission #5*, p. 1.

'The doyens who sit on the Senate and Council are either being wilfully blind to the ongoing staff unrest at the university or just do not care and are happy to accept what they are spoon fed by the university executive as being holy writ.'

'The operation of these committees is dominated by senior management administrators who have little or no knowledge of academic principles.'

'The University Council and the Academic Senate are both largely composed of unelected and therefore unrepresentative members, and their decision-making processes lack real transparency.'

'There is ambiguity in the processes that are used to engage many of the members who sit on both these bodies, which clouds the motivation for the decisions that these two bodies make.'

*'Academic Senate is not able to perform an adequate job of reviewing and shaping governance decisions. Motions come to Senate in already finished form, with insufficient debate at Senate, and are then typically 'rubber stamped'. It is rare that Senate is able to influence governance decisions beyond endorsing them.'*²³⁷

FINDINGS:

- 44. The Act prescribes the overarching function of the Academic Senate to advise the University Council on all academic matters relating to the University, while the constitution, functions, powers and proceedings are specified in Ordinance.**
- 45. The University considers Academic Senate membership is best prescribed by Ordinance rather than by the Act, as it allows for the necessary flexibility in membership, function and proceedings.**
- 46. Concerns were raised regarding the membership of the Academic Senate, including:**
 - a. a significant number of ex officio appointments;**
 - b. a majority of members are in upper-level management roles;**
 - c. elected members are a minority; and**
 - d. a small proportion of members being senior academic staff actively engaged in significant teaching and research.**
- 47. Concerns were expressed the Academic Senate is not constituted in a way which allows members to give frank and fearless advice, with a perception that the Senate is under the control of the executive management due to the top-down managerial structure and direct reporting lines.**
- 48. Concerns were expressed that Academic Senate membership does not adequately represent the views of staff and students, and that academic decision-making is being undertaken by those with managerial rather than academic roles.**
- 49. Concerns were expressed that the Academic Senate lacks genuine decision-making power, and instead performs a 'rubber stamp' function.**

²³⁷ National Tertiary Education Union, 2022, *Submission #123*, pp. 13-14.

RECOMMENDATIONS

12. The Act be amended to prescribe key requirements for the constitution and method of appointment of the Academic Senate, to ensure a higher proportion of academic representatives rather than managerial appointments and fewer ex officio appointments.
13. The Act be amended to prescribe the functions of the Academic Senate to include a determinative role on core academic matters.

Review or evaluation of the Academic Senate

The University outlined the external review, self-reviews and quality assurance of the Academic Senate undertaken over time, the recommendations and actions taken:

Academic Senate was externally reviewed most recently in 2017 and previous to that in 2009. The 2017 review was conducted by three external academics. The panel examined Academic Senate's size and composition; the length of meetings; the use of Faculty Boards; the quality of reports from Committees; the voice of academics and students in Senate; communication with the University community; the University Research agenda; Senate's relationship with Council; management vs academic autonomy; the frequency of reporting on the quality cycle; resources and budgets; and the appropriateness of Senate's role as prescribed by ordinance.

The panel recommended a range of improvements on each of these criteria ...

The 2009 review of Academic Senate was also conducted by an external panel, which finalised its report in January 2010. ... In both of these reviews, Academic Senate conducted appropriate analysis and took steps to adopt or not adopt recommendations based on the feedback and discussion of Academic Senate members, and by following established academic governance principles in reporting to University Council.

The Academic Senate conducts an internal annual review of its members, and then makes the review results available to members for discussion. Suggestions that are implemented as a result of the review are also reported back to members and monitored for success. In the most recent internal review the following suggestions were implemented and reported back to Senate by the Chair Further suggestions for consideration are currently being incorporated into an ongoing improvement cycle for Senate.²³⁸

In light of significant criticism of the make-up of the Academic Senate membership and the roles undertaken, Professor Brown was asked about external assessments of its effectiveness and provided the following comments:

***Prof BROWN** - ... Where we do conduct an external review, it is not unlike other external reviews we do perhaps for a course, where we get expertise from outside the University of Tasmania, expertise across the sector, to come in, have a look, do a desktop audit, have a look at what we do, what they can find, our ordinance, our membership, all of those things and then they speak to people. There are opportunities to speak to members of Senate. There are opportunities to speak to other members of the university community about how that is working. That would be the process. In doing that, there is very much bringing that perspective of how other academic senates are working across the sector.*

...

***Ms WEBB** - ... What I am interested in is that accountability back to your external constituency, which would be the broader academic community in that way... Have those people, for example, had an opportunity to participate in an external review process so they could share those concerns and*

²³⁸ University of Tasmania, 2022, *Submission #113*, Part 5, pp. 8-9.

criticisms in a purposeful way? From 2009 to 2017 is a big gap. Is there a particular cycle of external review that is in place for academic senate?

Prof BROWN - *Usually we work in that TEQSA cycle. That would be at least every seven years. It would also probably depend on senate itself, whether there was a feeling amongst members that we should seek an external review. We do undertake continual internal reviews, but I take your point that is drawing on senate members. However, not only senate members, because if you think we have a large number of elected members who comprise senate and part of that responsibility is for them to speak to their colleges, or the people that they're representing to ensure those views are brought forward; or, if we do have drop-in sessions, that they are able to fully participate.*²³⁹

The University took Questions on Notice in relation to any recommendations arising from the 2017 external review of the Academic Senate, with the response attached as Appendix I.

In response to evidence presented to this Inquiry, and concerns raised in relation to the Academic Senate, Professor Brown outlined changes that have already been identified and begun to be implemented:

Through this inquiry, we have heard some concerns that relate to perceptions that the membership of academic senate is not optimal to inform management decisions or to hold university executive to account on academic matters. This input, together with our existing annual review and improvement process, has informed our 2022 review of senate. We did hear there are opportunities to provide early advice on academic initiatives to management, to build our expertise on both senate subcommittees and broaden that involvement from across the university and to further communicate between staff, senate and committees.

As a result, we have adopted a refreshed three-phase approach to senate discussions and deliberations around academic strategy, policies, and initiatives. In the first phase, management seeks exploratory feedback on new academic policy or initiatives, or flags potential changes prior to any in-depth planning taking place, to allow feedback from members. As well as the diverse perspectives of staff and students on senate, elected members are also able to canvas these ideas with colleagues. Once the planning is underway, senate has an additional opportunity for feedback and depending on the initiative, it might also be discussed or shaped through one of the senate subcommittees or discussed in colleges. That includes casual staff and students, who would be involved in some of those discussions. Senate endorses final documentation and ensures that feedback has been appropriately considered and can also provide advice on implementation.

We have made a further change to increase input by academic staff who are not currently in management roles and to provide strong academic governance of more time-critical monitoring functions required under the standards framework. We have a new committee which has been created, the monitoring and assurance committee, consisting of five academic staff representatives and a student representative, all of whom will also become full academic senate members. Chairs of three of our key subcommittees have also changed so they are no longer executive portfolio leads.

Existing communication between senate and academic staff through a chair's summary and minutes is available after each meeting, together with an invitation to make contact with me as chair. To supplement these channels, I now periodically convene with relevant management colleagues Zoom drop-in sessions open to all staff around specific topics. Recently, we have had an agendaless learning and teaching conversation and I have had the Deputy Vice-Chancellor and Director of Curriculum join me in those discussions.

We are also clear that a student voice needs to be present in academic governance and more broadly in our operations. We know through this voice some of our students have had challenges during COVID-19 lockdowns and then return to study post lockdown. Some have not had the best transition into our city campuses and many more want input into learning and teaching decisions in a timely way. We fully support this and continue to work with student representatives to find the most appropriate and

²³⁹ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 66-67.

effective ways for this input. This includes input into course design, into learning and teaching and into broader student experience. At academic senate we have a report from our four student representatives as a standing item. Student representatives work with the senate chair and our secretariat to present strategic items for discussion as the need arises. Students are also members of the student experience, learning and teaching committee and college learning and teaching committees, as well as course advisory committees that sit in our colleges.

In 2022 our students provided key insights into development of our online teaching standards; our assessment procedure informed our support of students studying in the city, our regional campuses; as well as insights into our experiences, the experiences of our high degree research students. Input from all students is also critical to monitoring delivery and quality of the student experience. This includes getting feedback through end of unit surveys, a newly introduced pulse survey that gives teaching staff an opportunity to adjust teaching or further support students as needed during a unit.

Individual colleges have their own ways of encouraging feedback. They have staff/student liaison committees, regular student forums with heads of school and course coordinators. They meet with student societies and they seek external advice from graduates. Student representation also informs other areas of our work at a whole of university level. For example, we have student representation on our disability and inclusion advisory group and our sustainability committee and we value our relationships with our students very much. You have heard in these hearings about the 'students as partners' model that has been put forward by the Tasmanian University Student Association that has been presented to both council and senate. We have colleges and divisions working to further enhance the role of students as aligned to that model.²⁴⁰

FINDINGS:

- 50. The Chair of the Academic Senate acknowledged evidence received by this Inquiry and outlined changes made to the operations of the Senate in response, including:**
- a. management now seeks exploratory feedback on new policies or initiatives;**
 - b. the establishment of a new monitoring and assurance committee (5 academic staff representatives and 1 student representative) to increase input from academic staff who are not currently in management roles; and**
 - c. recognition that student voice needs to be included in academic governance.**

²⁴⁰ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 11-13.

TERM OF REFERENCE 3

The appropriateness of the Act to ensure accountable executive, fiscal and academic decision-making

Executive decision-making and accountability under the Act

A number of submissions suggested that the current Act does not provide or require appropriate accountability in relation to decision-making by the University Council or senior executive of the University.²⁴¹

Adjunct Associate Professor Terese Henning:

The Act does not impose adequate requirements of transparency and accountability on decisions of Council or the University Senior Executive, including the Vice Chancellor, the provost and pro Vice-Chancellors. Section 8(3) provides that members of Council are responsible and accountable only to Council rather than to a constituent body even where they have been appointed or elected by a constituent body. Additionally, there is no requirement in the act for their decisions to be communicated or justified to the University and broader community.

This problem is not ameliorated by the provisions in Schedule 1 of the Act. In fact, those provisions further entrench the non-transparency and non-accountability of Council, see in particular Schedule 1, cl 5 (Council to determine its own meeting procedures, cl 6 (validity of Council acts and proceeding despite defects), and cl 7 (presumption eliminating the necessity for evidence of matters pertaining to Council)).²⁴²

The late Peter Bicevskis, architect and urban designer, claimed the Act was inadequate for ensuring appropriate and accountable decision-making by the University:

The Act has proven to be totally inappropriate with regard to the University's decision making. For example, there have been:

- *Poor financial decisions over many years eg building purchases.*
- *Examples of waste and extravagance and overspending on property.*
- *Expenditure on public relations, marketing, and external consultants for non-academic related activities.*
- *Lack of input by academic staff about academic decisions.*
- *Lack of accountability to the community and the government when making decisions.*

In addition, there is no mechanism to ensure accountable executive, fiscal and academic decision making.

There are no checking/review procedures, no penalties for poor performance or providing misleading information, and there is no obligation for transparency.²⁴³

Emeritus Distinguished Professor Jeff Malpas commented on the relationship between the complex regulatory environment and accountability for University management decision-making:

The University's management often makes the claim, in response to charges of lack of scrutiny and public accountability, that it does, in fact, operate within a complex structure of regulatory requirements that ensure accountability in ways that are not reflected in the University Act alone.

²⁴¹ See for example: *Submission #11, Submission #83, Submission #89, Submission #97, Submission #114.*

²⁴² Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, p. 4.

²⁴³ Peter Bicevskis, 2022, *Submission #114*, p. 4.

The implied (and sometimes explicitly drawn) conclusion is that the University is accountable, not only in terms of its reporting obligations under the Act, but via a different set of mechanisms that are mandated through other state legislation and regulation, and federally.

There is indeed a complex structure of regulation and legislation within which the University operates, that is separate from the Act, some of which is specific to the University (and to universities nationwide) and some of which applies across a wide range of organisations and activities. Yet, as can be shown by examples from the University of Tasmania (especially in relation to mandated requirements relating to staff), institutions frequently find ways around regulatory constraints, and the fact that a regulatory framework is in place implies nothing about the adequacy of that framework nor the stringency with which it is applied. Moreover, a system of regulation is not the same as a system of accountability, and even were one to allow that a degree of accountability is embodied in the existing state and federal frameworks, there is an important question as to the specific respects in which accountability is exercised in this way and where such accountability is directed.

The distinction between regulatory frameworks and genuine systems of direct institutional accountability is very clear within the corporate world (the same world, of course, that Australian university managers have increasingly invoked to justify their own mode of operation). Public companies also have to operate within regulatory frameworks of various kinds, but their Boards (unlike the University Council) are directly accountable to shareholders. There is no such mechanism that ensures a similar level of accountability of university managers or of the University's governing Council (see also Forsyth, 2014, pp.151-152). Indeed, given the constitution of the University under the Act, and despite the reporting and regulatory framework that obtains, neither the University's senior managers, including the Chancellor and Vice-Chancellor, nor its Council are accountable in any significant way to the University itself.²⁴⁴

Professor Brian Yates proposed that fulfilling the functions in the Act should be embedded in University decision-making:

In my submission I say that the purposes or functions of the university 'a', 'b' and 'c'. To me, they should be the priority around making decisions. To me, in an ideal world, what would happen is that the members of the university council or other decision-making bodies would ask themselves that question when they're making a decision about something: how does this help with the advancement of knowledge and learning; how does this help encourage the research which takes place; or how does this make sure that we have excellent teaching and research in the university? To me, they are questions that everyone should be asking as they make decisions.²⁴⁵

Professor Hans Zoellner, Public Universities Australia (PUA), noted the importance of academic values being the basis for decision-making:

Everyone should refer to the seven academic values. That way, when something happens that is inconsistent with academic values, you can point to one of the God knows how many hundreds of internal university documents that relate to the issue - it could be appointments, it could be promotions, it could be the distribution of funds, anything - and say, 'hang on, what is happening here is in breach of academic value,' and that gives power within the university for staff to hold management to account.

... it's largely internal, but it's awfully important, because right now there's nothing, you've got nothing, because really anything is acceptable in the university, any decision by a university manager is acceptable as long as it's acceptable to the managers who manage them. That is no standard for running any sort of university. A decision has to be supportable on basis of first principles, reason and logic.²⁴⁶

²⁴⁴ Distinguished Emeritus Professor Jeff Malpas, 2022, *Submission #97*, pp. 15-16.

²⁴⁵ Professor Brian Yates, *Transcript of Evidence*, 7 December 2022, p. 55.

²⁴⁶ Professor Hans Zoellner, *Transcript of Evidence*, 6 December 2022, p. 9.

Consultation to inform decision-making

The issue of consultation with staff and students in decision-making at the University was raised in evidence presented to the inquiry.²⁴⁷

Emeritus Professor Brian Yates reflected on the need for more consultation with staff and students when making important decisions, the benefit of more genuine participation of academic staff in making decisions and the need for more transparency and an open approach to decision-making:

3.1 There is a very definite split of corporate (including fiscal) and academic decision making in the University. Academic leaders have very little input into the corporate decisions. While this may be appropriate in some circumstances, it is not appropriate that academic concerns are only addressed at a distance or as an afterthought.

3.2 From another perspective, there seems to be a majority of non-academic people running the University. If indeed the focus of the University is on research and teaching, why are academic staff engaged in teaching and research so far down the chain of command that they have almost no influence on the decisions made in terms of operating the University?

3.3 In general, there is not a healthy culture of discussion and open debate about significant decisions in the University. There are very few examples where the initial view of the Vice Chancellor is allowed to be challenged or indeed overturned.

3.4 More consultation within the University is required around important decisions. Without breaking any confidences, during my time as Executive Dean there were a number of very significant decisions involving millions of dollars and the livelihood of hundreds of staff in my College that were made without consulting myself or the staff and students concerned. These had the appearance of being a "captain's pick". The decisions themselves were not without some merit, but the decision-making process left a lot to be desired.

3.5 In terms of ensuring accountable executive decision making, the University should try to be clearer and more transparent about the motivations for its decisions. Perhaps the current more cautious approach is influenced by corporate behaviour, but the natural inclination of the University's academic staff is to question and try to understand the basis of a decision. A more open approach would also provide greater transparency in dealings with businesses, government (local, state, federal) and the community.

3.6 What is the solution to these issues?

While recognising the validity of a corporate approach, it should not be forgotten that a university is an institution founded on democratic principles. To improve the decision-making process, academic staff should have genuine participation in making decisions (not just providing advice or consultation about an issue). This should extend to operational matters (including fiscal and infrastructure issues) to ensure that academic perspectives are genuinely addressed.²⁴⁸

Adjunct Associate Professor Terese Henning commented on the Act not requiring consultation in decision-making:

Another problem with the Act is that it imposes no obligation on Council to consult with anyone in making decisions. Council has the power but not the obligation to do so (s 9(3)). This means that those most directly affected by Council may not be involved or consulted in their making. The lack of any requirement for consultation in effecting Council's decision-making powers is more than unsatisfactory given the wide-ranging powers conferred upon Council as the governing authority of the University (s 9(1)).²⁴⁹

²⁴⁷ See for example: *Submission #55; Submission #89.*

²⁴⁸ Emeritus Professor Brian Yates, 2022, *Submission #55*, pp. 2-3.

²⁴⁹ Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, p. 5.

Vice-Chancellor Professor Rufus Black responded to a question on whether the University had a guideline or policy on consultation as a part of decision-making processes:

We do have a document that provides guidance on decision-making. We are happy to provide that to you. I note that part of our formal structure of documents for decisions is to note who consultation occurred with, so decision-makers see, as part of any formal document that is requiring a formal decision, who the consultation is with.²⁵⁰

Professor Natalie Brown noted the Chair of the Academic Senate, as a voting member of the Council, provides advice on how academics should be involved in decision-making at the University.²⁵¹

The National Tertiary Education Union (NTEU) recommended the University develop a robust policy to ensure consultation in decision-making is genuine and considered, and the policy be developed through a genuine consultation process with stakeholders.²⁵²

Involvement in academic decision-making

Raised in a range of evidence was the issue of a lack of involvement in academic decision-making by those who have experience in the academic disciplines.²⁵³ [See also discussion under Term of Reference two from page 59.]

For instance, Public Universities Australia (PUA):

Leadership, Management and Decision Making at the Faculty / School / Discipline Level:

All academic decisions should be made collegially by the academic community. Major decisions within particular faculties, schools or disciplines should involve the entire faculty, school or discipline following academic values and democratic principles. Faculty, school or discipline leadership/management should be either elected from within the faculty, school or discipline, or recruited from outside by a selection committee containing a majority of members from within the faculty, school or discipline.²⁵⁴

Also, Dr Richard Doyle, Associate Professor in Soil Science, Tasmanian Institute of Agriculture:

The decision making at UTAS has become exceedingly top-down with Academic Senate no longer a truly democratic body. It has recently been directed to proselytise the on-line teaching mandates for the city move(s), a teaching style now compulsory devoid of live lectures and much face-to-face contact and deep interactions with students. This misuse of academic senate I consider of grave concern and erosion of academic voices and academic involvement in how teaching is best undertaken.²⁵⁵

The concerns raised about the lack of academic involvement in decision-making on academic matters was in contrast to the evidence presented by the University on the mechanisms in place to facilitate such involvement. Professor Natalie Brown clarified the key roles of the Academic Senate:

The first, delegated by council, is to approve all courses and awards. The second, prescribed under the higher education standards framework is to undertake academic governance. The third, as specified under the University of Tasmania Act, is to provide advice to university council on academic matters.

²⁵⁰ Professor Rufus Black, *Transcript of Evidence*, 2 March 2023, p. 10.

²⁵¹ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, p. 11.

²⁵² National Tertiary Education Union, 2022, *Submission #123*, p. 9.

²⁵³ See for example: *Submission #89*, *Submission #46*, Professor Brian Yates, *Transcript of Evidence*, 7 December 2022; Emeritus Professor James Guthrie, *Transcript of Evidence*, 7 December 2022.

²⁵⁴ Public Universities Australia, 2022, *Submission #27*, p. 5.

²⁵⁵ Dr Richard Doyle, 2022, *Submission #129*, p. 3.

We agree, with other witnesses, that the academic and student voice must be central to the work of our university.

In our first role, as approver of courses and awards, academic senate sets a framework that draws on disciplinary learning and teaching and assessment expertise from across the university. Academic staff contribute at all levels of the approval process at the school, at the college and at the central level. Academic senate then draws on this expertise to inform its approval of what is taught at the university.

....

As the academic governance body, academic senate also provides advice on academic matters to council and this is done in a number of ways. Firstly, through a written and verbal report at each meeting. We have recently changed to move this report toward the beginning of the council agenda, to provide additional scene-setting for council members to inform deliberations. In addition to these reports, all council members have a standing invitation to attend senate meetings.

...

Academic senate has a clear role in determining and monitoring the academic delegations framework that is approved by council to define academic decision-makers across the university. This framework allows for academic decisions to be made at the most appropriate local level. It incorporates a range of decision-makers from unit coordinators through to executive deans of colleges and senate itself. For some decisions, council requires the endorsement of academic senate.²⁵⁶

Professor Natalie Brown also acknowledged the issues raised in this Inquiry had provided insight into opportunities for improvement in relation to the role and functioning of the Academic Senate.²⁵⁷

Fletcher Clarke, former President, TULS, reflected on changes made by the University to diminish the capacity of student academic societies to participate in decision-making within their relevant faculties:

Like so many academic societies at the university, those societies are attached to a particular course of study. For TULS, it is a law course, for the medical student society, it is the medical faculty and so on and so forth. Those academic societies often have a role in the formal structures of those faculties. For many years, TULS had a representative role on the law faculty's teaching and learning committee and a number of other committees as well.

It was at the start of this year where our representation from that committee was removed. We were placed on another committee which would meet about two times per year to discuss bigger picture, broader changes to the law curriculum. In our view, that change was not the appropriate change to make. We should have been represented on both bodies because we want to be able to deal with the teaching and learning matters day to day that affect us, not just the big picture ideas which might not materialise until three or five-years time over the medium to longer term. That is in terms of our capacity to advocate. If we cannot advocate in the internal university structures - and we very much appreciate the need to do that and the need for discretion and the need for those discussions behind closed doors - to reach the best possible decisions. We very much value and appreciate those opportunities. If those opportunities are taken away from us, then we have to go to alternative avenues to make our concerns known in a way that I do not think is helpful at all to the overall institution.²⁵⁸

Sophie Crothers, former President, Tasmanian University Student Association (TUSA) expressed similar concerns on the progressive undermining of the student voice and advocacy on campus:

As an additional piece of background context, I wanted to mention how the student voice has been undermined in recent decades. It started with the introduction of voluntary student unionism by the federal government in 2006. Prior to that legislation, student associations and unions across the country were able to receive a mandatory fee from all enrolled students. That allowed them the financial autonomy to decide what was best for students.

²⁵⁶ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, p.11.

²⁵⁷ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, p. 12.

²⁵⁸ Fletcher Clarke, *Transcript of Evidence*, 12 December 2022, p. 13.

Since that was abolished, the financial autonomy of organisations such as ours was taken away and centralised into the university. Since then SSAF, which stands for Student Services Amenities Fees, was introduced. That was introduced in 2011 to allow universities to reintroduce some of those really essential programs. The problem from our perspective is that that money, instead of going directly to student unions and student associations for us to decide where it is spent, goes directly to the university and the university decides whether or not any of those funds will go to the student association.

In the context of TUSA, that has meant that we've been slowly defunded over the past 10 years or so. In 2013 we received 40 per cent of the SSAF funds available. At our lowest point in 2020 we only received eight per cent of the SSAF funds available. It's something that has had quite a tangible impact on our ability to advocate for students and our independence as an organisation to be able to rely on other sources of funding.

More recently the student member on the university council is now an appointed member and no longer an elected member. I know that some other submissions have touched on this. My understanding is that it was a result of low voter engagement and a perceived conflict of interest between the elected student advocating for student interests rather than the broader interests of the university. I note that it is already protected by the legislation.²⁵⁹

The submission from TUSA further described the loss of avenues for student representation and advocacy:

... student voice has been slowly undermined from decision making bodies in recent years. As aforementioned, there is no longer an elected student member on University Council. There are no longer any student representatives from TUSA invited to sit on internal appeals committees for academic and behavioural appeals to ensure student perspective is fought for. Students have been removed from the Student Financial Hardship Scheme panel, which is now only overseen by a single university staff member who has control over whether students receive desperately needed financial support. Students are inconsistently supported to give feedback into their Schools and Colleges Learning and Teaching Committees and Course Advisory Committees. Student-run societies who live in UTAS accommodation have repeatedly had their leadership undermined through the attempted dissolution of committees in 2019, through to the duplication of student leadership in the Residential Leadership program. All these examples are evidence of the trend toward encroaching on student representation, and independent advocacy, at the University.²⁶⁰

Professor Natalie Brown noted the issues raised in this inquiry had provided insight into opportunities for improvement:

We are also clear that a student voice needs to be present in academic governance and more broadly in our operations. We know through this voice some of our students have had challenges during COVID-19 lockdowns and then return to study post lockdown. Some have not had the best transition into our city campuses and many more want input into learning and teaching decisions in a timely way. We fully support this and continue to work with student representatives to find the most appropriate and effective ways for this input. This includes input into course design, into learning and teaching and into broader student experience. At academic senate we have a report from our four student representatives as a standing item. Student representatives work with the senate chair and our secretariat to present strategic items for discussion as the need arises. Students are also members of the student experience, learning and teaching committee and college learning and teaching committees, as well as course advisory committees that sit in our colleges.²⁶¹

Decision-making on teaching modes and impact on students

TULS made the following observations in regard to pedagogy, how it is controlled and the impact on students:

Learning at the University

²⁵⁹ Sophie Crothers, *Transcript of Evidence*, 13 December 2022, pp. 34-35.

²⁶⁰ Tasmanian University Student Union, 2022, *Submission #128*, p.7.

²⁶¹ Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, p. 12.

The University of Tasmania occupies a special place in Tasmania as it is the only university in the State. As such, its educational offerings, and their mode of delivery, must cater to a wide range of students. However, it is concerning that pedagogy at the University is to be determined by a select few people in the upper management of the institution. It is our view that for academic freedom to be maintained at the University, academic staff must also have a degree of freedom (subject to reasonable resourcing constraints) over how they deliver learning content. The pitfalls of a strictly controlled mode of delivery, and the way it is decided centrally by the University's management without consultation with staff, is deeply troubling. This approach has had negative effects on the retention of staff and the student learning experience in the Law School. The stresses arising out of a teaching model that require staff to teach more while also maintaining their workload allocation in other areas has the potential to impact non-teaching areas such as research. We stress that this is not the fault of academic staff (as asserted by some in the University's management) but is a direct result of arbitrary decision-making by those who are not subject to those decisions.

Relatedly, it must not force staff to redesign the courses they teach to fit within the confines of a strict pedagogical model which does not cater to or consider the substantive content requirements of a law degree. For example, restricting lectures to one hour a week for all units within the Faculty of Law in the first half of this year (regardless of if they were an intermediate or advanced level unit) had the effect of cutting substantive legal content. For a professional degree like law this approach undermines the content that must be covered for admission to legal practice as mandated by statute.

It is similarly concerning that there has been a clear and persistent trend towards online learning to the detriment of in-person content delivery in recent years. We have seen during the pandemic that students are deprived of an academic community and a sense of belonging to that community where education is offered wholly online. This idea of community is fundamental to a person's development regardless of their stage in life when they commence tertiary education. This is not to say that the University should not offer online learning experiences. In the current environment they are wholly appropriate. However, if the University of Tasmania is to be a university for Tasmania then it must not compromise in-person learning for the pursuit of online education.²⁶²

The late Peter Bicevskis commented on the changing approach to pedagogy, different design of learning spaces and the proposed Sandy Bay campus move into the CBD:

All I can say is that it's complete nonsense. The design of the university facilities is changing; the pedagogy is changing. There is still a requirement for face-to-face learning and the university has stated this; they still intend applying that. But there are other aspects of the design, for instance, with the law school, they need seminar rooms; they need at least a minimum number of lecture spaces. University staff, in my experience, generally need office spaces. They have large book collections. Often, they have confidential research. They need to engage in interviews with students.

It's something which has been a constant bugbear of universities but this difference in the way they operate to, say, an open-plan office is just not recognised.

There are also technical aspects, particularly, say, with the STEM building where the knowledge of the equipment and the scientific processes are absolutely critical to the design. Even in a case where there is more online learning, there is still a complete involvement with the staff and the students to make sure that they're all heading in the same direction.

Possibly, one of the more recent projects I worked on was the new STEM facility at the Queensland University of Technology at Gardens Point in Brisbane where there were similar changes occurring - not to the extent that they are now - but the staff were heavily engaged in seeing which of these changes could be adapted in the design of the facility. They had a very big input into that.²⁶³

²⁶² Tasmanian University Law Society, 2022, *Submission #119*, pp. 4-6.

²⁶³ Peter Bicevskis, *Transcript of Evidence*, 7 December 2022, p. 48.

TUSA raised their concerns with the current student learning environment when commenting on Section 6(d) of the Act (functions of the University):

S 6(d)–to encourage and provide opportunities for students and staff to develop and apply their knowledge and skills

The provision of face-to-face learning is essential in achieving the function of providing opportunities for students and staff to develop and apply knowledge and skills.

The most recent figures available to TUSA show that of students at the University of Tasmania, 25.1% are aged 40 or above, 23.9% between 20-24, 16.3% between 25-29, 12.8% less than 20, and 12.3% between 30-34. With 1 in 4 students over 40, these students likely have other caring commitments and financial debts that aren't usually considered when we think of the 'typical' university student. For this reason, it is important that learning delivery is flexible and makes education as accessible as possible.

The caveat on this is that learning delivery must be flexible without compromising the student experience. For example, the University announced that the traditional didactic lecture would be removed in favour of small, workshop-based learning supplemented by self-paced online material. In principle, this is an innovative way of teaching that addresses the challenges and changes we have experienced since 2020.

However, in practice this approach has resulted in a deepened feeling of disconnect among students. Where once they could sit in a lecture theatre with hundreds of their peers, they now only see twenty at a time in a single workshop. To the best of our knowledge, the planned 'keynote' lectures that the University cited would address this gap have either failed to go ahead at all, or went ahead with very small numbers of attendance. For student experience to be at its best, where students are primed to "develop and apply their knowledge and skills", there must be opportunities to gather in large groups that self-identify rather than being prescribed an identity such as through the introduction of the University Community Engagement Model.²⁶⁴

FINDINGS:

- 51. The Act does not include any requirements to ensure accountability of executive decision-making.**
- 52. Concerns were expressed regarding inadequate consultation with staff and students in executive decision-making processes, resulting in a detrimental impact on staff and student experience and outcomes.**
- 53. The University has a Guide to Decision Making, however there does not appear to be a formal policy requiring consultation, nor does the Act contain a requirement for consultation in decision-making.**

Financial decision-making and management

Detailed submissions were made to this Inquiry commenting on and raising concerns about the financial position of the University, with additional information and analysis continuing to be sent as correspondence to the Inquiry across the period of 2022 -2024.

While it is clearly of significant public interest and a subject of concern for some stakeholders and community members, it is not in the Terms of Reference of this Inquiry to make detailed analysis

²⁶⁴ Tasmanian University Student Association, 2022, *Submission #128*, p. 3.

and assessment of the financial position of the University. It is noted that the Joint Standing Public Accounts Committee has established an Inquiry on 13 August 2024.²⁶⁵

Evidence discussed here is focused on matters raised relating to accountability of financial decision-making, as established in the Act.

Chancellor Watkins outlined the governance and financial management responsibilities of the Council:

Prudent financial management is an important responsibility of those of us charged with university governance and I have mentioned that the Commonwealth funding model is such that universities have no alternative but to generate independent sources of funding, as well as the government funding they receive. Our council, supported by our audit and risk committee and strategic resourcing committee, needs to ensure that our university is financially sustainable and able to deliver its academic mission across our state, not only for the students of today but also the students of future generations. This is a challenging equation, and it means that we need to ensure all our resources are directed towards our core activities of high-quality learning, student support, a broad research agenda, and contemporary facilities. Underutilised land and buildings, or other assets, need to be challenged as they may represent a foregone opportunity to invest in scholarships or research or strengthening our presence across the state.²⁶⁶

Further, Chancellor Watkins stated:

In my mind, the powers of the university are set out to give the university the ability to adjust with the times and make sure its resources are deployed to best achieve the functions of the university. That is how I would see it recognises that the university has certain funding that it receives. It has certain other assets it can put to use and there is an expectation that will need to be a dynamic thing because things change over the years. The university should properly have the power to adjust and make sure its resources are deployed as it judges against those functions.²⁶⁷

Emeritus Professor James Guthrie commented on the reshaping of university operations under new business models:

Aust universities' operations and functions have been reshaped under the influence of a market rationality that seeks to licence them as storefronts for making money. In the process, they have been empowered by successive legislative changes by governments at the state and federal levels to reconfigure their governance structures along the lines of a discredited business model, that has reduced faculty to contract labour, and positioned students primarily as customer.²⁶⁸

University financial position and borrowings

Vice-Chancellor Black, was questioned on the funding shortfall experienced by the University and the necessity to manage income from various sources and investments:

Ms LOVELL - ... you mentioned in your opening remarks that the funding received from the government doesn't cover your full costs. Are you able to elaborate on what the shortfall might be. Is that gap able to be quantified and how are the ways that you, as a university, make up that shortfall? Do you feel that the act enables you to do that in an accountable way?

Prof BLACK - ... The quantification of it is a complex question because we have to trade off each year in order to make it work and that's part of what creates a challenge in the sector. What you are doing all the time is trying to find how you keep adjusting what you're doing in order to live within the means, while simultaneously trying to grow other components of what you're doing. The answer to how much

²⁶⁵ <https://www.parliament.tas.gov.au/committees/joint-committees/standing-committees/public-accounts-committee/inquiries/utas-financial-position>

²⁶⁶ Allison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 5.

²⁶⁷ Allison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 35.

²⁶⁸ Emeritus Professor James Guthrie, 2022, *Submission #3*, Part 1, pp. 4-5.

the shortfall is has a lot to do with what we think the minimum is for standards that we'd like to have. I think anyone in the sector would readily say we get pushed to the absolute margin, the absolute limits on things. ...

Here in Tasmania, it's probably one of the most challenging universities in the country to make this work because this funding was never set up to do all the things we need to do. Where do we get the other income from? We have an investment portfolio which, at various points in our time, people have managed to squirrel a bit of money away and it's been extremely prudently managed over time in order to grow that income. That income is absolutely critical to us. If we didn't have that income on a yearly basis we would not be able to do many of things that we do.

Some of that has come from realising the value of property, which then enables us to put it in a more diversified, higher returning portfolio. That is a very important part of how we are able to do that and you may have noted that we also make those in line with our values.

We have a fossil-free investment strategy and an activist's strategy, which is then used to have an investment strategy aiming, to the greatest extent we can, to invest in sectors, entities and funds that are supporting the transition to a zero-carbon economy. We aim to do whatever we are doing in that, to make sure that it aligns with our values; or, another way of saying it, we, and the people we work with have some shared values about where we see that, and that's important as a university.

There is a small amount of other income that comes, if we have a space that is not filled, we might get some rent from it. There are various other sources of income - there are little bits of income that we get from intellectual property that we've developed over time. They are very small amounts at this point, the investment returns would be the most substantial part of that. I think the act has clearly enabled all of that to occur.

Universities worldwide tend to be sophisticated financial investors, often setting trends. Because we are there for the long run, not there for the short run, we are able to do things that are much more values aligned and over the long run. Some of the most important entities are those where these values govern what we are doing, and all of that has been possible through the current construct of the act.²⁶⁹

In addition to a number of others who gave evidence, Emeritus Professor James Guthrie noted the University's shift in role to be more like a property developer:

The University of Tasmania states that its activities consist of learning and teaching, research, knowledge transfer and research training, community engagement, and activities incidental to the above-mentioned educational activities. However, as its own financial records demonstrate, the University is better characterised as a property development business and a financial institution with significant money under investments. As I have detailed elsewhere, this business model has been adopted by many Australian public universities over the last decade.²⁷⁰

In a public hearing with the Committee, Professor Guthrie further detailed his observations on the income and investments of the University:

What surprises me, when I look at the annual reports and look at the data, is the amount of investment and investment income that Tasmania has. From memory it has half a billion dollars in investment and generates about \$100 million in returns on that investment. You might ask yourself where does the money come from, to get half a billion dollars in investment? Well, they argue - I call it ring fencing - they ring fence this material from operations so it affects the profit and loss and what you see is financial viability.

Where did they get the half a billion dollars? Some of it would have been gifts, and I'm surprised - because when you look at the gifts and donations - we are only talking about millions in the last couple of years. The only other place that that money could come from is sale of property where they've used the funds to buy shares and other forms of investment, or it's come from surplus cash flow, and it's come from surplus cash flow from teaching. Because, at the end of the day, we know in Australia, research is not funded on full cost. Research is only ever funded on variable cost. The fixed cost being staff, buildings, all that sort of stuff, isn't funded. That money could have only come out of teaching and most probably - looking at the numbers for Tasmania - that's come out of international students, because international

²⁶⁹ Professor Rufus Black, *Transcript of Evidence*, 2 March 2023, pp. 17-18.

²⁷⁰ Emeritus Professor James Guthrie, 2022, *Submission #3*, Part 1, pp. 3-4. .

students actually pay significantly more than local students to do a course. The cost of teaching is minimal and that generates free cash flow and that free cash flow is then being used on their property development or putting money into their investments.²⁷¹

John Lawrence, economist and accountant, also commented on the investment in property by the University:

Of UTAS's \$1.8 billion in assets approximately \$500 million is in shares and other managed investments and almost \$1.2 billion in property plant and equipment. Of the latter most comprise land and buildings. Approximately \$224 million of the latter is labelled 'service concession assets.' Whilst the assets, in this case student accommodation, is still owned by UTAS they have been handed over to a provider to run for 30 years. Rents are received by the provider who pays outgoings and pockets the balance. The quid pro quo was a payment up front by the provider. UTAS in effect sold the future entitlements to rent in exchange for a lump sum. It's just another way of raising money. But it has, presumably, locked UTAS into a 30-year deal where the provider will be guaranteed a return. If rents fall short, almost certainly UTAS will have to pay extra to the provider to ensure the guaranteed rate of return is achieved.

It is not at all clear how much UTAS has spent buying and improving property to house students. Soon after the pandemic struck, which would have taken away some of the demand, however, in the non-student community, the pandemic perversely led to rising rents and even more pressure on the homeless in Hobart.

There's \$224 million listed in UTAS' financials as the book value of service concession assets after some depreciation has been claimed since 2017. Are there more assets devoted to student accommodation? There's another \$64 million in capital work in progress that could well be more accommodation. We're not told. Whatever the figure is it'll be much larger than what the government spent on public/social housing.

There's nothing particularly unusual about relabelling land and building as service concession assets. The Tasmania government via Communities Tasmania has service concession assets totalling \$821 million at last balance date representing the public housing stock that has been shifted across to social housing providers. But this wasn't done as a way of borrowing money as was UTAS' move. The risks and benefits of what UTAS has done is not obvious from the financials.

It is unacceptable for a public body to be allowed to operate within its own bubble and be so wilfully blind to the flow on effects its policies are having.²⁷²

Expenditure on core academic activities versus administration and executive management

Evidence was presented which noted and raised questions over the shift in the proportion of University expenditure allocated to the core academic activities of teaching and research compared to expenditure on administration, including executive management.²⁷³

Emeritus Professor Michael Bennett called for more transparency:

It would certainly be appropriate to ask the University to report more fully on aspects of the budget, especially the balance between non-academic and academic expenditure. There needs to be some transparency as a significant administrative burden has been shifted to academics. There used to be administrative support for teaching and research that has now largely be put at the service of the managers.²⁷⁴

Adjunct Associate Professor Terese Henning questioned the relationship between increased expenditure on senior executive management and serving the functions of the University:

²⁷¹ Emeritus Professor James Guthrie, *Transcript of Evidence*, 7 December 2023, p. 3.

²⁷² John Lawrence, 2022, *Submission #93*, p. 7.

²⁷³ For example: *Submission #89*, *Submission #120*.

²⁷⁴ Emeritus Professor Michael Bennett, 2022, *Submission #120*, p.7.

The governance of the University has become more and more top heavy since I began working at the University in 1989. There has been a significant growth in the number of senior executives employed by the University, including pro-vice chancellors and positions like that of the provost. None of these positions are mentioned in the Act or accorded recognised roles by the Act. Whether and how they value add to the functions of the University has been neither explained nor evaluated to my knowledge. Given the fiscal constraints on higher education, the money spent on such senior executives should be clearly publicised and justified to the community.²⁷⁵

During hearings, the University took Questions on Notice in relation to the balance of expenditure on administration versus teaching and learning:

Question 13: It appears over time that academic benefits and on-costs have gone down, while non-academic benefits and on-costs have gone up. If this is the case, please provide an explanation.

... Academic costs decreased in 2021 due to the \$8.9m in restructuring costs incurred in 2020 (\$2.7m in 2021). Excluding these one-off payments, academic costs rose slightly in 2021. Academic employee related expenditure continues to be higher than non-academic employee related expenditure.

Net of restructuring and other costs, academic employee-related expenses have increased by 11.2% between 2018 and 2021. Over the same period, net of restructuring and other costs, professional employee-related expenses have increased by 5.6%.

Please note, 'restructuring and other employee costs' consist of restructuring costs such as redundancy payments and historical payment shortfalls, the majority of which relates to professional staff.

Question 14: Please provide the ratio of Executive management staff costs compared to all other staff costs for the most recent financial reporting period, and an indication of changes to this ratio over recent years.

In 2018, Executive employment costs constituted 6% of total employee costs. Over the past 5 years this figure has seen a small increase in proportion, and in 2022 constituted 8% of total employee costs.

Executive employee is defined as any staff member on a senior management contract.

Over the past year, we have been listening to the feedback provided by our staff, students, and the broader community. What we have heard are consistent themes around the need to ensure our academic mission is at the very centre of all we do. To achieve this, we need our professional leadership roles to deliver on the important work of adapting our systems and services, so they work in ways that make it easier for people to do their jobs.

On Monday 6 March 2023, we commenced a consultation period to inform the adjustment of some aspects of our professional services leadership to reduce breadth and complexity and to make sure we have the right environment for our academic work to be enabled and supported effectively. This work will see a change in the ratio of senior management staff, with a less complex and more student-centric professional leadership structure to better enable and support our academic mission.²⁷⁶

Remuneration of Executive

Concerns were raised in a number of submissions relating to inappropriately high salaries for executive management roles at the University.²⁷⁷ It was emphasised that executive management remuneration is high relative to academic salaries at the University, and relative to international standards. Attention was drawn to the increase in executive remuneration occurring at the same time as academic jobs were being cut at the University.

²⁷⁵ Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, pp. 6-7.

²⁷⁶ Question on Notice response dated 3 May 2023, pp. 46-47.

²⁷⁷ See for example: *Submission #145*, *Submission #3* (Part 2); Emeritus Professor James Guthrie, Transcript of Evidence, 7 December 2022.

The NTEU provided an overview of concerns related to executive remuneration:

The salary of the Vice-Chancellor is well above the expectations of the Tasmanian community. In 2020 the Vice-Chancellor received a gross salary in the range \$975,000 - \$990,000, well above the national average. The very recently-released UTAS 2021 Annual Report indicates that the Vice-Chancellor's salary in that year was in the same range as in 2020.

...

In 2021, the salary of the Vice-Chancellor ranked 13th of 37 V-C salaries across the country ... While the Vice-Chancellor is remunerated at a level that is above the national median, the same can not be said about the staff of the University. ... at mid-2022, salaries of UTAS academic staff ranked 34th of 37 universities, while professional staff ranked 35th of 37 universities.

As a different point of comparison, in 2020 the UTAS Vice-Chancellor was paid over three times the salary of the Tasmanian Premier (which was \$301,397). The disproportionate nature of the Vice-Chancellor's salary is further evidence of the corporatised culture which has developed at the University under the direction of the UTAS Council.

From 2020 to 2021, the salaries of the top 6 senior positions at UTAS increased by 11.2% to ~\$3,700,000. Over an overlapping period, the university incurred significant job losses. In 2019 the University reported a total headcount of 7608 employees, in 2020 this was 6480 and 2021 it was 6023.

This represents a reduction of 1585 employees in the space of 2 years.²⁷⁸

Emeritus Professor Michael Bennett drew attention to international salaries:

Inside and outside the university sector, there is bewilderment and concern about the proliferation of deputy vice-chancellors, pro-vice-chancellors, and senior managers all with far higher salaries than the Premier of Tasmania. While universities have become larger and more complex institutions, there have been no corresponding economies of scale (as one sees with CEOs in business). Their salaries are significantly higher than counterparts in the USA (where leading researchers and star teachers have the high salaries) and UK (where management salaries have been capped).²⁷⁹

Distinguished Professor, the late Jamie Kirkpatrick proposed amending the Act so that the remuneration package of the Vice-Chancellor 'cannot exceed that of the Minister of the Crown responsible for education in the Tasmanian Government'. He says that making such a change:

...responds to the problems caused by an executive takeover of control of Australian universities in general, in which one million dollar per annum packages are considered modest, causing inflation of the salaries of a large group of professional deputy Vic-Chancellors and Pro Vice-Chancellors who constitute the executive class. This group tends to turnover rapidly, amplifying processes of internal institutional change as executives seek to meet short-term KPIs linked to change processes. For example, our penultimate executive forced major course structure changes on the University as a whole, which were so out of touch with reality that they were almost completely reversed by the current executive within months of their implementation, as were many of the structures related to research that they created. The previous VC promised many thousands of new northern Tasmanian students in exchange for government money for buildings. The students have not eventuated, although the building program continues. All the executives who made these poor decisions were rewarded by effective promotions within the Australian University system.

The basic problem with the executive-control model of university governance is that it promotes behaviour that deviates from the best interests of the University, because the best interest of the individual executive lies in being seen as suited for a higher level of employment in another university. Suitability is enhanced by achieving major changes in the usual tenure of 3-6 years. The bad consequences that result from cv-enhancing major changes usually occur after the executive moves on to a better job.

The reduction of remuneration from levels that are shockingly large by global standards may return some executive positions to the many competent local academics who will do the jobs because they have

²⁷⁸ National Tertiary Education Union, 2022, *Submission #123*, p. 5.

²⁷⁹ Emeritus Professor Michael Bennett, 2022, *Submission #120*, p. 2.

to be done for the good of the University. These academics usually return to teaching and research after being executives. The overall changes to the Act I suggest are likely to have the ultimate effect of reducing the number of executives by moving decision-making to more appropriate levels.²⁸⁰

PUA suggested a set of recommendations to be adopted by the University to address the issue of inflated executive management remuneration:

Executive Positions and Salaries, Remuneration and Fringe Benefits:

- All salaries of the executive officers of Australian public universities – including, but not limited to, vice chancellors – must be aligned with those of other leaders of public institutions and capped at twice a professorial salary. Furthermore, all salaries, remuneration and fringe benefits must be made fully public.
- The hiring process of all executive officers must be undertaken by committees that represent the university community (including academic staff, non-academic staff, students and alumni).²⁸¹

The University was asked to comment on how decisions are made in relation to executive and Vice-Chancellor remuneration:

Ms WATKINS - ... the appointment of the vice-chancellor is probably the single most important decision that a council makes. Remuneration is part of that. I wasn't part of the original appointment of the current vice-chancellor; however, we have gone through a recent process and renewed his employment.

As part of that, when we look at his remuneration, we look right across the sector. The main benchmarks that we use relate to the higher education sector in Australia and, specifically, comparable roles - vice-chancellors of comparable size universities. The vice-chancellor's remuneration sits comfortably around that level. We made no changes to the vice-chancellor's remuneration in the last review of his contract. I believe his original appointment was 2018 and there have been no changes to his remuneration in that time, in the five years since.

Ms WEBB - Are you able to reflect on the escalation of executive salary over time within UTAS to contextualise that in response to the comments being made?

Ms WATKINS - I can assure you the approach to senior salaries is a rigorous one and it is a function of benchmarking for equivalent roles. There is always a strong focus on data. There can be considerations around a specific individual, for example, if we were trying to attract a specific individual to Tasmania where there may be differing salary expectations. We would have some flexibility to take that into account for a very senior role, but generally speaking, like all large organisation, there is a high degree of attention paid to these matters to make sure the relativities across relevant sectoral and size benchmarks stack up and also the internal relativities stack up.

Ms WEBB - How is that aspect of it done because we would all be aware if the VC salary bumps up because it has been benchmarked against perhaps others in the sector that is going to drag up other senior executive salaries. Does it necessarily bring everybody up? Do all boats rise on that tide?

Ms WATKINS - No, that is not my experience. Vice-chancellor roles are benchmarked individually and typically, they are quite a lot higher for a range of reasons than senior executive salaries. The senior executive salaries are benchmarked against similar role types for that. Unless there was a movement in the sector elsewhere for those specific roles, it would not follow those senior roles would move up just because there was a vice-chancellor on a particular level.²⁸²

FINDINGS:

54. Under the Commonwealth Funding model, the University must generate independent sources of revenue and funding in order to deliver core activities.

²⁸⁰ Distinguished Professor Jamie Kirkpatrick, 2022, *Submission #19*, p. 3.

²⁸¹ Public Universities Australia, 2022, *Submission #27*, p. 5.

²⁸² Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 19.

55. Compared to other Australian universities, remuneration for the University Vice-Chancellor is above the median, however remuneration for academic and professional staff is at the lower end of the range.
56. While it is not necessarily appropriate to legislate to limit or direct the remuneration of executive management at the University, greater scrutiny and accountability for these decisions is desirable.

RECOMMENDATION:

[NB: Refer to Recommendation 14]

Transparency of information and decision-making

Concerns were raised in evidence that the Act does not establish mechanisms to ensure accountability of decision-making by the Council and executive of the University.²⁸³

Difficulties were experienced accessing information from the University through Right to Information requests, which also highlighted a lack of transparency and accountability.

This Inquiry notes the University of Tasmania is included in the definition of *public authority* in the *Right to Information Act 2009*, and is therefore included in the requirements of that Act.

Alison Watson described difficulties accessing information:

*I have tried on multiple occasions to access information from UTAS, including through the Right to Information process and this has been slow and unfruitful. I believe it is in the public interest for the Act to promote a 'maximum transparency' principle where, as far as reasonably practical, information is readily and freely available to all that are interested. The university is not a private business. For example, I would like to see information about the rates and other financial exemptions that UTAS benefits from freely available to the public.*²⁸⁴

Robert Hogan, alumnus, has extensively investigated matters relating to the financial and governance arrangements of the University, and has encountered difficulties accessing information:

UTAS' increasing disregard for transparency and accountability has also been apparent in its management of its obligations under the RTI Act. As a public institution it should be modelling best practice behaviour; instead it has a reputation for being obstructive and uncooperative.

*• As background on RTI matters, I draw the Committee's particular attention to the Ombudsman's decision of 24 February 2022 in the case of Alexandra Humphries (ABC) and UTAS. On the more general issue of transparency and accountability, I cite the many articles and letters on this matter that have appeared in *The Mercury*, including particularly those published by Greg Barns in 2022...*

My own experience in dealing with UTAS over RTI applications has been salutary. Over the period 21 March to 20 April 2022, I lodged four RTI applications with UTAS, seeking to ascertain what evidence UTAS had for its proposed move to the Hobart CBD, and to understand UTAS' decision-making process. My experience, consistent with that of Ms Humphries and – as I understand it – other RTI applicants to UTAS, was that UTAS took a highly defensive approach, demonstrating little, if any, commitment to transparency and informing public debate. In two cases, UTAS unilaterally rewrote the terms of my applications - which is not provided for under the RTI Act - and still provided limited information in response to the modified terms.

²⁸³ See for example: *Submission #99, Submission #145*.

²⁸⁴ Alison Watson, 2022, *Submission #99*, p. 1.

• One of these cases was my request for full UTAS Council Minutes from 1 January 2015 to 24 March 2022. The response was to provide me with a redacted extract of the UTAS Council Minutes (perhaps accounting for about 10% of the full Minutes) on what UTAS subjectively deemed relevant to the CBD move. In three cases, including one where it had already provided limited information, UTAS refused my application under s12(3)(c) of the RTI Act, on the basis that it had decided prior to the lodgement of the applications, to shortly provide “information” (so described) within 12 months. In fact, s12(3)(c) of the Act requires that UTAS had made decisions prior to the lodgement of each of the three applications to “release the information that is the subject of the application”, that is, information specifically covered by the terms of the application. I lodged a fifth RTI application on 5 May 2022, seeking evidence of such prior decisions. UTAS has provided none. UTAS has also not released the specific information I sought, asserting belatedly in one instance that the information was not UTAS’ to release. I have been through internal review procedures with UTAS, which were unsatisfactory, and have recently lodged three applications for external review of UTAS’ decisions with the Ombudsman (effectively covering all five of my applications). I have sought priority consideration of my applications in the public interest.²⁸⁵

A recommendation that University Council minutes be made publicly available in a timely fashion as a matter of transparency was also raised in other evidence.²⁸⁶

It is noted that in the course of this Inquiry, the University has committed to a policy of publicly releasing minutes of Council meetings.²⁸⁷

Annual Report, including financial reporting

The Act lays out the requirement for the University to provide an Annual Report of the Council:

12. Annual report of the Council
- (1) The Council is, within 6 months after the end of each financial year, to -
- (a) present to the Governor an annual report of the proceedings of the university during that financial year; and
- (b) furnish a copy of the report to the Minister.
- (2) The report is to contain a full account of the income and expenditure of the university for the financial year to which it relates.
- (3) The Minister is to cause a copy of the report to be laid before both Houses of Parliament within the first 10 sitting days of each House after the report is received by the Minister.

A range of evidence identified the need for the Act to deliver greater accountability via the Annual Report of the University, including its timely publication, level of detail and scrutiny by Parliament.²⁸⁸

Professor Malpas makes the following comment in regard to the University’s Annual Report:

²⁸⁵ Robert Hogan, 2022, *Submission #145*, p. 13.

²⁸⁶ See for example: *Submission #27*, *Submission #11*.

²⁸⁷ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, pp. 70-71.

²⁸⁸ See for example: *Submission #3*, *Submission #72*, *Submission #93*, *Submission #97*, *Submission #127*, *Submission #145*, *Submission #130*.

The University is required, under Division 4, §12 of the Act, to provide an annual report, containing full financial details, within six months after the end of each financial year to the Governor, and so to the Minister also, and that report is then tabled before both Houses of the Parliament. The University's operation, as set out in the report, is subject to scrutiny by the Auditor-General's office.

This reporting requirement might be thought to provide an important means by which the University can be held financially accountable and to some extent this is true, at least so far as the formal audit process is concerned.

However, the report is limited in the information it provides and far from transparent as to the full details of the University's operations. Moreover, I am not aware of the University's annual report receiving any particular scrutiny from members of the Parliament nor of it ever having been the focus of real debate and discussion. In this respect, the University's reporting to Parliament has become little more than a formality, and there is, in any case, no obvious or direct mechanism by which the Parliament could ordinarily take action with respect to the University should irregularities or areas of concern become evident as a result of examination of the University's annual report. The Auditor-General does consider the University's report in detail, but this is only within the specific framework of current audit practice, and does not, in the usual course of affairs, consider the report as it might relate specifically to the University's academic activities nor in relation to its specified functions under the Act.²⁸⁹

In relation to the lack of timeliness in publication of the Annual Report, Emeritus Professor Guthrie stated:

This should be available three months after the end of the financial year so stakeholders can analyse and debate what has been happening at the university over the previous 12 months. This is standard practice amongst other states.²⁹⁰

Emeritus Professor Guthrie further noted at a public hearing:

It's very difficult when you can't see under the lid, because you get an annual report that comes out 18 months or 20 months after 1 January when it starts; it is historical data; it is in a form that is accrued, so it doesn't help us much with funds or cash. The numbers in that, if you look at my appendix, the big number is 'other expenses'. A huge number, now. It's identifying what those other expenses are. The other big number in there was, of course, the revenue from investments and having half a billion dollars sitting there which could have been used to retain staff, improve the teaching quality and improve research outputs.²⁹¹

John Lawrence also questioned why there was not an expectation of more prompt publication of the University's Annual Report:

It's also time to make UTAS reportable to parliament instead of a perfunctory report to the government which sits in someone's in-tray for months before being publicly released up to 8 months after year's end. The 2021 report was certified by UTAS on 11th Feb 2022 and signed off by the Auditor General on the 16th February, six weeks after year's end. ASX listed companies lodge audited financial statement within 2 months of year's end. The same could apply to UTAS. It could be allowed another month to put together the glossy Annual Report to be released by the end of March. In the case of the 2021 report UTAS didn't forward the report to the Governor (why involve her?) till 27th April which the government then sat on for 4 months before public release. Given the government is not required to even read the report let alone respond to it why sit on it for 4 months? It just perpetuates the hang over from bygone days when the hoi polloi didn't need to be too concerned about universities because there were always reliable chaps appointed who would do the right thing.²⁹²

²⁸⁹ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, p. 15.

²⁹⁰ Emeritus Professor James Guthrie, *Submission #3*, Part 2, p. 2.

²⁹¹ Emeritus Professor James Guthrie, *Transcript of Evidence*, 7 December 2023, p. 6.

²⁹² John Lawrence, 2022, *Submission #93*, p. 6.

Comment was made in evidence that the financial reporting in the Annual Report is insufficient to adequately scrutinise financial decision-making.²⁹³

Robert Hogan highlighted the lack of detail in the Annual Report:

Even in respect of the minimal reporting requirement set in 1992, UTAS has had an increasing disregard for transparency and accountability. For example, while – excluding photos – UTAS' Annual Report 2010 (AR2010) had approximately 44 pages of text and (non-financial) tables, its Annual Report 2021 (AR2021) had approximately 19. This decrease is even starker when the content of the pages is examined. The text in AR2010 was relatively substantive; the text in AR2021 is full of jargon and reads – and is set out – more like a marketing document or brochure. AR2021 does include over 60 pages on the Financial Statements, but these are opaque in key areas, for example, the Total other financial assets of \$494 million in 2021 (p70) are not usefully explained; nor is the increase in this figure of over \$94 million from 2020.²⁹⁴

Emeritus Professor Michael Bennett suggested a higher and more prescriptive expectation be set for the Annual Report:

The problem is less whether UTAS needs new legislative direction or whether it honours the spirit of the existing legislation. Issues of transparency and accountability are very much to the fore. It may be that one approach would be for the Parliament to be rather more prescriptive about what it expects and does not expect (gloss and candy floss) from the Annual Report.²⁹⁵

Similarly, NTEU recommended:

... that the Committee seek stronger reporting requirements for UTAS to State Parliament to increase confidence that university funds, which are largely derived from public monies, are being expended in ways which are of benefit to the Tasmanian community, rather than serving more selfish purposes.²⁹⁶

It was further noted the financial records of the University presented in the Annual Report were more indicative of a property development business and financial institution with significant money under investments, as opposed to stated University activities of learning & teaching, research, knowledge transfer, research training and community engagement.

For instance, John Lawrence stated:

*From an accessibility viewpoint however, the financial statements are just another amorphous conglomeration of numbers that one gets from **general purpose** financial statements. ...*

The Auditor General also confirmed the 2021 financial statements were in accordance with the University of Tasmania Act 1992 but that doesn't impose any additional requirements other than reporting "a full account of the income and expenditure of the University for the financial year to which it relates" (sec 12). BMX clubs do that.

...

The reason for the comments is to substantiate the point that UTAS financials don't allow a lay reader to make an informed assessment as to the sustainability of UTAS' core operations and to the prudent use of public funds.²⁹⁷

The Committee notes the tabling and publication of the University's 2023 Annual Report was some months earlier than previous occasions.²⁹⁸

²⁹³ See for example: *Submission #145, Submission #120, Submission #123.*

²⁹⁴ Robert Hogan, 2022, *Submission #145*, p. 12.

²⁹⁵ Emeritus Professor Michael Bennett, 2022, *Submission #120*, p. 6.

²⁹⁶ National Tertiary Education Union, 2022, *Submission #123*, p. 9.

²⁹⁷ John Lawrence, 2022, *Submission #93*, pp. 5-6.

²⁹⁸ Annual Report 2023: tabled on 20 June 2024; Annual Report 2022: tabled on 22 June 2023; Annual Report 2021: tabled on 25/8/2022; Annual Report 2020: tabled on 2/9/2021.

In his submission, John Lawrence also discussed the need for greater transparency in relation to the University's core and non-core activities and assets:

UTAS is keen to tell us about its geographic coverage of the State. One of the first questions that comes to mind when reading the financials is what are the assets employed and the profitability and locations of the four components which make up core activities?

And what are the assets involved in non-core activities? Where is student accommodation included? What are the asset amounts and locations of student accommodation assets? What about buildings that are still searching for occupants?

*None of this should be confidential information. These are public assets. We deserve to know about core and non-core activities, where they're located, what assets are involved and what do each contribute to profit. There are any number of different ways to mandate additional disclosure other than what is presented by **general purpose** financial statements. It could be a statutory requirement, via regulation or a Treasurer's Instruction to name three possibilities.²⁹⁹*

Emeritus Professor James Guthrie suggested that, as a measure of accountability in addition to the Annual Report, the University should be required to produce an annual budgeted statement at the beginning of each year:

Another one on accountability would be rather than just having an annual report, what should be provided is by 1 January, at the beginning of the year, a budgeted statement that would specifically address the functions of the university. It would be an output-like statement where it says, 'we are putting this much money in for quality teaching in the next 12 months, and this is what we hope to achieve'. That would then be a way that people can see how they are starting to think about their functions and what they hope to do in terms of outputs and outcomes and that would be an important document for accountability of the executive.

...Something like that would help in the discourse and the discussion because other people could become involved in the allocation of resources and the sort of targets they're trying to achieve.

...

...a forward-looking document would have built into it the strategies and the indicators and what they hope to achieve. It's nothing more than a budget so you're not held to it. It's just a way of expressing, as per the functions of the university, what they propose to do in the next 12 months.³⁰⁰

Save UTAS Campus also commented on the opportunity for greater accountability if there was a requirement for the University to produce a corporate plan for approval or scrutiny:

UTAS has many of the characteristics of a government business enterprise (GBE) created by the public for public good using public funding. In a real sense the community is the shareholder and ultimately the enterprise is responsible, through government, to the community.

In Tasmania, GBEs like Hydro Tasmania are subject to the Government Business Enterprise Act 1995 which requires (s39) the GBE to provide to the responsible Minister and the Treasurer an annual 'corporate plan' for approval.

The University of Western Australia Act (s41) makes the university subject to the Financial Management Act 2006 and as a result it is required (s42) to submit to the Treasurer for approval an annual 'draft resource agreement' setting out the services and cost of services any other matters required by the Treasurer for the next financial year. This provides an opportunity for government to be aware of that university's plans.

By contrast UTAS is not subject to any similar requirement and its accountability is limited to providing a retrospective annual financial report which may, of course, reveal irreversible action taken by UTAS long after the event.

Thus, although UTAS is a public institution operating on land gifted to it for higher education, created for the benefit of the Tasmanian community, and reliant on public funding, it is not in any effective way

²⁹⁹ John Lawrence, 2022, *Submission #93*, p. 6.

³⁰⁰ Emeritus Professor James Guthrie, *Transcript of Evidence*, 7 December 2023, p. 7.

required to obtain approval for its plans from any level of government before it proceeds, no matter how significant the consequences of the plans might be.³⁰¹

Chancellor Watkins answered questions on the level of detail provided on financial reporting in the University's Annual Reports:

Ms WEBB - ... *why is there not clear, public reporting of revenue and costs of each segment of UTAS activity, so we can see revenues and costs for teaching, research, investment property, admin overheads; or assets and liabilities relating to each of those segments, so we can see what the different aspects of the financial situation is? Why does that not occur?*

Ms WATKINS - *Again, it is an interesting challenge. I am very familiar with segment reporting in other contexts. I haven't thought about the university as discrete segments because there often is a lot of interconnectedness and shared overheads and shared facilities, but I would love to take that question and discuss it with Rufus and the CFO and our accounting advisers and see if there is some basis that would yield useful, additional insight.*

As the vice-chancellor mentioned, we do report important components of our income separately, with research income being a good example; although, the vice-chancellor was explaining to me; it is one thing to talk about the external research funding that we receive. As he mentioned, we are very highly ranked on that amongst all the Australian universities and received \$130 million-odd last year. However, to consider the in-kind value of the time of our researchers' use of our facilities, our equipment, these sorts of things, in my experience, it does start to get very complicated. In any sort of accounting it is usually, you have to ask, would that extra information actually yield any additional insight, because all the assumptions I have to make sometimes end up really rendering it pretty unhelpful. We would be glad to take that one and challenge ourselves as we consider what further transparency we can provide if the community thinks that would be useful.

...

Ms WATKINS - ... *I would point out from experience elsewhere, annual reports, they are sort of after the event and they are static documents and many organisations have found it more useful and relevant for their users to provide more dynamic real-time information on the web, which can be regularly updated. Certainly, that is not information that all users will access and we can consider those things.*

Ms WEBB - *There is an observation that there is not a breakdown provided in terms of breaking down the number there that relates to consulting, to legal fees, to executive expenses, et cetera, that grouping cannot see any further granulatory to that. Is that something you think could be presented more transparently?*

Ms WATKINS - *Well, I guess it is a question of how far one goes on these things. There is a balance in there somewhere and certainly, we are challenging ourselves very actively on how we can be more transparent. I am not sure how far we would go. We could go to every line item. I am not sure that would not swamp people then with detail. However, if there are particular areas that are important and relevant in insight and inform our users and continue to build trust, certainly we should be considering those.³⁰²*

Vice-Chancellor Black commented on the substantial reporting to the Commonwealth, including segmented reporting, much of which is used internally:

It is quite freely and widely used internally, including various forms of segment reporting. There is no discomfort at all with that because we share it widely. Academic senate receives the 'how the university performance is going' essentially the same as council receives and it has segment reporting in it. The state and Commonwealth do need to integrate better. If they are working in the higher education area

³⁰¹ Save UTAS Campus, 2022, *Submission #149*, p. 12.

³⁰² Alison Watkins AM, *Transcript of Evidence*, 2 March 2023, pp. 13-14.

it is important that there is good cooperative federalism on this because you both have legislative responsibilities in this area.³⁰³

Vice-Chancellor Black also discussed the potential benefit of including an environment, society and governance report alongside financial reporting.

Given the broad responsibilities we have under the act and our commitment to sustainability, one thought is that a good complement to the traditional annual report required by section 12 of the act would be an environment, society and governance, an ESG report, which is widely seen as good practice for creating accountability for key non-financial obligations.

A version of this reporting could be provided at a regional level to create greater transparency about our role across Tasmania.³⁰⁴

FINDINGS:

- 57. The Act's requirement that the Annual Report contain 'a full account of the income and expenditure of the University for the financial year to which it relates' (Section 12(2)), does not ensure an appropriate and accountable level of detail in the report.**
- 58. As the Act allows 6 months after the end of the financial year for the annual report to be provided to the Governor, and 10 sitting days beyond that for the Minister to table it in Parliament, Annual Reports have commonly been tabled up to 8 months after the end of the financial year.**
- 59. In addition to the Annual Report, a corporate plan published at the beginning of the year would provide a further mechanism for transparency and accountability.**
- 60. The University has indicated a willingness to consider opportunities for more detailed and transparent financial reporting.**
- 61. The University has indicated a willingness to produce an Environment, Society and Governance (ESG) report to provide accountability for key non-financial obligations.**

RECOMMENDATIONS:

- 14. Amend the Act in relation to annual reporting by the University, including:**
 - a. more specific detail on what the Annual Report is required to contain in relation to income and expenditure;**
 - b. a requirement to report on the delivery of the functions of the University;**
 - c. a requirement to include detail of all salaries, remuneration and fringe benefits for executive management roles at the University; and**
 - d. a requirement for more timely tabling of the University's Annual Report in Parliament.**
- 15. In addition to the Annual Report, include a requirement in the Act for the University to produce:**
 - a. an annual corporate plan to be published at the beginning of the year; and**
 - b. an annual Environment, Society and Governance (ESG) report.**

³⁰³ Professor Rufus Black, *Transcript of Evidence*, 2 March 2023, p. 15.

³⁰⁴ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, p. 7.

Accountability to those who constitute the University and the broader community

An issue raised in a range of evidence was the sufficiency of the Act to provide accountability for the Council and executive to those who constitute the University and the broader Tasmanian community.³⁰⁵ Section 5 of the Act establishes the University consists of members of the Council, members of the academic staff, members of the professional staff, graduates and students, and Section 6(g) of the Act specifies a function of the University is to engage in activities which promote the social, cultural and economic welfare of the community and to make available for those purposes the resources of the University.

Greg Barns SC, Member Tasmanian Bar, stated:

21. It is clear that doing nothing about the current Act is not an option. It is not fit for purpose because it is inward focused and ignores the accountability of the University to the community.

...

*iv. The purposes of the University and the principles governing the decision making of the University Council and management must include that regard is to be had to community views and input and that such regard will not be relegated behind the purpose of acting in the University's interests in a narrow sense;*³⁰⁶

Mike Meerding pointed to the need for accountability to the community:

*The University's academic teachers and researchers may have academic freedom, independence and autonomy for its activities, however, when the activities of the University's management affect not just the University but the entire community the University must be held accountable for their actions.*³⁰⁷

Adjunct Professor Terese Henning suggested that decision-making at the University should be tied to the functions in the Act and reported more transparently to the community:

The lack of accountability provisions in the Act warrants reform. The Act should expressly render Council and Senior Executives accountable to the academic and professional staff and to the broader community for their decisions and action

*Sections 9 – 12 are the primary provisions in the Act dealing with Council's obligations. They too are flawed. Section 9 creates Council as the governing body of the University. It imposes obligations on Council to act in "all matters concerning the university in the way that it considers will best advance the interests of the university". The italicised words essentially invest Council with a largely unfettered decision making power. This power is largely untouched by the vague and amorphous to act with care, diligence and good faith imposed by ss 11A and 11B. At the very least Council decision-making should be expressly tied to the functions of the University set out in s 6. Additionally, Council should be required to report to the general and University community about its decisions and to provide detailed justification of them in terms of the s 6 University functions. The absence of such requirements entrenches the overall lack of transparency and accountability with which Council may act.*³⁰⁸

Professor Brian Yates was questioned about the need for greater accountability to staff, students and the community:

Ms WEBB - ... you talk about the importance of the university council being more broadly accountable to staff and students at the university and external community. Did you have particular mechanisms in mind that would facilitate that accountability? ...

Prof. YATES - ... Essentially, I would like to see more reporting to staff and students of the university, reporting to the community ... and indeed, reporting to government in some way. That probably is the way that university council can demonstrate their accountability in these ways.

³⁰⁵ See for example: *Submission #72, Submission #86, Submission #89.*

³⁰⁶ Greg Barns SC, 2022, *Submission #72*, p. 5.

³⁰⁷ Mike Meerding, 2022, *Submission #86*, p. 2.

³⁰⁸ Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, pp. 4-5.

To the external community, I guess this is where - and I'm not sure what it was like in the past, 10 or 12 years ago - but possibly making available summaries of the university council meetings or a regular update of what is going on at university council. There might even be, these days opportunities to have open university council sessions or meetings where they're broadcast or something like that for part of the time; trying to, as much as possible, open up the representation and the governing body to the community.³⁰⁹

Professor Malpas reflected on the relationship of the role of Vice-Chancellor to the Council and the need for more de-centralised decision-making within the University:

We also need better structures around the positions of vice-chancellor and chancellor. In the past, the chancellor and council have supposed to be to operate as a certain sort of braking mechanism, if you like, on the vice-chancellor and some of the internal mechanisms. That no longer happens. The view that prevails on council is that the council's role is to support the VC. Now, that is a complete misunderstanding of the role of council. We have the sight of the chancellor appearing on television to spruik the university management's plans for the city move. Again, that's inappropriate. The chancellor really needs to adopt a much more neutral role.

...

I would also argue we need changes internally to the way in which heads of school, deans, and so on, the roles that they have. I would really like to see the re-institution of the older decision-making bodies that used to operate at faculty level, in particular. We used to have faculty boards composed of academics. They dealt with decisions about examinations and marking, but they also dealt with a whole host of other things to do with the administration of degrees and the operation of the structure internally of the faculties. All that's gone.

...

In my view, the governance structure has fallen into complete decay as a result of a centralisation, a centralised approach, that concentrates effectively all power in the vice-chancellor and that's a sure-fire recipe for disaster.³¹⁰

Chancellor Watkins was questioned about the sufficiency of the Act to provide accountability for the Council and executive to those who constitute the University:

Ms WEBB - ... How does UTAS regard the relationship to the constituents of the university, as stated in the act? What does it mean to have that list there [in the Act S 5], when it comes to who reports to who, who is accountable to who, who should be considered, that sort of thing?

Ms WATKINS - ... clearly, we are a unique kind of organisation in that we don't have shareholders in the conventional sense.

...

Ultimately it is council, as the governing body, that has to form judgments about what is in the best interests overall of the university which is constituted of this membership. We will never make judgments that satisfy everyone or keep everyone happy; but our role is to have regard to all those stakeholders and to then form - as best we can - fact-based judgments about what is in the best interests of the university overall. That's how I think about it.

Ms WEBB - ... if we took members to be those groups constituting the university, do you feel that the provisions of the act as it stands provide sufficient accountability back to that membership when it comes to the operations and functioning of the organisation?

Ms WATKINS - ... It's an important and fundamental question for us to consider. I think the act does a very good job of setting up the framework. In the history of our university and the evolution of our society, not only here in Tasmania but of our country and globally, the needs and expectations of these stakeholders continue to change and evolve. It's hard to be prescriptive about what those are, at a point in time. Clearly, some of them are reflected ultimately in changes to legislation and regulation which

³⁰⁹ Professor Brian Yates, *Transcript of Evidence*, 7 December 2022, p.61.

³¹⁰ Distinguished Professor Jeff Malpas, *Transcript of Evidence*, 7 December 2022, p. 22.

*impose certain requirements on us, and some of them are more a softer values-based matters of judgment; but they do change over time and they are hard to be prescriptive about.*³¹¹

Vice-Chancellor Black commented on the emergence of the Civic Universities Movement and the potential for the University to create a State-based civic compact:

The fourth responsibility in the words of the act, section 6, paragraph (g), is to 'promote the social, cultural and economic welfare of the community'.

Our place-based strategy commits us to this mission, not least because of the local and global challenges we face and the role universities can play in working with communities to meet them.

The world has entered an era where the economic and social model that drove the extraordinary post-war growth is not sustainable - and it needs to be changed - and is at historically unprecedented rates. The need for that rapid and transformational change is most obvious in relation to the transition we need to make to a zero-carbon economy by 2050. But equally pressing are habitat and species loss, growing inequality and global instability.

Universities around the world have recognised these challenges and in response have begun the Civic Universities Movement, where universities explicitly work in partnership with their communities to meet the local manifestations of those challenges. Our strategy is very much in line with this movement.

However, we haven't as yet, as many universities have done, formalised these strategic commitments in a civic compact of some form such as those suggested through the UK's Civic University Agreement templates.

We would be interested in the parliament's vision on whether it would be a worthwhile step to do so as part of creating transparency and accountability for the role we play.

The Commonwealth is looking to establish a new accord with universities this year, and discussion papers were released only last week. State-based compacts designed to work with the accord may be a valuable part of a new architecture.

*We would be interested in this parliament's views on the policy instruments that would promote the state's interests in higher education. If the parliament wanted to reflect the contemporary role of universities in addressing, through deep civic partnerships, the great challenges we face in Tasmania and the world, then perhaps the language of promoting the social, cultural and economic welfare of the community of section 4(g) is neither expansive or ambitious enough for our time.*³¹²

FINDINGS:

- 62. The Act prescribes a role for the University that directly references the broader Tasmanian community (Section 6(g)), however there is no requirement for accountability to the community in the delivery of that role.**
- 63. The Civic Universities Movement is a response by universities internationally to develop more explicit partnerships with their communities to address recognised challenges.**

RECOMMENDATION:

[NB: Refer to Recommendation 11]

³¹¹ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, pp. 20-21.

³¹² Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 8-9.

Position of State Government in relation to financial position of the University

The University of Tasmania Act requires that Treasurer approval is provided for borrowings.

7. Powers of the University

(1) *The University has power to do, both in Tasmania and elsewhere, all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, has power –*

(a) to acquire, hold and dispose of real and personal property; and

(b) to form, and participate in the formation of, companies; and

(c) to subscribe for and purchase shares in, and debentures and other securities of, companies; and

(d) to enter into partnerships; and

(e) to participate in joint ventures and arrangements for the sharing of profits; and

(f) to borrow money; and

(g) to do anything incidental to any of its powers.

(2) *Notwithstanding subsection (1) (f), the University is not to exercise its power to borrow money unless it has first obtained the written approval of the Treasurer.*

Treasurer Michael Ferguson and Treasury Deputy Secretary, Mrs Fiona Calvert, provided comment on the scope of the statutory role of the Treasurer in relation to approval of University borrowings:

CHAIR - ... what do you see as the Treasurer's role in relation to UTAS? Is it simply a matter of attending to any section 7(2) requests? Obviously, the requests that come to you in your role as Treasurer could have significant implications, either for the university or for the state. Do you see, in that role, that you have a responsibility to drill down into what they are coming to you for? How do you view that in terms of verifying the ability of the university to be able to satisfy their loans and so on?

Mr FERGUSON - I certainly do see it as a significant responsibility, confined, as I have described, to that very limited role. But within what is a very defined and particular purpose that the parliament of the day determined was the role of the state Treasurer, I see it as a check and balance role, as much as anything, so that there is an external and trusted authority for the university to be required to seek that ability to borrow and then for that borrowing to be contained within a defined limit.

So, yes, I agree with the premise of the question. It would be then that it is not simply a rubber stamp or an automated response, but one where the treasurer of the day, past, present, and future, would seek advice from Treasury about what is a prudent level of borrowings to constrain the university to, noting that the university is very autonomous. It has a very high level of self-government under its own council. To the extent that the state plays a role, other than through the legislation's section 7(2), gives the Treasurer a defined role. It is a significant responsibility to not be too mean in terms of keeping the limit too low and, therefore, constrain what the university's growth opportunities or transformation opportunities might be, but also not too high so as to prevent the university from going too far into borrowings that it might struggle to be able to service. I welcome Mrs Calvert's additional comment.

Mrs CALVERT - I think you have covered it, Treasurer. When we provided advice to the former treasurer in relation to this, it was based on the requirements of the legislation, so it was done based on a very narrow financial focus. That does not mean we didn't provide significant analysis, but it was in relation to the university's capacity to repay their debt.

CHAIR - In performing that role, do you see any strictures that the act puts in place or the way it provides that function for you as Treasurer, do you see that it is sufficient? Or do you think that it needs strengthening to be able to protect the interests of the state?

Mr FERGUSON - An open opinion that I'll express here is that I do find it perfectly adequate at the moment. The language in the act currently requires that check and balance on the university by the Treasurer. As history has demonstrated by the decisions of the former Treasurer to allow increases to the borrowing limit, I'm advised and I have perused the advice that Treasury provided to him in those circumstances, it is a heavy responsibility that a minister or in this case a Treasurer takes advice before taking the necessary action. I'm satisfied with that because the act constrains the university, it doesn't constrain the Treasurer. The Treasurer's role, external to the university, is to act appropriately and almost to protect the university on both sides of the borrowing limit, by the way, so as not to be too mean to constrain its ability to grow, innovate and transform itself, but also not to provide too much headroom for borrowings that might be too much for an organisation.³¹³

The role of the Treasurer was further discussed:

Ms WEBB - Do you see that the Treasurer's role as outlined in the act, section 7(2), inherently holds a responsibility to protect the interests of the university and also to protect the interests of the state? That is the starting point of the question.

Mr FERGUSON - I think more of the former and less of the latter. I think the legislators back in 1992, potentially sooner in earlier versions of the act that establishes the university, made a decision that in granting the design of the governance and the level of autonomy the University Council would have, there would still need to be an external third party - the Treasurer of Tasmania - to have a particular role or a right or a responsibility to ensure that before the university engages in borrowings, the third-party reference through the Treasurer who, Liberal, Labor or Independent at whatever point in time, would be taking advice from Treasury about what is a prudent level of borrowings. To the extent that it is about protecting the state, I would see that as part of the story, perhaps, but the less important of those two. It's really about ensuring that the university is in a strong financial position and is able to borrow. It is important for organisations to be able to borrow in order to develop capital infrastructure that will be enjoyed by future generations and be able to service those borrowings in a way that's fair for the current generation so that the current generation doesn't have to bear all of the costs of an asset that will be enjoyed by future people, students, members of the university.³¹⁴

Treasurer Ferguson made comment on the current borrowing limit for the University, and its relationship to the State Government balance sheet:

Over the period to March 2021, the former Treasurer provided a series of approvals in relation to borrowings by the university, supported by robust analysis by the Department of Treasury and Finance. The university currently has an approved borrowing limit of \$400 million. While it hasn't done so in the past, I am advised that none of its current borrowings are through the Tasmanian Public Finance Corporation, or TASCORP, as we call it.

The decision whether to borrow it from TASCORP or from private markets is a matter for the university. It is important to note that while created by state legislation, the university is not owned by the government, it is not a state entity within the Total State Sector and therefore does not sit on government balance sheets.³¹⁵

Mrs Fiona Calvert, Treasury Deputy Secretary, further detailed implications to the state of the University borrowing from TASCORP compared to the market:

Depending on who the university borrows from means there are different financial implications for the state. For example, as the Treasurer said earlier, in the past they have borrowed from the Tasmanian Public Finance Corporation (TASCORP). If that is the case, they will be picked up in the state's credit rating because, obviously, there are borrowings there. That is treated as, I think the word is 'unsupported debt' because, obviously, we do not own them so there's no revenue stream on the other

³¹³ Hon. Michael Ferguson MP and Fiona Calvert, *Transcript of Evidence*, 6 July 2023, pp. 2-3.

³¹⁴ Hon Michael Ferguson MP, *Transcript of Evidence*, 6 July 2023, pp. 4-5.

³¹⁵ Hon Michael Ferguson MP, *Transcript of Evidence*, 6 July 2023, p. 2.

side. Where they are borrowing from the market and there is no guarantee in place, there is no financial impact for the state.³¹⁶

The matter of whether or not the financial position of the University represented a financial risk to the State was put to Treasurer Ferguson:

CHAIR - ... I'm interested in hearing about how, in exercising that function, it could be protecting the state if something untoward happened to the university. I'm not suggesting it is, but it's an organisation with a lot of financial commitments. If it were to fail, the state might be left to pick up the pieces.

Mr FERGUSON - ... any financial challenge that was faced by the university doesn't represent a risk to the state government and the Crown vested in Tasmania. While the university organisation is established by state legislation, it is outside the Total State Sector from that point of view.

While I don't think anybody is seriously contemplating that the university is at risk of failure, nor any other university in the country that I'm aware of, in that extraordinary hypothetical there would be a role for the Australian Government to support a university that was struggling, given its predominant role in the funding of universities. I'll ask my officials to make other comments. The role of the Treasurer in establishing borrowing limits in this legislation is analogous to a similar role that's occupied by the Treasurer with other government businesses, although the university is not a government business.³¹⁷

Chancellor Watkins and Vice-Chancellor Black were asked about how Treasurer approval for borrowing was reported:

Ms WEBB - ...Is it detailed in your annual reporting, the instances and the details of written approval sought, and what that relates to?

Prof BLACK - I do not believe it's included in our annual report. The conditions and requirements for it are well established, not least because they are visible in the act. It is not part of standard annual reporting.

Ms WATKINS - Certainly, we have recently raised money through the issue of green bonds and that has been something we have been very proud and public about.

Ms WEBB - That required the approval of the Treasurer?

Ms WATKINS - Yes.

Prof BLACK - Well, not the green bond bit, but the borrowing requires approval of the Treasury, for the very good reason that our kind of balance sheet affects the state's balance sheet. That makes a great deal of good sense given that would be the case. That is why I am very comfortable that one explores where are the appropriate boundaries and what are the appropriate mechanisms by which decisions are of consequences to other parts get decided? My invitation is for us to look to the mechanisms we have that enable those things to be done well, when we are exploring them.³¹⁸

Vice-Chancellor Black was asked to provide further explanation to his statement that the University's balance sheet affects the State's balance sheet:

Ms WEBB - ... UTAS is not included in the state government's financial statements as per the Treasurer's annual financial statements. It is clear it is not actually true that UTAS's borrowings are included in the state's balance sheet, as such. Were you suggesting that the borrowings may be contingent liabilities somehow for the state government? Has the state government had to guarantee borrowings, for instance, which would then need to be disclosed in the state government's accounts? Can you explain to me what you meant by that statement?

Prof BLACK - Certainly. Because it is an institution of the state - and in the end, this will come to the kind of view of ratings agencies - there has always been an implicit assumption that should the university ultimately be in financial trouble, that would come to be a liability of the state's credit under the state act. In a university of our scale that could be a material matter for the state, so it is the kind

³¹⁶ Fiona Calvert, *Transcript of Evidence*, 6 July 2023, p. 6.

³¹⁷ Hon Michael Ferguson MP, *Transcript of Evidence*, 6 July 2023, p. 3.

³¹⁸ Professor Rufus Black and Alison Watkins AO, *Transcript of Evidence*, 1 March 2023, p. 44.

of thing that ratings agencies give consideration to when they are evaluating states as to what their potential exposure to liabilities would be. The technical ways in which that is done are complex, but that is why it does matter, because in the end we are an entity of the state.

Ms WEBB - *To understand that a bit more - obviously Moody's Rating Agency does give, I believe, the same credit rating to the state government as it does to UTAS - what you are saying there is that it would be imputed at least that the government is guarantor to borrowings that the university has undertaken. Is that tangibly, formally true?*

Prof BLACK - *You would need to ask the rating agency.*³¹⁹

Treasurer Ferguson was further questioned on financial implications for the state, in light of the view expressed by Prof Black:

Ms WEBB - *...Can you clarify, Treasurer, if you see that in the same way as Professor Black? Or would you like to correct that as a statement if you think that provides the wrong impression?*

Mr FERGUSON - *... the university is not part of the Crown, it is not part of the state balance sheet. The state is not responsible for its liabilities, should they occur - well, as they occur. I feel uncomfortable, in one sense, answering the question, because I don't like to create hypothetical scenarios that suggest what would happen if the university were in trouble, when I know that it isn't in trouble. I do not want to trash-talk it.*

In the hypothetical you have described, while not wanting to disagree with the vice-chancellor, in the event that a university in Australia was in so much trouble as would require some kind of rescue package, governments would address that in those circumstances. But I would see a far higher role for the Australian Government, given that it is the funder of higher education in Australia, and the state - in those circumstances, in that hypothetical - would no doubt take an interest in it as well.

*In that hypothetical scenario, no-one would want to see the University of Tasmania failing in any way. I hope that is a helpful attempt to answer the question. I do not wish to disagree with the vice-chancellor, except to say we would express it differently.*³²⁰

Clarification was sought from Treasurer Ferguson on whether the University's financial arrangements with Spark Living in relation to accommodation facilities and the University's issuance of green bonds were considered within the borrowing limit approved by the Treasurer:

CHAIR - *... I am interested in how the state keeps an eye on the level of commitment being made by the university in relation to the provision of accommodation, and how an entity like Spark Living operates. Do you have a comment on the role the state government plays in that regard, and the Treasurer in particular?*

Mr FERGUSON - *I have very little to offer on this subject. I have looked into the question and I understand this is squarely a matter for the university. It is not something the government has a role with. I understand the university financial statements present that arrangement under the heading 'Other Liability', and therefore not as a debt, not as a borrowing. I also understand that the Auditor-General of Tasmania has signed off on the UTAS financial statements as part of his role in auditing the university, and that this has been verified as appropriate.*

The Government does not really take a position on the operational decision the university has made regarding this financial relationship.

...

Ms WEBB - *I find it an interesting question because the intention with section 7(2) in the act, as you have already described, Treasurer, is to provide a role for state government and the Treasurer is the mechanism to approve borrowings.*

As we know, there are some very straightforward borrowing arrangements, but there are also borrowing-like arrangements that can be entered into. Can you help us understand exactly what section 7(2) covers in terms of borrowing-like arrangements? What are the parameters of what it does

³¹⁹ Professor Rufus Black, *Transcript of Evidence*, 4 May 2023, pp. 26-27.

³²⁰ Hon Michael Ferguson MP, *Transcript of Evidence*, 6 July 2023, p. 7.

cover or doesn't cover? Other than the Spark Living arrangements, we also have the issuing of green bonds. I am interested to what extent there is a relationship between section 7(2) and treasurer approval with instruments like that? Can you talk us through what the parameters are in terms of borrowings or borrowing-like mechanisms?

Mrs CALVERT - As I said, from what we are aware of, in the university, the Spark Living arrangement does not fall within the definition of borrowing; the green bonds certainly do and they are covered by the current \$400 million.

Ms WEBB - So, the most recent extension of the limit, from March 2021, was in order for UTAS to be able to engage in the green bond issuance?

Mrs CALVERT - It was an increase from a \$200 million limit to the \$400 million limit. It was agnostic as to what form of borrowing that they used. When we were originally assessing that, I think the expectation was that the university would continue to borrow through the Tasmanian Public Finance Corporation but they subsequently decided to go down the green bond route.³²¹

FINDINGS:

- 64. While the Act requires Treasurer's approval for University borrowings, the University has other borrowing-like arrangements that are not captured by this requirement.**
- 65. There is a lack of clarity on the relationship between the University and the State's respective financial positions.**

RECOMMENDATION:

- 16. Review Section 7(2) of the Act to retain Treasurer's approval for University borrowings and ensure it reflects contemporary borrowing and borrowing-like arrangements.**

Accountability to Government and Parliament

With its establishment under the *University of Tasmania Act 1992*, the nature of the relationship between the Tasmanian Parliament and the University, including any oversight mechanisms provided for by the Act, was a matter raised in evidence.³²²

Patrick Naughtin commented on the responsibilities of the Tasmanian Parliament in relation to the University:

In basic legal terms, the University of Tasmania Act 1992 should be viewed as any parent or enabling Act that delegates power to a subordinate authority. In practise, however, UTAS as a statutory authority operates in a way that is subordinate to nobody – and the Tasmanian Parliament has abrogated its responsibility and duty to scrutinise UTAS's operation. The uniquely powerful position of UTAS in the Tasmanian political landscape, as a semi-government institution that operates like a private corporation, has been noted with frustration in the media and at Hobart City Council meetings where UTAS has been described as "a law unto itself, answerable to nobody". The fact that UTAS is, in fact, answerable to the Tasmanian Parliament has seemingly long been forgotten, or has only been given lip-service to by both UTAS and the State Government, whether of Liberal or Labor persuasion. The reality as perceived by the Tasmanian community is that UTAS uses its government backing to

³²¹ Hon Michael Ferguson MP and Fiona Calvert, *Transcript of Evidence*, 6 July 2023, pp. 9-10.

³²² See for example: *Submission #72, Submission #130*, Emeritus Professor Jeff Malpas, *Transcript of Evidence*, 7 December 2022, Professor Hans Zoellner and Professor Manuel Graeber, *Transcript of Evidence*, 6 December 2022.

*proceed without normal scrutiny of its operations and development (rather like, but even more so, than another powerful institution, the Hydro Electric Commission, did decades ago).*³²³

Greg Barns SC commented on the importance of parliamentary scrutiny of the University to ensure accountability:

6. It is important to remember that the University is a very important institution in Tasmania. It is as important, if not more so, as key government business enterprises such as Hydro Tasmania and the TT Line. Yet the latter bodies are subject to scrutiny by the Parliament through Parliamentary Estimates Committees.

7. The University, despite being a creature of statute, rarely, if ever, is scrutinized by the Parliament. This is despite Tasmanian government funding, the various ways in which the University interacts with the community, and that it is governed by an Act of Parliament.

...

*9. It should be seen as deeply troubling that a key government funded institution which is critical to the State's economic and social wellbeing, should be so unaccountable to the body politic for its actions.*³²⁴

Professors Zoellner and Graeber, PUA, commented on the relationship between state Governments and State Parliaments, and universities:

Prof. ZOELLNER - ... *My personal view is that, as parliamentarians, as the elected representatives for the state, every problem in the state is yours and everything that happens in the state is something you need to be thinking about and concerned about.*

The University of Tasmania, in fact every university, is an important public institution that serves your state at every level. It generates your professional workforce, it informs your community whenever a question of expertise is required and it also upholds the principles of democracy. It's the training ground for your leaders, it's the place where, as Professor Graeber said, fundamental principles of democracy are protected and nurtured, and the population is trained, all those students who come and who are trained in that.

I think that whatever happens in the University of Tasmania is your problem. As Professor Graeber said, I am so delighted that you have constituted this committee and that you are looking at the University of Tasmania Act because you're the boss - that's the relationship, you're the boss. It's your responsibility, I believe, to make sure that the University of Tasmania fulfils all of its responsibilities and all of its potential. That is why we made these recommendations.

Prof. GRAEBER - *We actually phrase this within PUA: Parliament is our partner. Parliament is what universities should be reporting to, not individuals, in a democratic way. They are so important for democracy. Parliament is what I think we relate to.*

CHAIR - *It's interesting, because universities have quite a number of strictures applied to them from all sorts of other directions, other than through the act or through the parliament. ... Tasmania only contributes something in the order of six per cent to the budget of UTAS. The rest comes from the Commonwealth and from its own earnings, through fees and the like.*

It's interesting that you talk about parliament as being the boss. Is it more the case that the foundational reason for being is the act? Without that act, the institution would not exist, or at least that is its reason for being, and is what underpins it.

Prof. ZOELLNER - *I think that is right, and you are quite right to point to the fact that much of the funding now is independent of the Tasmanian Parliament. But I don't think that is really the issue. I think the point is that the university serves your state.*

CHAIR - *Well, it does particularly here because it is the only university in the state.*³²⁵

³²³ Patrick Naughtin, 2022, *Submission #130*, p. 1.

³²⁴ Greg Barns SC, 2022, *Submission #72*, pp. 2-3.

³²⁵ Professor Hans Zoellner and Professor Manuel Graeber, *Transcript of Evidence*, 6 December 2022, pp. 14-15.

Professor Jeff Malpas expressed a view that Parliament should take greater responsibility for the University:

I would like to see the Tasmanian parliament take its responsibility for the institution that is the only institution of this sort in the state, and start to take seriously the question as to what sort of university we need and want. I don't think we've done that. I think the precedent that was set under Dawkins, in which we effectively ignore the state character of institutions, establish a unified national system - which operates through federal regulation and some federal legislation, but is completely separate from the university acts - needs to be revisited and considered, because the university acts are what constitute the institutions. They specify their nature. Dawkins at no point took issue directly with the specification of the nature of the universities in the act. He just ignored it, and tried to re-establish universities using federal mechanisms in a very different fashion, as very different sorts of institutions. That, in a way, has been the whole problem. The sort of pointy end of that is what you get in a place like the University of Tasmania. But it remains a state institution. It remains the responsibility of the state parliament.

We could do something different in Tasmania. The problem is, we've never been brave enough to do that. And we've had a succession of vice-chancellors who have looked to try to model the University of Tasmania on whatever they thought was the latest thing on the mainland, and whatever they thought the minister in Canberra wanted. So we have constant changes, we have fragmented governance, we have poor decision-making, and we have an institution that has lost its direction.

Although you will have plenty of people who will talk about modern models of governance and so on, you really do have to look at the concrete outcomes, and you really do have to look at who is making those claims. Is it the managers and consultants? Or is it really backed up by the concrete, both empirical evidence, the metrics as you call them, but also by the sorts of values that those models instantiate? And that mustn't be left out of account. The question of the values of an institution is central to the sort of institution we have; and again, those values, that orientation for an institution, is something that the state parliament, can have a direct input into.

So, yes, federal government policy is important, but it's not the only thing that matters here.³²⁶

Simon Taskunas, alumnus, supported the independent functioning of the University but expressed concern regarding the lack of accountability under the Act:

As the only public university in the whole of Tasmania, UTas is accountable to the State Government and the Tasmanian people. However this principle of accountability is not found anywhere in the Act. Instead, section 7 of the Act confers on UTas (and indirectly the Council) wide ranging powers which are not subject to any approval by the Government.

While it is fundamentally important that UTas should function independently of the Government, in my view there are certain powers of UTas, the exercise of which should be subject to Government approval to ensure proper oversight of UTas and accountability to the Tasmanian people.

Examples of UTas powers which in my view the Act should specify as being subject to Government approval would be: (a) the making of Ordinances and by-laws under Part 3 of the Act; and (b) the sale or long term lease of any of the original land that was vested in UTas (eg the Sandy Bay campus). By way of precedent, the University of Western Australia Act requires the Governor's approval to be obtained before the equivalent powers are exercised by UWA.³²⁷

Dr Richard Herr OAM provided the following remarks on the University and Parliament's duties to strengthen connections:

My submission is really to chastise both the parliament and the university for losing touch with each other. That was really my concern.

In the course of some of the discussions with friends in the community, I discovered that the university council did not value the input from the two members of the parliament who had previously been on university council. When they described why, I could see why they did not value them. The members

³²⁶ Emeritus Professor Jeff Malpas, *Transcript of Evidence*, 7 December 2022, pp. 29-30.

³²⁷ Simon Taskunas, 2022, *Submission #85*, p. 1.

often expressed a view that they didn't know why they were there. It was as if they had drawn the short straw in some sort of lottery, and all they could do was sit there and then go away.

I think that was wrong, on the part of the parliament, not to prepare people. I think also, as you've discovered in the course of your own inquiry, a lot of people had absolutely no idea why this parliament should actually be involved with the university at all, and that was interesting.

I did have to point out to some people that there is actually a University Act, and the University Act makes the university a responsible creature, if you like, of the state parliament - and, therefore, there should be the usual kind of arrangements of accountability and responsibility.

I didn't think that was occurring, partly because, as I understand it - and I'm certainly happy if you could correct me, but I've talked to a lot of people about it - there just wasn't any sense that people were going from the parliament into the university council meetings prepared to listen or to speak. They didn't know what they were going to listen for, and they didn't know what they should say. I think that created some of the problems we have today.

Equally, I don't think the university valued its relationship with the parliament. I think the university assumed that the better the hands-off, the better for the university - forgetting that the university is part of the life of the state. It is part of the life of the city of Hobart particularly, but also now through other parts of the state, in other communities, and it's a major employer. It has responsibilities for its land. It has responsibilities to its staff, and the way the staff interact with the community.

All these things don't need to be micromanaged. They certainly don't need to be subject to constant review, but they do need to be maintained. The avenues of communication have to be there, so that people feel comfortable when they do want to raise issues of substance.

So, as I've said in my submission, my intention was to draw attention to this mutual fault, if you like, and to suggest that it ought to be addressed. I would be very disappointed at the end of the day if you took the view that you did not want to sit with the university council in some capacity, whether it's one or two houses. I don't think bi-cameralism enforces you to have two, but if you do, you can rotate it between the houses over time.

It ought to be somebody who actually is there long enough to understand how the university works and get a sense of priorities and future directions. Also, you ought to have a mechanism for reporting this back to the parliament in a useful way. Whether it's a report from the member to council, privileged or open, it's up to you - but something that makes the parliament feel that it knows what the university is about, and what it's doing, and indeed, what it can do to support the university in new ventures, and what it needs to address and redress, within the powers of parliament. Equally, as I say, I think the university should value that connection.

I think if that connection had been clearer, some of the issues you're dealing with would have either been avoided, or at least been flagged far enough in time to avoid such dramatic blow-ups.³²⁸

...

Ms WEBB - ... Regarding the opportunity to revisit a direct parliamentary representative on university council, what the act says is that when individuals are sitting on council, even if they have been elected from a staff group, they sit not as a representative reportable back to that group but as a member of council, loyal to council. How would that work for a parliamentary representative to function in the way you're suggesting where there'd be some communicating back and reporting back to parliament and still be in compliance with the act? Should that be something that is addressed or changed?

Dr HERR - That is something you would probably want to work out with the university. You don't want it to be a source of contention, something where you stake a claim to something that might require a statutory change. You have to remember everybody who sits on council sits there to help the university do its job. Representatives from various areas are supposed to give an input relevant to their participation. That's what it's there for. It's not there to be some sort of vacuum, nothing goes in and nothing goes out. It would be preposterous. The university council is there to make decisions and make informed decisions.

I wouldn't expect if you or Rob were on university council that you would go in with a directive from parliament as to what to achieve. You should be there to be aware of what the state's priorities are in

³²⁸ Dr Richard Herr OAM, *Transcript of Evidence*, 13 December 2022, pp. 12-13.

broad terms. You're the ear of the Government and the people. That's what parliament does. It listens to the people and it translates out through your question time and inquiries and so forth into advice to government.

That whole range of things is part of what you do and you should be aware of what the university is planning to do and whether or not it would impact on you. It would only be in the usual way that other representatives on council make their understanding of what university is doing available to the interests they represent, not in a discrete way, not in an advocacy way necessarily, but keeping the channels of communication open.

Ms WEBB - *There's also a direct relationship between the Minister for Education and the university because that is the minister responsible for the act and for appointing some members to council. We have connection between the government of the day and the university and then you are proposing the resumption of a direct parliamentary connection. How do those two channels of interaction and potential communication and consideration of interests work alongside each other? What if they are at odds with each other?*

Dr HERR - *If the communication between the minister and the university is inadequate or too cosy, it's the job of the parliament to get around it. That's why you have the Estimates and accountability mechanisms of the government businesses. The university isn't formally a government business but in a lot of ways it serves a similar kind of relationship, especially because of the size of its employment, the impact of its spending, and as we have seen its need to grow and develop. These all impact in broader ways.*

I don't want to suggest I'm accusing anybody of being asleep at the wheel, but it does seem that the two have drifted apart. It got to the stage where the council said, 'We need to be in a tighter focused group and we don't need the parliamentary representation'. Anytime groups tend to be a little bit more exclusionary I think you should take a look at why it is that they think that. The parliament said, 'Yeah, that's fine, we didn't like it anyway'. I think that was symptomatic of this sense that the two were too separate. You're not. The parliament is the institution that is responsible for the act. The government isn't responsible for the act, the minister isn't, you are, the parliament.³²⁹

It was suggested that as a mechanism of accountability to Parliament, a Public Works Committee-style process be established to scrutinise and approve major infrastructure investment by the University.

The late Peter Bicevskis provided an overview of how a State Public Works Committee might include examination of significant University infrastructure projects:

To overcome the total lack of accountability and transparency associated with UTAS proposals for expenditure on capital works projects, the UTAS Act could be amended to include provisions similar to the Commonwealth's Public Works Act 1969.

Note that there is an existing Tasmanian Public Works Committee process, The Tasmanian Public Works Committee Act 1914, but this does not provide the same level of accountability and transparency as the Commonwealth legislation. It can only examine projects with a value greater than \$8m, and does not have such detailed guidelines and procedures as its Commonwealth equivalent, particularly as outlined in the Commonwealth PWC Procedures Manual.

However, at the very least, incorporating the existing state PWC legislation into the UTAS Act would provide much greater accountability and transparency.

However, as the State Government only provides a small portion of funding for university projects, it may be necessary to liaise with the Commonwealth, which provides the bulk of the university's funding. But at the least, the State Government could legislate that the current UTAS campus be retained for educational purposes and revert back to the original intentions of the University Act.

UTAS does not require any planning approvals for capital works projects on its Sandy Bay campus. Currently, the only planning approval required by UTAS is approval from the Hobart City Council for projects it proposes off campus. But this approval is piecemeal only in that the current planning legislation does not look at the total development proposed (eg the UTAS Master Plan for all its city

³²⁹ Dr Richard Herr OAM, *Transcript of Evidence*, 13 December 2022, pp. 14-15.

works), but only examines each particular building in isolation as it is put forward for HCC approval. And the assessment of each project is based purely on its compliance with the Hobart Interim Planning Scheme, which does not allow for consideration of the project's merits or its economic impact on UTAS's operations. Issues such as disabled access, community engagement, greening of the city, and impact on local business cannot be considered at the planning approval stage. It also does not allow for consideration of public comments, analysis of the economic basis for the proposed works, or detailed examination of alternatives (such as upgrading existing campus facilities). Nor are there any penalties for providing incorrect or misleading statements by the proponents.

By comparison, the Commonwealth (and Tasmanian) public works process have proven to be a successful mechanism for examining the necessity and viability of proposed projects, and analyses them in a much wider context, including consideration of a total staged master planning and development process. The PWC process guarantees accountability and transparency, and also has severe penalties for supplying misleading or incorrect information, and strict deadlines for responding to questions taken on notice.

All major capital works projects delivered by the Commonwealth require Parliamentary approval. Projects with a value greater than \$2m must be referred to the PWC and projects exceeding \$15m are the subject of a public hearing. The focal point of Parliamentary approval is the Parliamentary Standing Committee on Public Works. The Committee processes allow the Parliament and the community a measure of confidence that public monies are being spent on infrastructure that meets the needs of the community. Under the Act, the Committee is required to consider the need, scope, cost, purpose and value-for money of proposed works and report to the Parliament whether or not it is advisable that the works proceed.³³⁰

The Tasmanian University Student Association (TUSA) suggested there should be a Minister for Higher Education in the State Cabinet.

Sophie Crothers, former TUSA President, stated the following:

*By having a minister for higher education more specifically, as many other states do across Australia, although we only have one university and those other states have many, to create such a portfolio would be recognising the importance higher education has in creating a pathway for Tasmanians to be able to stay in Tasmania. As well as an accountability mechanism it would also be a statement to the Tasmanian people about how seriously the government takes higher education and research in Tasmania.*³³¹

Ms Crothers was asked to comment on the relationship between such a Minister for Higher Education and the University:

*I don't think the minister should have control over the university. This comes back to academic freedom. Universities need to have the ability to be reflexive and identify the areas that may not necessarily align with political objectives. The nature of being a public institution is that we are always risking being defunded if you are not looking into the areas that the government of the day thinks is most appropriate. There's capacity for such a role to hold the university accountable by things like attending university council meetings, not as a voting member but to be there and report back to the Tasmanian public about where that money is being spent, what kind of decisions are being made and being able to call out issues when they arise earlier and bring it up in Parliament if need be, creating a closer relationship between parliament and the university. This has been lacking.*³³²

FINDINGS:

66. The University has been established under statute, therefore it should be accountable to the Tasmanian public through the Parliament.

³³⁰ Peter Bicevskis, 2022, *Submission #114*, pp. 5-6.

³³¹ Sophie Crothers, *Transcript of Evidence*, 13 December 2022, p. 48.

³³² Sophie Crothers, *Transcript of Evidence*, 13 December 2022, pp. 47-48.

67. **The relationship between the University and State Parliament has changed over time, with fewer formal connections and a lack of active scrutiny.**
68. **The reduction in connection over time between the University and the State Parliament has led to missed opportunities to identify and proactively address issues as they have arisen.**
69. **While some Australian states have a Minister for Higher Education, the Tasmanian government does not include this as an explicit portfolio responsibility.**
70. **While the University is a publicly-funded institution, there is no external scrutiny processes of its major infrastructure expenditure.**

RECOMMENDATION:

17. **Consider formalising processes for regular Parliamentary scrutiny of the University, including:**
 - a) **the Annual Report;**
 - b) **the annual corporate plan; and**
 - c) **major infrastructure projects.**

Decision-Making Case Studies

Included here are three case studies relating to recent decisions made by the University which illustrate a range of the concerns commonly raised in evidence on deficiencies in accountable decision-making.

Case Study 1: Tasmanian Institute of Agriculture

Evidence was presented describing the decision-making relating to moving the Tasmanian Institute of Agriculture (TIA) from the Sandy Bay campus to the Launceston campus of the University.

As described, this provides an illustration of a number of the core criticisms raised in relation to decision-making processes at the University, including an apparent pre-determined decision, a lack of genuine consultation or involvement by academics and students, a lack of transparency and openness, and an absence of accountability.

Emeritus Professor Brian Yates, Dean and Executive Dean of Science, Engineering and Technology (2015-2021), commented on the University's decision-making process, using the relocation of the TIA as an example:

***Ms WEBB** -... I'm looking at the remarks in your submission about term of reference 3 which is the appropriateness of the act to ensure accountable executive, fiscal and academic decision-making. The one I would like to pick up on is where you speak in paragraph 3.3 about the fact that there's not a healthy cultural discussion and open debate about significant decisions in the university, there would be very few examples where the initial view of vice chancellor is allowed to be challenged or, indeed, overturned. I'm interested to hear a little bit more about that...?*

***Prof. YATES** - ... I think that there does need to be healthy debate and consultation and so on about decisions. I would like to give a specific example, which is about the relocation of the Tasmanian Institute of Agriculture (TIA) to Launceston.*

I was asked by the vice-chancellor in late-2018 to think about how we could strengthen the operations of TIA in the north of the state. I led a number of conversations with the successive directors of TIA and the senior members of TIA to think about that, and all sorts of options that might involve. I asked them to consider a whole range of perspectives: the student experience; how it would affect teaching or research or the engagement of industry or the whole political environment that we worked in, the facilities that we had; and, indeed, the financial sustainability. I'd have to say that it isn't a black and white answer; that there are quite a lot of shades of grey and there are some things that are better and some things that are worse. That was in 2019.

In May 2020, I was called to a meeting where the vice-chancellor told me he had decided to move TIA to Launceston. I was quite surprised at that. I don't know what the involvement of university council was in that decision and, to be fair to the vice-chancellor, he probably felt that things had gone on long enough and thought things were dragging along and he just wanted the move to take place. I think there were pros and cons to this move and I would have hoped there would have been a negotiation, a consultation about this that the staff in TIA, the Tasmanian Institute of Agriculture, and the students would have been consulted; there would have been some discussion and, in fact, a negotiated outcome that was actually the best outcome for everyone would have been determined. That was not the case.

I emphasise that this was a very, very significant decision, in the context of there being about 65 staff in Hobart and 30 staff in Burnie. The decision was to move all those staff and all the facilities to Launceston. You can imagine what that means, in terms of families and homes and kids and schools and perhaps caring for elderly folk, or their livelihood and their careers. That was the decision that was taken at that time. ...

...

Prof. YATES - ... so, that was in May 2020. In December 2020, I was surprised to learn that, in fact, had become written into the funding deed of agreement between the university and the state government - I think is called the Inveresk Deed of Funding. I'm not sure of the confidentiality, so without actually talking about the details, it talked about a certain number of staff by a certain date for a certain number of millions of dollars towards the building of the buildings in Inveresk. I was quite surprised by that, because it is presumably a deed that is signed off at the highest level within the university and within government and it became part of the financial arrangement for that. To be honest, I think there were probably other considerations about this relocation of TIA that actually aren't the ones that I talked about and they are possibly to do with the move of the Burnie Mooreville campus, and the move of the Sandy Bay campus. I'm not going to go there, because I don't actually know that; but they obviously have a big impact on those two moves that the university has undertaken.

The other surprising thing to me about the funding deed when I was shown the next tract of that in December 2020, was that there were specific numbers of staff mentioned that had been agreed. Sorry, I think the funding deed was probably negotiated in about June 2020. So I found out about it six months after the negotiations had taken place. Those numbers of staff that were mentioned in the funding deed were agreed without reference to me or the director of TIA.

Let me just say again: I sit as the executive dean, TIA is within the college, and the director of TIA reports to me, so I feel that the care of the staff and students in TIA is in my responsibility. I don't think those numbers of staff that were written in to the signed-off deed are realistic. That adds to the difficulty, or the challenge, of making this transition work. I wasn't involved in that.

Ms WEBB - A decision was taken and then the impact of that decision is on you as the executive dean, and the people you are responsible for, without involvement in it.

Prof. YATES - Yes. Basically, my job was to announce the decision and implement it.³³³

Case Study 2: Tasmanian Law School

Evidence was presented on matters relating to the Law School at the University, including hiring practices, changes made to the model of teaching and the proposal to move the Law School from the Sandy Bay campus to the Forestry Building in the Hobart CBD, once re-developed.³³⁴

This evidence provided further examples of the core criticisms raised in relation to decision-making processes at the University, including an apparent pre-determined decision, a lack of genuine consultation or involvement by academics and students, a lack of transparency and openness, and an absence of accountability.

It was of particular concern to many submitters that the situation which developed would have consequences for the reputation of the Law School and its ability to attract high quality staff and students.

Adjunct Associate Professor Terese Henning pointed to matters relating to the Law School as examples of the consequences of the Act's deficiency in ensuring good decision-making:

These deficiencies in the Act have had deleterious consequences for the University and particularly for its staff and students. A clear and sad example in recent times has been the restructuring of University faculties and the standardisation of some degrees. Take the case of the merging of the Law Faculty into the College of Arts Law and Education (CALE) and subsequent standardisation of the Law degrees and their mode of delivery with Humanities degrees. Those who made the decisions to do this did not consult in any meaningful way with law school academic staff, the legal profession or

³³³ Professor Brian Yates, *Transcript of Evidence*, 7 December 2022, pp. 61-63.

³³⁴ See for example: #29, #30, #42, #44, #45, #50, #52, #53, #56, #59, #62, #70, #73, #86, #89, #91, #99, #119, #120, #123, #128, #149.

law students before proceeding. Instead, the so-called consultation process consisted of instruction sessions by members of the University Executive to Law school staff directing them to restructure the law degrees according to a standardised model. Similarly, without genuine consultation, a new mode of course delivery was prescribed which negatively affected teaching and drove a coach and four through workload allocations. Incredibly, all this occurred in the face of objections that what was being done did not meet Australia wide requirements for the recognition of law degrees and qualifications cross-jurisdictionally. The Law degree is a professional degree and must meet professional requirements and standards. This attracted negative publicity at a national level about the Law Faculty.

The result was that many respected academics left the Law School. Student enrolments also dropped. The reputation of the Law School has been negatively affected and its research capacities diminished. Until these unfortunate events, the Law Faculty had an enviable reputation that had been built up over decades. It had also had a close and mutually beneficial relationship with the legal profession. Because of its high repute, the Law School attracted expert academics and visitors, as well as numerous postgraduate and undergraduate students. This was all undermined in just over two years and will probably take many more years to restore. This process only came to an end when the legal profession began to investigate what was occurring and indicated its considerable concerns to the Vice Chancellor and Executive Dean of CALE. Unfortunately, much damage had by then been inflicted on the Law Faculty. Additionally trust between the University Executive and the Law Faculty, law students and the legal profession was eroded. While trust in the Law Faculty is gradually being repaired, the same cannot be said of the damage done to the trust that once existed between the University governance bodies, the wider community and University academics, professional staff, and students.

This case demonstrates how deficient the Act is in protecting and promoting academic freedom, independence, and autonomy. The governance occurring here has been by order and direction, rather than by respectful and honest discussion, communication, and consultation with those with the relevant expert knowledge and experience, the law school academics.³³⁵

Dr Martin Clark, former Lecturer in Law, now Adjunct Lecturer in Law, UTAS, pointed to issues in relation to hiring practices at the Law School:

There has been a long-running set of tensions between the Faculty of Law and CALE that predates my arrival in 2020. As I understand it, law staff are perceived as difficult, partly because of their insistence on proper procedures, insisting on their workplace rights, and for challenging decisions around workloads. As has been documented in the media extensively, many ongoing UTAS Law staff have resigned, brought forward their retirement, or reduced their fractions since 2020, as I understand it largely due to these disputes around workloads and hiring practices.³³⁶

Further, Dr Clark, detailed issues with the quality of teaching at the Law School prompting students to consider studying elsewhere:

Throughout 2022, I heard complaints from many UTAS Law students about the quality of teaching, changes to modes of delivery, and issues around the adequacy of support offered to newly hired staff in Semester 1 2022. These were extremely concerning issues. Student representatives estimated from their conversations with students that approximately one third of UTAS law students were contemplating moving to another institution because of these issues. Much of this was reported in the media in early 2022. To my knowledge, some of these problems have been fixed, and I do not know how many eventually may have transferred or their reasons for doing so. But the fact that students were forced to advocate for proper teaching at all is a serious problem, and the situation should never have deteriorated to that extent. While some of these complaints related to policy decisions by senior management on modes of delivery, in particular the reduction in lecture time from 2 or 3 hours to 1 hour per week applied to all units, the problems with the 2021 and 2022 hiring processes, including the

³³⁵ Adjunct Associate Professor Terese Henning, 2022, *Submission #89*, pp. 4-7.

³³⁶ Dr Martin Clark, 2022, *Submission #142*, p. 3.

*refusal to employ teachers who had strong experience and had excelled at UTAS exacerbated this problem severely.*³³⁷

The NTEU noted the intervention of external legal stakeholders to rectify the issues at the Law School:

*... the Law Society of Tasmania expressed concerns in March 2022 over the environment in the Law School citing “a poor educational environment for students, teaching staff under immense strain and continued inflexibility in terms of the delivery model”, i.e., the discontinuance of face-to-face lectures. Over a period of almost six months the Law Society, students and other stakeholders met with Law School management but ‘had yet to see any meaningful change in response to those concerns and the situation only seems to be worsening’. It was in May 2022 that the Dean of the Law School announced that this trial teaching model has been applied inflexibly and would be applied more flexibly, and in a manner consistent with the Law School needs, and importantly with lectures restored.*³³⁸

Tasmania University Law Society (TULS) reflected on detrimental decision-making in relation to the Law School:

With respect to accountable decision-making at the University, TULS only seeks to comment on the relationship between the Faculty of Law and the University’s management.

Over a few years, the Faculty of Law has been subject to a range of decisions made by the University’s management to the detriment of teaching, learning, research as well as staff and student morale. While the Law School is now much better placed and in a stronger position as of August 2022, it is troubling that actions taken against Law School staff were not addressed until an unprecedented level of external pressure developed. It should not have taken the intervention of the legal profession and alumni in the first half of this year for the University’s management to change its approach. This demonstrates that the internal governance of the University is ripe for democratic overhaul in a way that places the interests of staff and students at the centre.

*External pressure should never be necessary for the University to change its position on any matter. Instead, it should genuinely listen to the concerns of staff and students and respond accordingly. However, the current management is only responsive to public displays of criticism for it to change its position. This was seen during the student accommodation debacle at the end of 2018 where students were to be evicted from their accommodation without any prior consultation with them arising out of a significant change in accommodation policy. It was only until an online petition and media attention gathered traction that the University reversed its decision. This is similarly the case during the Law School crisis of this year. It was not until significant media attention, a proposed letter to the Vice-Chancellor with over 230 signatures from Law School alumni (which was planned to be published in the Mercury) and the intervention of the legal profession that the University reversed its decisions. While the University has now conceded that a range of issues did in fact exist and reforms have now been implemented, it is telling that the University’s internal complaints mechanisms could not resolve this.*³³⁹

Further comment was provided by Fletcher Clarke, former President of TULS:

...From the perspective of law students, I can say that the University of Tasmania’s law school, after what has been a long and hard-fought battle, is now in a strong and healthy position. But this has only been the case after a concerted effort by students, staff and the legal profession to bring about changes that have placed the law school in the position it now is. It should never have come to this, and this experience has highlighted to many of us the failings of the university when it comes to its governance structure and how accountable and responsive - or the lack of a responsive nature - the management

³³⁷ Dr Martin Clark, 2022, *Submission #142*, p. 4.

³³⁸ NTEU, 2022, *Submission #123*, pp. 7-8.

³³⁹ TULS, 2022, *Submission #119*, pp. 3-4.

is, especially when it comes to dealing with a crisis of the magnitude of what the law school went through.³⁴⁰

Pat McConville commented on academic staff concerns about workload models and lack of consultation:

Mr McCONVILLE - ... I spoke to a whole bunch of academic staff who were concerned about the way workload models were going but who felt unable to raise that issue or robustly pursue it. That's the kind of impact of a lack of speech and a culture of non-dissent in the university. People end up with terrible working conditions, getting burnt out and not being able to participate in the kinds of research or service they would like to pursue, and which would be valuable for the community, because they are not the kind of things that are recognised by management as priorities.

Ms LOVELL - ... Is that something you have seen happen as a bit of a trend over what period of time? Is that something that's gotten worse or more prevalent?

Mr McCONVILLE - My deepest experience was in the last 18 months or so and it was a real problem. The most public example you will already be familiar with is the Law School, the burnout, the exasperation of the Law staff and the fact that they had to go to external stakeholders to try to seek an intervention in the way that school was being managed. That is a good example.

But Law is in a very unique position in that it has some of those external stakeholders who are high-profile and able to intervene. The university is a big place and there are a lot of disciplines that are doing great and important work, important for the Tasmanian community and important for their disciplines, that don't have the advantage of going to those external stakeholders, so they are feeling quite cowed. Perhaps it is a confirmation bias or perhaps it is genuinely the case that that has become a lot worse over the last 18 months.³⁴¹

The University was asked to reflect on the effectiveness of internal consultation and decision-making processes when making changes to the teaching model, with particular reference to the Law School example:

Ms WEBB - ... I am asking that because of course, what has been quite a publicly aired situation with say, the law school, as an example. Where changes to the teaching model were - it would appear - imposed and then there was a great kick up. In order to have it addressed and rectified, it required not just internal processes like the ones you are describing for support and checking in and what not, but the entire legal profession to mobilise, including a chief justice and an ex-governor to ask for it to be rectified. I think that is an outlier example, but it is a very public one. Something obviously went, it would seem, fairly seriously wrong.

Can you reflect on that in terms of such a consequential outcome from a change to a teaching model that seems to have just been imposed?

...

Prof BLACK - There were a series of issues in the law school that actually were to do as much as with other things as with the teaching model. The representations are to do with other aspects, to do with continuing legal education effectively, and some proposed changes that had come about, which the people you mentioned and some others brought to my attention as needing a different kind of approach and direction. I obviously welcomed that conversation and we made a series of changes to do it.

There were three things going on at the one time. One to do with that, one to do with concerns about what happens to Tasmania Law Reform Institute and one to do with the teaching model. Representations became that students were bringing to attention the teaching model, matters that really are to do with the legal professional and I appreciated their engagement with that.

³⁴⁰ Fletcher Clarke, *Transcript of Evidence*, 12 December 2022, pp. 11-12.

³⁴¹ Pat McConville, *Transcript of Evidence*, 8 December 2022, p 24.

Part of your question, Meg, is about consultation. Having observed this process, I actually did request some very direct changes to how our academic division works with our academic senate in relation to changes. My view was that it was necessary to do that. Natalie spoke to you yesterday about the changed model where ideas are brought early for, in a sense, conceptual discussion before they go anywhere. Second period, second stage, where they then come in a more formal version and a third stage where they reach final approval to ensure that we get a better conversation done. The academic senate is the right and appropriate place for that to happen. However, I have certainly seen the way in which aspects of getting ourselves out of the COVID-19 world, now that we are returning to a kind of business-as-normal world, absolutely needed to change to enable that to happen in a much better way. That is what we have done.

Ms WEBB - It is the process side of it, not so much the rationale side of it I am interested in. In terms of that law school example and particularly, with those two elements you mentioned, the legal professional ongoing education or ... it is the professional qualification at the end of the degree, is it?

Prof BLACK - Yes, that is correct.

Ms WEBB - And then student concern about the teaching model. Clearly decisions were made to change in both those areas at a certain time in a process which then required rectification. Now that the changes have been made to the process, do you feel that there is a certainty that we would not see a similar situation roll out? Where decisions are made and then fixing has to be done?

Prof BLACK - I think it is very much less likely, given the nature of those changes. Even in a richly consulted set of changes, the model should see this go much better. However, we are in a changing landscape about how education is delivered that really reflects the best possible understandings of how pedagogy happens. That gives rise to healthy and significant debate and is something which should be welcomed, not stepped away from.³⁴²

In a further hearing, the University was asked to respond to the concerns raised in the TULS submission in relation to the Law School situation:

CHAIR - ... submission no. 119 - from the Tasmanian University law students. Page 3 of their submission is quite clear with their concerns. It's about the experience of staff too, even though it's a student law society:

While TULS is a representative student body it would be remiss of us not to comment on the experiences of staff as it has directly affected their education as well as the morale of students. From our experience there is a general fear amongst many staff that they cannot express their opinions about the university for fear of reprisal. This view is also shared by some students.

They go on to say:

There is a general apprehension among students and staff. Any concerns they share about the university should not be discussed via university channels such as emails due to a fear that they're being monitored.

It's pretty strong stuff. Do you have any comment on that submission no. 119?

Prof BLACK - I think the submission was made last year at a time where the Law School was travelling through some difficult times. I'm naturally sympathetic to people who have had difficult or challenging experiences. A lot of water has passed under the bridge since then, with the good work of many people to ensure there is an environment where people are able to feel that they have a good and safe working space.

I think this reflects a very particular period, and a lot of attention given to it. The materiality, of course, is that we do not monitor emails or any of those things. That just does not happen; it is protected by people's privacy. But a lot of work has happened, and I think it would be a different picture today.

³⁴² Professor Rufus Black, *Transcript of Evidence*, 2 March 2023, pp. 27-28.

Ms WATKINS - Chair, if I could just assure you this has been a matter of concern for council and we are very pleased with the urgency and the response. Our informal monitoring I think corroborates the Vice Chancellor's sense that things are in a much better place. But, I certainly appreciate that there was a difficult period there.³⁴³

Case Study 3: Hobart CBD move

The proposed relocation of the Sandy Bay campus to the Hobart CBD was a topic frequently referred to in evidence to the Inquiry.³⁴⁴

While the Terms of Reference of this Inquiry do not include examination of the merits or otherwise of the proposed Sandy Bay campus relocation, the concerns raised in relation to it are illustrative of core criticisms made of decision-making processes at the University, including: a lack of genuine consultation or involvement by academics and students, a lack of transparency and openness, a lack of accountable financial decision-making, and an absence of accountability to those who constitute the University and the broader community.

Evidence from many submitters indicated the proposed relocation of the Sandy Bay campus to the Hobart CBD was regarded as a catastrophic failure of governance, decision-making and accountability under the Act.

Emeritus Professor Stuart McLean commented on the lack of support for the proposed campus move:

For several years we have been trying to persuade the academic workforce and the residents of Hobart of the merits of relocating the campus, which is a big project. They have failed to do that, clearly. They lost the vote in the council election and as far as we can gauge it, the academics of the university have remained opposed to it as well. The reason is, we haven't had a clear, reasoned argument that is well articulated. The advertisements are an insult. That's not what you expect from a university. They shouldn't have to employ advertising agencies to sell their product. It just shows that the mindset is all wrong. It is not what you want from a university, and they should start with their own staff. If they can't persuade their staff of it, then really, is it such a good idea?³⁴⁵

Tasmanian University Student Association (TUSA) highlighted the lack of meaningful consultation with students, and the need for genuine partnership with students in future:

The University has invested significant resources into educational and research facilities appropriate to achieving learning, teaching, and research. Most notably of course, there has been the relocation of the Cradle Coast Campus to Westpark, the current Newnham Campus to Inveresk in Launceston, and the proposed relocation from Sandy Bay into the CBD of Hobart.

TUSA does not specifically oppose the move into the CBD in Hobart. However, there has been a severe lack of meaningful consultation with students on whether the move into the city should go ahead in the first place. For those students and staff who have already been moved into the Hobart CBD, their input into the designs have been overwhelmingly ignored, most notably through the open plan offices, lack of lecture theatres, and de-centralised social spaces for students to gather. The same concerns around open-plan staff offices have been raised about the Inveresk campus development to no avail. Concerningly, the new Westpark Campus in Burnie has had significant issues with disability access that are yet to be resolved 12 months from opening. Further, TUSA has been attempting to work with the University to find a location to house our student representatives, staff and important services if any of the prospective moves proceed, and for the last two years have been largely unsuccessful or ignored.

³⁴³ Professor Rufus Black and Alison Watkins AM, *Transcript of Evidence*, 4 May 2023, pp. 11-12.

³⁴⁴ See for example: Submission #2, #8, #9, #11, #30, #36, #39, #42, #43, #45, #50, #51, #56, #61, #63, #65, #66, #70, #73, #74, #75, #87, #94, #96, #108, #109, #111, #123, #124, #126, #130, #131, #141, #145, #149.

³⁴⁵ Emeritus Professor Stuart McLean, *Transcript of Evidence*, 7 December 2022, p.17.

*All these examples are symptoms of a bigger issue: that is, that 'consultation' has occurred as an after-the-fact approach with little to no scope for student or community feedback to be incorporated into the final designs. Consultation that is intended to develop an overall design or strategy necessitates transparency of budgets. It is not enough to consult on projects in a vacuum, as if there are no other ideas out there worth discussing. True consultation requires the alternatives to be considered together, which allows for properly informed decision-making. If the University is to continue to provide appropriate educational and research facilities, any future developments need to be done in genuine partnership with student, staff, and community needs. There needs to be assurances of accessible, communal, and student-owned spaces which promote a sense of belonging. Importantly, even if traditional lectures are no longer the best practice, there need to be 'lecture theatres' that allow large groups of students to gather, and share ideas with academic staff and community members.*³⁴⁶

TULS made the following observations regarding the impact of the decision-making process associated with the proposed CBD move:

The University's proposed move of the Sandy Bay campus to Hobart's Central Business District has the potential to undermine the core functions of the University to the detriment of teaching, learning and research. The City Move will bring about a downsizing of the University to a significant extent that it will effectively force many students and staff to study and work from home. The Move is a pretext for shifting more and more learning online against the wishes of students. It is not about providing purpose-built facilities otherwise buildings decades older than those at Sandy Bay would not have been acquired for development. For example, the Forestry Building is decades older than the current Law Building at Sandy Bay which underwent significant renovations after the 2018 floods.

...

The lack of meaningful consultation concerning the City Move as well as the ignorance to legitimate staff and student concerns has demonstrated that the University's decision-making bodies, the Council and the Senate, are incapable of addressing widespread concerns. There has been a continued reluctance to engage in meaningful consultation on a range of issues arising out of the City Move. It is an indictment on the management that the University was asked to restart its City Move consultation process by the Hobart City Council. However, there are very few signs that the new consultation process will achieve anything at all. Its purpose is not to re-examine the move but instead its focus is to make the move beneficial for everyone. Already, significant staff and student concerns about the most imminent city development, the Forestry Building, have been mostly ignored. If those who are directly affected by the move are ignored then there is little promise that an 80-person committee will be able to achieve much, if anything at all.

*It is additionally concerning that the University is spending vast sums of money to convince the electors of Hobart to vote yes in the upcoming elector poll while teaching and research is side-lined by the institution and year-on-year academics are forced to work more with less support and fewer resources available.*³⁴⁷

Fletcher Clarke, former President TULS, spoke from a personal perspective and as a leader of a student representative organisation about student involvement in decision-making on the proposed campus move:

Mr CLARKE - ... *I might speak to my personal experience first, because that predates my experience with TULS. I've been a student since 2018. In 2019 I was involved in two focus groups relating to the CBD move at that time, and to my knowledge they were the only two publicly advertised student focus groups available in the lead-up to the decision to move the campus, or whether we would stay at Sandy Bay.*

My concern about that, from a very early stage, about the decision to move - and I can touch on the specifics or particulars about the move itself and how that might relate to the student experience - in the lead-up to the move those two focus groups were very useful as a format for discussion. However, we never really saw the results of our discussion or received any feedback to that extent, and my view

³⁴⁶ Tasmanian University Student Association, 2022, *Submission #128*, pp. 2-4.

³⁴⁷ Tasmanian University Law Society, 2022, *Submission #119*, pp. 4-6.

was that there was an overwhelmingly negative response to the move and lots of concerns that had not been ironed out prior to the decision. We never saw those documents, or any of the reports related to that.

...

Mr CLARKE - In that 2019 process, we were confined to external operators, a market research company. I cannot remember the name of the company at the time. It would have been more beneficial to have conversations with those in the university about our concerns. I think that is perhaps a better way to ensure a dialogue model.

We can have and appreciate the external contractors, whoever they might be, but we want to ensure that there is this, almost democratic process in the university. In terms of the process since then, it has to be said that students have been the ones who have been more proactive in voicing concerns, or even concerns about providing feedback.

My view is that it should not be students who have to be on the front foot here. It should be the people conducting this plan and trying to exercise it to engage with students more actively, because, to be blunt, we are not the ones who are paid to do this. The majority of us, we have full-time study, part-time working commitments to grapple with, as well as all these extra-curricular commitments.

For us to be able to provide, sometimes, hours and hours of work each week, on this, I think is really deficient in the decision-making process. We would hope that people will be more proactive in coming to us about our needs rather than deciding on some master plan for a particular space, and saying 'this is what it is going to look like'. It would be better if we were involved with the decision-making from the beginning, rather than from a very late stage where we have now found that it has been an uphill battle to change certain things. It often takes months to get these things resolved, and if you are a student, you think of your work in terms of two 13-week semesters with exams at the end.

There is a very little capacity there for you to advocate beyond that, and you are almost forgotten after the formal teaching period. People doing a three-year degree, if you think that it takes months and months to get issues resolved, then you can get to the end of your degree and not really have achieved much.

Ms WEBB - In terms of TULS and the formal opportunities to be involved in decision-making, do you want to speak to that?

Mr CLARKE - Over the past two years now, since the beginning of 2021, we have been invited on three occasions in total to contribute to feedback on this particular plan for the university. Three opportunities over 24 months is not an adequate time at all to provide feedback on this. We would have hoped there would be more opportunities.³⁴⁸

The late Peter Bicevskis questioned the rationale provided by the University for the proposed campus move, the lack of transparency in relation to the evidence base for it, and the capacity for appropriate decision-making:

In February 2019, as justification for relocating the university, UTAS claimed that two thirds of the Sandy Bay buildings were due for replacement and that a move to the CBD would cost \$445 million. This compared with \$570 million to retain the existing campus. Yet, this is directly contradicted by a leaked confidential 2018 UTAS report, which identified that more than 60 per cent of the buildings were actually in relatively good condition. The remainder could easily be refurbished and the cost of refurbishment was significantly less than building new facilities.

The background to this information has never been made public and no details have been released as to how these costings were arrived at. Just a month later, UTAS increased its cost estimate of new construction by \$155 million, to more than \$600 million. So, one has to question the validity of these figures and also UTAS's ability to competently manage such an enormous project.

The report also said the university had not properly maintained its Sandy Bay buildings, with the maintenance backlog in excess of \$100 million. It also identified the fact that the Sandy Bay facilities

³⁴⁸ Fletcher Clarke, *Transcript of Evidence*, 12 December 2022, pp. 18-19.

are under-utilised. UTAS has recently revealed on its website that it uses only 17 per cent of its Sandy Bay learning and teaching facilities, yet it leases office space for teaching purposes in the CBD. The report also identifies a number of significant buildings on the Sandy Bay campus that are in good condition, yet the university's Sandy Bay masterplan proposes that two-thirds of these buildings would be demolished.

Conversely, of the buildings that the report identifies as being in 'poor condition,' the masterplan shows two-thirds of these would be retained and refurbished. There appears to be no economic or functional logic in UTAS's justification of the move. The university's recent purchases of CBD properties at well above market price; renting CBD space for teaching, when the fit-for-purpose facilities sit vacant in Sandy Bay; committing funds to planning buildings that may not proceed and expensive marketing and public relations campaigns only highlight its inability to manage its finances in an appropriate and accountable manner.

Since I made my original submission there have been a number of significant developments, including the recent elector poll; significant advertising of UTAS claims, and the establishment of the Shake Up panel by UTAS to demonstrate its commitment to community engagement with the design.

UTAS claims that it has extensively consulted with the community, yet the only measurable surveys carried out, the NET staff and student survey and the recent poll, reveal ongoing, strong opposition to the relocation.

This so-called 'community consultation,' is also deeply flawed. For example, the UTAS reports which summarise the outcomes of various UTAS engagement and workshops with the community have the following qualifying footnote:

It is important to note that a significant proportion of participants expressed their concerns regarding the campus's relocation to the CBD. Comments relating to the campus relocation have been omitted from the following engagement summary, as this decision remains out of the scope of this work.

Similarly, with the Shake Up panel, which UTAS has put forward as another example of its consultation process, the stated terms of reference for this panel expressly stated that there was to be no discussion of the need for the relocation, nor with what's to happen to the Sandy Bay campus. I was a member of the Shake Up panel, hoping that my experience with designing and planning university projects would be of use, but resigned when it became obvious it was just a public relations exercise. I know of at least three others who have resigned from the panel and two others who are on the panel who disagree with its outcomes, and no doubt there are more.

UTAS also stated one of the aims of the panel was to provide input into the CBD master plan and design of the facilities, but the design for the forestry building is already finished and I believe the design of other buildings is well underway. So, how can you do a master plan after you've designed the buildings? It's back to front.

A brief for a facility is not prepared by administration and management and the community. You prepare a brief by consultation with the users. It would be like asking the general public to design a hospital without getting input from the doctors, nurses and other hospital staff.

The Shake Up Community Panel recommendations as outlined in its final report are of little use. They are of a generic nature, with broad aims such as 'design for sustainability', 'creating a vibrant campus culture', 'establishing identity and sense of place', 'greening the city', 'connecting with the community', things which one should achieve with any good design.

Many of the panel's recommendations are actually not the responsibility of UTAS, but rather the Hobart City Council and the state government, such as the creation of green links, pedestrianisation, provision of better public transport, et cetera.

...

In summary, UTAS management has shown they are not capable of balancing the university's role as a public institution with a need to generate funds. It has become dominated by a management team that is focused on profit at the expense of its role as an educational institution. It has shown little evidence that it is capable of making rational, logical business and financial decisions.

The act needs to allow for greater scrutiny of the university's actions, ensure that these actions are transparent, there is greater accountability for these actions, and above all, the act must ensure that the primary role of the university as an education and research institution is maintained.³⁴⁹

David Boyles, retired executive, alumnus and former Adjunct Professor at the University, outlined a series of potential risks that do not appear to have been transparently addressed in the University's decision-making on the proposed campus move:

Strategy documents. *The available documents could generously be described as aspirational, but perhaps more accurately described as "arm waving" exercises. A move as radical as the closing down of an historical campus and transition into the Hobart CBD is quite significant and undoubtedly will create numerous unintended consequences. And historically, major projects such as this tend to run vastly over budget. So, there should be a substantial base of strategic thought and analysis of the risks along with a clear set of plans to deal with the potential risks.*

Potential risks not addressed. *(Note: The following are just examples, not intended to be a comprehensive list. However, if any of these have not been properly considered - and appropriate plans made to mitigate - then neither the Council, nor university executives, are being held accountable for governance and management.)*

1. *A detailed, realistic cost/benefit analysis comparing the option of renovating current Sandy Bay buildings versus the option to purchase (and also renovate) CBD buildings? I note that huge amounts of money have already been spent on purchasing and renovating CBD buildings. It is difficult to conceive of a scenario where moving could be more cost effective than renovating, or even expanding plus renovating, existing owned structures in Sandy Bay.*

2. *How will cost overruns be handled?*

3. *Analysis of the expected changes in capacity and capability for each option? Analysis of the necessary changes in support functions for each?*

4. *How many more (or fewer) students will be attracted by moving to the CBD? Are there any anticipated changes in mix of students and how will that impact teaching and administration?*

5. *Analysis of impacts on recruitment quality and availability of professors?*

6. *Changes in maintenance and security expenses for each option? Costs for maintenance and security must go up for widely distributed buildings versus a centralised campus.*

7. *Changes in ongoing costs (fixed and variable for each option)?*

8. *Ability to solicit alumni support and funding in the future?³⁵⁰*

Andrew Hunt, alumnus, expressed concern regarding the disposal of property and the condition of the Sandy Bay Campus buildings:

It is my view that the Parliament of Tasmania, when making this Act, did not envisage nor sanction the abandonment of the Sandy Bay campus and gifted land. The fact that UTAS is pretending to lease the land for a century (realistically an irreversible change), is fundamentally changing the university from a campus-based model where students can interact and study in a relaxing, open environment, into a drab inner-city drop in centre with expensive parking and no adjoining sports facilities. Under cover of ignorance and COVID-19, the University Council has moved to condemn Tasmania's only university into a second-rate institution that is not worthy of the support of government or the land it was gifted.

Claims the buildings on the Sandy Bay campus are in disrepair are both evidence of the neglect of recent UTAS management and deceptive, as they could easily be updated with an appropriate maintenance plan and some of the finance obtained to facilitate the city move and fund its many consultants.³⁵¹

³⁴⁹ Peter Bicevskis, *Transcript of Evidence*, 7 December 2022, pp. 42-44.

³⁵⁰ David Boyles, 2022, *Submission #56*, pp. 1-2.

³⁵¹ Andrew Hunt, 2022, *Submission #62*, pp. 1-2.

Maree Roberts, author and coach, questioned the financial and social case for the proposed CBD move:

UTAS management and its oversight board have done significant damage to the reputation of the institution through the pursuance of dubious financial strategies, including off-campus purchases and demonstrate their lack of care for the community they serve time and again through their actions, which have ignored extensive community feedback in relation to the relocation of the university to the city.

Anyone with a basic understanding of business cases can see that relocation does not stack up from a social or economic perspective. The Act clearly has no sufficient sanctions or provides the needed ability for government to intervene if a board is proven to be self-serving and not serving the community as Parliament intends.³⁵²

Mike Meerding, alumnus, commented on a lack of genuine consultation and accountability:

There has been a lack of real consultation with the community prior to embarking on a wholesale move of the Sandy Bay campus into the CBD. It has been an operation by stealth to partially install the campus into the city and then announce much later the wholesale abandonment of the Sandy Bay campus. The rationale for this process is flawed on many counts.

The University's academic teachers and researchers may have academic freedom, independence and autonomy for its activities, however, when the activities of the University's management affect not just the University but the entire community the University must be held accountable for their actions.³⁵³

Anne Caughey commented on the impact the proposed Hobart CBD move may have on the quality of teaching and learning:

Throughout the whole debate about UTAS plans for relocation, there has been no research into the impact on the quality of teaching and learning and the social impacts that such a massive upheaval will create. Surely the University Council should ensure independent research is conducted into the impacts of such a move as it will most certainly have very undesirable and not previously considered impacts e.g. What effect will the demise of face to face lectures, the lack of an integrated campus and lack of cross faculty relationships have on staff, students, research sharing and collaboration, drop-out rates and the effects on the mental health for both staff and students, when the sense of belonging is replaced with feelings of alienation and isolation etc? What provisions will be made to allow for the large scale and highly industrial research equipment (such as the full-size jet engine in the Engineering Department), if the move into the CBD eventuates? Will its use be shut down or limited in order to appease neighbours living and working in close proximity in the CBD who quite rightly would object to having to put up with the roar of a jet engine etc? And will this CBD relocation limit the opportunity for future expansion of other large scale, practical research projects etc We must also consider the quality of education offered from the CBD location, when in the very near future, online course delivery will have to be abandoned because of the problems (most of us can already foresee). The CBD location has no dedicated space for lectures and large scale face-to-face teaching? And what happens in the future if the university needs to expand to accommodate whole new courses and fields of study, that as yet, have not even come into existence. Who knows what space will be required to deal with these future areas of study. A CBD location would prevent UTAS from researching, developing or offering studies in the future. The Sandy Bay location has space to allow for all sorts of future endeavours in research and research partnerships etc.³⁵⁴

Expressing similar sentiments to many other submitters, Judy Tierney OAM criticised the lack of accountability for University decision-making:

Utas has shown a clear lack of accountability to anyone with its level of spending in relation to the purchase of city properties as part of the proposed City campus relocation. It has paid well over market

³⁵² Maree Roberts, 2022, *Submission #44*, p. 1.

³⁵³ Mike Meerding, 2022, *Submission #86*, p. 2.

³⁵⁴ Anne Caughey, 2022, *Submission #70*, p. 3.

price for a number of city properties and most recently has committed to spending \$86m on refurbishing the former Forestry building. At the same time moving to online delivery of courses without the need for large lecture and other student facilities in the city.

The abject failure to properly maintain the buildings on the Sandy Bay campus is another example of poor and non-accountable fiscal management and decision-making.³⁵⁵

Bill Fitzgerald, alumnus, summarised a range of concerns commonly expressed:

1. *UTAS have paid well over the market price for Hobart CBD properties and have thus wasted resources*
2. *UTAS have wasted resources on flawed marketing campaigns to support the CBD move*
3. *Academic staff and students have had little or no involvement in this decision*
4. *The Act is far from clear in terms of its intent to utilise the Sandy Bay site for educational purposes*
5. *UTAS has demonstrated absolutely no accountability to Government and the general community for this decision.*³⁵⁶

Vice-Chancellor Black provided a response to a series of concerns raised in submissions regarding decision-making processes in relation to projects such as the CBD move:

CHAIR - *The two questions that are raised in that particular instance, [CBD move] the fact that the university is refusing:*

- *to conduct a community consultation process on the relocation proposal, as requested by the HCC*
- *the stated determination of UTAS to continue with its relocation plan whatever the outcome of a public plebiscite conducted by the HCC.*

Now, without looking at the move specifically, the process of community consultation: is there a reason why you did not want to go down that track and if you had your time again, would you go down that track and have that proper community consultation?

Prof BLACK - *I am happy to answer that question. I actually disagree with the premise of the question. If we go back to when this was originally done and we set out the case for and against the move, which then had substantial room with a lot of documentation. It had over a thousand people visit it and make their observations about it. That led and informed a council decision around the idea - the highest level of concept. There was then a three-day summit that involved people from right across Hobart. It was a major event. It had everyone from school kids - which is our thing, we want to make sure that the people of the future were there - all the way through to a range of different members of the public and different interest groups there. They then significantly evolved the thinking about what the shape of that could be, a very significant evolution about how that would come, it came out of that process, it went back to our council, they liked that direction.*

Then they said, okay, the next step of this is to take that broad direction and do another round of discussion about what would be the urban design principles that would sit in there. We took that and created a set of design principles, which again, we consulted widely on, put those draft ones out for further consultation, took the feedback on them, and put that into the evolution of the process.

The decisions were made on the back of that about where we would actually start the work. That is after a very extensive process. The current objection to it arose when decisions about the future of Sandy Bay were under consideration. That is when, in fact, another public process was underway. That

³⁵⁵ Judy Tierney OAM, 2022, *Submission #73*, p. 1.

³⁵⁶ Bill Fitzgerald, 2022, *Submission #30*, p. 1.

process, we have provided details and information on it. Externally reviewed, that is seen as a very good process. Now not everyone agrees with the outcome and that is absolutely clear.

The other piece is that there is a substantial process of it, all those documents are available, and have been for a long period of time. The piece that I think this intersects with, which is an important part of the overall framing, is that our decisions all have to be made within the appropriate planning and other laws that govern what we can and cannot do with what we have.

In working out what the right framework for this is and what the right point of consultation and deliberation is, anything we were to do in any of our property spaces actually has to go through the proper planning authority. The appropriate thing of a planning process, as compared to a ministerial decision, is that is a very public process. What we sought to do last year was actually just to initiate the very process of enabling a public discussion through a proper planning vehicle for all of that deliberation to occur.

Now, it seems to me that it is in almost every area of the university's operation that there are substantial other regulatory frameworks that mean we have to make our decisions within them. When we make them, we have to engage in the proper public process that goes around the shape and nature of those, which is the case with planning.

When we look at Launceston, we had to do exactly that. In the Burnie decisions the planning process was properly structured, where council members - who are elected representatives - get to carefully interrogate; they get professional advice from their planning teams, who are able to inform them to engage in that in a substantial and deeply-informed way, and that leads to a very good outcome. Here, we've not been able to even get to the first stage of that process which would put a decision we're making inside a process which will, in the end, determine if we can go ahead with any of that - and in what way we could go ahead with it.

CHAIR - *The nub of my question is, if you had ministerial input right at the beginning of the process, it may assist with a lot of that. In terms of process, having that ministerial sign-off or tick-off gives you a level of power, if you like, from the community.*

Prof BLACK - *I can see the value of the idea. Absolutely. It is an idea we should explore. I think it's a really worthwhile topic, and I absolutely understand where you're coming from.*

If I can, though, because it's worth teasing out a little bit - if we're heading in that direction, it would be important to say, you're kind of putting the ministerial discretion on gifted land, because it's community - because it's consequential - the question then becomes, why -

CHAIR - *Not only consequential for the land, but consequential for the community in which it sits.*

Prof BLACK - *I understand that. As I said, we have to work out a better mechanism. I completely agree with that. I've described a mechanism that anyone who's externally reviewed it from a kind of independent perspective said, 'that looks like a good process'. We're all aware that process hasn't ended up in a happy outcome. That's ended up in the outcome where we have a community where this is a point of tension and conversation. We have to work out how this is going to work, how we can evolve a better process, as a total Tasmanian community.*

Because this is a total Tasmanian community question that we need to work our way through. What are the other things that you might reserve to a minister? As soon as you open this door, you then have to ask, what are the other consequential things that you might reserve to a minister? That starts to change the character of the way the university relates to government. I'm really interested. Absolutely we could explore that.

It's also probably worthwhile exploring what are the other policy or planning frameworks that should be engaged? Like on this one, one might say maybe this was not a planning decision for the Hobart City Council. Maybe this was a sufficiently consequential decision for the whole of Hobart. We think it is consequential to the whole of Tasmania. However, in fact, for decisions like that, a different planning mechanism would be more suitable. In other cities that have city councils that cover a much greater

area, this is a lot more straightforward, because the interests of the citizens of Glenorchy, of all our other councils, are just as consequential, and from our view, at least as consequential, because there are so many people we want to reach in those communities.

If we're looking for a better process, I think we should be expansive in our thinking, and ask, what are the other ways in which we could construct this, so that the full set of relevant voices is engaged in it, and they're engaged in a public process? I'm familiar, having operated in Victoria where these kinds of ministerial decisions are made, that I do not think that you get anything like the transparency that the community is looking for. They are decisions which, unless you engage in administrative review of them, do not necessarily have to be made in a kind of deep public explanation. Ministerial decisions can be even more opaque than university council mechanisms.

I want to take the spirit of the question as, how do we, as a community, do this better and perhaps open it up? I know you've had those suggestions about how it could happen, but I would be very keen to explore a wider set of options about how you might do it better.³⁵⁷

Alison Watson commented that shaping the CBD is not a role for UTAS:

... UTAS initiated and undertook visioning work for Hobart CBD. UTAS is not responsible for shaping our city or setting its strategic direction. I am perplexed as to why our CBD's vision was in the hands of our University - the University is a big player and landholder, but they are just another organisation.³⁵⁸

Vice-Chancellor Black provided a perspective on decision-making in a city planning context and associated consultation with the community, in relation to the proposed campus move to the CBD:

Ms WEBB - *... I cannot let it go past without picking you up on pointing to the planning system as a method for appropriate community consultation and input and say when it comes to what is proposed about the campus move to the city because, as you well know, that can only deal with individual elements of that move, one at a time. It cannot, in any sense, deal with the overarching core decision. It is very limited in terms of what those elected members on council can actually consider because they must comply with the planning scheme. So, that is not something to point to as an appropriate level of community input in terms of the larger prospect of a campus move of the sort that we are looking at here. I think that is misleading of you to say that, I must say.*

Prof BLACK - *If I may, I think the way it might more fairly be characterised is that the council actually establishes each of those layers of planning within which we operate. They establish a scheme which would make it a decision possible or not possible at all. Many cities have well-evolved planning schemes that really enable you to decide the shape of the city, whether you do want educational entities in a city or not in the city. Our planning scheme covers those issues, it enables that to occur.*

The city council also has precinct plans. These are all decisions made as an integral part of the planning process. So, the council is not just making one-by-one decisions; the council also makes the overall planning decisions about the shape within which any decision can be made. It is entirely open to a council to make an overall planning decision that says, 'we do not want educational facilities in the city, that is part of our city design', or to make an overall planning decision to say, 'we will enable a decision-by-decision basis or that we will be actively driving and supporting it'.

They are all within the appropriate responsibilities of a council, to be making those decisions and engaging with the broader community. Indeed, last year the council engaged in a greater Hobart planning process and also precinct level planning discussions, all of which involved public input on these very questions. The concern for the community is, what does this do to the character of two important areas of the city, the city area and the Sandy Bay area? They are planning matters and they should be dealt with by the well-established mechanisms by which cities determine what is the character and

³⁵⁷ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 40-42.

³⁵⁸ Ms Alison Watson, 2022, *Submission #99*, p. 1.

*coherence that they are looking for in their cities and we, as a good citizen of those cities, that is what we look to.*³⁵⁹

The late Peter Bicevskis also addressed the accuracy of University claims the planning system provided an opportunity for community input on the proposed campus move:

UTAS has also recently claimed that the community has the opportunity for input during the planning approval process. This is totally incorrect. Development applications can only be assessed against the requirements of the Hobart Interim Planning Scheme which looks at issues such as, 'does the proposed use fit with those proposed for the zone', building setback, height and density limits, and so on. The Hobart City Council can only assess each individual application, rather than the project as a whole.

*Again, as an example of this, an appeal was put in against the forestry building, identifying that it did not comply with the requirement for disabled access. This was rejected; as assessment of disabled access is not a part of the planning scheme. Other aspects of the design were also appealed, but the advice from the UTAS legal team was that they considered these not relevant to the planning approval, and if the appeal were to proceed, we would be liable for paying all legal costs.*³⁶⁰

³⁵⁹ Alison Watkins AM and Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 42-43.

³⁶⁰ Peter Bicevskis, *Transcript of Evidence*, 7 December 2022, p. 44.

TERM OF REFERENCE 4

The appropriateness of the Act to protect and promote academic freedom, independence and autonomy

The University of Tasmania's submission defines academic freedom, independence and autonomy and makes the following observations regarding the importance of academic freedom and how it is defended:

Academic Freedom is a fundamental value of a university and can be traced back to the very beginnings of scholarship. It can be defined as the freedom to conduct and publish research outside of any undue political or outside interference, and is critical for universities to contribute to broader society and reflect democratic values. The University has an Academic Freedom and Free Speech Policy as required by the Higher Education Support Act 2003 (HESA).³⁶¹

In the University's policy, academic freedom is defined as:

1. *the freedom of academic staff to teach, discuss, and research and to disseminate and publish the results of their research;*
2. *the freedom of academic staff and students to engage in intellectual inquiry, to express their opinions and beliefs, and to contribute to public debate, in relation to their subjects of study and research;*
3. *the freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled;*
4. *the freedom of academic staff to participate in professional or representative academic bodies;*
5. *the freedom of students to participate in student societies and associations;*
6. *the autonomy of the higher education provider in relation to the choice of academic courses and offerings, the ways in which they are taught and the choices of research activities and the ways in which they are conducted.³⁶²*

The submission further states:

Academic freedom and academic autonomy comprise a suite of ideas which cover academic freedoms, the freedoms of staff and students, and the autonomy of the institution to pursue its mission through course choices, teaching and research. Academic freedom is essential to the true pursuit of intellectual life at a University. The University protects academic freedom, at the highest level with its Academic Freedom and Free Speech Policy. This Policy is very clear on the aims and environment that the University creates for academic freedom to thrive. The policy states that 'academic freedom underpins a healthy, pluralistic and democratic society.' The University states in its policy that it does not wish to limit academic freedom at all, and confines the limits of academic freedom only to the idea that the exercise of it does not prevent others exercising their freedoms, enabling the University to discharge its learning and teaching duties, and of course complying with the law. The University protects academic freedom from foreign interference, and also supports the rights of academics and academic freedom around Australia.

...

That freedom of association is encouraged by the University is also crucial to supporting academic freedom. This freedom of association extends to academic freedoms enjoyed in student societies and associations. These are endorsed and are part of the fabric of University student life. Not only this, but

³⁶¹ University of Tasmania, 2022, *Submission #113*, Part 6, p. 1.

³⁶² University of Tasmania, 2022, *Submission #113*, Part 6, pp. 1-2.

academic staff are also enabled to contribute to committees, and representative bodies, such as Academic Senate, or College-based committees. Academic Senate for example has a large proportion of elected members, who are not *ex officio* members, and who are free to voice their thoughts and opinions on Senate's work and the matters it considers, without any influence or control on their expression. Membership of representative and advocacy bodies such as unions and other associations is endorsed as well under freedom of association.

The University is also compliant with legislation, and treaties, governing freedom of speech.³⁶³

The National Tertiary Education Union (NTEU) defines academic freedom:

Academic freedom (also, intellectual freedom) is a core tenet of universities, and refers to the right of all staff (not just academic staff) and students to freely hold political and intellectual views and values and to express them publicly without fear of reprisal or retribution by university management. For example, academic freedom includes the right of staff to:

- *Open enquiry, free discussion, publish and research within areas of expertise*
- *Express opinions about the operation of the higher education sector and the operation of the university (including the ability to criticise policies, practices and decisions of the institution)*
- *Participate in public debates and express opinions*
- *Participate in professional and representative groups like unions.*

Academic staff at Australian universities accordingly preserve some aspects of academic tenure, an internationally accepted principle which allows for university staff to be objective and be able to speak out, without being constrained by managers. Academic freedom and academic tenure are two sides of the same coin. It must be stated that the growing prevalence of fixed-term contract staff and casual staff act to weaken these foundation principles.

The NTEU has a long-standing insistence that university Enterprise Agreements include clauses which support the academic freedom of their staff. Conversely, managers of modern corporate universities far prefer access to administrative and disciplinary methods to restrict or control the free expression of its staff. Consequently, staff within the University community often do not feel secure expressing views on a range of topics, particularly the relationship between the University and the Tasmanian community.

The NTEU defines intellectual/academic freedom as follows:

- a. the freedom of academic staff to teach, discuss, and research and to disseminate and publish the result of their research*
- b. the freedom of academic staff to engage in intellectual inquiry, to express their opinions and beliefs (including whether those opinions are controversial or unpopular), and to contribute to public debate, in relation to their subjects of study and research*
- c. the ability of all staff to criticise university policies, procedures, practices and decisions*
- d. the freedom of all staff, without constraint imposed by reason of their employment by the University, to make lawful public comment on any issue in their personal capacities*
- e. the freedom of all staff to participate in representative, professional or academic bodies.*³⁶⁴

Public Universities Australia (PUA) describes the importance of academic freedom, and expresses a view that academic freedom is lacking in Australian universities:

Academics must strive toward the highest level of expertise, and to such end it is important that research is unencumbered, free and independent, and be tested by robust collegial debate as well as the enquiring fresh perspectives of students. The skills and sensitivities needed to achieve suitably high expertise in any academic area are idiosyncratic to each discipline. It is self-evident that the training of

³⁶³ University of Tasmania, 2022, *Submission #113*, Part 6, p. 2.

³⁶⁴ National Tertiary Education Union, 2022, *Submission #123*, pp. 10-11.

architects, doctors, dentists, engineers, musicians, lawyers, historians, economists, and all other graduate professions, must of necessity develop different specialized abilities. University academics who have mastered their discrete disciplines understand what is required to achieve such mastery, and achieve promotion by continuing to develop those unique skills through the entirety of their careers. It is logical to trust the expertise of academics with regard to how best to conduct research and teaching in their discipline areas.

For these reasons, delivery of expert university services demands a high level of autonomy for, and trust placed upon, academics in both teaching and research, a concept broadly captured by the term 'academic freedom' (1).

...

PUA observes that many universities including UTas, currently subjugate necessary academic freedom in favour of managerial methods that may be effective outside of universities, but that fail to properly support the academic enterprise.

We see from the reported actions of Senior Management of UTas and other Australian universities, that Management considers itself to comprise the University-writ-large, with academic staff and students treated as somehow outside the university. Although this is inconsistent with the University of Tasmania Act 1992 (The Act), there are no structural safeguards in The Act to prevent it.

As outlined above, we advise that collegial and inherently democratic processes are necessary to maintain the integrity of Australia's universities, and this must be reflected in their organization and governance.³⁶⁵

Pat McConville, graduate and former professional staff member at the University, made the following observations regarding the importance of academic freedom in universities:

Universities are centres of inquiry, knowledge creation and learning. A key reason for the autonomy and independence of universities is to protect the ability of scholars to pursue ideas and avenues and inquiry without fear of censorship or reprisal, so long as that pursuit is conducted in good faith.

Academic freedom permits students and researchers to explore and to communicate knowledge, even when that knowledge may not be politically palatable or commercially convenient.

Academic autonomy protects such inquiry from direction by powerful external stakeholders, including the state. Academic freedom protects scholars not only from external but also internal stakeholders, including other scholars or administrators who may be hostile to certain ideas or knowledge pursued by members of the university community and seek to discourage, suppress or otherwise punish the expression of ideas.³⁶⁶

Alison Watkins AM, Chancellor, highlighted the University's strong commitment to academic freedom and free speech:

The final aspect I will briefly highlight is academic freedom, ... I note that universities being able to generate their own income is one important part of how they maintain their autonomy and protect academic freedom. When universities are solely dependent on governments for their funding, they have fewer degrees of freedom to pursue the priorities that are not funded by government.

I want to reinforce in the strongest terms that the university's commitment to ensuring academic freedom and free speech begins with the council. The university's strong policies have been created by council and cannot be changed by the management team of the day. We hold the executive accountable to ensure those standards are maintained...³⁶⁷

³⁶⁵ Public Universities Australia, 2022, *Submission #27*, pp. 2-3.

³⁶⁶ Pat McConville, 2022, *Submission #100*, p. 7.

³⁶⁷ Alison Watkins AM, *Transcript of Evidence*, 1 March 2023, p. 6.

Vice-Chancellor Black reiterated the University's commitment to the protection of academic freedom and freedom of speech:

We see academic freedom and its companion, freedom of speech, as vital freedoms in a plural democratic society. This is why we have as strong a statement of academic freedom and free speech in our policies, as you will find anywhere in Australia.

...

We recognise, from the submissions made to the committee, that not all staff believe in the strength of our commitments. We are working to improve the training, induction and support we provide about these policies; again, something very much in line with the recommendations in the French review. I am keen to make sure that we find ways to provide that assurance of our commitments because the protection of these freedoms is fundamentally important.

Freedoms embedded in the university provide institutional, not just personal, protection of the importance of having a plurality of perspectives in our society. This defends one of the cornerstones of our democracy. Universities have unique responsibilities in relation to academic freedom. They protect staff and students speaking about topics for which they have expertise and whose views could be reasonably thought to have particular weight. That freedom is of great consequence in a society concerned with truth, transparency and evidence-based decisions.

*Now more than ever, truth itself has come under assault. This freedom is vital. These freedoms, protected by the university, from time to time, do cause considerable discomfort for the institutions of government, as they should.*³⁶⁸

The importance of academic freedom and autonomy to the development and protection of democracy was noted in the University's submission:

It is impossible for a university to truly contribute new knowledge to the complex problems of the day without both academic freedom and institutional independence and autonomy.

*The importance of Academic freedom and institutional autonomy for universities has been identified as growing in importance as a foundation for developing and advancing a culture of democracy, as noted by Bergan, Gallagher and Harkavy (2020).*³⁶⁹

The link between protection of academic freedom and democracy was also noted in the PUA submission:

*... PUA argues that by serving as a reservoir of informed expertise available to the public, by fostering robust open debate, and by supporting the education of an informed critical-thinking electorate, universities are critically important for the effective function and protection of democracy. This is highly relevant in the current global political climate where authoritarianism is on the rise. At a time where public discourse seems increasingly unable to separate self-interest from the public good, or indeed identify truth from fiction, this is a crisis not just for universities but also for civil society. From a democratic standpoint, it becomes vital to support scholars who think critically and freely, who do fundamental research, and who mentor students, and this must be protected in our universities. Academic freedom and adherence to academic values is a democratic imperative that must be insisted upon in opposition to inappropriate imposition of corporate practices.*³⁷⁰

³⁶⁸ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 9-10.

³⁶⁹ University of Tasmania, 2022, *Submission #113*, Part 6, pp. 1-6.

³⁷⁰ Public Universities Australia, 2022, *Submission #27*, pp. 2-3.

The Act and Protection of Academic Freedom

The University of Tasmania submission made comment regarding the adequacy of protection for academic freedom provided in the Act, in other relevant legislation and by industry regulators:

The Act does not prescribe a policy on academic freedom, independence and autonomy, but as an institution that values good governance and reflecting our position in the State of Tasmania, and our mission to be a University that is for and from Tasmania, the University has proactively adopted policies and standards that uphold academic freedom. As noted in the University of Tasmania Statement of Values, the University is dedicated to 'the stewardship of learning and knowledge, academic freedom, excellence, and integrity.'

Academic freedom or institutional independence and autonomy are also made possible through regulators, such as the Tertiary Education Quality and Standards Agency (TEQSA), established by legislation (the TEQSA Act 2011), and legislation such as the Higher Education Support Act (HESA) 2003.

... The University entered into a Mission-based compact with the Commonwealth for the period 2021-2023 which specifically details how the University worked to implement the recommendations of the Model Code recommended by the Hon Robert French AC in his 2019 Review of Freedom of Speech in Australian Higher Education Providers (the French Review). The University fully subscribes to the principles of the Model Code. The University's Academic Freedom and Free Speech Policy is fully aligned in coverage and language with the Model Code including adopting the Australian Government's definition of academic freedom.

...

Much of the consideration of academic freedom in recent times has been inextricably related to freedom of speech and this is enshrined in policy at the University of Tasmania.

...

As noted in the Academic Freedom and Free Speech Policy, 'the University is deeply committed to the promotion and protection of academic freedom, the right of all scholars at the University to engage in the pursuit of knowledge, intellectual enquiry and research, scholarly and creative endeavours, and public discourse.' ...

The key themes of the policy are of course that academic freedom and freedom of speech are permitted and encouraged. The policy also gives very broad boundaries for acceptable conduct, within the context of individual behaviour and institutional expectations of behaviour and conduct, particularly taking into account student and staff wellbeing and safety. ...

Other ways in which the University protects and promotes academic freedom, independence and autonomy

The Acts under which we operate are foundational. However, it is the internal governance, the culture and the values of the University that create the conditions for academic freedom and institutional autonomy to flourish.³⁷¹

The University of Tasmania submission provided a comparison of the Act with those of other Australian universities in relation to academic freedom and freedom of speech:

All Australian universities are subject to the same Federal legislation and regulation as the University of Tasmania. They therefore commit to almost identical academic freedom and freedom of speech policies which adhere to the key documents listed above. Namely, the Model Code, HESA, and the HESF, among others. However, it is common for the enabling legislation which creates Australian universities to not include elements of academic freedom and freedom of speech. For example, the ANU Act 1991 makes no mention of this, yet the ANU possesses an Academic Freedom and Freedom of Speech policy.

³⁷¹ University of Tasmania, 2022, Submission #113, Part 6, pp. 1-6.

Similarly, the UNSW Act provides for 'free enquiry', but it does not mention Academic Freedom and Freedom of Speech specifically; that University has a separate policy for this.

This is also the case with, for example, the University of Sydney Act 1989 and its subsequent Charter of Freedom of Speech and Academic Freedom (2019).

The much more recent University of Melbourne Act 2009 does state as the object of the University, 'promoting critical and free enquiry', and states an appreciation of the values of academic freedom as expectations of Government and Council appointed members of University Council. It also possesses a separate Academic Freedom of Expression Policy (2021). Monash University possesses the same wording in the Monash University Act 2009 and the structure of their Freedom of Speech and Academic Freedom policy.³⁷²

Emeritus Professor Peter Dawkins AO expressed a view that academic freedom does not require specific inclusion in the University's enabling Act:

Academic freedom, and the related but different topic of free speech, was a major issue for discussion and resolution across the university sector in 2021 when the Federal Government requested that universities find a way to comply with the French Model Code in their polices.

I think the development of that code has been a positive development for the sector on this complex issue, and am pleased that UTAS adopted it as did the University where I was Vice- Chancellor at the time, Victoria University. I don't think it is necessary for that issue to be dealt with in a university's enabling act.³⁷³

In submissions, both the NTEU and PUA called for inclusion in the Act of the promotion and protection of academic freedom.³⁷⁴

Dr Graham Wood, UTAS School of Humanities, suggested the inclusion of provisions for the protection of academic freedom and free speech in the Act in order to provide additional protection:

I happen to think that the current University of Tasmania Academic Freedom and Free Speech Policy is reasonably good. But policies can be changed in the future more easily than Acts of Parliament. So now might be the time to add protection of academic freedom and free speech to the University of Tasmania Act. Given that the current policy is reasonably good, perhaps features of it could be used to indicate the types of protections that ought to be included in the Act.

...two sections that illustrate some of the strengths of the current policy are sections 1.7 & 1.9:

1.7: Academic freedom and freedom of speech will be exercised within the University in ways that are consistent with the University's legal and ethical obligations to foster the wellbeing of students and staff noting that this does not extend to protecting any person from feeling offended, shocked or insulted by the lawful speech of another.

1.9: The appropriate exercise of academic freedom and freedom of speech will not constitute misconduct.³⁷⁵

Emeritus Distinguished Professor Jeff Malpas described the absence of academic freedom in the Act as a serious deficiency, in the context of the exclusion of academic views from governance and decision-making structures at UTAS:

The phrase "academic freedom" does not appear in the 1992 Act nor does the concept appear under any other form of words. Nor is there any explicit attention given to issues of academic autonomy. This

³⁷² University of Tasmania, 2022, *Submission #113*, Part 6, pp. 1-6.

³⁷³ Emeritus Professor Peter Dawkins AO, 2022, *Submission #90*, p. 3.

³⁷⁴ National Tertiary Education Union, 2022, *Submission #123*, p. 10; and Public Universities Australia, 2022, *Submission #27*, p. 5

³⁷⁵ Dr Graham Wood, 2022, *Submission #68*, pp. 1-2.

may be because, in the original version of the Act, the basic ideas of both academic freedom and autonomy, in some form, were already assumed in the idea of the University as an academic or epistemic community – although even in the period prior to the 1990s, the protection of academic freedom and autonomy was a very real concern (see Davis, 2002).

*In the present circumstances, where there is no effective academic body at work within the University's governance structure and where genuine academic views and voices are effectively excluded from decision-making in favour of the managerial, the possibility of the exercise of genuine academic autonomy has been almost entirely extinguished. In such a situation, the threat to academic freedom is very real.*³⁷⁶

In submissions, a number of current and former academics at the University of Tasmania identified that the existing Act does not provide adequate protection of academic staff and academic freedom, and called for amendment to the Act to provide such protection.³⁷⁷

Protection provided in policies, procedures, and Enterprise Agreements

Emeritus Professor Dr Michael Rowan observed that while not dealt with in the University of Tasmania Act, he regarded the scope of academic freedom at the University to be liberal, as observed in the disciplinary powers of the university defined in the Enterprise Agreements:

As to the academic freedom of the staff, the UTAS Act is like other university acts I am familiar with in that it does not deal with matters like academic freedom at all. Rather, the power that defines the scope of an academic's freedom and thus limits what an academic might say (in the broad sense, and apart from civil and criminal legal action) are the universities' disciplinary powers. These are defined in the universities' Enterprise Agreements.

In this respect UTAS is decidedly liberal in the freedom it affords its academic staff. For while the UTAS Enterprise Agreement says that serious misconduct includes 'conduct that causes serious and imminent risk to... the reputation, viability or profitability of the employer's business', the University's Academic Freedom and Freedom of Speech Policy specifically says '(1.9) The appropriate exercise of academic freedom and freedom of speech will not constitute misconduct'; and that included in Academic Freedom is '(3.) The freedom of academic staff and students to express their opinions in relation to the higher education provider in which they work or are enrolled'. If a person working in a politicians' office were employed under the same conditions they could not be disciplined for urging voters to vote for a rival candidate rather than their employer!

*While I have not read every line of every UTAS policy, I cannot find where UTAS management might gain a power to prevent ordinary academic staff making public statements on what they see as the merits or otherwise of any decision of the University Council or management and thus I cannot find a basis for concern about academic freedom at UTAS.*³⁷⁸

Emma Gill, Tasmanian Industrial Officer, NTEU, reflected on staff experience of current policy and protections provided through Academic Freedom policies:

... the university has a policy around academic freedom and free speech, although just a policy, which means that there are no enforceable rights or protections for staff afforded through a policy. Policies are management instruments that management can determine and change without any consultative process with staff so we don't see anything in the policy that affords staff of the institution any real protection.

It's worth noting that we do have an enterprise agreement that has a clause in it around intellectual freedom, which is academic freedom, which has been improved through this round of negotiations.

³⁷⁶ Emeritus Distinguished Professor Jeff Malpas, 2022, *Submission #97*, pp. 19-23.

³⁷⁷ See Professor Vadim Kamenetsky, 2022, *Submission #12*, P. 2.; Susan Flis, 2022, *Submission #81*, p. 4; Adjunct Associate Professor Terese Henning, *Transcript of Evidence*, 13 December 2023, p. 9.

³⁷⁸ Emeritus Professor Dr Michael Rowan, 2022, *Submission #21*, pp. 1-3.

However, we do see there being a really good benefit to the staff of the institution through having academic freedom rights enshrined in the act. That will help the staff feel like they can actually speak on matters and be able to exercise intellectual, academic freedom in a fair way at the institution without being reprimanded.³⁷⁹

Adjunct Associate Professor John Kenny, Australian Association of University Professors (UTAS Chapter), made the following observations regarding the adequacy of policy protection of academic freedom:

The policies were outside of the industrial agreement so we had no real power over those. But if academics had the power to shape policy, especially around their work, then those policies could be made to serve what the work entails, as opposed to being a managerial version of what the work entails.

Again, having genuine academic leadership with policy decision-making powers would help to alleviate that dichotomy. At the moment, the industrial agreements, in my experience, are not very effective in helping protect academic work. There is research going back 30 years, when this started to happen, and nothing has really changed. In fact, it's just got worse over those 30 years.³⁸⁰

Pat McConville pointed to the limited protection of the Academic Freedom and Free Speech Policy, and importance of enforceable rights in industrial agreements:

Intellectual freedom has been protected at Australian universities by enforceable rights negotiated into industrial arrangements by unions. Section 10 of the current UTAS Staff Agreement, for example, protects intellectual freedom for all UTAS staff, including professional staff. The inclusion of this clause is always contested in bargaining by management, including during the current round in which management have argued that these matters are adequately protected by university policy.

The relevant policy, the vague Academic Freedom and Free Speech Policy, only applies to academic communications. Its application is entirely at the discretion of management. Although both types of protection apply to all staff in theory, the ability of UTAS to discontinue the employment of casual staff ensures that these staff are [not] protect[ed] in practice.³⁸¹

Mr McConville, further reflected on the current policy level protections provided by the University to protect and promote academic freedom and autonomy:

It is fair to say that staff at the university do not feel robustly protected by that policy. I think that lends itself to a culture of self-censorship and it may, at times, lend itself to overt and explicit directions from management not to speak out on things. But I think the more insidious and serious issue is the culture which is developed around that. I don't think the policy really protects people.³⁸²

In response to questions on whether some form of statement on the protection of academic freedom should be included in the Act in order to more effectively protect staff, Mr McConville stated:

I don't think that staff or members of the university community really feel like they can point to a robust protection. I think a statutory protection would be far more robust than what exists at the moment, which is entirely discretionary and up to management.

If you are speaking out on an issue and you're concerned that somebody is going to be offended and try to stop you, you are usually concerned about somebody more powerful than you stopping you, and that's usually management. If you've got something that protects you from those people then I think that encourages you to go ahead with your speech. I think a statutory protection would do that. There are

³⁷⁹ Emma Gill, National Tertiary Education Union, *Transcript of Evidence*, 8 December 2022, p. 11.

³⁸⁰ Professor John Kenny, *Transcript of Evidence*, 6 December 2022, pp. 25-26.

³⁸¹ Pat McConville, 2022, *Submission #100*, p. 7.

³⁸² Pat McConville, *Transcript of Evidence*, 8 December 2024, p. 20.

still cultural issues that would need to be tackled. But I think that would go a way to providing people a level of assurance that their speech is protected. ³⁸³

PUA made a number of recommendations for amendments to the Act in order to protect and promote academic freedom, independence and autonomy, including: the establishment by Council of an Academic Freedom and Integrity Committee; inclusion of a definition of academic values, and an obligation on Council and Academic Senate to operate in accordance with academic values; and, that academic values be embedded in Ordinances and By-Laws.³⁸⁴

FINDINGS:

- 71. The University considers academic freedom to be a fundamental value of a university and that it is protected by its academic freedom and free speech policy.**
- 72. The *University of Tasmania Act 1992* does not specifically include reference to academic freedom, independence and autonomy, which is consistent with legislation establishing many other Australian universities.**
- 73. Academic freedom is supported under the *Tertiary Education Quality and Standards Agency and legislation such as the Higher Education Support Act 2003*.**
- 74. The protection of academic freedom in policy does not provide the same level of protection as an enforceable requirement in legislation.**
- 75. There are conflicting views on whether it is necessary to protect academic freedom through inclusion in the *University of Tasmania Act 1992*.**

RECOMMENDATION:

- 18. The Act be amended to include a requirement to protect and promote academic freedom.**

Other Barriers to Academic Freedom and Free Speech – Workplace Culture and Management

A number of submissions highlighted reports of managerial bullying,³⁸⁵ poor working conditions (including intensification of workloads and onerous administrative loads),³⁸⁶ staff experiencing a lack of academic freedom, independence and autonomy,³⁸⁷ and references to workplace culture issues (leading to stress and burnout).³⁸⁸

Further, a number of submissions noted a reluctance among the university workforce to speak out or criticise management for fear of reprisal. ³⁸⁹

³⁸³ Pat McConville, *Transcript of Evidence*, 8 December 2024, p. 20.

³⁸⁴ Public Universities Australia, 2022, *Submission #27*, pp. 5-6.

³⁸⁵ For example: Submission #12, Submission #22, Submission #59, Submission #63, Submission #97

³⁸⁶ For example: Submission #46, Submission #149

³⁸⁷ For example: Submission #12, Submission #20, Submission #27

³⁸⁸ For example: Submission #3, Submission #25, Submission #26, Submission #73, Submission #91, Submission #97, Submission #114, Submission #129, Submission #149.

³⁸⁹ For example: Submission #3, Submission #11, Submission #26, Submission #46, Submission #73, Submission #76, Submission #91, Submission #94, Submission #109, Submission #114, Submission #149.

Professor Jamie Kirkpatrick, responded to a question about the adequacy of protection and promotion of free speech and academic freedoms at the University:

My impression is that the policy is really clear, and does provide academic freedom under the policy. But, of course, policies can be changed. Some of my colleagues are reluctant to speak up, start anything, because of the top-down nature of university, the way the university's working, a very top-down nature over the last few years to a decade. Even though the policy is good, there's still a bit of a feeling of fear amongst some academics.³⁹⁰

Professor Aynsley Kellow, on behalf of the UTAS Academic Staff joint submission:

Again, the results show this closing off of dissent and we still speak to colleagues who are working there, many of them relatively junior, who are afraid and bite their tongues and get on with work and many of them leave. This is where it comes back to institutional arrangements as well. The senate is relatively junior in composition. Many of the people sitting around the table are either representatives of particular university academic units or relatively junior staff who do not want to rock the boat. It is as much the closing off of avenues for vigorous discussion that is a worry.³⁹¹

The late Peter Bicevskis and Judy Tierney OAM observed a culture of fear amongst staff as a result of the overarching control of the University's administration:

Utas administration has overarching and unhealthy control over academic staff which has in turn created a culture of fear amongst this staff sector. Rather than protecting and promoting academic freedom, independence and autonomy within academic staff the direct opposite has occurred within the toxic and intimidating culture fostered by Utas administration from the top down.³⁹²

Emeritus Professor James Guthrie AM, Professor of Accounting commented on treatment of staff and students, including bullying and intimidation of critics, and restructuring leading to staff burnout:

Over the last few decades, state legislation has empowered university executives to transform University of Tasmania into for-profit property development and investment vehicles. Enabling the reshaping of the university into an autocratic institution could be considered unethical in its treatment of staff and students.

This unethical behaviour includes the bullying and intimidation of critics, wage theft, an overpaid cadre of senior executives, and the destruction of disciplines. I understand that at this university, many well-qualified and high-achieving academics and professional staff have left or suffered burnout and the psychological trauma of being endlessly 'restructured' and surveilled by managers who appear to have no understanding or appreciation of the damage they are causing.³⁹³

Emeritus Distinguished Professor James Reid stated:

They've restricted debate about matters affecting the academic wellbeing of the university and, if unchecked, will result in diminishing UTAS' rank as a university of international quality, operating out of Tasmania for the benefit of the Tasmanian community.³⁹⁴

The NTEU submission presented a range of direct quotes from their members, reflecting on staff experience of intellectual freedom at the University, including for example:

³⁹⁰ Professor Jamie Kirkpatrick, *Transcript of Evidence*, 7 December 2022, p. 38.

³⁹¹ Professor Aynsley Kellow, *Transcript of Evidence*, 12 December 2022, pp. 58-9.

³⁹² Peter Bicevskis, 2022, *Submission #114*, p. 4; Judy Tierney, 2022, *Submission #73*, p. 1.

³⁹³ Emeritus Professor James Guthrie, 2022, *Submission #3*, Part 2, p. 7.

³⁹⁴ Emeritus Distinguished Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 61.

'The university also has started to exhibit a culture of ousting researchers who might speak inconvenient truths, but who are well-regarded and highly respected in their fields, and this damages both the university's reputation as well as its ability to conduct world-leading research.'

'The Act has not been sufficient to prevent the silencing and dismissal of academic staff who have disagreed with university management on objectively valid points. This might be good for protecting executives and their positions, but it damages the lives of staff, it damages the university's reputation and ability to carry out its duties effectively, and it harms the Tasmanian community.'

'No dissent is tolerated and staff are often browbeaten into accepting outcomes that are detrimental to operations in order to save face for those in positions of authority who cannot [be] seen to fail.'

'Many staff operate in an environment of fear and suspicion. You cannot speak out.'

'Time and again dissenting voices are silenced and I am aware that staff have been counselled by senior colleagues that their promotion prospects are tied to towing the company line.'

'We cannot express intellectual freedom without fear of consequences.... and this really hinders our ability to give important feedback and is very stifling.'

'Being protected on paper from repercussions for speaking out is not the same as feeling genuinely safe to do so.'

*'We all know that we can't publicly speak against a decision management has made. To do so would be career ending.'*³⁹⁵

Fletcher Clarke, President Tasmania University Law Society, reflected on the observations of student leaders that academic staff at the University experienced a fear of being monitored and fear of reprisal:

It comes from a wide range of conversations that we've had with members of our own staff. Ever since we engaged in this public advocacy campaign, I began to receive communication from academics from a range of other areas of the university saying that their experiences were not too dissimilar to the experiences of law school staff. That would have been in the number of maybe four or five academics across different pockets. It is very much anecdotal evidence.

...

There would always be this idea that people were fearful that they would be sought out or that they would face reprisals for speaking out against plans in the university. There were some documented cases in the law school itself. There were issues.

*I have to be careful with the degree of which I speak about it; but if law school staff were not particularly happy with what was happening then they were more or less told that they could leave because there were forty thousand or so unemployed academics on the mainland that could be hired. That was put in an open letter through the student media, *Togatus*, earlier this year. There were anecdotal cases where staff would tell us about how they were treated, if they had concerns.*

While it could never be proved that staff were being monitored, the fact that staff were saying to us, 'don't talk to us about this on our university email accounts', I think is damning in and of itself of the university. I don't think you'd ever be able to prove if there is any monitoring that is going on. It is very much the conversations that staff were having with us, that they were fearful.

*The degree of resignations from the law faculty over the past two years definitely indicated that there was a problem with the leadership of the faculty, and the broader university, about how these concerns were being dealt with.*³⁹⁶

³⁹⁵ National Tertiary Education Union, 2022, *Submission #123*, p. 16.

³⁹⁶ Fletcher Clarke, *Transcript of Evidence*, 12 December 2022, pp. 22-23.

Adjunct Associate Professor Daphne Habibis commented on casualisation of the University workforce as a barrier to speaking out:

The precarity of employment associated with the casualisation of the University workforce also makes it hard for academics to speak out on matters of teaching quality, research goals and administrative decision-making. This has occurred alongside an increasingly centralised, managerialist administration, and the erosion of structures for academic staff to contribute meaningfully to decision-making forums. Consequently, staff are now largely excluded from decision-making processes, resulting in a widespread and demoralising sense of disempowerment. I also believe there have been instances where staff who have spoken out against decisions they believed were misguided or harmful, have experienced significant conflict in their relationship with senior management, and that this may have contributed to their resignation.

The result of these changes is a loss of collegiality, low morale, cynicism, and an environment that is increasingly atomised and anonymous. This is not conducive to either teaching or research which thrive best in environments that encourage the exchange of ideas, meaningful engagement with students, trust in senior decision-making, and secure and supportive employment.³⁹⁷

Professor Kenny similarly noted the silencing effect of casualised academic work:

If you're on a casual contract and it's awarded from semester to semester or if you're on a short-term contract, you'll very quickly, in a corporate culture, get labelled a trouble-maker, stirrer, not a team player and you get pushed to the side. That's the reality and we all know that's the way the world works at times but we're saying, 'No, the job of an academic is to do that.'. You should be expected, in fact you're probably being derelict in your duty if you don't challenge bad decisions or you don't raise questions when they should be raised. We're saying in the framework, that's your job, do it. That's what you're expected to do, whether people agree with you when you get that through is another question but your job is to question, challenge and to raise issues.

Having casualised and short-term contracts cuts right across that. There are people who speak out and there are people who stick their neck above the parapet but I've seen a few of them get chopped down too. It is a fundamental thing. The levels of casualisation in the tertiary education sector are just appalling. It's probably leading the country. The danger with it is that it cuts across the essence of academic work and that's the part that really burns me up. I can see the need for some casualisation, but it is rampant.³⁹⁸

The PUA submission made a number of suggestions to support academic freedom by reducing the vulnerability of academics to managerial abuse, including providing tenured academic employment and limiting casual and fixed term academic employment.³⁹⁹

University's use of NDAs and NDCs (gagging clauses)

A number of submissions made reference to the widespread use of Non-Disclosure Agreements (NDAs), Non-Disparagement Clauses (NDCs), also referred to as gagging clauses, by the University, identifying them as an affront to academic freedom, independence, and accountability, and condemning their use in curtailing the ability of staff to speak out or criticise the university.⁴⁰⁰

Professor Peter Tregear OAM highlighted the alleged misuse of gagging clauses and its impact on academic freedom:

I provide this written submission specifically to draw the Committee's attention to the alleged misuse of gagging clauses and other related tools of contemporary corporate human resources management

³⁹⁷ Adjunct Associate Professor Daphne Habibis, 2022, *Submission #118*, pp. 1-2.

³⁹⁸ Professor Kenny, *Transcript of Evidence*, 6 December 2022, p. 22.

³⁹⁹ Public Universities Australia, 2022, *Submission #27*, pp. 5-6.

⁴⁰⁰ For example: *Submission #18*, *Submission #49*, *Submission #73*, *Submission #89*, *Submission #97*.

by UTas which I believe could reasonably be considered to threaten the university's ability to meet its statutory purposes and obligations under The University of Tasmania Act ('The Act') 1992. By suppressing legitimate criticism of university management, they undermine a central purpose of The Act: 'to protect and promote academic freedom, independence and autonomy'. I believe there are therefore grounds for statutory reform of The Act to prohibit their use.

...

Sections 6(a) & (b) of The Act describe the functions of Utas as being to 'advance, transmit and preserve knowledge and learning;' and 'encourage and undertake research'; section 7 then convey upon the university powers to do 'all things necessary or convenient to be done for or in connection with the performance of [such] functions'. The apparent widespread use of gagging clauses at UTas, however, would suggest that the University is increasingly exercising administrative power in a way that is actively hostile to these statutory obligations.

What does 'academic freedom' ultimately mean if the individuals who are supposed to protect and exercise it become overly regulated and subject to the close control of University senior managers and councils? As one of the anonymous UTas academics stated to the ABC, the situation today is that the 'voice of scholars has been completely sidelined, if not silenced altogether.'

But, as Professors Evans and Stone observe in their study of Academic freedom, *Open Minds: Academic freedom and freedom of speech in Australia (2021)*

Academics should not be required to support the university's brand or to avoid embarrassing it if doing so comes at the expense of academic freedom. On the contrary, academics should be able to speak out about research, teaching and university governance even when doing so involves harsh and even disrespectful criticism.

More recently, Professor Stone also observed that while much of the public debate around academic freedom has been connected to a "very noisy culture war", the much greater threat was the:

...slow creep" of non-academic values into universities including the private funding of research, the precarious nature of much academic employment and the application of human resources standards from the corporate world, with academics expected to sign up to "codes of conduct" that prevented them bringing their institutions into disrepute.

"If we allow this academic retrogression to go on," she observed, "we may wake up to discover our universities have been fundamentally transformed..."⁴

...

It should also be of concern to state and federal governments alike, too, that the particular use of gagging clauses to silence staff who have decided, for whatever reason, to leave an institution's employ, also comes at a significant financial cost to the institution, but that cost is typically hidden from annual reports and such-like, notwithstanding that it is the taxpayer who ultimately foots the bill. This is surely unacceptable. Such payouts should be on the public record. ...

I believe there is therefore a powerful case for amending The Act explicitly to bind the University to provisions that would protect academics from the misuse of gagging clauses and also protect whistleblowers, and would also compel the University specifically to report any financial costs that arise when it brings any employment contract to a premature end.

This should be done to protect academic freedom on campus, and thus, ultimately the capacity of UTas to fulfil its specific obligations under the Act and its broader responsibilities to the Tasmanian and wider Australian community.⁴⁰¹

⁴⁰¹ Professor Peter Tregear, 2022, *Submission #18*, pp. 1-3.

Emma Gill, NTEU, commented on the frequency of use of NDAs by the university:

In terms of NDAs, the university in my time working for the NTEU, which has been seven years now, has frequently used non-disparagement and confidentiality clauses. Usually where we see them is in deeds of settlement. That's a contract that terminates an employment relationship that might have a number of things in it. There is a standard deed of settlement that I have seen dozens of times in the last seven years that has an NDA clause and a confidentiality clause built within that deed of settlement.

...

Ms WEBB - *Is there a pattern of increasing or is that a steady number over the years in NTEU's experience? ...*

Ms GILL - *It's been fairly steady over the years I've been around. I have seen a bit of a decrease this year. I'm not sure if that's to do with the publicity around it but, just anecdotally, I have seen a slight decrease this year. But normally it's been about the same average over every year that I've seen it.*

...

Ms WEBB - *...Is the use of NDAs, non-disparagement clauses or confidentiality agreements something that is a matter of discussion amongst NTEU members?*

Ms GILL - *Yes, it is well known that those types of clauses are used throughout the institution. ...*

It is definitely of concern to the NTEU that staff members are required to sign confidentiality and non-disparagement clauses at the cessation of their employment. Sometimes that might be a link to a redundancy payment or another exit payment from the institution. The way that I hear it, or the way that I see it being used over the years, there might be an issue with a staff member. It might be that they are critical about something that is happening within the institution or their school. The manager might allege some type of under-performance.

Then what happens is there is a discussion about whether or not that issue can be resolved the easy way, or the hard way. The hard way is always referred to as going through a performance management process, or academic freedom matter, or the easy way is taking the settlement and exiting from the university. That is commonly how I have seen them being used. Probably 50 per cent of the occasions I have seen them use it is in sort of that scenario.⁴⁰²

Emeritus Distinguished Professor Jeff Malpas noted the link between alleged managerial bullying and the use of NDAs at the University:

Moreover, that same culture of managerial bullying is also a key factor in the departure of so many staff, sometimes as a result of their own unhappiness at the system within which they are forced to work and sometimes, in the case of staff who are less compliant or more vocal in their criticisms, through the direct threat of disciplinary action (usually based on weak claims of behavioural misconduct) coupled with the offer of redundancy packages. And when staff have accepted redundancy offers, regardless of the circumstances, such acceptance has standardly required agreement to a non-disparagement clause – which is why so many retired staff have also been reluctant to speak out publicly against university management. ...

The routine use of such clauses and of non-disclosure agreements, or NDAs, is a common contemporary practice – it is part of what shields consultancy firms such as McKinsey from public scrutiny – but the fact that it can be found elsewhere does not make it any the less problematic or less pernicious. I would add that it also serves to enable and encourage unethical conduct within institutions ... Ethical practice depends on openness and transparency, unethical practice thrives on secrecy and control.

The attempt by the University's senior management to discipline and silence dissenting voices among its staff (both academic and professional) has been paralleled by its attempts to control public discussion in relation to University matters and even to muzzle external dissent and criticism.⁴⁰³

⁴⁰² Emma Gill, National Tertiary Education Union, *Transcript of Evidence*, 8 December 2022, pp. 11-13.

⁴⁰³ Emeritus Distinguished Professor Jeff Malpas, 2022, *Submission #97*, pp. 19-23.

John Livermore, retired senior lecturer in Commercial Law, Faculty of Economics and Commerce and Faculty Dean (1986-1988) reflected on the use of NDAs by the University and the level of staff morale:

The way in which the University has curtailed the freedom of its staff to criticise is illustrated by the University staff being required to sign nondisclosure agreements to prevent those seeking redundancies from criticising their former employer. In addition, from February 2021 staff have been reminded of confidentiality clauses in their employment agreements to protect against 'anti-university sentiment.' Given the draconian nature of these provisions, the antithesis of free speech and open debate, it is beyond belief these requirements got past the National Tertiary Union. It is not surprising that staff morale at the University of Tasmania is so low.⁴⁰⁴

The PUA submission made the following recommendation regarding the use of gagging clauses:

Universities should not include in employment contracts, conditions or termination agreements non-disclosure and non-disparagement clauses (and similar 'gagging' clauses) and must ensure all staff are able to access robust and independent whistle-blower processes and protections.⁴⁰⁵

Kristen Derbyshire, Chief People Officer, University of Tasmania, provided detail on the use of NDAs by the University:

These rare and exceptional scenarios ... are highly complex and they involve managing disputes, which have reached a point where resolution is required. It's not an ideal scenario, of course, and we manage it in the best way we can to ensure that the individuals involved are treated with the utmost respect and dignity, and we give them the opportunity to enter into a scenario where they have the appropriate level of protection.

These non-disparagement clauses are a very standard clause in any deed of agreement in these scenarios and are now widely used, ... They exist to provide protections to all parties involved in those agreements. They are entered into through mutual agreement. It's very important to note that these scenarios are very much designed in order to ensure that an appropriate outcome can be achieved in complex circumstances.

...

It's important to be very clear about the difference between a non-disclosure versus a non-disparagement clause. The scenario that you're speaking about is where a non-disparagement clause would be built in as a standard clause within a deed of agreement. In those circumstances where there is a deed of agreement which is being reached through two parties, there's usually some form of settlement involved in that scenario. Again, that's a very common scenario. I can't think of any circumstance where a deed of agreement would be reached where there wasn't some form of settlement scenario built into it and, again, very much entered into through mutual agreement and with a mutual non-disparagement clause built to protect the parties to the agreement.

Again, I'll just reference the fact that these are complex, difficult circumstances, and they do tend to involve not just the employee, but other people across the institution. The protections required and the respect in the way that we treat people in those scenarios are very important to us. These aren't used in any way to gag, for instance, as has been alluded.

...

Ms WEBB - ... *It all sounds very reasonable, and to hear you say they're not used to gag, it's interesting, because that's how they're experienced. That's what is reported to us. To look at this objectively, in any of these situations, if there has been some sort of dispute and difficult situation internally that's led to someone who is now going to leave, and then there's negotiation as you say - negotiation sounds lovely. Sounds like there are equal parties involved. We know that's not always the case, particularly if there have been some very difficult circumstances leading up to the exit of a staff member from a large*

⁴⁰⁴ John Livermore, 2022, *Submission #49*, pp. 2-3.

⁴⁰⁵ Public Universities Australia, 2022, *Submission #27*, pp. 5-6.

institution. They'll often be in quite a vulnerable position. I think that we could agree that there would be typically quite a power imbalance involved.

...

... It does sound as though, if it happens as a matter of course, when people are leaving who are leaving after strained circumstances, that it's a good way to gag people who might well have valid things to comment on about the institution in the public domain.

Ms DERBYSHIRE - *The response that I will provide you with is that it is important to note that - and I've already alluded to this - every circumstance is complex. The individual circumstances that you're alluding to clearly relate to former employees who have experienced challenges and have left on terms that, from their perspective, were not ideal. To come back to your term that, 'it sounds like a lovely scenario' - this is never a lovely scenario. The concept of the power imbalance that you refer to is certainly something that, with carriage of the employee experience and the culture of the institution, I take very seriously as Chief People Officer. In these situations, it's very important that we ensure that all appropriate supports are provided to individual employees where there has been a breakdown of the employee relationship, and where we need to reach some form of resolution.*

I do come back, though, to this concept of mutual agreement. If an employee has reached a point in their tenure with the institution where they no longer want to work for the employer and have entered into some form of dispute resolution process with us, then it is a choice type of scenario.

This concept that you have referred to that, as a matter of course non-disparagement clauses, are being built into deeds. That is not a matter of course for the university. A deed of agreement will almost always have a mutual non-disparagement clause built into it and is widely used, as Alison said, by any large employer right across Australia. It is a very standard clause built into these agreements, and these agreements are utilised in these complex scenarios where a dispute needs to be settled and a resolution needs to be achieved. Again, the individual circumstances for the people who have made submissions through this relate to their circumstances, but these are mutually agreed scenarios that we are managing into with these people.⁴⁰⁶

Professor Rufus Black responded to questions on the PUA suggestion to reduce managerial abuse in Australian universities by reducing the use of non-disparagement and non-disclosure clauses and providing robust independent whistle-blower processes:

A few observations to a very worthwhile conversation about where those apply. I would be very comfortable, for example, sometimes when we are exiting an employee because of their conduct, which would constitute a non-trivial number of these cases actually, probably a majority of them. I would be quite comfortable with not having any such clauses in those situations.

Quite a number of these do relate to situations where there has been a serious thing occur and we have initiated the exit of the employee and they are not happy about that. There is certainly a view and I am quite supportive of it actually, that in those circumstances there are none, it is open commentary. I am very comfortable with that. The University of Melbourne have actually just done that in relation to anything to do with sexual harassment, sexual assault. I would welcome that. I would do that.

You could easily have a conversation about where you draw the terms in relation to how they are used. They are mutual. There is a mutuality in these things. I am very open to that conversation. If this is seen as some way in which it is limiting academic freedom I do not want it to do that.

This inquiry has been a strong demonstration of the fact that there are many people in our community who have exercised their freedoms under this thing, extensively. We would welcome a conversation about what the kind of parameters of those might be. They can serve some other very good purposes, because equally now we cannot talk about any of the people who may have raised these issues and as Kristen says, some of them are indeed complex.

CHAIR - *The last part of that, 'access robust and independent whistle-blower processes and protections'.*

⁴⁰⁶ Kirsten Derbyshire, *Transcript of Evidence*, 2 March 2023, pp. 32-4.

Prof BLACK ...- Our Safe and Fair Communities process provides an independent pathway for people to raise any number of vehicles of concern. Indeed, even if it comes to the most senior levels, there is an independent pathway that can be raised that does not include me, direct to the Chancellor. We have some very strong measures.⁴⁰⁷

Evidence was received in a number of submissions raising the issue of inadequate internal complaints resolution processes at the University.⁴⁰⁸

Emeritus Distinguished Professor Jeff Malpas commented on the handling of managerial bullying allegations:

The University's claim is that bullying, including the managerial bullying at issue here, is already adequately handled under their current behaviour procedures. According to those procedures, complaints are typically (though not always) dealt with by the University's "Safe and Fair Community Unit". However, this unit, and the behaviour policy with which the unit is aligned, does not seem either to be equipped for, nor focused on, matters relating to the sort of endemic managerial bullying that has become such an ingrained part of the University's current culture. When the bullying at issue comes from a Head of School, a Head of Division, or someone even higher in the managerial structure, appealing to the "Safe and Fair Community Unit" or beyond that to "People and Wellbeing" is unlikely to constitute a reliable, safe or independent means by which to obtain redress.

Indeed, the University's behaviour policy is, in general, too amenable to employment by those in positions of managerial authority as a means to coerce or intimidate staff – supposed behavioural breaches being used by managers, as already noted above, to exert pressure on staff who are already seen as troublesome or to impose managers' own ad hoc judgments on staff or students whose behaviour they deem to be "improper" or "unethical" (usually in ways already determined by those managers' own prior and often inappropriate biases). In other words, the very structure supposedly designed to deal with bullying and harassment is itself too open to being co-opted into the very culture of coercion and intimidation that is such a fundamental problem and does indeed seem to have been employed in that very fashion.⁴⁰⁹

Fletcher Clarke, President TULS, was questioned regarding the experience of law students raising complaints with University management:

These are complaints or concerns raised by both individual students and also through us as their representative body. We certainly don't have the monopoly on complaints and being a representative body, but it is most effective when we are that single point of contact. But students were making their concerns known individually to a range of people in the management of the university, both at the law faculty level and above, and we were as well. They were dealt with in a way which I thought was closer to, not obfuscation, but to not quite understanding the problem, and they were trying to manage the issue away into a direction which wasn't particularly productive. Students - either individually or as a representative body - would often be met with invitations to meetings, and it would seem that we would have endless meetings and nothing would ever get done. We would be given a 30 minute time slot, maybe once a week, to work out what are pretty fundamental issues. That's all we could get - a 30 minute meeting every week. I think the results spoke for themselves as the year progressed; but that was very much an insufficient response to what we were really seeing on this magnitude.

...

In terms of the internal structures and processes, it's a very complex and convoluted system. You have informal ways to address concerns, and you have the formal mechanisms to address those concerns. Both informal and formal mechanisms have their own deficiencies. In the submission I touched on the formal deficiencies with the Safe and Fair Communities Unit, for example. We made a range of complaints through that formal process, to then later be told that was the inappropriate avenue to make those complaints - even though it says on the university's website, 'this is where you can go to make complaints of both an academic and a behavioural nature'. We made complaints of both those

⁴⁰⁷ Professor Rufus Black, *Transcript of Evidence*, 2 March 2023, pp. 35-36.

⁴⁰⁸ For example: Submission #3, Submission #25, Submission #26, Submission #97, Submission #118

⁴⁰⁹ Emeritus Professor Jeff Malpas, 2022, *Submission #97*, pp. 22-23.

natures, and then it was related that's not how it works; you need to be able to make it through a different avenue, which is not very well publicised and sits more within the academic division of the university.

....

Ms LOVELL -... In your submission, you have noted that apologies have been made by some members of management about some of those dispute-handling processes. So, that would indicate that there is acknowledgement that the processes are not working, perhaps. Is that accurate, do you think?

Mr CLARKE - There was a slight acknowledgement that some processes weren't working. I did write to the chancellor of the university and I have the letter I wrote to her, asking for a public apology given the distress and upset that eventuated; and I have her response.

I was, unfortunately, unsuccessful in receiving a public apology. There have been apologies made in private forums, but not to the extent that we were hoping for.

Ms LOVELL - Do you know if there have been any moves by the university or by any of those members of management to address those inadequacies on a more ongoing basis? ...

Mr CLARKE - There are two things that I am aware the university is doing, and they don't necessarily relate to structural changes.

They've implemented a new type of survey. That's one thing. The issue with surveys is that we often get bogged down in the detail, and the results aren't always released, so they're not the most helpful indicator.

The second thing relates to an undergraduate student forum that the Executive Dean of the College of Arts, Law and Education held in first semester this year, where complaints were raised by 350-plus students in a very public setting. There was an indication that they might be rolled out more broadly across the College of Arts, Law and Education.

But in terms of structural changes, there hasn't really been much movement. This just more points to feedback to be received, but no clear indication of how that feedback might be addressed or how we change the system itself.⁴¹⁰

Proposals for an external, independent complaints body for the University

In a number of submissions and in hearings, calls were made for the establishment of an external, independent body to ensure compliance with the Act as well as to hear complaints and determine disputes between members of the University.⁴¹¹

PRIVATE WITNESS made the following observation regarding the role of the University Visitor:

Some form of external accountability is needed. At Common Law the position of University Visitor historically had (some) supervisory responsibility. It has enabled those with disputes to seek resolution through this external office. The position of Visitor is rendered impotent by s 17 of the Act, which provides that the role is ceremonial only. We are strongly of the view that the conflict resolution powers of University Visitor be reinstated, with procedures clarified in the Act.⁴¹²

PRIVATE WITNESS made the following observations regarding the University Visitor, and considered the role a possible, but not the only, option to ensure accountability of university management:

⁴¹⁰ Fletcher Clarke, *Transcript of Evidence*, 12 December 2022, pp. 14-16.

⁴¹¹ See for example: Submission #11, Submission #97, Submission #118, Submission #119, Submission #132 (CONFIDENTIAL), Mr Clarke, Tasmania University Law Society, *Transcript of Evidence*, 12 December 2022, p. 15, Professor Tregear OAM, *Transcript of Evidence*, 13 December 2022, p. 23.

⁴¹² Submission #132 (CONFIDENTIAL)

The role of University Visitor is historically an ecclesiastical one. Traditionally, the role had a conflict resolution aspect, but that component of the role seems to have been completely eradicated in Australian higher education institutions. Most Australian universities appear to have provision for a university visitor, (eg see s 17, University of Tasmania Act 1992 (Tas)), but the role is a ceremonial one only. The relevant state governor is generally appointed university visitor under these provisions.

2. Traditionally, the role is very much more interventionist. ... While we see this role as a possible instrument to ensure accountability of university management, we do not view it as the only possibility. At present university councils (and hence councils) are not accountable in any way. Some accountability mechanism is urgently needed. Whether it is a university visitor or some other mechanism, it should have carefully defined responsibilities and parameters, but be capable of facilitating intervention where necessary.⁴¹³

Adjunct Associate Professor Daphne Habibis made the following recommendation:

... the appointment of an independent Ombudsman with powers to investigate staff and student complaints, including allegations of harassment, sexual and behavioural misconduct and limitations on academic freedom.⁴¹⁴

Professor Malpas also noted the previous position of the University Ombudsman, which could be reinstated to provide an avenue to address internal issues such as bullying and managerial misconduct:

In the past, up until the mid-1990s, there did exist a position at the University of Tasmania with the title of University Ombudsman. The position was usually held by a respected senior professorial-level academic (although towards the end it also included a more junior academic assisting)... Such a position still exists at some other Australian universities, notably at La Trobe University...

Although it cannot be the only relevant measure, the re-establishment of the position of University Ombudsman position (properly constituted and resourced) would be an important element in addressing some of the issues of accountability, through providing an internal check on decision-making, and, more importantly, providing an important independent avenue to address issues of bullying and managerial misconduct as well as offering some protection in relation to issues of academic freedom.

The University Act currently contains no provision for such a position. I would contend that, given the problems evident at the University of Tasmania, such a position ought to be included as part of an amended Act, or as part of a new Act, and so given a foundation in law rather than being dependent, for instance, on an ordinance of Council (the latter being effectively the situation at La Trobe). It ought to operate independently of the University's administration, though resourced from within the University budget, with wide powers to investigate complaints and to recommend redress.⁴¹⁵

Ian Howard made a similar suggestion in relation to establishing a state funded Ombudsman:

The state government establish a state funded ombudsperson to whom stakeholders can take their concerns on a confidential basis without fear of their actions prejudicing their relationship with UTAS. This person to present an annual report to State Parliament and have direct access to the Vice Chancellor.⁴¹⁶

Fletcher Clarke, President TULS, referred to the existing relationship of the Ombudsman and Integrity Commission to the University, and proposed that be replaced by a university-specific oversight body:

In terms of an external body and something that we are advocating for here, there is a complex arrangement with the Ombudsman but also the Integrity Commission - they can also handle complaints for breaches of policies or procedures at university. We would recommend that there be

⁴¹³ Private witness, Question on Notice response dated 15 May 2023.

⁴¹⁴ Adjunct Associate Professor Daphne Habibis, 2022, Submission #118, pp. 1-2.

⁴¹⁵ Emeritus Distinguished Professor Jeff Malpas, 2022, Submission #97, p. 23.

⁴¹⁶ Ian Howard, 2022, Submission #11, p. 10.

an external institution that would take over the powers of the Ombudsman and Integrity Commission - essentially, a university commissioner, I suppose; and I have some information here on the previous role of the university visitor. That role would take on that external disciplinary function but also try to resolve disputes. So, you would have a specialist public body to deal with complaints after you've gone through all those internal avenues.

We're advocating for this, because the nature of university disputes can be quite specific. We know that the regulatory regime is quite complex. We still want an appropriate level of oversight. We don't want to get rid of those measures with the Ombudsman or the Integrity Commissioner, or anything like that. But a body with specialist knowledge and understanding of the issues within the university - albeit independent - would be more advantageous to handle disputes and resolve them. So, not just make recommendations, but have the power to resolve them.⁴¹⁷

FINDINGS:

- 76. It was reported that managerial bullying and workplace culture issues have led to reluctance within the University workforce to speak out or criticise management for fear of reprisal.**
- 77. Casualisation of the University workforce and associated lack of job security has contributed to a reluctance to speak out or criticise management.**
- 78. The use of gagging clauses (including non- disclosure agreements and non-disparagement clauses) functions to reduce public criticism of the University by former staff.**
- 79. The University's complaint management mechanism, the Safe and Fair Communities Unit, is not considered by some staff and students to be a reliable, safe or independent means to seek redress for managerial bullying.**
- 80. Currently, in relation to the University of Tasmania, the Tasmanian Ombudsman has a statutory role for administrative complaints and the Tasmanian Integrity Commission has a statutory role for misconduct complaints.**
- 81. There is a lack of confidence in the internal University and external statutory complaint handling and dispute resolution processes.**

RECOMMENDATION:

- 19. The Joint Standing Committee on Integrity consider an Inquiry into the performance of the Integrity Commission and the Ombudsman in relation to complaints regarding the University of Tasmania.**

⁴¹⁷ Fletcher Clarke, *Transcript of Evidence*, 12 December 2022, p. 16.

TERM OF REFERENCE 5

Any other matters incidental thereto

Performance and Ranking of the University

Evidence was presented that related to Section 6(c) of the Act which states that a function of the University is to promote and sustain teaching and research to international standards of excellence.

A number of submissions raised concern about a perceived decline in quality and performance of the University, including a downward trend in the ranking of the University.⁴¹⁸

The Parliamentary Research Service prepared a briefing which provides information about university rankings, and the performance of the University of Tasmania within these rankings. The briefing has been prepared for the Legislative Council Select Committee into the Provisions of the *University of Tasmania Act 1992*. The three most important international rankings organisations are the 'Times Higher Education World University Rankings', the 'QS World University Rankings', and the 'Academic Ranking of World Universities'. The briefing is attached as Appendix J.

The Committee notes that since evidence was received for this Inquiry, the ranking of the University of Tasmania has improved in the Times Higher Education World University Rankings with the University currently being ranked 251-300th in the world.⁴¹⁹ However, the Committee further notes that it is unclear what caused this improvement, and that the Times Higher Education World University Rankings made significant changes to its methodology after the release of the 2023 rankings.⁴²⁰ These changes came into effect for the 2024 Times Higher Education World University rankings.⁴²¹

The Committee further notes that the University of Tasmania's ranking in the QS World University Rankings declined in 2024 and returned to the same level as 2023 for the 2025 rankings.⁴²² The QS World University Rankings methodology was also changed from the 2024 rankings.⁴²³

The University's position in the Academic Ranking of World Universities declined in 2024.⁴²⁴ The ARWU rankings have not yet been released for 2025.

⁴¹⁸ For example: *Submissions #11, Submission #22, Submission #29; Submission #41, Submission #44; Submission #58, Submission #66; Submission #70, Submission #74; Submission #93, Submission #9; Submission #104; Submission #125.*

⁴¹⁹ Times Higher Education (2023) '[World University Rankings 2024: Australia](#)', Times Higher Education website; Times Higher Education (2024) '[Best Universities in Australia 2025](#)', Times Higher Education website, 9 October.

⁴²⁰ D. Ross (2023) '[World University Rankings 2024: Changes to our methodology](#)', Times Higher Education website, 20 September.

⁴²¹ *ibid.*

⁴²² QS (2024) '[University of Tasmania](#)', QS Top Universities website; QS (2024) '[QS World University Rankings 2025: Top Global Universities: Oceania: Australia](#)', QS Top Universities website.

⁴²³ QS (2023) '[QS World University Rankings 2024: Top global universities](#)', QS Top Universities website. The webpage states that: 'This year, we've implemented our largest-ever methodological enhancement, introducing three new metrics: Sustainability, Employment Outcomes and International Research Network.'

⁴²⁴ Shanghai Ranking (2024) '[2024 Academic Ranking of World Universities: Australia](#)', Shanghai Ranking website.

The submission provided by the ‘Concerned Alumni of the University of Tasmania’ made the following observations regarding the ranking of the University:

Before looking at the internal outcomes generated by the Council and Academic Senate through not meeting their obligations under section 11.A.2 and 11.B.A of the Act, a snapshot of the University’s standing externally is helpful.

There can be no argument that the past several years have been difficult for all sectors of Australian society. The tertiary education sector does not operate in a vacuum, and with the closing of borders, the decline in international student intake and with the forced remote learning via online platforms as a response, it has been a challenging environment.

However, when measured against similar universities within the Australian tertiary education sector, the University of Tasmania has been going backwards.

...

The following data was obtained from the Top Universities QS (Quacquarelli Symonds) ratings website. The QS rankings measure universities from around the world on standard and widely accepted measurements and is seen as an important indicator of success in the sector.

The QS rankings clearly show that the University of Tasmania has only just held its head above water across the past three years. Similar universities in Australia have been able to increase their world rankings during the worldwide pandemic. Of greater concern is the poor ratings the University’s own staff give on working conditions. Such ranking are taken into serious consideration by high quality teaching and research staff looking to work for a university, and by future students looking to study at a university.⁴²⁵

Ian Howard, alumnus, identified the ranking of the University as an area of concern:

UTAS being established in 1890 is the 4th oldest of the major universities following Sydney 1850, Melbourne 1853 and Adelaide in 1874 There are now 42 Universities in Australia with UTAS currently ranked 21 on University Rankings. The higher the score the lower the ranking. Most younger universities have overtaken Tasmania with recent historical records showing a declining trend.

UTAS Trend

Year	2015	2016	2017	2018	2022
Rank	10	19	17	22	21

These rankings are based on factors including teaching, research, employability of graduates. Clearly there is a historical and continuing downward trend in UTAS performance. This reflects on the management of UTAS.⁴²⁶

Dimity White, alumna, made the following comments in relation to the ranking of the University:

Also whilst I was completing my second degree, UTAS was rated in the top 200 universities in the world. A quick google now tells me UTAS currently sits at 308 globally, and with the direction they are proposing, this will drop further. Sadly, my advice for anyone planning on sending their children to UTAS would be to send them interstate.⁴²⁷

John Brodribb made the following comments regarding the ranking of the University:

On international rating of universities, the top 5 Australian universities rank in the top 50, while UTAS ranks around 300. This overall ranking would be significantly lower, but for the superior world

⁴²⁵ Concerned Alumni of the University of Tasmania, 2022, Submission #29, p. 3.

⁴²⁶ Ian Howard, 2022, Submission #11, p. 2.

⁴²⁷ Dimity White, 2022, Submission #66, p. 1.

rankings of UTAS specialist Schools of Oceanography, Marine Ocean Engineering, Mining & Mineral Engineering.

Accreditation of UTAS courses has been challenged over declining tuition standards by professional institutions, in particular the legal profession. A recent newspaper headline: UTAS dumps lectures for 'lectorials,' is indicative of declining academic standards, marketed as innovative course presentation.⁴²⁸

Emeritus Professor James Reid noted changes over time with the potential to impact on the ranking of the University:

There's been a gradual erosion of collegiality, academic freedom, and morale over the last 15 years due to changes made through the management and the governance regimes that are currently in place. We think these have weakened councils, academic senates, the schools, and even the disciplines' ability to meet the stated purposes of the university, which is covered in section 6 of the act.

They've restricted debate about matters affecting the academic wellbeing of the university and, if unchecked, will result in diminishing UTAS' rank as a university of international quality, operating out of Tasmania for the benefit of the Tasmanian community.⁴²⁹

Emeritus Professor James Reid further noted:

I think it's the teaching of the undergraduates, and the quality of the degrees, and the recognition of our degrees, that is really going to be the important thing long-term for Tasmania.

If this state does not have a well-credentialed university, producing graduates who have national stature, then in about 10 or 15 years' time, the state itself will suffer. We have a good international university operating out of Tasmania now. That's what we need to maintain.⁴³⁰

Professor Jeff Malpas was asked to provide detail on metrics which would support his characterisation of the University as being in a state of 'crisis':

Have a look at publications. Have a look at the university's own figures on publication.

The university's results for grant income and publication haven't been too bad up until now. The publication levels are certainly falling off. Look at the number of academy members within the university, particularly in an area like humanities. Look at the h-indices for the academic staff. An h-index is a measure of academic impact. It is the number of publications you have, set against the number of citations that each publication has. If someone has an h-index of 3, that means they have three publications that are cited at least three times. You might have an h-index of 30: that means 30 publications with a citation rate, each of them, for at least 30. The average rate for most scientific publications is around one or two.

At UTAS we're seeing a reduction in the quality of the academics. I would argue that fewer and fewer people have lower and lower h-indices, and those indices vary across disciplines as well. We have fewer publications. We are probably seeing a reduction in the level of grants - though that's not affected yet, I think, because it takes a while for some of these things to go through the system.

If you look at the sorts of people who are occupying professorial positions, fewer and fewer of those people have significant qualifications or international reputations, and that's what really matters.

If you look at the number of PhD students in departments - which is a good indication of international reputation, and the quality of an institution seen externally - in many of the disciplines in humanities there are almost none. When I was head of philosophy we had 40 masters and PhD students. I suspect we may have one or two in philosophy, if that. That's a really devastating criticism of an institution. We are seeing students who are actively looking at the mainland rather than Tasmania.

⁴²⁸ John Brodribb, 2022, *Submission #74*, p. 2.

⁴²⁹ Emeritus Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 61.

⁴³⁰ Emeritus Professor James Reid, *Transcript of Evidence*, 12 December 2022, p. 62.

I am a fellow at Jane Franklin. I talk regularly to students there, and many of them are seeing the University of Tasmania as a first-stop shop in terms of gaining entry to university, but only for first year. They are looking to get results that will get them a place somewhere else. The university is becoming a second-rate institution, a doorway for students who might find it difficult to get in otherwise, but they're not going to stay here.

Look at the enrolment levels. Look at enrolments from international students. Look at how the university is performing in rankings. Rankings are problematic. Rufus Black ... thinks rankings are irrelevant, but they tell you something about academic standing. The University of Tasmania is doing less and less well in those sorts of rankings. Who assesses those rankings? People like me: academics do. We give our opinions on what quality we think universities present and the University of Tasmania is now looking like a third, or fourth rate institution internationally.⁴³¹

Professor Aynsley Kellow also commented on the University's decline in rankings:

Prof. KELLOW - ... *On the other hand, relative to other universities, UTAS has declined quite precipitously in rankings and it's almost embarrassing to see some of the universities, and where they used to be, in relation to UTAS. We could provide more information or you or the secretary could have a look at those in the Times Higher Education Supplement; but UTAS has been passed by, by what used to be regarded as universities not of the first rank. We started off in 2015 and that was the case all through the early 2000s that we were sitting just outside the rankings of the group of eight universities. I was on the Research College Board in the early 2000s and so on and we had frequent discussions about should we claim or should we try to get entry into the group of eight and make it a group of nine or 10 or so on. We have no chance now, we are 27 out of 39. That is a really significant drop in rankings.*

There is no reason why you should have that decline in productivity between 2018 and 2021. There is a lag in publication time. It would usually take a year or so for a book or an article to wend its way through the peer review process, the publication process and so on. You might expect some lag but much of the 2020 or 2021 ones were probably submitted very early on and represent research work that was done before COVID-19 really hit, but it is hard to say.

...

Prof. KELLOW - *You will also note, it is fairly general of me, the student applications data, the student offers data. It is all not good. The student completions and attritions has caused the quality agency to impose a student performance monitoring condition on the renewal of the university's registration. These are not good metrics.⁴³²*

The Council of Australian Post-Graduate Associations (CAPA) and National Aboriginal and Torres Strait Islander Postgraduate Association (NATSIPA) expressed the view that external pressures have led to greater emphasis by management on improving international reputation through their university rankings and global marketing campaigns, at the expense of non-commercial ambitions, such as intellectual inquiry and teaching:

Over the years, Australian universities' reliance on international student enrolments as an alternative source of revenue has received significant media attention. The fierce competition for international student enrolments has led to greater emphasis by management on improving international reputation through their university rankings and global marketing campaigns. Vice-Chancellors are held to Key Performance-based Indicators (KPIs), which are incomplete or inaccurate performance measurements. Student employability or student satisfaction surveys and university rankings are unjustly weaponised to measure the quality of education and intellectual curiosity, respectively. In recent years, there has been greater emphasis on gaming the performance-driven funding models than on providing quality teaching, learning, and research.

⁴³¹ Emeritus Professor Jeff Malpas, *Transcript of Evidence*, 7 December 2022, pp. 25-26.

⁴³² Professor Aynsley Kellow, *Transcript of Evidence*, 12 December 2022, pp. 54-57.

*We note the pursuit of climbing university rankings and funding cuts has promoted cost-cutting measures that have led to wage theft and increased casualisation of staff, along with the unhealthy 'publish or perish culture' placed on academic staff.*⁴³³

Emeritus Professor Stuart McLean, speaking to a joint submission he made with other University academics, was asked to reflect on a statement that 'ultimately the reputation of the university depends on its academic standards' and whether there is a way of measuring academic standards:

Universities are not homogenous. You might have a university that has astounding success or a standing in a particular discipline, but is very ordinary in other areas. A lot of it probably comes down to how they promote themselves, and the reputation as well from their achievements.

The Australian National University has a Nobel Laureate as their vice-chancellor, and that's quite something; you'd think that must be good. The University of Sydney has lots of brownstone and people like that because it's traditional, and has a lot of money, too, compared to us. You'd think that would be good, but it doesn't mean that all their teaching is of a higher standard. It doesn't necessarily mean that.

*On the other hand, if the university has a reputation for graduates who are not particularly competent, then word would soon get around that these people aren't much good, so the university itself is not much good. That would be the inevitable outcome if you were to lower standards to keep the admissions up, and lower the standards of exams so more people pass. In the end, you're cutting your own throat, because word would get around. What is a university degree worth when you see the products, which are the graduates?*⁴³⁴

Professor Sharon Rider, Department of Philosophy, Deputy Director, Centre for Higher Education and Research as Objects of Study, Uppsala University Sweden, highlighted the challenges inherent in using rankings as a way to measure the performance of a university:

... I'm not a big fan of the rankings. Firstly, they are very easy to manipulate. Secondly, they waver, and often on very questionable bases. The only reason I took up the rankings is because I know that every university, every college, wants to be excellent and world-leading. Often there is rhetoric around more managerial forms - that we can build these strategies to put us on the map and that kind of thing. But, if you look at the really solid comprehensive universities that are always in the top of the ranking, they generally have dual governance structures. There is certainly no conflict between faculty governance and recruitment and retention of top students and staff.

*... There will often be conflicts at the university between what managers consider "efficiency" and scientific excellence. Having collegial structures means that people are actually making decisions about things they know about, which will support high quality in research and teaching.*⁴³⁵

In reference to the situation in Sweden, Professor Sharon Rider, also commented on the connection between academic quality and prestige with universities that have collegial, devolved decision-making models:

There is evidence that giving the place and its people the right and duty of self-determination with regard to questions of academic quality has positive outcomes even in terms of prestige, which, in turn, creates the kind of environment that attracts funding and students, and inspires the sort of innovation sought, far better than the managerial models that have become so pervasive and which the University of Tasmania seems to have adopted.

...

⁴³³ The Council of Australian Post-Graduate Associations and National Aboriginal and Torres Strait Islander Postgraduate Association, 2022, *Submission #58*, pp. 12-13.

⁴³⁴ Emeritus Professor Stuart McLean, *Transcript of Evidence*, 7 December 2022, pp. 17-18.

⁴³⁵ Professor Sharon Rider, *Transcript of Evidence*, 27 February 2023, pp. 7-8.

It is striking then, that of sixteen universities and thirty-one university colleges in Sweden, there is such an overlap between the existence of collegial organs with decision-making powers and "excellence" in teaching and research as measured by the rankings. ... One of the questions that we regularly posed during interviews with top candidates was why they wanted to come to Uppsala. A recurrent response was that the university has an international reputation for its strong collegial decision-making bodies, which the best applicants apparently associated with academic quality. Using contemporary managerial jargon, one might say that one of Uppsala University's "unique selling points" that makes it attractive to highly qualified scholars and scientists is its faculty governance structures.

...

For the University of Tasmania to be a place that deserves to be "on the map", now and in the future, it should ensure that its students and the communities from which they come regard it as their alma mater ("nourishing mother"), and that their faculty see the workplace not merely as a job, but equally and importantly, as a calling. The university has, of course, many functions. But its primary one is to constitute a place where everything that the institution does, and every decision made with respect to it, is in the service of the preservation, advancement and transmission of knowledge and learning through research and teaching. That constitution requires that the professional norms and commitment of its constituents are respected.⁴³⁶

The Honourable Michael Field AC made the following observations in relation to ranking, the regional nature and the cost of maintenance of the regional campuses of the University:

The response of universities has varied but what's happened is many universities have retreated and closed their regional campuses and concentrated on the major cities. Competition between universities has increased so it's very substantial and overseas recruitment for full fee-paying students has increased. Competition is hot.

The other thing is there's a lot of cross-subsidisation because the competition comes for overseas students. Overseas students are attracted by the status of the university. Rankings rely on research more than anything else to determine those rankings, so the universities have tended to concentrate on research in order to increase their rankings; in order to increase their appeal to overseas students. Tasmania didn't get into that much at all in the 1990s because it started after the Dawkins reforms but did so later on. The emphasis has changed now since Rufus has been vice-chancellor, in that we are concentrating more on the Australian market. If you get Australian students here by being a university of place with particular specialisations that are attractive to students Australia wide. --- It is having success and that means the university is doing well.⁴³⁷

FINDING:

- 82. The University needs to be mindful of its performance and ranking in order to continue to attract domestic and international students, and maintain the quality and rigour of its academic staff and research outputs.**

⁴³⁶ Professor Sharon Rider, 2022, *Submission #41*, pp. 3-4.

⁴³⁷ The Honourable Michael Field AC, *Transcript of Evidence*, 27 February 2023, pp. 13-15.

Regionality

The Committee noted comments provided in evidence relating to the University operating not just as a capital city university, but as a state-wide institution, with a presence in the three main regions of the State.

Michael Wells, Managing Director, Wells Advisory, commented on the unique position of the University and its responsibility to operate state-wide:

Universities must compete in a very competitive set of markets. They're fast evolving and in order to remain viable and sustainable, they have to be successful in competing in those contexts. To invest in quality education and research requires significant financial, human and physical resources, planning, execution and risk taking. Domestic and international students these days can go anywhere. Staff are global and research is judged against world-class standards in our system. However, like other public universities, UTAS must deliver community and economic opportunity and impact, and a uniquely amplified responsibility to do so across the whole of this state.⁴³⁸

The Honourable Michael Field AC made the following observations on the commitment to a state-wide university and ensuring regional facilities are adequately funded:

The funding issue was a core issue when I became chancellor. The second was, increasing tertiary participation because that was lower than other states and we wanted to provide a broad range of high-quality degrees so students have a choice and don't have to leave the state to study. We wanted to provide a quality university and to upgrade facilities so they were appropriate for the 21st century and of course, we wanted a high quality and relevant research program and concentrating on research that is beneficial for Tasmanians.

The first threshold question we had to answer was whether we follow in the footsteps of some of the universities on the mainland, in fact most of them, to concentrate in the capital cities, in order to increase their status and become more attractive to students. To reduce their costs because there is a cross subsidisation associated with providing regional campuses, we were making very large losses because of the maintenance cost of Burnie and Launceston, which was very high. That was the first issue and there were some at that time who were advocating we close the north-west and north and concentrate just in Hobart.

We decided that was not for us, as Tasmanians, that we needed to upgrade our facilities in the north and the north-west and we set out to do that. Fortunately, with the federal election in 2016, there was quite a competitive race and we were able to get the two major parties who saw the importance of upgrading those facilities to make substantial commitment to upgrading the facilities in the north and the north-west, which has led to their redevelopment.⁴³⁹

Vice-Chancellor Black commented on how the University is fulfilling its function of promoting access to higher education having regard to principles of merit and equity, including through a state-wide presence:

It is an extraordinarily important function that we have. We think about that access in a layered way. The first piece is to ensure we have a full range of ways in which any Tasmanian can find a pathway to getting an education, recognising that many finish school without the normal qualifications for universities. Our structure is set up to create pathways that enable essentially anyone to find a way through various pathway units and courses to be able to do whatever it is in the end they want to do. Having that structure is important. That matters to start with.

We know if it is going to work we also have to have a regional presence. For many people to access that is a physically limited reality. We need to be able to be close to their communities so that can

⁴³⁸ Michael Wells, Wells Advisory, *Transcript of Evidence*, 27 February 2023, pp. 32-33.

⁴³⁹ The Honourable Michael Field AC, *Transcript of Evidence*, 27 February 2023, pp. 13-15.

happen. We are also aware that for a range of people, even getting to a campus is a challenge. That is where a part of our offering is an ability to have online ways in which that can happen.

Then when we get to the next stage, we have to work with schools for those who are in schools to find ways to get to university. That is where we introduced our Schools Recommendation Program that I spoke to, which has fundamentally changed. People not just in Australia but overseas are interested in that. In the space of just a few years Tasmanians have gone from relying on this rather abstract number, to over 90 per cent of them entering university as a result of a teacher's assessment of their potential. Their potential for a university education to be successful, we know now that we have had those students going through that teachers are great judges of that potential, in fact, at least as good a judge as a numerical score ever was.

What has changed is it has helped people understand what coming to university is about. Teachers in schools who have never sent someone to a university before can see because we have a description of what is involved, that their kids have those things. Their parents can see. Their students can see it. It has been a significant change. We have to open the doorways, whether it is through pathways or through schools to do that. We are doing a lot in all those areas. Our pathways programs have some of the highest student satisfaction you will get in any course anywhere in the country with well into the 90 per cent satisfaction. We have an incredibly dedicated, incredibly skilful set of staff who do that work and are amazingly passionate about it.

They are the kind of pathways, but even once you have pathways there are significant barriers and they are of many kinds. Financial barriers are serious. We offer over 1700 scholarships a year to help reduce those barriers. We know that is not nearly enough. One of our submissions into the accord process is very much about how do we get the funding for students better addressed. Currently, it is not well designed to create better access to higher education. In some ways it creates a disincentive and we are keen to see that change in order to address that.

...

One of the things that is important for the overall architecture of the university is our commitment to those things, when higher education is funded on the basis of your average metropolitan university. They do not have to do what we have to do. They do not have to provide multiple regional campuses, they are not having to provide nearly such a structured way in which the access agenda - many of them are very committed to it and do good work, but it is integral to what we do. In some ways, that is not reflected in the way we construct the act, in the way we articulate what this university's unique mission is about. I go back to that first statement in the 1889 act; it was clear the ability to provide it for everyone was foundational.

We try to live that mission very vigorously. We are aware there is an enormous amount more that needs to happen, and we would certainly welcome any strengthening of that kind of role.⁴⁴⁰

Alison Watkins, Chancellor and Professor Natalie Brown made the following observations regarding the regionality of the University:

Mr DUIGAN - ... the regionality of UTAS is different to other universities. We have heard from other witnesses here that interest in the regionality of the university waxes and wanes potentially depending on management at the time. Is there enough protection in the functions of the university regarding regionality, do you think?

Ms WATKINS - We have spoken about reinforcing the importance of a regional approach across Tasmania in the preamble and I think that is very important. My initial reaction, and it is a really important question to thoughtfully consider, is that we should make that overall priority very clear, as clear as we can, and be cautious about being too prescriptive about how it translates on the ground. I know that things will change and, clearly, we have invested significantly in creating a very strong, physical leadership presence which we are continuing to implement and strengthen in the north.

⁴⁴⁰ Professor Rufus Black, *Transcript of Evidence*, 1 March 2023, pp. 25-26.

As I see it, there is a thoughtful conversation going on about how we, to the extent to which we can offer different qualifications, degrees, for example in multiple locations, in single locations. There are hybrid versions, for example; medicine, our year-five med students do go up north.

There are all sorts of combinations and permutations. The Tasmanian Institute of Agriculture will be based up north. I can imagine these things will continue to be challenged and changed. I think the important thing is that we have a state-wide commitment and that is evidenced, both by our physical facilities and leadership presence and certainly, the ability to undertake certain qualifications. For example, in the north-west I have found a really compelling need for nurses so we have given that a very high priority to make it very easy for nurses to be trained in the north-west. That is delivering a real, tangible impact for that community, but community needs will change. I think it is wise to have flexibility against the backdrop of that overall mandate for the university, that would be my view.

CHAIR - *On that, is there a possibility that you end up spreading things too thinly, especially if there are duplications? You are talking about nursing in the north-west and the need for nurses, but then you have other campuses that are providing exactly the same course or are they separate, different courses? How do you ensure quality in those courses? You have such a spread.*

Ms WATKINS - *This would be a good one for Natalie to comment on, but from a council perspective, yes. These are some of the tough trade-offs that we need to debate and challenge ourselves against the overall functions that we have and the obligation in (g), as we have discussed, could be elaborated about the community and different communities in the state, and against the backdrop of finite resources. There are lots of tough conversations and trade-offs.*

Prof BROWN - *This is one of the key roles that academic senate plays. If we are thinking about introducing a course to a new campus, for example, there is a whole range of decisions that happen and there is a framework for making those decisions. For academic senate to sign-off on that, we need to make sure that what we are offering at our other campuses is absolutely the highest quality that we can make. We are looking at how those programs will be staffed, what sort of support will be made available for our students, the whole gamut of what is included in offering in a course in another campus.*

As a university, certainly I have noticed over the last 10 years we are a lot better at being able to work in these cross-campus teams. We are really streamlining the way that we support both our academic staff, who are teaching across campuses and in different campuses, and the way we create cohorts of students. That is something that is absolutely top of mind. It is something we look at in terms of assessing quality, we get annual reports by cohorts on those courses. Absolutely, we turn our mind to that. It is critically important.

Of course, the other thing we need to think about in terms of balancing and making those decisions, is our role in producing professionals for the state of Tasmania, our nurses and our teachers, our pharmacists, allied health, we know from the research if we need these professionals in our regions, it is really important we are encouraging people from the regions to consider those professions. Of course, this is not just Tasmania, it is in our national consideration. Being able to provide for quality courses in those regions is critically important for the state of Tasmania.⁴⁴¹

Sophie Crothers, TUSA, commented on the efforts made by the University to be accessible to students statewide, and the challenges presented to maintaining a quality student experience:

Tasmania is in a really unique position, being the only university in the state. There is a perception from some people - and this isn't necessarily my view - that the university stretches itself because it has campuses across the whole state, acknowledging that many students who attend UTAS are first in the family. They have no one with any background in higher education; we've got an increasing number of Aboriginal and Torres Strait Islander students coming through.

There is a real mission from the university to reach those groups, which I think is really admirable - but by extension, when it comes to learning and teaching, studying entirely online is not a good student experience. I think everyone has become quite aware of that over the last 12 months.⁴⁴²

⁴⁴¹ Alison Watkins AM and Professor Natalie Brown, *Transcript of Evidence*, 1 March 2023, pp. 32-33.

⁴⁴² Sophie Crothers, TUSA, *Transcript of Evidence*, 13 December 2022, p. 37.

Professor James Guthrie was asked to comment on the challenges of delivering higher education outcomes across multiple regions:

I've talked to Tyrone Carlin, Vice Chancellor of Southern Cross University. He was a PhD student of mine. He clearly says for the regional universities - and maybe we can classify Tasmania as a regional university - it's very difficult in their model to provide campuses across wide areas and to keep the quality of teaching going.

A lot of the regional universities got into trouble because they went to Melbourne, Sydney, and Brisbane and set up office blocks, and those office blocks were 99 per cent international students. In most cases, they sub-lease their name to a private provider to provide the courses. The only access over quality control was that someone at the university had to approve the course material that was taught and the exams. It's a really difficult question, in the sense of compared to the big universities like Monash, Melbourne, Sydney, Queensland, and UNSW, they don't bother to leave their campus. They don't need to because they are very solid, they are very financial, they have a very big operating activity and they still attract international students.

The regional universities were the ones that really got caught out. I haven't seen the numbers - I assume Tasmanian University, the international student numbers are right down.⁴⁴³

Correspondence from the Northern Tasmania University Support Group provided context to the University's merger with the Tasmanian State Institute of Technology (TSIT) and northern-based Australian Maritime College, which were significant milestones in establishing a state-wide footprint:

The history of university education in Tasmania is fraught with dissension. As noted above, Tasmania's population is widely dispersed, with circa half in the South and half in the North and Northwest. The dissension arose from the historical unwillingness of the old University of Tasmania (founded 1890) to extend its role from Hobart into the North. As a result, higher education qualification levels are not only much lower in the northern half of the State vis-à-vis the southern half, but they are also amongst the lowest in Australia. This long-term deficit in university education has direct implications in terms of poor economic performance and poor social prospects for the northern half of the Tasmanian populace.

In 1989, the Council of the University of Tasmania, which was under much pressure from the Federal Government regarding the then University's low student load, made an urgent approach to the Council of the Tasmanian State Institute of Technology (TSIT) with a proposal that the two institutions be merged. The TSIT, whose main campus was in Launceston (started in 1973), at that time also provided access to additional higher education opportunities in the Northwest via its Study Centres in Devonport and Burnie. The proposed merger 'deal' was that the educational infrastructure (both physical and academic) in the North would be upgraded and developed and University-style educational opportunities (with its emphasis on higher degrees and research) would be provided and promoted in the Northern half of the State.

Whilst initially proposed by the University's Council with the support of its then Vice Chancellor, the proposal to merge was strongly supported by the TSIT's Council and Director as it would better ensure the provision of, and easier access to, more University-style higher education opportunities throughout Northern Tasmania.

After discussion, both Councils agreed that a goodwill merger would be in Tasmania's best interests, and that the two institutions should formally merge on 1 January 1991 to form (what was, then) an un-named, new, truly state-wide, University.

From a long-term perspective the 1991 merger decision was, and is, an educational 'game-changer' for Tasmania. – especially for those who live in the North and Northwest of the State

Today, Tasmanians live in a world in which their future will depend upon the extent to which their education and training enables them to adapt to the rapidly varying winds of social, economic, and technological change. It is well recognised that regions with greater proportions of highly qualified

⁴⁴³ Professor James Guthrie, *Transcript of Evidence*, 7 December 2022, p. 6.

persons perform much better than those in which residents are less skilled, e.g. these higher levels of prosperity generally lead to the emergence of a wide variety of ancillary and support services. In addition to the added economic strength there are significant benefits brought to the cultural and civic life of a more widely educated community. Well-qualified people, who are paid much more than their lower-skilled counterparts, are needed by existing and new high-technology organisations.

At the time of the merger discussions between the Councils of the University and TSIT the Council of the Australian Maritime College (AMC) - located on land 'next-door' to the TSIT - was invited to participate in the University/TSIT merger. The AMC, a unique national institution which attracted essentially all its students from mainland Australia and overseas, declined the invitation and it was not until 2004 that the AMC agreed to merge with the new University.

...

The early years after the 1991 merger, under the leadership of the new University's Council and its Foundation Vice Chancellor, Prof. Alan Gilbert, were very progressive, and many positive steps to implement its state-wide brief. Unfortunately, as time progressed, memberships of Councils changed, Vice Chancellors changed, corporate memory faded, and the new University tended to revert to its pre-merger focus on Hobart.

For example, the Australian Maritime College, a unique institution in Australia, has declined and is now essentially a School, with tenuous reporting lines, within the University's organisational structure. Excluding the AMC from this next comparison (as it did not formally become a part of the new university until 2005), for nearly three decades the number of senior academic staff in Launceston has remained essentially static whilst it has nearly trebled in Hobart: this is notwithstanding the critical influences that Professors and Associate Professors have on both the quality and quantity of normal undergraduate and postgraduate teaching and research offerings. In short, on-site senior academic leaders are essential for the promotion and growth of the student cohort and the rigour of academic offerings

The University of Tasmania Amendment Act 2012 included a sub-section to the effect that the University had continuity of existence since its establishment in Hobart in 1890. Whilst that change is not of direct concern, it had the then unfortunate by-product of confirming in some senior University minds in the South that the TSIT and AMC mergers were actually 'takeovers' and, consequently, the campus in the North was not now necessarily vital to the University's mission.

...

Since the departure of the initial (post-1990) Vice Chancellor, Alan Gilbert, to become Vice Chancellor of Melbourne University, and the departure from the scene of the first "merger" University Council, there has been, until recent years, a trend to revert to the University culture of the pre-1980s. Thus, some years ago (prior to the appointments of the current Vice Chancellor, Prof. Rufus Black), both the then Vice Chancellor and the then Provost made separate public statements in which they said that the University was 'losing' significant sums per annum on its academic operations in the North and (consequently) that the University might have to consider other options in relation to the provision of higher education outside the capital city.

The writers of this Submission accept that both the current University Council and current Vice Chancellor (Prof Rufus Black) are fully committed to the concept of the University being a place-based, truly state-wide, academic institution which offers professional and personal development education of the highest quality. The University of Tasmania is no longer just a Capital City university; it has a demonstrated commitment to being a state-wide university. The concern is whether this commitment will last the test of time.⁴⁴⁴

⁴⁴⁴ Correspondence from the Northern Tasmanian University Support Group, 4 December 2022.

FINDINGS:

- 83. It is challenging for a relatively small, state-wide university located across multiple regional and capital city campuses to maximise student access while also maintaining teaching and research of a high quality.**
- 84. A regional presence is important to encourage student access to higher education, as well as providing the opportunity for the University to respond more effectively to skills needs state-wide.**

Respecting and Valuing the History of the University and its Cultural collections

The Committee notes concerns raised in evidence about the apparent decline in the University's stewardship of art, cultural, heritage and scientific collections, and a reduction in public lectures, music and theatre performances. The Committee has included this evidence as it relates to the functions of the University in the Act, which include:

(a) to advance, transmit and preserve knowledge and learning;

...

(g) to engage in activities which promote the social, cultural and economic welfare of the community and to make available for those purposes the resources of the University.

Rosanna Cameron, graduate and former University employee, provided detail regarding the University's art collection, and expressed concern on the inadequate resources allocated for the ongoing maintenance, display and conservation of that collection:

The University is also responsible for a very fine Art Collection of around 4,000 works collectively worth well over \$6 million. This has been built up from donations, some substantial bequests, University funding and federal grants for the purchase of the Arts. The university has an obligation to the people who have trusted the University with their donations and the artists represented to adequately maintain the Collection for future generations. This is not being done. The Collection has no dedicated airconditioned storage. Instead, the Collection is scattered through various make shift stores in the city and at Sandy Bay. Due to the fluctuating use of space between the city and Sandy Bay fewer works are on display. To put it simply, the Collection is not adequately resourced to allow for ongoing maintenance, display and conservation.⁴⁴⁵

Ms Wojtowicz made the following observation regarding the University's management of cultural collections:

While the pandemic has had a recent impact on the capacity to present to the public performances and exhibitions, there were already structural and location changes which seemed to have seriously depleted regular public music, theatre performances and art exhibitions. The Conservatorium and School of Art in Hobart, the John Elliot Classics Museum in Sandy Bay and the Annexe Theatre and Academy Gallery in Launceston were examples of consistent and regular sources of community cultural activity in addition to their impact on and importance to the Humanities degree programs. Changes in academic structure to a managerial model deriving from the more corporate focus of Council have been devastating to the freedom and public presence of these previously vibrant, welcoming, enterprising, innovative and excellent programs. There have also been major changes in the location of these facilities, or as in the case of the Academy Gallery, complete disappearance.

...

There have been detailed and comprehensive documents in relation to the University's Collections which were recognised as long ago as 1998 in "Transforming Cinderella Collections The Management and Conservation of Australian University Museums, Collections and Herbaria" a report of the DCA/AVCC University Museums Project Committee. Subsequently during my responsibility for the Collections (as Director of Public Relations and University Extension) the Physics Collection was assessed in a survey by the same organisation. Distinguished Professor Jeff Malpas took over the management of Cultural Collections on my retirement and published a Schedule of Collections and a Consolidation Plan, in 2015 "Invest or Divest?" a Report and Discussion Paper Regarding the University of Tasmania's Cultural Collections with an appendix - University of Tasmania cultural policy, cultural collections, cultural activities- written by Jane Haley, and finally in 2017 a paper entitled "Concerns regarding the University Collections and the role of the Director of Collections".

⁴⁴⁵ Rosanna Cameron, 2022, *Submission # 59*, pp. 2-3.

These documents reveal the extent of the collections, and the urgent need for their proper management, housing and support. They have been shelved.

The Fine Art Collection contains works of major cultural significance and diversity. Neither the Launceston nor Burnie campus currently has a dedicated gallery. The Academy Gallery at Inveresk in Launceston was notable for its exhibition program and in particular its volunteer support. There were an average of 60 and 80 volunteers each year from which the support for each exhibition was drawn. The sponsorship program was incredibly significant as was the support of the Launceston City Council. The Academy Gallery no longer exists. Those volunteers, sponsor and partners have no trust in the University's hollow promise of a resumption having watched the extended time that has been taken since the Gallery was closed with still nothing in its place.

The Tyler Collection based in Hobart was established with a gift from Geoffrey Tyler (now deceased) an alumnus of this University and his widow Frances Tyler. It presents a rare and valuable view of Romanian painting, works on paper, ceramics, sculpture and iconography from Romania collected mainly during 1973 - 1987 when Geoffrey Tyler visited the country as a member of the International Monetary Fund. Substantial funding from the Tylers - Geoffrey and Frances - was intended to establish a gallery to house the collection and for proper display and public accessibility of this amazing gift. Indeed, in original correspondence Geoffrey Tyler made it clear that he selected the University of Tasmania over Melbourne University because of the record of public display of the Fine Art Collection. The realisation of an appropriate and continuing location for this material has neither been established nor foreshadowed. Such an example shows disrespect and poor stewardship of a major and continuing philanthropic gesture.

The John Elliot Classics Museum is located within the University Centre and very vulnerable to any lack of public access to the Centre and again the pandemic serves as a reminder that public access to these valuable collections has had a major impact on their visibility. Established in 1954 mainly as a teaching resource in a space under the Stanley Burbury Theatre it was renovated in the 1990s enabling better access (including a lift) for members of the public and students and better lighting and display enabled small events and the capacity for group visits. It languishes in the building now underutilised and under threat.

There is a major geological collection of some 130,000 objects housed on Sandy Bay in the Geology building, a Physics Collection which is gradually dissipating for lack of space and care with national and international significance including material from the WW II Optical Annex, the Fossil Collection located with Plant Science and teaching collections in Zoology and Pathology as well as an Antarctic Microorganisms collection currently located in IMAS.

The Collections Advisory Council was a body recognising the importance of the curation and availability of University art and artefacts and involving members of the community with expertise and knowledge in stewarding these collections. There is no such engagement anymore and the committee was summarily discontinued without adequate recognition to members for the contribution made to the University.

*It is clear that the University has completely abrogated its responsibility for proper management and resourcing of this whole area.*⁴⁴⁶

Ms Wojtowicz commented on the importance of cultural collections for teaching purposes:

The John Elliott Classics Museum is a case in point

That was, in fact, a collection that was almost entirely used for teaching purposes. When I came to my role, it was then that it was possible to make a more open gallery. When some money went past, I grabbed it and we set up the Classics Museum, vis-a-vis Lazenbys underneath, so you could have even catering up there. So that became much more public. It's not a good spot for a public museum but it's got good access.

Those things ought to be out. They ought to be out and being seen by people in the community so that they can understand that once there was a classics department that had people who had been travelling around the world who had access to these kinds of artefacts. The things in the classics

⁴⁴⁶ Amanda Wojtowicz, 2022, Submission #60, pp. 5-6.

museum, the artefacts in the classics museum, are really beautiful, significant and important. It's widely recognised as a very good little collection.

The same is true of the art collection. Some of the works in that art collection are of major international significance. There are some portraits in Launceston that belong to the art collection. There are some portraits of Wik elders made by Ricky Maynard which are absolutely, undeniably, stunning. Photographic portraits. These things need to be seen by people. These things need to be obvious to people because they show the depth of cultural understanding within the university.⁴⁴⁷

FINDING:

- 85. There is an apparent reduction in the degree to which the University values its art, cultural, heritage and scientific collections, and a reduction in the provision of public lectures, music and theatre performances.**

⁴⁴⁷ Amanda Wojtowicz, *Transcript of Evidence*, 12 December 2022, p. 35.

Alumni Advisory Committee and the University Foundation

The Committee notes concerns raised about the apparent decline in the University's formal relationship with its alumni, and the loss of the University Foundation as an independent entity managing donations and scholarships. The Committee has included this evidence as it relates to the Section 5 and Section 6 of the *University of Tasmania Act 1992*.

Amanda Wojtowicz made the following observations regarding alumni relations and the alumni advisory committee:

Following the amalgamation of TSIT and the University into a statewide institution the Alumni was instituted as a friendship and awareness raising organisation (1993) and subsequently the Foundation (1994) for fund-raising. The two responsibilities were carefully separated. In 2009 the development of an MOU between the Alumni Committee and the University Foundation began "a collaborative and cohesive approach strengthening communication, networks and relationships within the University family"

...

In 2012 the Annual Report records " UTAS Alumni has enjoyed great success this year with an extensive events program, increased communications, and the passing of the revised Alumni Ordinance, put forward by the Alumni Committee and approved by UTAS Council in August. A more broad-ranging UTAS alumni family now includes UTAS staff members of three years, past and present, and a new category of 'student alumni' – students who have successfully completed one year at the University and also overseas exchange students who have spent a semester at UTAS." (Annual Report 2012)

The Ordinance of the Alumni of 2012 was revoked by Council and a new Ordinance took effect in September 2013. In a subsequent revision the Alumni Ordinance of 2013 was revoked and another new Ordinance took effect from 23 September 2016. This was the result of a more detailed examination of the Act and I refer in my conclusion to the necessity for a change in the Act to remedy this.

Membership of the Alumni now includes only graduates of the University of Tasmania or one of the University's predecessors in law but precludes any staff members of the University (previously considered Alumni). The University's predecessor institutions include the TCAE [Tasmanian College of Advanced Education], TSIT [Tasmanian State Institute of Technology] and the AMC [Australian Maritime College] but there remains some difficulty in recording these graduates especially in the case of the TCAE where student records are not completely accurate nor comprehensive. The University has not made these records and their tracing a priority in the most recent student record system. This now becomes a problem when for example an alumnus seeks to have a reunion say for 1972 (TCAE) alumni and where records are not available.

This revision now reduces the membership of the Alumni very significantly and clearly represents a diminution of the "broad-ranging UTAS family".

Alumni Advisory Committee

In the revised Ordinance (5.1, 5.2) an Alumni Advisory Committee was established to:

- *Develop and drive a coordinated University-wide management framework for Alumni engagement, domestically and internationally, to optimise Alumni engagement across the University*
- *Develop and promulgate the University's Alumni engagement strategies and implement relevant policies, procedures and work practices*
- *Review, evaluate and make recommendations on major alumni relations activities, including maximising the benefits of the University's international Alumni networks*
- *Review the effectiveness of Alumni engagement strategies and provide advice on initiatives that might be undertaken to improve performance across the University*

- *Oversee and endorse relevant Alumni market research, benchmarking and other assessments as required*
- *Act as a conduit for advice, support and contribution to the University from Alumni*
- *Serve as a forum for the exchange of information and ideas between the University's various alumni networks and stakeholders*
- *provide advice and support to Advancement and the wider University, in the development of University fundraising campaigns as they relate to alumni.*

*This Committee was extant into mid-2017, where it withered and it is believed that it has not met since then. This makes any advice, communication, review or engagement with Council quite inadequate.*⁴⁴⁸

...

The membership of the Alumni should be returned to its pre-2012 breadth, and the sentiment of the 2010 MOU integrating friend and fund-raising should be accommodated.

*... The Alumni and Foundation should be one organisation as a statutory obligation with a broadened alumni membership and supported through an integrated, properly funded and resourced Development or Advancement section. This would include rigorous oversight and stewardship of the Foundation funds held by the University.*⁴⁴⁹

Ms Wojtowicz commented on the impact of an alumni advisory committee that does not meet as regularly as it used to:

Ms WOJTOWICZ - *Well, that means that there is no conduit for information and for ideas and sensitivities of alumni to be demonstrated anywhere. The alumni activity at the university appears to be pretty full-on. If you look at the alumni events overseas, if you look at what is happening on the internet, there is a lot of activity by the alumni. The alumni, particularly distinguished alumni or alumni who are doing particularly significant things, are in fact making an impact. However, the general sense of alumni is that there is not a sense from the general alumni that the university really cares terribly much about how they feel. Where are they in consultation in relation to the current situation? Where are the alumni in relation to any consultations about, for example, scholarship programs or stuff like that?*

I believe it is true to say, I have some evidence of this, that people are simply not wishing anymore, alumni particularly, to contribute financially to the university because they do not trust it.

Ms LOVELL - *So, it is fair to say that the alumni are still active in various ways, but there is a disconnect, perhaps, between alumni and the university as it operates today?*

Ms WOJTOWICZ - *Yes, the alumni office, the Office of Advancement, and the group of people who are responsible for the alumni are working really really hard. No question about that. In fact, I talk to them on a regular basis.*

But, this broader community of alumni, the wider community of alumni, should be there supporting the university now. It needs support. It needs people backing it.

*... What is needed is support from the general community, and the alumni makes up an enormous portion of that community.*⁴⁵⁰

Ms Wojtowicz made the following observations regarding the demise of the independent University Foundation:

The University Foundation was established in 1994 as a body independent of the University but committed to its support. It had a Board of Governors and a Board chaired by significant Tasmanian

⁴⁴⁸ Amanda Wojtowicz, 2022, *Submission #60*, pp. 3-4.

⁴⁴⁹ Amanda Wojtowicz, 2022, *Submission #60*, p. 8.

⁴⁵⁰ Amanda Wojtowicz, *Transcript of Evidence*, 12 December 2022, p. 27.

leaders. A Foundation was also established in the USA in 2006 to make it possible to raise funds there with appropriate tax deductibility. This became important in the Save the Tasmanian Devil program because of the interest and support for the cartoon character Taz.

In May 2018, the University Foundation Committee Ordinance took effect confirming the establishment of the University Foundation Committee (UFC) as a Committee of the Council. It is currently chaired by the Vice-Chancellor. The University wound up the University of Tasmania Foundation Inc of 1994 which had been the independent organisation set up to manage and administer trusts, bequests and donations as well as to grow philanthropy. All monies and other assets received by the Foundation are to be held by the University and "such monies and assets shall continue to be separately identified in the financial records of the University"... There has been a consequent diminution in the public acknowledgement of bequests, donors or the demonstration of their commitment through scholarships, the history of buildings and other examples such as the gift of the Tyler collection.

...

Named Public Lectures are an example of both the transmission and preservation of the history of ideas and of significant people or events - a very obvious way of celebrating the University's heritage. A very recent example is shown in the case of the Arthur Cobbold Memorial Lecture an annual event in memory of Professor Arthur Cobbold who established the Medical School and which was funded by his widow. The Cobbold Committee was recently bypassed in the selection of the lecturer for 2022 because the background and history of the establishment of this lecture was not made available to current staff. While a seemingly insignificant oversight this lack of 'corporate knowledge' may contribute to the eventual disappearance of important history.

...

The demise of an independent Foundation and the current lack of transparency about philanthropic funds, scholarships and stewardship and acknowledgement of donors is often demonstrated through concerns expressed by some of those donors and in an apparent unwillingness to consider philanthropic donations.⁴⁵¹

Ms Wojtowicz elaborated during a public hearing on the relationship between the alumni and the foundation:

Ms WEBB - ... From what you described in your submission, we've got a couple of things occurring across a similar time period. We have a narrowing of the definition of alumni, to some extent, in recent times. We have the university foundation being subsumed into the more general functioning of council; and we have an alumni advisory committee which, presumably, still exists under ordinance but doesn't meet, or doesn't exist, in practice now.

Ms WOJTOWICZ - Correct.

Ms WEBB - What's your interpretation? To your understanding, have those things all been occurring over a period of time by some form of design, or by neglect, or not paying attention? What has driven that?

Ms WOJTOWICZ - I don't necessarily think it's design; although in relation to the foundation, it was design - the council decided the foundation was not going to be an independent incorporated association anymore. That was by fiat. I think it's by neglect, because it's not seen as contributing to the bigger picture in terms of either money, finance, or in terms of a contribution to the university's plans and strategies. The university's own statement of values includes the importance and significance of alumni. Celebrating alumni - there is no doubt about it - through stuff on the internet and through distinguished alumni is a significant thing. Those people feel that, very keenly. It's a question of how that is seen by council to be a very important element of the university. It can't be its entire community engagement profile, but it's incredibly important.

...

⁴⁵¹ Amanda Wojtowicz, 2022, Submission #60, p. 2.

Ms WEBB - You may or may not be able to answer this, but are you aware of whether there were voices raised at decision points that have progressed this trajectory? From your submission, in May, 2018 when the university foundation ordinance took effect, is that when it was subsumed into committee of the council? Were there voices raised as part of that?

Ms WOJTOWICZ - Yes, by the foundation board.

Ms WEBB - Obviously, to no avail.

Ms WOJTOWICZ - Correct.

Ms WEBB - Are you aware of whether there continue to be voices raised or champions within the university, or people with a focus on this, who would be part of internal discussions currently and going forward?

Ms WOJTOWICZ - No. I think not in relation the foundation. In relation to the alumni, certainly; but not in relation to the foundation, that's a done deal. Those funds are, presumably, sequestered; one can't easily see the information. But there is a group of ex-governors or other people from the foundation who do receive a report annually.⁴⁵²

The Committee notes that on 9 May 2024, the University announced the formation of the new University of Tasmania Alumni Committee.

FINDINGS:

- 86. The Alumni Advisory Committee was inactive from 2017 to 2023, and there appears to have been no similar structured mechanism for engagement of alumni and advice to the University.**
- 87. A lack of opportunity for Alumni to be engaged and involved in the University risks diminishing support for the University, including financial contributions such as donations and bequests.**
- 88. In 2018, the independently incorporated University Foundation was dissolved and the University Foundation Committee of the Council was established. Concerns were raised that this would result in a lack of transparency in relation to bequests and philanthropic donations.**

⁴⁵² Amanda Wojtowicz, *Transcript of Evidence*, 12 December 2022, p. 29-32.

Loss of identity of the Conservatorium of Music and the Australian Maritime College

The Committee notes concerns about the loss of identity for the Conservatorium of Music and the Australian Maritime College, which were both previously held in high regard as entities distinct from the University. Witnesses believe this loss has contributed to a decline in reputation and ability to attract high quality students.

Ms Wojtowicz expressed concern regarding the loss of identity of the Conservatorium of Music:

The fifty-eight-year-old Tasmanian Conservatorium of Music (the Con) as an entity seems to have disappeared from the UTAS website. The recently opened building adjacent to and part of the Theatre Royal complex called The Hedberg houses the Tasmanian Conservatorium. However, it is difficult and complicated to find it on the UTAS website. (It is more discoverable by googling Tasmanian Conservatorium.) Even the new building (The Hedberg) is visually hidden unless you realise that you must turn left after the Theatre Royal into Collins St. The 'shared' foyer area and larger expanse of the Theatre Royal on Campbell St doesn't have any bold directions to Hedberg.

The Con has a proud history in Music Education and performance with a reputation for its excellence demonstrated by membership of orchestras, teachers in schools and Departments of Music, composers and ensembles throughout Australia and internationally. Once a Faculty, more recently the equivalent of a School, it is now part of the School of Creative Arts and Media within the College of Arts, Law and Education. This institution of major significance seems to have lost its association with national and international music institutions by it being buried within the more mundane school/college grouping. Certainly, there are regular concerts at the Hedberg, but they don't have the universal appeal, diversity, breadth nor calibre of previous years. The devastation of a once renowned heritage should not have been a result of administrative restructuring.⁴⁵³

Professor Emeritus Coleman O'Flaherty, former Director of the Tasmanian State Institute of Technology, a former Deputy Vice Chancellor of the University of Tasmania, and a former member of the University of Tasmania Council, and Adjunct Professor Martin Renilson, former Head of Naval Architecture and Ocean Engineering at the Australian Maritime College and a former Dean of Maritime Programs at the Higher Colleges of Technology, United Arab Emirates, gave evidence on behalf of the Northern Tasmania University Support Group:

Mr GAFFNEY - ...My last question is about interest in regard to the university's Australian Maritime College, the appointment of an additional council member. Could you expand on that a bit further please?

Prof. RENILSON - --- Prior to the amalgamation between the university and the maritime college, the maritime college was a national body and most of its Australian students came from outside this state. When I worked there we made a strong point of being a national organisation, not a state-based organisation. Since the amalgamation between AMC and the university, that has been lost and it is fairly clear to see that the AMC doesn't have that national focus anymore and the suggestion here is that we don't want to turn everything that the university is doing, up on its head. Everything else the university is doing in this state is absolutely right but unfortunately it is exactly wrong for the maritime college. We are suggesting that somebody be there on the council, with an understanding of the national maritime industry to make sure the Australian Maritime College can project itself onto the mainland, not just within Tasmania.

....

Mr GAFFNEY - The Australian Maritime College kept its name, its title, even though it has been subsumed by UTAS, is that correct?

⁴⁵³ Amanda Wojtowicz, 2022, Submission #60, p. 2.

Prof. RENILSON - That is correct, it still has its name which I really appreciate. ...

.... Originally, the principal reported to the vice-chancellor and in the agreement of amalgamation it was to be a standalone institute. Then the principal reported to the provost, now the principal reports to the dean, and it is just like any other school within the university. So, it has lost its special focus, if you like, that it used to have and I might say, it was promised in the amalgamation.

Prof. O'FLAHERTY - I just want to stress, I came here just prior to the AMC being established and I was very much aware of what was taking place and supported most of what they were doing. I say most because I wanted our mob to participate more in their activities, that is just the normal give-and-take of academia. However, they were a prestigious institute, and I use the word 'were'. In recent years, their national leadership and international leadership has slipped. They get most of their students, not from Tasmania, but from the mainland and overseas. Now, the AMC is not in the capital city and somehow, it has tended to be forgotten by the university and what we wish to stress is that the work that it is doing is vital to the shipping industry in Australia. We would like to see it given a greater focus now and in the future, and to do that, we would like to see a member of the council who is recognised as a leader in the maritime industry being on the council to give guidance to council regarding the developments in the maritime area and in maritime education.

Mr GAFFNEY - Indeed, when it was first announced the Australian Maritime College was going to be in Launceston, there was a lot of media coverage and it was highly sought after because it was the first of its kind in Australia. Are these courses that are being offered at the Australian Maritime College now offered in other colleges and universities across Australia? Has it been fettered out so that it is not the prime place for maritime or is it still the number one institution for learning in the country?

Prof. RENILSON - There are a range of courses that the maritime college does. Basically, one other university recently started a naval architecture course in Canberra, so it is mainly focused on defence people. To a large extent, these courses are only run at AMC and what has happened, and I can speak as ex-president of the Australian Division of the Royal Institution of Naval Architects, we, meaning Australia, are running out of naval architects because they are not coming to AMC anymore because of what we just talked about before.

...

CHAIR - If we consider with respect to, say, the Institute for Marine and Antarctic Studies. Wouldn't you equate the Australian Maritime College with something akin to that? If you were to have an extra person on council related to the Maritime College, wouldn't the Institute of Marine and Antarctic Studies put their hand up and say, that means that we need that level of input as well?

Prof. RENILSON - I can't comment on what it does, but it has very high profile within the university. I think it is important to realise that despite an original agreement and despite originally the principle of AMC reporting to the vice-chancellor, it's moved considerably down in the pecking order within university management, so much so that is basically just a head of school. That's why AMC is suffering.

I don't believe the IMAS is suffering. I don't know, but I think a lot of its students do come from within Tasmania, because it's place based and so on, Antarctic and marine studies. We used to say at AMC that, we just happen to be based in Tasmania. A national organisation could be based anywhere in Australia and it just happens to be based in Tasmania and now has become part of the university. IMAS is very much place based, focusing on the maritime and Antarctic studies, that's what IMAS is about. So, they are a bit different, I think.

...

Ms WEBB - To clarify the question I was asking was: if we were to go down the track of the recommendation that you're making and include a role on the University Council as the governing body, a role that specifically related to the Maritime College, as per your recommendation, whether there would then be a conflict for the person in that role with the other part of the legislation that says in section 8(3):

A member of the Council is responsible and accountable to the Council rather than to any constituent body by which he or she was appointed or elected.

That implies that were there to be a person on council in a sense representing the Maritime College, they couldn't be reportable back to the college as such. They are there presumably to give voice and to be able to participate in conversations from that perspective. Is that what you are anticipating or do you see a conflict with that other part of the act?

Prof O'FLAHERTY - *No, I don't think so. I think the misunderstanding is if you see the person on council as representing the Maritime College. He or she is not there to represent the Maritime College. The person is there to make sure that the national educational interests in the maritime industry are brought to the fore.*⁴⁵⁴

⁴⁵⁴ Professor Coleman O'Flaherty and Professor Martin Renilson, *Transcript of Evidence*, 27 February 2023, pp. 49-52.

APPENDIX A

List of Submissions, Hearings and Witnesses

List of submissions

1	Furntech-AFRDI
2	Professor Gary Biddle & Dr Patricia Biddle MD
3	Emeritus Professor James Guthrie AM
4	David Gardiner
5	Max Atkinson
6	CONFIDENTIAL SUBMISSION
7	Dr Chris Easthope
8	Nicole Morgan
9	John Meehan
10	Mia Grant
11	Ian Howard
12	Professor Vadim Kamenetsky
13	PRIVATE WITNESS
14	Emeritus Professor Stuart Mclean
15	PRIVATE WITNESS
16	PRIVATE WITNESS
17	Peter Gayton
18	Professor Peter Tregear OAM
19	Professor James Kirkpatrick AM
20	Emeritus Professor Norelle Lickiss AO
21	Emeritus Professor Dr Michael Rowan
22	Emeritus & Current Distinguished Professors in Science Disciplines at UTAS
23	Fermentation Tasmania Ltd
24	Cradle Coast Authority
25	Dr Andrew Grosse
26	Keith Jacobs
27	Public Universities Australia (PUA)
28	Hobart City Council
29	Concerned Alumni
30	Bill Fitzgerald
31	Katherine J Tongs
32	Dr Bruce Scott
33	PRIVATE WITNESS
34	Erica Robinson
35	CONFIDENTIAL SUBMISSION
36	Anne A Francis
37	CONFIDENTIAL SUBMISSION
38	Dr Terry Moore
39	Robyn Doyle
40	A R Clephane-Hagar
41	Professor Sharon Rider
42	Katrina Ward
43	Brendan Nicholls
44	Maree Roberts
45	Anne Blythe Burleigh
46	Australian Association of University Professors (AAUP) UTAS Charter
47	Brian Stafford
48	John Hamilton

49	John Livermore
50	Jon Deepprose
51	Janina Lebedew
52	PRIVATE WITNESS
53	Jane Herbert
54	Emeritus Professor Michael R Davis
55	Emeritus Professor Brian Yates
56	David Boyles
57	Colleen McCulloch
58	CAPA and NATSIPA
59	Rosanna Cameron
60	Amanda Wojtowicz
61	Peter Williams
62	Andrew Hunt
63	Anet De Cesare
64	Katherine Eagles
65	Robert Cotgrove
66	Dimity White
67	David Wise
68	Dr Graham Wood
69	Alderman Jeff Briscoe
70	Anne Caughey
71	Emeritus Professor Kwong Lee Dow AO AM
72	Greg Barns SC
73	Judy Tierney
74	John Brodribb
75	Janet Upcher
76	Dallas Williams
77	Jenny and Peter Turner
78	Lions Eye Institute
79	Louise Elliot
80	John O'Halloran
81	Susan Flis
82	Judith Timbs
83	Iain Williams
84	Ian Clark
85	Simon Taskunas
86	Mike Meerding
87	Maria Riedl
88	Dr Jillian Koshin
89	Adjunct Associate Professor Terese Henning
90	Emeritus Professor Peter Dawkins AO
91	Louise Bloomfield
92	Northern Tasmanian Network Partners & Associates
93	John Lawrence
94	PRIVATE WITNESS
95	Rodney Greene
96	PRIVATE WITNESS
97	Emeritus Professor Jeff Malpas
98	Burnie City Council
99	Alison Watson
100	Pat McConville
101	Dr Damian Bugg AM QC
102	Business NorthWest
103	Lionel Morrell

104	Emeritus Professor Anysley Kellow
105	Emeritus Professor Anna Yeatman
106	CONFIDENTIAL SUBMISSION
107	CONFIDENTIAL SUBMISSION
108	Tanzi Lewis
109	Professor John Burgess
110	The late Adjunct Associate Professor Peter Chapman
111	PRIVATE WITNESS
112	CONFIDENTIAL SUBMISSION
113	University of Tasmania
114	Peter Bicevskis
115	Julie Irvin
116	Dr Sophie Rigney
117	William Coats
118	Daphne Habibis
119	Tasmania University Law Society
120	Emeritus Professor Michael Bennett
121	Robert Moore and Helen Bethune
122	Jennifer Yates
123	National Tertiary Education Union
124	Honor Yearsley
125	Dr Peter McQuillan
126	Professor Pamela Sharpe
127	Dr Richard Herr OAM
128	Tasmania University Student Association
129	Dr Richard Doyle
130	Patrick Naughtin
131	Ian Johnson
132	CONFIDENTIAL SUBMISSION
133	CONFIDENTIAL SUBMISSION
134	Study Hub West Coast
135	Allison Green
136	Wells Advisory
137	John Titchen
138	CONFIDENTIAL SUBMISSION
139	Duncan Mills
140	Reuben Gregg-McQueen
141	PRIVATE WITNESS
142	Dr Martin Clark
143	Joint Submission from UTAS Academic Staff
144	Virginia Dauney
145	Robert Hogan
146	CONFIDENTIAL SUBMISSION
147	CONFIDENTIAL SUBMISSION
148	CONFIDENTIAL SUBMISSION
149	Save UTAS Campus
150	Tasmanian Government (tabled 12/5/2023)
151	Launceston Chamber of Commerce (tabled 12/5/2023)

List of hearings and witnesses

<p>6 December 2022 Parliament House, Hobart</p> <p>Webex</p>	<p>Public Universities Australia <i>Professor Hans Zoellner</i> <i>Professor Manuel Graeber</i> (Submission #27)</p> <p>Australian Association of University Professors (UTAS Chapter) <i>Adjunct Associate Professor John Kenny</i> (Submission #46)</p> <p>Dr Damian Bugg AM QC (Submission #101)</p> <p>SAVE UTAS CAMPUS <i>Professor Pam Sharpe, Chair</i> <i>Michael Foster, Deputy Chair</i> (Submission #149)</p>
<p>7 December 2022 Parliament House, Hobart</p> <p>Webex</p>	<p>Emeritus Professor James Guthrie (Webex) (Submission #3)</p> <p>Emeritus Professor Stuart McLean (Webex) (Submission #14)</p> <p>Emeritus Distinguished Professor Jeff Malpas (Submission #97)</p> <p>Professor James Kirkpatrick AM (Webex) (Submission #19)</p> <p>Peter Bicevskis (Submission #114)</p> <p>Emeritus Professor Brian Yates (Submission #55)</p>
<p>8 December 2022 Parliament House, Hobart</p>	<p>National Tertiary Education Union <i>Ms Gabe Gooding, Assistant National Secretary (Webex)</i> <i>Anthony Beckett, Tasmanian Division President, UTAS staff member</i> <i>Dr Kelvin Michael, retired Tasmanian Division Secretary</i> <i>Ms Emma Gill, Tasmanian Industrial Officer</i> (Submission #123)</p> <p>Pat McConville (Webex) (Submission #100)</p>
<p>12 December 2022 Parliament House, Hobart</p>	<p>CAPA/NATSIPA <i>Errol Phuah, National President CAPA</i> (Submission #58)</p> <p>Tasmania University Law Society <i>Fletcher Clark, President</i> (Submission #119)</p> <p>Amanda Wojtowicz (Webex) (Submission #60)</p> <p>John Lawrence (Submission #93)</p> <p>UTAS Academic Staff Joint Submission <i>Professor Aynsley Kellow</i> (Submission #143)</p> <p>Emeritus Professor James Reid (Submission #22)</p>
<p>13 December 2022 Parliament House, Hobart</p>	<p>Adjunct Associate Professor Terese Henning (Webex) (Submission #89)</p> <p>Dr Richard Herr OAM (Submission #127)</p> <p>Peter Tregear (Submission #18)</p> <p>Tasmanian University Student Association <i>Sophie Crothers, President</i> (Submission #128)</p>

<p>27 February 2023 Parliament House, Hobart</p>	<p>Dr Sharon Rider (Webex) <i>(Submission #41)</i></p> <p>The Honourable Michael Field AC <i>(No submission)</i></p> <p>Emeritus Professor Kwong Lee Dow (Webex) <i>(Submission #71)</i></p> <p>Wells Advisory <i>Mr Michael Wells, Managing Director</i> <i>(Submission #136)</i></p> <p>The Northern Tasmania University Support Group (Webex) <i>Dr Brian Hartnett</i> <i>Professor Coleman O'Flaherty AM</i> <i>Professor Martin Renilson</i> <i>Professor John Williamson</i> <i>(No submission)</i></p>
<p>1 March 2023 Parliament House, Hobart</p>	<p>University of Tasmania <i>Chancellor, Ms Alison Watkins AM</i> <i>Vice Chancellor and President, Professor Rufus Black</i> <i>Chair, Academic Senate, Professor Natalie Brown</i> <i>Chief People Officer, Ms Kristen Derbyshire</i> <i>(Submission #113)</i></p>
<p>2 March 2023 Parliament House, Hobart</p>	<p>University of Tasmania <i>Chancellor, Ms Alison Watkins AM</i> <i>Vice Chancellor and President, Professor Rufus Black</i> <i>Chair, Academic Senate, Professor Natalie Brown</i> <i>Chief People Officer, Ms Kristen Derbyshire</i> <i>(Submission #113)</i></p> <p>Robert Hogan (Webex) <i>(Submission #149)</i></p>
<p>1 May 2023 Webex</p>	<p>Launceston Chamber of Commerce (Webex) <i>William Cassidy, Executive Officer</i> <i>(No Submission)</i></p>
<p>4 May 2023 Parliament House, Hobart</p>	<p>University of Tasmania <i>Chancellor, Ms Alison Watkins AM</i> <i>Vice Chancellor and President, Professor Rufus Black</i> <i>Chair, Academic Senate, Professor Natalie Brown</i> <i>Chief People Officer, Ms Kristen Derbyshire</i> <i>(Submission #113)</i></p>
<p>12 May 2023 Parliament House, Hobart</p>	<p>Tasmanian Government <i>Hon Roger Jaensch, Minister for Education, Children and Youth</i> <i>Mr Tim Bullard, Secretary, DECYP</i> <i>(No Submission)</i></p>
<p>6 July 2023 Parliament House, Hobart Webex</p>	<p>Treasurer (Webex) Department of Treasury and Finance Representatives <i>Fiona Calvert, Deputy Secretary, Economic and Financial Policy Division</i> <i>Sam Wilson, Strategic Policy Analyst, Shareholder Policy and Markets</i> <i>(No Submission)</i></p>

APPENDIX B

Meeting Attendance Record

DATE	VALENTINE	WEBB	DUIGAN (RESIGNED OCTOBER 2023)	GAFFNEY	SIEJKA (RESIGNED AUGUST 2022)	LOVELL (APPOINTED 16 AUGUST 2022)
23 June 2022 (Hobart)	✓	✓	✓	✓	x	
31 August 2022 (Hobart)	✓	✓	x	✓		✓
9 September 2022 (Hobart)	✓	✓	✓	✓		✓
18 October 2022 (Hobart)	✓	✓	✓	✓		✓
22 November 2022 (Hobart)	✓	✓	✓	✓		✓
6 December 2022 (Hobart)	✓	✓	✓	✓		✓
7 December 2022 (Hobart)	✓	✓	✓	[absent 12:15- 12:40 pm]		✓ [until 2:15 pm]
8 December 2022 (Hobart)	✓	✓	x	✓		✓
12 December 2022 (Hobart)	✓	✓	✓	✓		✓ (until 2:45pm)
13 December 2022 (Hobart)	✓	✓	✓	✓		✓ (until 2:45pm)
15 February 2023 (Hobart)	✓	✓	✓	✓		✓
27 February 2023 (Hobart)	✓	✓	✓	✓		✓
1 March 2023 (Hobart)	✓	✓	✓	✓		✓
2 March 2023 (Hobart)	✓	✓	✓	✓		✓

5 April 2023 (Hobart)	✓	✓	✓	✓		✓
1 May 2023 (Hobart)	✓	✓	✓	✓		✓
4 May 2023 (Hobart)	✓	✓	✓	✓		✓
12 May 2023 (Hobart)	✓	✓	✓	✓		
6 July 2023 (Hobart)	✓	✓	x	✓		✓
7 July 2023 (Hobart)	✓	✓	x	✓		✓
25 August 2023 (Hobart)	✓	✓	✓	✓		✓
1 September 2023 (Hobart)	✓	✓	x	✓		✓
19 September 2023 (Hobart)	✓	✓	✓	✓ [until 11am]		✓ [absent 12:30 - 1:30 pm]
29 November 2023 (Hobart)	✓	✓		✓		x
6 December 2023 (Hobart)	✓	✓		✓		✓ [until 2:30pm]
7 December 2023 (Hobart)	✓	✓		✓		✓ [until 1pm]
11 December 2023 (Hobart)	✓	✓		✓		✓
7 June 2024 (Hobart)		✓		✓		✓
27 August 2024 (Hobart)		✓		✓		✓
28 August 2024 (Hobart)		✓		✓		✓
3 September 2024 (Hobart)		✓		✓		✓
4 September 2024 (Hobart)		✓		✓		✓

15 October 2024 (Hobart)		✓		✓		✓
16 October 2024 (Hobart)		✓		✓		✓
17 October 2024 (Hobart)		✓		✓		✓
12 November 2024 (Hobart)		✓		✓		✓
13 November 2024 (Hobart)		✓		✓		✓
14 November 2024 (Hobart)		✓		✓		✓
22 November 2024 (Hobart)		✓		✓		✓
5 December 2024 (Hobart)		✓		✓		✓
6 December 2024 (Hobart)		✓		✓		✓
16 December 2024 (Hobart)		✓		✓		✓
18 December 2024 (Hobart)		✓		✓		✓
20 December 2024 (Hobart)		✓		✓		✓

APPENDIX C

Chronology of Significant Events

Parliamentary Research Service, 4 December 2024



Parliamentary Research Service

Parliament House
Hobart, Tasmania, 7000

Date: 4 December 2024

University of Tasmania Chronology of Significant Events

This chronology provides a timeline of significant events in the history of the University of Tasmania (UTAS). It begins with the establishment of UTAS in the late nineteenth century and ends at the time this chronology was completed (4 December 2024).

The University of Tasmania has been governed by the *Tasmanian University Act 1889*, the *Tasmanian University Act 1951*, and the *University of Tasmania Act 1992*. The chronology includes amendment Acts that have changed the composition of the University Council (but does not include every amendment Act).

The chronology has been prepared for the Tasmanian Legislative Council Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992*.

References for the chronology are provided in endnotes at the conclusion of the document.

Contents

Establishment of the University of Tasmania	4
<i>Tasmanian University Act 1889 and University Property Act 1892</i>	4
<i>Tasmanian University Act 1935</i>	4
Beginnings of the Move to Sandy Bay	4
<i>Tasmanian University Act 1951</i>	5
Royal Commission 1955	5
Findings of the 1955 Royal Commission	6
<i>Tasmanian University Act 1955</i>	6
The Orr Case 1956	6
Murray Report 1957– Beginning of Federal Funding for Universities 1959	7
Construction of the Sandy Bay Campus	7
Whitlam Reforms	7
<i>Tasmanian University Amendment Act 1980</i>	8
University absorbs Southern Tasmanian College of Advanced Education 1981	8
Dawkins Higher Education Reforms 1987	8
<i>Higher Education (Amalgamation) Act 1990</i>	9
University Council Report basis of University of Tasmania Bill 1992	9
<i>University of Tasmania Act 1992</i>	10
Further Organisational Changes in 1990s	11
<i>University of Tasmania Amendment Act 2001</i>	11
National Governance Protocols 2004	12
Higher Education Loans Program	12
<i>University of Tasmania Amendment Act 2004</i>	12
Voluntary Code of Best Practice for the Governance of Australian Universities	13
Bradley Review 2008 and establishment of TEQSA in 2011	13
<i>University of Tasmania Amendment Act 2012</i>	14
Vice-Chancellor Peter Rathjen 2011-2017	14
Northern Transformation Project – Moving the Burnie and Launceston Campuses	15
Southern Transformation Project – Plan to Move the Hobart Campus to the CBD	15
University Council’s Plans for the Sandy Bay Site 2017-2022	16
Opposition to the University’s Move to the Hobart CBD	17
UTAS Included in ABC <i>Four Corners</i> ‘Cash Cows’ Program 2019	17
University Reduces Number of Degrees and Courses 2020	17
Underpayment of University Staff	17
University Ceases to Provide In-Person Lectures 2022	18
Concerns for the UTAS Law School	18

Legislative Council Select Committee Inquiry	19
Hobart City Council Elector Poll on UTAS City Move 2022.....	19
Federal Government Announcement of Australian Universities Accord	20
Re-appointment of Vice-Chancellor Rufus Black.....	20
Green Bonds	20
Tasmanian Institute of Agriculture Development.....	20
Australian Universities Accord Interim Report.....	21
Federal Government Response to Accord Interim Report.....	21
Australian Universities Accord Final Report.....	22
Introduction of University of Tasmania (Protection of Land) Bill 2024	22
Public Accounts Committee Inquiry.....	23
UTAS Four Campus Plan for Hobart 2024	23
Proposed Amendments to UTAS (Protection of Land) Bill 2024.....	23
Amended UTAS (Protection of Land) Bill 2024 Passes House of Assembly	24

Establishment of the University of Tasmania

Tasmanian University Act 1889 and University Property Act 1892

The University of Tasmania was established by the *Tasmanian University Act 1889* (Tas) which commenced on 1 January 1890.¹ The year 1890 is commemorated as the founding of the University.² The University of Tasmania is the fourth oldest university in Australia.³ The University was funded by the Colonial Tasmanian Government.⁴

The *Tasmanian University Act 1889* provided for the creation of a University Council to govern the University. It also provided for a Senate to be made up of male graduates of the University.⁵

The *University Property Act 1892* (Tas) provided for the former Hobart High School building on the Domain to be the new University.⁶ Teaching began in 1893.⁷ The University was situated on the Domain site until the move to the Sandy Bay campus in the mid-twentieth century.

Tasmanian University Act 1935

The *Tasmanian University Act 1935* amended the *Tasmanian University Act 1889* to restructure the governance of the University. It included: changing the way members of the University Council were appointed; allowing university teaching staff to elect three members to the Council; and allowing the Council to appoint Chancellors and Vice-Chancellors from outside the Council.⁸ The Professorial Board was also established at this time as the chief academic voice of the University.⁹

Beginnings of the Move to Sandy Bay

The University buildings at the Domain were very rundown and overcrowded. The Army Rifle Range at Sandy Bay (the present site of the University's Sandy Bay campus) was first suggested as a potential location for the University in the 1920s or early 1930s. State and Commonwealth Governments were lobbied to provide the land to the University.¹⁰

In 1943, the Commonwealth Government released part of the Sandy Bay Rifle Range and the construction of temporary buildings for the University commenced. The temporary buildings were huts and the ground was muddy. Physics and Biology were the first to move into the temporary huts in 1943-44, and lecturers had to sometimes teach in gumboots.¹¹

In 1944, the Commonwealth Government agreed to transfer the Rifle Range site to the State Government.¹² Further temporary huts were built and more of the sciences moved to Sandy Bay the late 1940s.¹³

Tasmanian University Act 1951

The *Tasmanian University Act 1951* (Tas) repealed the *Tasmanian University Act 1889* and the *University Property Act 1892*, and granted the Sandy Bay site to the University for a new campus.¹⁴

The 1951 Act also increased the number of members of the University Council, and introduced compulsory membership of student unions.¹⁵

Notably, section 11 of the 1951 Act provided that the Sandy Bay site was ‘vested in the university for the purposes of the university’ and ‘public parks or gardens’, and that the land was not to be ‘sold, mortgaged, or otherwise disposed of’. Furthermore, if the land ceased to be used for the purposes of the university it would revert to being Crown land.¹⁶ (This provision was removed by the *University of Tasmania Act 1992*).

Royal Commission 1955

In the 1950s, after years of tension, there was a breakdown in the relationship between the University Council and the academic staff. The main reasons for the breakdown were the poor conditions of the University buildings – both at the Domain and the temporary huts at Sandy Bay – and the failure to begin work on any permanent buildings in Sandy Bay. The low academic salaries in comparison to the mainland, and the way staff appointments were managed were also issues.¹⁷ Staff and students campaigned against the way the University was administrated.¹⁸

An open letter to Premier Cosgrove, written by Philosophy Professor Sydney Sparkes Orr, and signed by 35 fellow academics, was published in the *Mercury* in October 1954. The letter expressed strong concerns about the condition of the University of Tasmania and called for an inquiry into University administration.¹⁹

Following the publication of the letter, the Tasmanian House of Assembly established a Committee of Inquiry into the University which became a Royal Commission.²⁰

The Royal Commission opened on 22 February 1955 and reported on 26 May 1955. It was headed by Justice James Walker of the Supreme Court of Western Australia. In summary, the terms of reference provided for inquiry into:

1. The present organisation of the University and whether administrative changes would be desirable
2. (a) Whether the work and services of the Lecturing and Research staff were being used to the best advantage for the University
(b) The terms and conditions of the employment of the Lecturing and Research staff
3. Whether the University Council had taken reasonable steps to provide adequate buildings and facilities for the proper functioning of the University.²¹

Findings of the 1955 Royal Commission

The Report of the Royal Commission was critical of the University of Tasmania's administration and proposed a number of reforms.²²

The Commissioners agreed with the view of the Professorial Board that the membership of the University Council was unbalanced and did not have sufficient academic representation. The Report recommended that the University Council be reconstituted to include more representation of academic staff and a graduate student.²³

In regard to the role of Vice-Chancellor, the Commissioners emphasised that the post needed to be filled by a person who understood the importance of academics to a university, and who would advocate on their behalf to the University Council. The Report stated that: 'Universities of the highest quality have survived and continued to flourish without Council; they cannot even exist without academic men.'²⁴

The Commissioners recommended the adoption of new procedures for the appointment and promotion of staff, and that salaries should be similar to those of the Universities of Adelaide, Queensland and Western Australia.²⁵

The Commissioners also found that 'Not a single brick of the new University's permanent structures has yet been laid' at the Sandy Bay site, and recommended that work begin as soon as possible.²⁶

Tasmanian University Act 1955

In late 1955, the Tasmanian Government introduced an Act to amend the *Tasmanian University Act 1951*, to give effect to the Royal Commission's recommendations. Attorney-General Roy Fagan stated that the Government accepted the recommendations, except that it had decided not to reconstitute the University Council immediately but to gradually replace existing Council Members as they retired.²⁷

The Orr Case 1956

Following the Royal Commission and the passage of the 1955 amendments to the University Act, the University Council established committees to consider complaints made against Professor Orr.²⁸

Supporters of Professor Orr claimed that the University Council and the Vice-Chancellor were taking revenge on Orr for his part in triggering the Royal Commission.²⁹

One of the complaints was an allegation that Orr had a sexual relationship with one of his students. Orr denied this but offered his resignation. The University did not accept Orr's resignation, and he was summarily dismissed on 16 March 1956.³⁰

Orr sued the University for unfair dismissal, and the case was heard in the Tasmanian Supreme Court in late 1956. The Court found the University was justified in summarily dismissing him. In 1957, Orr appealed to the High Court, which upheld the findings of the Supreme Court.³¹

The University's dismissal of Orr was controversial and a subject of national debate for some years. The position of Chair of Philosophy at the University of Tasmania was boycotted by mainland academics. In 1966, shortly before Orr's death, the University offered Orr a financial settlement and the boycott was lifted.³²

Murray Report 1957– Beginning of Federal Funding for Universities 1959

Prime Minister Menzies established the 'Committee of Australian Universities' which conducted a wide-ranging national inquiry. The resulting 1957 report – known as the 'Murray Report' – recommended increasing Federal Government funding for universities. The increased funding began in 1959 and opened a new era for Australian universities.³³ State Government funding of universities began to be replaced with Federal Government funding. Richard Davis writes, in his history of the University of Tasmania, that Commonwealth finance outstripped State finance in the late 1960s.³⁴

Construction of the Sandy Bay Campus

Construction of permanent University buildings on the Sandy Bay site commenced in the late 1950s. The first buildings opened in 1959.³⁵ In 1961, the whole University, except for Psychology and part of Education, was transferred from the Domain to Sandy Bay. Building work at Sandy Bay was still in progress and continued until the 1970s.³⁶

Whitlam Reforms

In 1974, the Whitlam Federal Government assumed full responsibility for funding tertiary education and established the Commonwealth Tertiary Education Commission. The Whitlam Government also removed student fees for university.³⁷

Tasmanian University Amendment Act 1980

In 1980, the *Tasmanian University Act 1951* was substantially amended for the first time since 1955. The *Tasmanian University Amendment Act 1980* made changes to the composition of the University Council, and increased its size from 21 to 30 members. Changes included (but were not limited to): the Pro-Vice-Chancellor and the President of the Tasmanian University Union being made members of the Council; academic staff representation being increased from 3 to 6; non-teaching staff being represented for the first time by one member; and students were enabled to elect two members instead of one.³⁸ The membership of the University Council then consisted of:

- The Chancellor, the Vice-Chancellor, the Pro-Vice Chancellor, the Director-General of Education, and the President of the Tasmanian University Union (members by virtue of their offices)
- Chair of the Professorial Board
- Six teaching staff (elected by the teaching staff)
- One member of general staff (elected by the general staff)
- Two students (elected by the students)
- One member of the Legislative Council (elected by the Members of the Legislative Council)
- One member of the House of Assembly (elected by the Members of the House of Assembly)
- Four members of the convocation of graduates (elected by the convocation)
- Four members appointed by the Governor
- Five members appointed by the Governor on the recommendation of the University Council.³⁹

University absorbs Southern Tasmanian College of Advanced Education 1981

The Tasmanian College of Advanced Education (TCAE) had been established in 1972 on Mount Nelson. Its courses included Teaching, Social Work, Art and Music. A TCAE branch was also established at Newnham in Launceston. In 1981, the University took over some of the courses offered by the Southern TCAE, and the rest of the courses were moved to Launceston. The Launceston TCAE was then renamed the Tasmanian State Institute of Technology.⁴⁰

Dawkins Higher Education Reforms 1987

In 1987, the Hawke Government Education Minister, John Dawkins, began comprehensive reforms that reshaped the Australian university system.⁴¹

Dawkins abolished the Commonwealth Tertiary Education Commission (an intermediary body between government and the universities) and assumed direct control of the higher education sector.⁴²

Dawkins consolidated colleges of advanced education and universities into a 'unified national system'. Smaller institutions were amalgamated into larger ones. The number of Australian universities increased as some former colleges became new universities. The number of university students also increased.⁴³

Student fees were reintroduced under the Higher Education Contribution Scheme (HECS). Vice-Chancellors were given more power, and corporate management structures were introduced. Universities were encouraged to become more entrepreneurial and source revenue from full-fee paying international students.⁴⁴

With the increase in student numbers, total Federal Government funding to universities increased by 30% between 1987 and 1993. However, the Federal Government contribution to university income overall fell from 83% to 56% during this period.⁴⁵

Higher Education (Amalgamation) Act 1990

The *Higher Education (Amalgamation) Act 1990* (Tas) repealed the *Tasmanian University Act 1951* and provided for the amalgamation of the Tasmanian State Institute of Technology in Launceston with the University of Tasmania. The 1990 Act was intended as an interim Act to cover the two year period of amalgamation.⁴⁶

Notably, the 1990 Act required the University Council to make recommendations to the Education Minister on how the University should be constituted and governed under a new forthcoming Act.⁴⁷

Section 11 of the 1951 Act (that specified that the Sandy Bay site had to be used for the purposes of the university) continued to apply under the 1990 Act.⁴⁸

University Council Report basis of University of Tasmania Bill 1992

The University Council's report titled *The Constitution and Governance of the University of Tasmania: Report to the Minister for Education and the Arts*, was tabled in Parliament in 1992. The Report included recommendations on the constitution and governance of the University including the composition of the University Council, and on the need to remove the section of the Act preventing the sale of the Sandy Bay campus site. The Report stated that 'With the agreement of the Minister for Education and the Arts, the substance of this report has been translated by Parliamentary Counsel into draft legislation in the form of a proposed University of Tasmania Bill 1992.'⁴⁹

University of Tasmania Act 1992

The *University of Tasmania Act 1992* repealed the *Higher Education (Amalgamation) Act 1990*, and created a new Act for the University. It set out the constitution, functions and powers of the University. It also set out the new governance structure for the University.

University Council Provisions

The 1992 Act reduced the size of the University Council to 24 members, and consisted of:

- The Chancellor
- The Vice-Chancellor
- The Chair of the Academic Senate
- One person appointed by the Visitor of the University (a role held by the Governor of Tasmania)
- 2 persons appointed by the University Council
- 2 persons appointed jointly by the Minister and the University Council
- 2 persons appointed by the Minister
- One member of the Legislative Council elected by the Legislative Council
- One member of the House of Assembly elected by the House of Assembly
- 5 members of academic staff elected by academic staff
- 2 members of general staff elected by general staff
- 2 students elected by the students
- 3 persons elected by the graduates.⁵⁰

Under the 1992 Act, as it was passed, academic representation was reduced from six to five, alumni representation was reduced from four to three, and student representation was reduced from three to two.⁵¹

Professorial Board replaced by Academic Senate (Limited to Advisory Function)

The 1992 Act replaced the Professorial Board with a body called the 'Academic Senate'. A former Chair of the Professorial Board in the 1980s, Professor Arthur Sale, explained that the Board had been responsible for the allocation of resources for academic activities:

To a large extent, the Professorial Board ran the University internally. It disposed of 75% or more of the University Budget (all the salaries and running costs of the academic departments); it made all decisions on purely academic matters like course schedules, units and quality control, and on many others the Council was bound to listen to its advice, even if it decided to go against the advice.⁵²

Under the 1992 University Act, the sole function of the new body representing academics – the Academic Senate – was 'to advise the Council on all academic matters relating to the University'. The membership of the Academic Senate was to be prescribed by Ordinances created by the University Council.⁵³

Power of the University to Alienate the Sandy Bay Site

The *University of Tasmania Act 1992* did not include the provision that the Sandy Bay site had to be used ‘for the purposes of the university’.

As explained earlier, the 1951 University Act vested the land in Sandy Bay in the University, and stated that if the land ceased to be used ‘for the purposes of a university’ it would revert to being Crown land. The *Higher Education (Amalgamation) Act 1990* retained this provision, but it was removed in the drafting of the 1992 Act.

Furthermore, Section 26 of the new 1992 Act stated that:

26. Certain land to remain vested in University

Notwithstanding the repeal by this Act of the Amalgamation Act, the land specified in Schedule 3 remains vested in the University but free from any restrictions as to the power of the University to sell, mortgage or otherwise dispose of that land that may, but for this clause, restrict the power of the University in respect of that land.

Accordingly, the *University of Tasmania Act 1992* does not place limits on what the University may do with the Sandy Bay site.

Further Organisational Changes in 1990s

Further organisational changes in the 1990s included (but were not limited to) the office of Academic Dean (elected by academic staff) being abolished in the late 1990s and replaced by a Dean of Faculty appointed by the University Council. Heads of Schools (which had been elected by academic staff) were then appointed by the Vice-Chancellor on the advice of the appointed Dean.⁵⁴

University of Tasmania Amendment Act 2001

The *University of Tasmania Amendment Act 2001* (Tas) reduced the membership of the University Council from 24 to 17.⁵⁵ The Factsheet for the Bill that became the 2001 Act states that the legislation was proposed on the recommendation of the University Council.⁵⁶

In the 2001 Act, the number of academic staff elected by academic staff to the Council was reduced from 5 to 3. The number of general staff elected by general staff was reduced from two to one. The provision for three members to be elected by graduates was removed, and replaced with the Chairperson and Deputy Chairperson of the Alumni. (They could not be members of the academic or general staff or students. If they were then another member of the Alumni would need to be appointed.)⁵⁷

The 2001 Act removed the position on the University Council for a Member of the House of Assembly, and the position for a Member of the Legislative Council. It also removed the position on the Council for a person appointed by the University Visitor.⁵⁸

The 2001 Act made changes to the role of University Visitor (held by the Governor). The Act removed the power of the Visitor to conduct investigations into disputes about University matters, and provided for the Visitor to have a solely ceremonial role.⁵⁹

Concerns about the reduction of University Council membership led the Council to appoint an independent panel to conduct a 'Review of Administration and Policy-Making Processes of the University of Tasmania'. The report was delivered in 2001. Its recommendations included expanding the Academic Senate.⁶⁰

National Governance Protocols 2004

The Howard Government's *Higher Education Support Act 2003* (Cth) implemented a package of higher education reforms called 'Our Universities: Backing Australia's Future'. The reforms included the introduction of the 'National Governance Protocols' in 2004. The Protocols were designed to ensure a consistent national approach to university governance. Universities were required to comply with the Protocols as a condition of Commonwealth funding.⁶¹

The Protocols included limiting the size of the governing body to not more than 22 members. They specified that 'there must be a majority of external independent members who are neither enrolled as a student nor employed by the higher education provider'. The Protocols further stated that there must not be any current members of the State Parliament other than where specifically selected by the university governing body itself.⁶² The University of Tasmania was already in compliance with many of the Protocols' requirements following the *University of Tasmania Amendment Act 2001*.⁶³

Higher Education Loans Program

The Howard Government's *Higher Education Support Act 2003* also made changes to the Higher Education Contribution Scheme (HECS). Additional loan types were created and the program was renamed the Higher Education Loans Program (HELP).⁶⁴

University of Tasmania Amendment Act 2004

The *University of Tasmania Amendment Act 2004* (Tas) made further changes to the composition of the University Council. In the Second Reading Speech, the Education Minister, Paula Wriedt, stated that the Bill was based on amendments recommended by the University Council following their consideration of the National Governance Protocols.⁶⁵

The *University of Tasmania Amendment Act 2004*:

- Increased the number of Council members appointed by the Education Minister from 3 to 4
- Removed Council membership of the Chair and Deputy Chair of the Alumni
- Provided that student members of the Council would now be appointed by the Council rather than elected by other students
- Increased the number of members appointed by the Council from 3 to 4, and clarified that they must not be university staff or students.⁶⁶

Voluntary Code of Best Practice for the Governance of Australian Universities

The Rudd Government came to power with a policy opposed to University funding being conditional on compliance with the 2004 Governance Protocols. The requirement to comply with the Protocols was removed in 2008.⁶⁷ The ‘Voluntary Code of Best Practice for the Governance of Australian Public Universities’ was developed and introduced under the Rudd/Gillard Governments in 2010-11.⁶⁸

The Code was developed by Universities Australia (formerly the Australian Vice-Chancellors’ Committee) and endorsed by the University Chancellors’ Council and the Ministerial Council for Tertiary Education and Employment.⁶⁹ The Code was amended in 2018 at a joint meeting of Universities Australia and the University Chancellors’ Council.⁷⁰

The Code has retained the provisions from the 2004 Protocols stating that university governing bodies should not have more than 22 members and that ‘There should be a majority of external independent members who are neither enrolled as a student nor employed by the university.’⁷¹

Bradley Review 2008 and establishment of TEQSA in 2011

In March 2008, the Rudd Federal Government announced a major review of Australia’s higher education sector. It was chaired by Emeritus Professor Denise Bradley. The Final Report of the Bradley Review was released in December 2008. The recommendations included the establishment of a national tertiary regulatory agency.⁷² The Tertiary Education Quality and Standards Agency (TEQSA) was established in 2011. TEQSA regulates and assures the quality of Australian higher education providers through a standards-based framework.⁷³

University of Tasmania Amendment Act 2012

The *University of Tasmania Amendment Act 2012* (Tas) reduced the size of the University Council again and made further changes to its membership. The Education Minister, Nick McKim, stated in the second reading speech that the University Chancellor had requested the amendments, and that the amendments had been developed by the University Council.⁷⁴

The *University of Tasmania Amendment Act 2012*:

- Reduced to size of the Council to a maximum 14 members, with a minimum of 10.
- Reduced the number of persons appointed by the Minister from 4 members to 2 members.
- Reduced the number of academic staff elected by the academic staff from 3 members to 1 member.
- Reduced the number of students appointed by the Council from 2 members to a minimum of 1 member.
- Increased the number of persons appointed by the Council from 4 members to up to 6 members.
- Replaced the term 'general staff' with 'professional staff'.

The amendments made by the 2012 Act to the University Council are still in force. Accordingly, the current composition of the University Council consists of:

- The Chancellor, Vice Chancellor and Chair of Academic Senate (all ex officio)
- one member of academic staff (elected by the academic staff)
- one member of professional staff (elected by the professional staff)
- a minimum of one student (appointed by the University Council)
- two members appointed by the Minister (each of whom must not be a member of academic or professional staff, or a student – but at least one must be a graduate)
- up to six members appointed by the University Council (each of whom must not be a member of academic or professional staff, or a student – but at least one must be a graduate).⁷⁵

Vice-Chancellor Peter Rathjen 2011-2017

Professor Peter Rathjen was the Vice-Chancellor of the University of Tasmania from 28 March 2011 to 31 December 2017.⁷⁶ During Vice-Chancellor Rathjen's tenure, the University Council determined to move the Burnie and Launceston campuses from their current locations to new locations, and progressed towards a decision to move

the Hobart campus.⁷⁷ The University also purchased a number of buildings in the Hobart CBD.⁷⁸

On 8 January 2018, Rathjen commenced his position as the Vice-Chancellor of the University of Adelaide.⁷⁹ On 4 May 2020, the Chancellor of the University of Adelaide resigned without explanation. On 5 May 2020, Vice-Chancellor Rathjen took an indefinite leave of absence.⁸⁰ On 26 August 2020, the South Australian Independent Commission Against Corruption (ICAC) issued a statement about an investigation it had conducted into Vice-Chancellor Rathjen and said that it had found him guilty of 'serious misconduct'.⁸¹

The University of Tasmania then established an independent review of its management of issues surrounding Rathjen's leadership. The review received 11 complaints relating to Rathjen and the university culture more broadly during his tenure. The University Council issued a formal apology in December 2020.⁸² In 2023, the University Council revoked the Honorary Degree of Doctor of Letters conferred upon Rathjen in 2017. The University Council noted that:

...the revocation of the honour is necessary to protect the integrity of the award where the recipient has been found to have behaved in a manner that is contrary to the University's values and a commitment to ensure a workplace free of sexual assault, bullying, harassment and retaliation.⁸³

Northern Transformation Project – Moving the Burnie and Launceston Campuses

In 2016, Vice-Chancellor Rathjen announced the finalised plan for the Northern Transformation Project.⁸⁴ The project involved moving the UTAS Burnie campus from Mooreville Road to a new site closer to the Burnie CBD at West Park (which opened in 2021). Since 2021, the Launceston campus has been relocating from its Newnham campus (5km from the CBD) to a new site at Inveresk (adjacent to the CBD). The University states that the project is a partnership between UTAS and Local, State and Australian governments. The project received funding from Infrastructure Australia.⁸⁵

Southern Transformation Project – Plan to Move the Hobart Campus to the CBD

Vice-Chancellor Rathjen began publicly referring to a potential move of the Hobart campus from Sandy Bay to the CBD in 2017.⁸⁶ Vice-Chancellor Rufus Black (who became VC in March 2018) formally announced the University's plan to vacate its Sandy Bay campus and move to the Hobart CBD in 2019. (The University Council approved the 'city-centric campus model' on 5 April 2019.)⁸⁷

A number of University buildings were built in or close to Hobart's CBD between 2010 and 2020. The medical sciences buildings near the Royal Hobart Hospital were completed in 2010 and 2013. The Institute of Marine and Antarctic Studies (IMAS) building next to the CSIRO on Castray Esplanade was completed in 2014.⁸⁸ The Hedberg Centre for Performing Arts, next to the Theatre Royal, opened in 2020.⁸⁹

The University purchased buildings in the Hobart CBD with the intention of using them for its new city campus. These buildings include (but are not limited to) the former Forestry Building (on Melville Street) and the former K&D Warehouse (on the corner of Murray and Melville Streets).⁹⁰

In 2019, the University of Tasmania registered 'UTAS Properties Pty Ltd' on the Australian Business Register.⁹¹

University Council's Plans for the Sandy Bay Site 2017-2022

In 2017, the University applied to Hobart City Council and the Tasmanian Planning Commission (TPC) to have parts of the Sandy Bay site rezoned, so they could be sold and redeveloped for residential and commercial purposes. Under the Hobart Interim Planning Scheme 2015, the Sandy Bay campus site is zoned as a particular purpose zone to provide for the University.⁹²

In 2018, the TPC rejected the rezoning on the basis that it did not want to do an ad hoc rezoning of parts of the campus site. The TPC said that the University needed to firstly provide a strategic masterplan for the entire site.⁹³

In 2019, the University made an application for judicial review to the Supreme Court which was heard by Justice Estcourt. He found that the University had been denied procedural fairness.⁹⁴ The Attorney-General then appealed to the Full Court to try to reinstate the TPC's decision. In 2020, the Full Court determined that the TPC did not make an error of law in refusing the rezoning, and the TPC's decision was reinstated.⁹⁵

In 2021, the University created a masterplan for the redevelopment of the entire Sandy Bay site.⁹⁶

On 6 December 2021, the University submitted an application for a Planning Scheme Amendment to Hobart City Council, in order to remove the current education zoning on the entire Sandy Bay site and allow for development.⁹⁷

On 24 December 2021, Hobart City Council requested that the University provide further information about the submission.⁹⁸ On 6 June 2022, the University provided further information to Hobart City Council.⁹⁹

In July 2022, the media reported that Vice-Chancellor Black had decided to pause the process of seeking planning scheme approval, and would conduct a community consultation panel to inform the University's move to the city (not to determine

whether the University should move).¹⁰⁰ A community consultation initiative called 'The Shake Up' was established.¹⁰¹

On 5 September 2022, Hobart City Council requested that the University provide further additional information.¹⁰²

On 7 November 2022, the University officially withdrew the application for the Planning Scheme amendment for the Sandy Bay campus site.¹⁰³

Opposition to the University's Move to the Hobart CBD

There is wide-spread community concern about the University's plan to vacate the Sandy Bay campus and move to the Hobart CBD. There have been a large number of opinion pieces and letters published in the *Mercury* newspaper that are opposed to the move.¹⁰⁴

The 'Save UTAS Campus' group was formed in 2021, and states that it is 'campaigning for the University of Tasmania to: stay on the Sandy Bay campus; stop the plan to relocate the university in its entirety into the CBD; and stop plans to build a 2700 dwelling micro suburb on the Sandy Bay campus.'¹⁰⁵

UTAS Included in ABC *Four Corners* 'Cash Cows' Program 2019

In 2019, the ABC *Four Corners* program screened an episode called 'Cash Cows' that included the University of Tasmania. The program raised concerns that some Australian universities had become financially reliant on full-fee paying international students and were not ensuring English language requirements were being met. It was alleged that this was leading in some cases to academic misconduct, and possible academic failure and social isolation of students without the requisite English skills. Vice-Chancellor Black initiated a review in response to the program.¹⁰⁶

University Reduces Number of Degrees and Courses 2020

In March 2020, Vice-Chancellor Black announced that the number of degrees and course units offered by the University would be significantly reduced by 2021.¹⁰⁷ The UTAS 2020 Annual Report states that the number of units in undergraduate programs had been reduced by nearly 60 per cent.¹⁰⁸

Underpayment of University Staff

In 2020, the Fair Work Ombudsman identified that there was a systemic issue with Australian universities underpaying staff. In November 2020, the Fair Work Ombudsman wrote a letter to all Australian universities ‘urging them to ensure their compliance with workplace laws.’¹⁰⁹

In late 2020, UTAS commenced a review of the potential underpayment of staff since March 2014. The review was then extended to cover the period 2014-2023.¹¹⁰ The initial phase of the UTAS review in 2021 identified \$11 million in potential underpayments; a second phase in 2022 increased this figure to \$14.3 million.¹¹¹ UTAS stated that remediation payments to staff would be made from April 2023.¹¹²

The National Tertiary Education Union published details of total amounts underpaid by each Australian public university in June 2024. The NTEU reported the historic payment issues at UTAS affected 3,701 staff and totalled \$15.206 million.¹¹³

In May 2023, the Deputy Fair Work Ombudsman submitted to the Australian Universities Accord Panel that

...we are seeing a pattern of repeated and often entrenched non-compliance particularly in relation to casual staff, with unpaid work (primarily unpaid time for marking, lecture attendance and tutorials/other student interactions), work (such as lectures, student consultations and marking) being incorrectly classified (and therefore incorrectly paid) under the applicable enterprise agreement, and failure to pay correct entitlements being commonly identified. The FWO’s [Fair Work Ombudsman’s] investigations to date demonstrate that the lack of certainty regarding future engagement, particularly for casual academic staff, has led to a culture where underpayment matters are rarely raised directly by underpaid employees, and when they are raised, a systematic approach to reviewing the claims is not adopted.¹¹⁴

The Fair Work Ombudsman’s *Annual Report for 2023-24* stated that:

The university sector remained a priority area for the OFWO [Office of the Fair Work Ombudsman] in 2023–24, based on our intelligence and investigations revealing the sector to still be systemically non-compliant – often due to the employment of high numbers of casual workers, ineffective governance, a lack of investment in payroll systems, expertise and auditing, and, in some cases, due to complacency.¹¹⁵

University Ceases to Provide In-Person Lectures 2022

In November 2021, Vice-Chancellor Black announced UTAS would stop in-person lectures and move lectures entirely online from semester one 2022. He said that tutorials and workshops would remain in-person.¹¹⁶

Concerns for the UTAS Law School

On 8 February 2022, a delegation of senior members of the Tasmanian Judiciary and Law Profession met with Vice-Chancellor Black to express concerns about University management imposing negative changes on the UTAS Law School. The delegation included the Chief Justice of Tasmania, the Tasmanian Director of Public Prosecutions, the President of TasCAT, the President of the Tasmanian Bar, and the President of the Law Society, as well as former Governor Kate Warner, and former Commonwealth DPP and former UTAS Chancellor Damian Bugg. Their concerns included University management's:

- imposition of an inappropriate teaching model on the Law School (causing 15 academics to leave the Law School from 2020 to early 2022);
- proposed decision to discontinue the Tasmanian-based Legal Practice Course and have the course delivered by an interstate online provider; and
- under-resourcing of the Tasmanian Law Reform Institute.¹¹⁷

In March 2022, UTAS Law students published an open letter in the University newspaper *Togatus* stating that their education was being compromised by Senior Administration's approach to staffing and teaching at the Law School.¹¹⁸ Concerned Law students also published a second open letter regarding changes to the Legal Practice Course.¹¹⁹

In April 2022, the Law Society of Tasmania and the Tasmania University Law Society (TULS) drafted an open letter to Vice-Chancellor Black expressing concern for the Law School, which they invited Tasmanian University Law School alumni to sign. The Law Society and TULS stated that it was planned for the letter to be published in the *Mercury* in May 2022.¹²⁰

In May 2022, the University announced that the Dean and Head of the Law School, Professor Michael Stuckey, who had been overseeing the changes to the Law School, would be stepping down for reasons of ill-health. Professor Stuckey was replaced by Professor Gino Dal Pont. The media reported that the University sent a letter to alumni stating that Professor Dal Pont would be able to address the issues that had been causing concern.¹²¹

Legislative Council Select Committee Inquiry

In May 2022, the Parliament of Tasmania's Legislative Council appointed a Select Committee to Inquire into and Report upon the Provisions of the *University of Tasmania Act 1992*.¹²²

Hobart City Council Elector Poll on UTAS City Move 2022

In May 2022, Hobart City Council held a public meeting about the University's planned move to the city, in response to a petition lodged by the Save UTAS Campus group.¹²³

In accordance with the *Local Government Act 1993* (Tas), as the petition included over 1000 signatures from electors in the Hobart municipal area, the Council was required to hold an elector poll. The poll was held in conjunction with the Hobart City Council election in October 2022. The poll question was: ‘Do you support the proposal to relocate the Sandy Bay Campus into Hobart’s central business district?’. The result was that 74.38% of people voted No, and 25.62% of people voted Yes.¹²⁴

Federal Government Announcement of Australian Universities Accord

In July 2022, Federal Education Minister, Jason Clare, announced the Albanese Government’s intention to establish an ‘Australian Universities Accord’. Minister Clare said that the Accord is a broad review of Australia’s higher education system (the first since the 2008 Bradley Review) and is ‘an opportunity to build a long-term plan for our universities’.¹²⁵ In November 2022, Minister Clare appointed an Expert Panel, led by Professor Mary O’Kane AC, to conduct the Accord review. He also appointed a Ministerial Reference Group.¹²⁶

Re-appointment of Vice-Chancellor Rufus Black

On 31 August 2022, the University Council re-appointed Rufus Black as the Vice-Chancellor of UTAS. His five-year contract was due to expire in March 2023. Chancellor Alison Watkins stated that ‘The reappointment is ongoing with no fixed end date’.¹²⁷

Green Bonds

The University of Tasmania issued \$350 million in green bonds to the market in 2022.¹²⁸ The Auditor-General stated in 2023 that part of these funds were used to repay the TASCORP debt facilities of \$70 million, with the remaining funds held in cash or invested in term deposits ‘to align with future funding requirements for the projects under the Southern Campus strategy’.¹²⁹

Tasmanian Institute of Agriculture Development

The Tasmanian Institute of Agriculture (TIA) is a specialised institute at the University of Tasmania focused on agricultural science. TIA is a joint venture between the Tasmanian Government and UTAS.¹³⁰

UTAS and the Tasmanian Government signed a Memorandum of Understanding in 2021 to create a new Tasmanian Agricultural Precinct based at UTAS Newnham campus.¹³¹

In October 2023, TIA released plans for a new development including a glasshouse, multi-purpose research facility and a large space for in-ground trials at Newnham. The project has been budgeted at \$26 million.¹³²

Australian Universities Accord Interim Report

The Australian Universities Accord Interim Report was released on 19 July 2023.¹³³ The Interim Report recommended that reforms are made to ensure Australia has ‘a high-quality and equitable higher education system’.¹³⁴ It made recommendations for five ‘priority actions’ to address immediate issues. Priority action 5 concerned university governance. The Report stated that:

While the Australian Government has legislative responsibility for the regulation and quality of the sector, universities are constituted by individual enabling Acts in the relevant jurisdiction. This means that most University Councils are appointed under state or territory legislation, except for the Australian National University. States and territories have a significant role to play in ensuring University Councils are appointed with the right mix of skills.

Over the last two decades there has been a particular emphasis on appointing people with business expertise to [university] councils. Business expertise must be balanced by council members who deeply understand the functions of universities, including learning and teaching, research and management. Council members should also reflect the communities that universities serve, including representation from First Nations people.¹³⁵

Priority action 5 recommended by the Accord Interim Report is reproduced below:

Priority Action 5 - Through National Cabinet, immediately engage with state and territory governments and universities to improve university governance, particularly focusing on:

- universities being good employers
- student and staff safety
- membership of governing bodies, including ensuring additional involvement of people with expertise in the business of universities.

Australian governments should work together to strengthen university governing boards by rebalancing their composition to put greater emphasis on higher education expertise. Governing bodies must as a priority do more to improve student and staff wellbeing and become exemplary employers.¹³⁶

Federal Government Response to Accord Interim Report

In July-August 2023, Education Minister Clare stated that the Federal Government would implement the priority actions recommended by the Australian Universities

Accord Interim Report.¹³⁷ Minister Clare said that he had written to the Ministers responsible for higher education in each state and territory to convene an inter-jurisdictional ‘working group’. He said that the role of the working group will be to advise the Ministers on how to improve university governance.¹³⁸

The *Higher Education Support Amendment (Response to the Australian Universities Accord Interim Report) Act 2023* (Cth) commenced in November 2023.¹³⁹

Australian Universities Accord Final Report

The Final Report of the Australian Universities Accord was released in February 2024.¹⁴⁰ It contained 47 recommendations for ways to reform the higher education sector. The recommendations included ‘increasing the proportion of university educated Australians aged 25 to 34 years from 45 per cent to 55 per cent by 2050’.¹⁴¹

The Accord Final Report reiterated the finding in the Interim Report that in the future, more jobs will require a university qualification, and accordingly more Australians will need to go to university. It argued that there needs to be more university students from currently underrepresented groups (such as students with a disability, Indigenous students, students from lower socio-economic backgrounds and from the outer suburbs, regions and rural areas).¹⁴²

The Final Report argued that to achieve the increase in the number of students, there will need to be more Commonwealth supported places at universities, more financial help for students, and changes to funding arrangements.¹⁴³ It also recommended changes to policies around international students.¹⁴⁴

The Accord Final Report also recommended the creation of a new ‘Australian Tertiary Education Commission’ to oversee the higher education sector and the implementation of the reforms.¹⁴⁵

Introduction of University of Tasmania (Protection of Land) Bill 2024

In June 2024, the Tasmanian Government introduced a Bill into the House of Assembly, titled the University of Tasmania (Protection of Land) Bill 2024. If passed, this Bill will become an Act which provides that Parliamentary approval will be required for the University to ‘dispose’ of vested land.¹⁴⁶ The Clause Notes to the Bill explain that: ‘The term ‘dispose’ includes, among other things, to sell or to lease for a term of not less than 99 years.’¹⁴⁷

Public Accounts Committee Inquiry

In August 2024, the Tasmanian Parliamentary Standing Committee of Public Accounts determined to inquire into and report upon the University of Tasmania's financial position.¹⁴⁸

UTAS Four Campus Plan for Hobart 2024

On 6 November 2024, the University of Tasmania announced a new plan for the Sandy Bay campus. The plan is for the University to have four key campus sites around Hobart. These sites would include:

- A science, technology, engineering and maths (STEM) campus at Sandy Bay (which UTAS estimates will cost \$500 million and require Federal funding)
- A city campus, consisting of existing facilities and the former Forestry building
- The Domain buildings
- A 'waterfront campus' consisting of the Institute for Marine and Antarctic Studies at Salamanca and Tarooma

The University stated that in order to achieve this plan, it will need to sell the former K&D site and another city building which are now surplus to requirements. The University further stated that it would:

Engage with the Tasmanian Government about the future of the land above Churchill Avenue and seek support from the Parliament to ensure it is unencumbered so it can be developed to provide a funding contribution to new STEM facilities.¹⁴⁹

Proposed Amendments to UTAS (Protection of Land) Bill 2024

On 21 November 2024, the Tasmanian Government announced its intention to introduce amendments to the University of Tasmania (Protection of Land) Bill 2024. Minister for Innovation, Science and Digital Economy, Madeleine Ogilvie, said that since the Bill had been introduced, the University and the Government had been engaged in ongoing dialogue about the University's new plan to build new STEM facilities at Sandy Bay.

Minister Ogilvie stated that the Tasmanian Government 'will join UTAS in advocating to the Federal Government for funding, and acknowledge that their support is predicated on a co-investment by UTAS into this project.'

The Minister further stated that UTAS believes the disposal of university campus land above Churchill Avenue will help achieve that goal, and that the Government 'will assist by proposing that land is excluded from our Bill'. The Minister concluded that 'The amendments will include rezoning two parcels of land above Churchill Avenue'.¹⁵⁰

Amended UTAS (Protection of Land) Bill 2024 Passes House of Assembly

On 28 November 2024, Minister Ogilvie gave the second reading speech for the University of Tasmania (Protection of Land) Bill 2024 in the House of Assembly. Minister Ogilvie also introduced the amendments excluding the university land above Churchill Avenue from the Bill, and rezoning two parcels of that land as 'Inner Residential' under the Hobart City Interim Planning Scheme 2015. The majority of Members voted in favour of both the Bill and the Government's amendments. The amended Bill accordingly passed the House of Assembly and will next be debated by the Legislative Council when Parliament resumes in 2025.¹⁵¹

Endnotes

- ¹ R. Davis (1990) *Open to Talent: The Centenary History of the University of Tasmania 1890-1990*, University of Tasmania, p. 19; Clause Notes for the Tasmanian University Bill 1951, Parliamentary Library Bills Database.
- ² D. Chalmers et. al. (2015) *Voices of a University: Celebrating 125 Years at the University of Tasmania*, University of Tasmania, UTAS website.
- ³ N. McKim (2012) Second Reading Speech for the University of Tasmania Amendment Bill 2012, Parliamentary Library Bills Database, p. 1.
- ⁴ Davis (1990) *Open to Talent*, op. cit., Chapter One, and p. 163.
- ⁵ [An Act to establish a University in Tasmania](#), No. 41 1889, UTAS website.
- ⁶ [An Act to vest in the University of Tasmania the Property known as 'The High School of Hobart'](#), 21 December 1892, Austlii website; University of Tasmania (2019) '[Domain House](#)', UTAS website.
- ⁷ R. Davis (2006) '[University of Tasmania](#)', *The Companion to Tasmanian History*, Centre for Tasmanian Historical Studies, University of Tasmania.
- ⁸ An Act to Amend the Tasmanian University Act 1889 (Tas) 18 October 1935; Davis (1990) *Open to Talent*, op. cit., pp. 99-100.
- ⁹ Davis (1990) *Open to Talent*, op. cit., pp. 99-102.
- ¹⁰ *ibid.*, pp. 103-104.
- ¹¹ *ibid.*, p. 112.
- ¹² *ibid.*, p. 104.
- ¹³ *ibid.*, p. 116.
- ¹⁴ Clause Notes for the Tasmanian University Bill 1951.
- ¹⁵ *ibid.*
- ¹⁶ See: Section 11 of the [Tasmanian University Act 1951](#), Tasmanian Numbered Acts (No. 8 of 1951), Austlii website.
- ¹⁷ Davis (1990) *Open to Talent*, op. cit., pp. 132-147; L. Robson (1991) *A History of Tasmania Volume II*, Oxford University Press, pp. 518-20.
- ¹⁸ W.D. Joske (2000) '[Orr, Sydney Sparkes \(1914-1966\)](#)', *Australian Dictionary of Biography*, Melbourne University Press.
- ¹⁹ *ibid.*; Robson (1991) op. cit., p. 518.
- ²⁰ Robson (1991) op. cit., p. 518.
- ²¹ This is a simplified summary. For the full terms of reference see: J. L. Walker et. al. (1955) [Report of the Royal Commission on the University of Tasmania](#), p. 2.
- ²² J. L. Walker et. al. (1955) [Report of the Royal Commission on the University of Tasmania](#), p. 7.
- ²³ *ibid.*, pp. 7, 11.
- ²⁴ *ibid.*, p. 23.
- ²⁵ *ibid.*, pp. 30-34.
- ²⁶ *ibid.*, pp. 47, 54.
- ²⁷ See: Attorney-General Fagan's second reading speech for the Tasmanian University Bill 1955, provided in the extrinsic material attached to the Bill in the Parliamentary Library's Bills Database.
- ²⁸ W.D. Joske (2000) '[Orr, Sydney Sparkes \(1914-1966\)](#)', op. cit.
- ²⁹ *ibid.*
- ³⁰ *ibid.*
- ³¹ *ibid.*
- ³² P. Heerey (2015) 'An Affair to Remember: A Note on the Orr Case', *Voices of a University*, op. cit., p. 36.
- ³³ R. Davis (2021) *The University Idea and its Enemies: Socrates to Scomo*, Sassafras Books, p. 57; G. Sherington (2018) '[Murray, Sir Keith \(1903-1993\)](#)', *Australian Dictionary of Biography*, Melbourne University Press.
- ³⁴ Davis (1990) *Open to Talent*, op. cit., p. 163.
- ³⁵ *ibid.*, pp. 161-62.
- ³⁶ *ibid.*, p. 164.
- ³⁷ S. Lake et al. (2022) 'A Brief History of Australian Universities', *Social Alternatives*, Vol. 41, No. 1, p. 10.
- ³⁸ *ibid.*, p. 200; Extrinsic material attached to the Tasmanian University Amendment Bill 1979 in the Parliamentary Library's Bills Database; P. Chapman (2015) 'The De-democratization of the University of Tasmania 1990-2015: A Tale of Decline of Academic Sovereignty but with a Future Hope of the University', *Voices of a University*, op. cit., p. 45.
- ³⁹ Section 5 of the [Tasmanian University Amendment Act 1980](#) (Tas), Austlii website.

-
- ⁴⁰ A. Alexander (2006) '[Tertiary Colleges](#)', *The Companion to Tasmanian History*, op. cit. See also Davis (1990) *Open to Talent*, op. cit. pp. 190-199.
- ⁴¹ G. Croucher et. al (2013) 'Introduction', *The Dawkins Revolution: 25 Years On*, G. Croucher et al. Eds, Melbourne University Press, p. 2.
- ⁴² *ibid.*, p. 1.
- ⁴³ *ibid.*, pp. 1-2.
- ⁴⁴ *ibid.*, p. 2; S. Macintyre et. al. (2013) 'Making the Unified National System', *The Dawkins Revolution*, op. cit., pp. 30, 40-41, 44; R. Williams (2013) 'System Funding and Institutional Allocation', *The Dawkins Revolution*, op. cit., p. 98; Davis (2021) *The University Idea and its Enemies*, op. cit., p. 67.
- ⁴⁵ Williams (2013) 'System Funding and Institutional Allocation', *The Dawkins Revolution*, op. cit., p. 97.
- ⁴⁶ Fact Sheet for the University of Tasmania Bill 1992, Extrinsic Material in the Parliamentary Library's Bills Database.
- ⁴⁷ Tasmanian University Council (1992) *The Constitution and Governance of the University of Tasmania: Report to the Minister of Education and the Arts from the University Council*, Tabled in the Parliament of Tasmania (No. 45 1992), p. 3; Fact Sheet for the University of Tasmania Bill 1992, Extrinsic Material in the Parliamentary Library's Bills Database.
- ⁴⁸ See Clause 44 in the Clause Notes to the Higher Education (Amalgamation) Bill 1990.
- ⁴⁹ Tasmanian University Council (1992) *The Constitution and Governance of the University of Tasmania: Report to the Minister of Education and the Arts from the University Council*, Tabled in the Parliament of Tasmania (No. 45 1992), pp. 3, 4, 7.
- ⁵⁰ Section 8, *University of Tasmania Act 1992*, as passed in 1992.
- ⁵¹ Second Reading Speech for the University of Tasmania Bill 1992, 12 November 1992, Extrinsic material in Parliamentary Library's Bills Database; Chapman (2015) 'The De-democratization of the University of Tasmania', *Voices of a University*, op. cit., p. 46.
- ⁵² A. Sale (2015) 'The Professorial Board', *Voices of a University*, op. cit., p. 37.
- ⁵³ Section 13, *University of Tasmania Act 1992*, as passed in 1992.
- ⁵⁴ Chapman (2015) 'The De-democratization of the University of Tasmania', *Voices of a University*, op. cit., p. 47.
- ⁵⁵ Fact Sheet for the University of Tasmania Amendment Bill 2001, Extrinsic Material in the Parliamentary Library Bills Database, p. 1.
- ⁵⁶ *ibid.*, pp. 1-2.
- ⁵⁷ Section 8 of the *University of Tasmania Amendment Act 2001*.
- ⁵⁸ *ibid.*
- ⁵⁹ Section 11 of the *University of Tasmania Amendment Act 2001*; P. Wriedt (2001) Second Reading Speech for the University of Tasmania Amendment Bill 2001, Extrinsic Material in the Parliamentary Library Bills Database, p. 2.
- ⁶⁰ Chapman (2015) 'The De-democratization of the University of Tasmania', *Voices of a University*, op. cit., pp. 49-50; University of Tasmania (2002) [University of Tasmania 2001 Annual Report](#), UTAS website, pp. 3, 6.
- ⁶¹ Department of Education, Science and Training (Cth) (2007) [Review of National Governance Protocols – Issues Paper](#), p. 3; Parliament of NSW (2009) Legislative Council General Purpose Standing Committee No. 2, [Governance of NSW Universities](#), p. 11.
- ⁶² See Protocol 5, Department of Education, Science and Training (Cth) (2007) Review of National Governance Protocols – Issues Paper, p. 17
- ⁶³ Fact Sheet and Second Reading Speech for the University of Tasmania Amendment Bill 2004, Extrinsic Material, Parliamentary Library Bills Database.
- ⁶⁴ C. Ey (2017) [The Higher Education Loan Program \(HELP\) and Other Student Loans: A Quick Guide](#), Australian Parliamentary Library, Australian Parliament website.
- ⁶⁵ Second Reading Speech for the University of Tasmania Amendment Bill 2004, Extrinsic Material, Parliamentary Library Bills Database, p. 1.
- ⁶⁶ See: Clause 4, Clause Notes, University of Tasmania Amendment Bill 2004, Extrinsic Material, Parliamentary Library Bills Database, p. 1.
- ⁶⁷ Australian Parliamentary Library (2008) 'Higher Education Support Amendment (Removal of the Higher Education Workplace Relations Requirements and National Governance Protocols Requirements and Other Matters) Bill 2008', Bill's Digest No. 74 2007-08, PoA website; Parliament of NSW (2009) Legislative Council General Purpose Standing Committee No. 2, [Governance of NSW Universities](#), pp. 11-12.
- ⁶⁸ E. Chan (2018) [Legislative Changes Affecting the Governance of Australian Universities](#), University Chancellors Council, UCC website, p. 1.
- ⁶⁹ *ibid*; Universities Australia (2022) '[Our History](#)', Universities Australia website.
- ⁷⁰ National Tertiary Education Union (2017) 'Towards Open and Ethical University Governance', Discussion Paper, NTEU website, pp. 19-20; Universities Australia & University Chancellors Council (2018) [Voluntary Code of Best Practice for the Governance of Australian Universities](#), UCC website.
- ⁷¹ Universities Australia & University Chancellors Council (2018) op. cit., p. 4.
- ⁷² NSW Legislative Council General Purpose Standing Committee No. 2 (2009) [Governance of NSW Universities](#), Parliament of NSW, PoNSW website, p. 13.

-
- ⁷³ Tertiary Education Quality and Standards Agency (2024) '[TEQSA: How we regulate](#)', Australian Government, TEQSA website. Also see: University of Tasmania (2022) Submission 113, Part 2, pp. 6-13.
- ⁷⁴ N. McKim (2012) Second Reading Speech for the University of Tasmania Bill 2012, Parliamentary Library Bills Database, pp. 2, 5.
- ⁷⁵ Factsheet and Clause Notes for the University of Tasmania Bill 2012, Extrinsic Material, Parliamentary Library Bills Database; Section 8 of the *University of Tasmania Amendment Act 2012* as it was made; Section 8 of the current version of the *University of Tasmania Act 1992* (as at 7 September 2022).
- ⁷⁶ University of Tasmania (2018) [UTAS Annual Report 2017](#), UTAS website, p. 10.
- ⁷⁷ University of Tasmania (2017) [UTAS Annual Report 2016](#), UTAS website, p. 12. N. Clark (2017) '[University of Tasmania considers shifting from prime Sandy Bay site](#)', *The Mercury*, 19 July; University of Tasmania (2022) '[Extract of University of Tasmania Council minutes 1 January 2014 to 22 March 2022 relating to the Hobart City Move](#)', UTAS website.
- ⁷⁸ University of Tasmania (2022) '[Extract of University of Tasmania Council minutes 1 January 2014 to 22 March 2022 relating to the Hobart City Move](#)', UTAS website; A. Humphries (2019) '[UTAS's growing Hobart CBD property portfolio under fire after forestry building price revealed](#)', ABC News website.
- ⁷⁹ University of Adelaide (2019) [University of Adelaide Annual Report](#), UoA website, p. 2.
- ⁸⁰ B. Siebert (2020) '[No explanation as University of Adelaide's two top leaders step down](#)', ABC news website, 5 May.
- ⁸¹ SA ICAC (2020) [Statement About an Investigation: Misconduct by the Vice-Chancellor of the University of Adelaide](#), 26 August, p. 5.
- ⁸² University of Tasmania (2020) 'University: Our processes did not protect people, we are sorry', UTAS website, 11 December.
- ⁸³ University of Tasmania Council (2023) '[University Council Minutes 30 August 2023](#)', UTAS website, pp. 2-3.
- ⁸⁴ University of Tasmania (2017) [UTAS Annual Report 2016](#), UTAS website, p. 12.
- ⁸⁵ Infrastructure Australia (2019) '[Northern Transformation Business Case Evaluation](#)', Infrastructure Australia website; University of Tasmania (2022) '[Transforming our Inveresk Campus](#)', UTAS website; University of Tasmania (2022) '[Cradle Coast Campuses](#)', UTAS website; University of Tasmania (2022) *Legislative Council Briefing*, 10 March, p. 6; University of Tasmania (2024) '[Inveresk milestone marks the beginning of a new era for regional education](#)', Media Release, UTAS website, 24 October.
- ⁸⁶ Clark (2017) '[University of Tasmania considers shifting from prime Sandy Bay site](#)', op. cit.
- ⁸⁷ L. MacDonald (2019) 'University of Tasmania set to develop a city-centric campus in Hobart's CBD', ABC News website, 5 April; J. Alout (2019) 'Lion Hearted: Uni move a city game changer', *The Mercury*, 6 April, p. 1; University of Tasmania (2022) '[Extract of University of Tasmania Council minutes 1 January 2014 to 22 March 2022 relating to the Hobart City Move](#)', UTAS website; University of Tasmania (2020) [UTAS Annual Report 2019](#), UTAS website, p. 9.
- ⁸⁸ University of Tasmania (2022) Submission to the Legislative Council Inquiry into the Provisions of the *University of Tasmania Act 1992*, [Submission 113: Part 13 Campus Transformation](#), Parliament of Tasmania website, pp. 4-5.
- ⁸⁹ University of Tasmania (2022) '[The Hedberg](#)', UTAS website.
- ⁹⁰ Humphries (2019) '[UTAS's growing Hobart CBD property portfolio under fire after forestry building price revealed](#)', op. cit.; D. Killick (2019) '[University of Tasmania buys Hobart site for student accommodation](#)', *The Mercury*, 8 April.
- ⁹¹ Australian Business Register (2022) '[Current details for ABN 61 636 735 834](#)', Australian Government, ABN website.
- ⁹² Attorney-General v University of Tasmania [2020] TASFC 12; Hobart Interim Planning Scheme 2015, Particular Purpose Zone 3 – University of Tasmania (Sandy Bay Campus), on the [iplan website](#).
- ⁹³ Attorney-General v University of Tasmania [2020] TASFC 12; TPC decision on the Austlii website: [Hobart Interim Planning Scheme 2015 amendment PSA-17-2 \[2018\] TASPComm 24 \(22 June 2018\)](#); A. Humphries & E. Bevin (2019) '[University of Tasmania seeks to increase land value before Sandy Bay campus sell-off](#)', ABC News website, 22 February.
- ⁹⁴ University of Tasmania v Tasmanian Planning Commission [2019] TASSC 7.
- ⁹⁵ Attorney-General v University of Tasmania [2020] TASFC 12.
- ⁹⁶ See: University of Tasmania (2021) Reimagine Sandy Bay website; A. Alvaro (2021) '[University of Tasmania releases plans to develop 2,500 homes, aged care, tourism precinct at Sandy Bay campus](#)', ABC News website, 20 October.
- ⁹⁷ University of Tasmania (2021) 'Home', Reimagine Sandy Bay website.
- ⁹⁸ Phone call with Hobart City Council, 10 February 2022. Phone call with Hobart City Council, 6 September 2022.
- ⁹⁹ Email communication with Hobart City Council, 30 October 2024.
- ¹⁰⁰ M. Oliver (2022) '[UTAS delays Sandy Bay campus redevelopment, launches new community consultation panel](#)', ABC News website, 14 July.
- ¹⁰¹ The Shake Up (2022) '[Community Panel Terms of Reference](#)', The Shake Up website.
- ¹⁰² Email communication with Hobart City Council, 30 October 2024.
- ¹⁰³ Email communication with Hobart City Council, 30 October 2024; Tasmanian Audit Office (2023) [Auditor-General's report on the financial statements of State entities](#), Volume 1, TAO website, p. 72.
-

-
- ¹⁰⁴ See for example: A. McCann (2021) 'Abetz urges UTAS scrutiny', *The Mercury*, 26 November, p. 10; M. Foster (2021) 'Silence says plenty over relocation', *The Mercury*, 1 December, p. 21; B. Cotgrove (2021) 'UTAS city debacle needs to be scrapped now before it's too late', *The Mercury*, 31 December, p. 20.
- ¹⁰⁵ Save UTAS Campus (2021) '[About Us](#)', Save UTAS Campus website.
- ¹⁰⁶ W. Zaglas (2019) 'Four Corners program raises concerns about international student sector', *Campus Review*, 7 May; E. Worthington, Reporter (2019) '[Cash Cows](#)', Four Corners, ABC website.
- ¹⁰⁷ A. Humphries (2020) '[University of Tasmania slashes degree offerings in cost cutting exercise to stay 'sustainable'](#)', ABC website, 10 March.
- ¹⁰⁸ University of Tasmania (2021) '[UTAS Annual Report 2020](#)', UTAS website, p. 6.
- ¹⁰⁹ Fair Work Ombudsman (2023) '[Email to Professor Mary O'Kane AC, Chair, Australian Universities Accord Panel](#)', Parliament of Australia website, 8 May.
- ¹¹⁰ University of Tasmania (2024) '[Historical Payments Review](#)', UTAS website.
- ¹¹¹ Tasmanian Audit Office (2023) '[Auditor-General's report on the financial statements of State entities](#)', Volume 1, TAO website, pp. 71-73
- ¹¹² University of Tasmania (2024) '[Historical Payments Review](#)', UTAS website.
- ¹¹³ National Tertiary Education Union (2024) '[Public Universities Wage Theft Report](#)', Third Edition, NTEU website, p. 3. Note: link to Report provided at end of media release.
- ¹¹⁴ Fair Work Ombudsman (2023) '[Email to Professor Mary O'Kane AC, Chair, Australian Universities Accord Panel](#)', Parliament of Australia website, 8 May.
- ¹¹⁵ Office of the Fair Work Ombudsman (2024) '[OFWO Annual Report 2023-4, 'Investigations and Activities: Universities'](#)', Australian Government website.
- ¹¹⁶ S. Davison (2021) '[There are mixed views on UTAS's decision to move lectures online permanently](#)', *The Examiner*, 22 November; University of Tasmania (2022) 'What Classes are on Campus in 2022?', UTAS website.
- ¹¹⁷ Law Society of Tasmania (2022) '[Law Society Update](#)', Issue 7 of 2022-23, February; Tasmania University Law Society (2022) Submission to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Act 1992, '[Submission 119](#)', Parliament of Tasmania website, p. 4; E. Baker (2022) '[Concern for State's law system as academics leave, University of Tasmania 'moves away' from 'intimate teaching'](#)', ABC News website, 8 March.
- ¹¹⁸ Concerned Students (2022) 'An Open Letter to the Law Faculty on Staffing and Teaching', *Togatus*, 24 March.
- ¹¹⁹ Concerned Students (2022) 'An Open Letter to the Law Faculty on Changes to Legal Practice', *Togatus*, 24 March.
- ¹²⁰ Tasmania University Law Society (2022) Submission to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Act 1992, '[Submission 119](#)', Parliament of Tasmania website, p. 4; UTAS Law Alumni and Friends Facebook Page (2022) '[Request from TULS and the Law Society of Tasmania](#)', Facebook website, 29 April.
- ¹²¹ I. Bird (2022) '[Challenges at Law School can be overcome with interim leader Professor Gino Dal Pont at helm, says profession](#)', *Examiner*, 20 May.
- ¹²² Parliament of Tasmania (2024) '[Inquiry into the Provisions of the University of Tasmania Act: Terms of Reference](#)', PoT website.
- ¹²³ City of Hobart (2022) '[Public meeting in response to Save UTAS Campus petition](#)', CoH website.
- ¹²⁴ Tasmanian Electoral Commission (2022) '[2022 Hobart City Council Elector Poll](#)', TEC website.
- ¹²⁵ J. Clare, Federal Education Minister (2022) '[Reset, Rebuild and Reform](#)', Universities Australia 2022 Gala Dinner Speech, Jason Clare website, 6 July; M. Coade (2022) '[Education Minister underscores universities in 'solutions business for government', announces ARC review](#)', *The Mandarin*, 8 July.
- ¹²⁶ J. Clare, Federal Education Minister (2022) '[Universities Accord](#)', Media Release, Australian Government, 16 November; J. Clare, Federal Education Minister (2022) '[The Bradley Oration](#)', Ministers of the Education Portfolio Media Centre, Parliament of Australia, 16 November; University of Sydney (2022) '[Education Minister delivers inaugural Bradley Oration](#)', News & opinion, University of Sydney website, 17 November; See also the main website for the Accord Review: <https://www.education.gov.au/australian-universities-accord>
- ¹²⁷ University of Tasmania (2022) '[Professor Rufus Black reappointed as Vice-Chancellor of the University of Tasmania](#)', Media Release, UTAS website, 31 August.
- ¹²⁸ Tasmanian Audit Office (2023) '[Auditor-General's report on the financial statements of State entities](#)', Volume 1, TAO website, p. 72.
- ¹²⁹ Tasmanian Audit Office (2023) '[Auditor-General's report on the financial statements of State entities](#)', Volume 1, TAO website, p. 72; University of Tasmania (2023) '[University of Tasmania Annual Report 2022](#)', UTAS website, p. 34.
- ¹³⁰ University of Tasmania (2024) '[TIA: About](#)', UTAS website.
- ¹³¹ Department of Natural Resources and Environment Tasmania (2024) '[Tasmanian Agricultural Precinct](#)', Tasmanian Government website.
- ¹³² University of Tasmania (2023) '[Major investment in agricultural research and education in Tasmania](#)', Media Release, UTAS website, 24 October.
- ¹³³ Australian Education Department (2023) '[Australian Universities Accord Interim Report](#)', Australian Government, Australian Universities Accord website

-
- ¹³⁴ *ibid.*, p. 6.
- ¹³⁵ *ibid.*, pp. 129-130.
- ¹³⁶ *ibid.*, p. 13.
- ¹³⁷ J. Clare, Federal Education Minister (2023) [Second Reading Speech for the Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023](#), 3 August, House of Representatives, Parliament of Australia website.
- ¹³⁸ J. Clare, Federal Education Minister (2023) [Second Reading Speech for the Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023](#), 3 August, House of Representatives, Parliament of Australia website.
- ¹³⁹ Australian Education Department (2024) [Australian Universities Accord Final Report](#), Australian Government, Australian Universities Accord website, pp. 42-43. See also: J. Clare, Federal Education Minister (2023) [Second Reading Speech for the Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023](#), 3 August, House of Representatives, Parliament of Australia website.
- ¹⁴⁰ Australian Education Department (2024) [Australian Universities Accord Final Report](#), Australian Government, Australian Universities Accord website.
- ¹⁴¹ J. Clare (2024) Federal Minister for Education (2024) [‘Release of the Australian Universities Accord’](#), Media Release, Australian Universities Accord website, 25 February.
- ¹⁴² J. Clare, Federal Education Minister (2023) [Second Reading Speech for the Higher Education Support Amendment \(Response to the Australian Universities Accord Interim Report\) Bill 2023](#), 3 August, House of Representatives, Parliament of Australia website.
- ¹⁴³ J. Ireland (2024) [‘Universities Accord Final Report: What is it, and what does it recommend?’](#), The Conversation, 25 February.
- ¹⁴⁴ *ibid.* See: Australian Education Department (2024) [Australian Universities Accord Final Report](#), *op. cit.*, pp. 27-28.
- ¹⁴⁵ Australian Education Department (2024) [Australian Universities Accord Final Report](#), *op. cit.*, pp. 32-34; Australian Government Department of Education (2024) [Australian Tertiary Education Commission Implementation Consultation Paper](#), Australian Universities Accord website.
- ¹⁴⁶ Parliament of Tasmania (2024) [‘University of Tasmania \(Protection of Land\) Bill 2024 \(31 of 2024\)’](#), Bills webpages, Parliament of Tasmania website.
- ¹⁴⁷ See Clause 3 in the [‘Clause Notes: University of Tasmania \(Protection of Land\) Bill 2024’](#), University of Tasmania (Protection of Land) Bill 2024 (31 of 2024), Parliament of Tasmania Bills webpage, PoT website.
- ¹⁴⁸ Parliament of Tasmania (2024) [‘UTAS Financial Position: Media Advisory – 13 August 2024 \(Terms of Reference\)’](#), PoT website.
- ¹⁴⁹ University of Tasmania (2024) [‘University of Tasmania’s future direction for its Hobart campus’](#), Media Release, UTAS website, 6 November.
- ¹⁵⁰ M. Ogilvie, Minister for Innovation, Science and the Digital Economy (2024) [‘Government backs transparency and accountability over UTAS land’](#), Media Release, Tasmanian Government website, 21 November.
- ¹⁵¹ Tasmanian House of Assembly (2024) Daily Hansard: Preliminary Transcript, 28 November, Parliament of Tasmania website, pp. 73-144.

APPENDIX D

Question on Notice Response, University of Tasmania

(extract from 3 May 2023)

Response to Legislative Council Questions on Notice

7. What is the overall median age of UTAS students? Please also provide a breakdown of the median student age:

The overall median age of University of Tasmania students in 2023 is 28.

a) across the colleges and schools;

Table 3. Median age of distinct students by College

Course owning College	Median student age
Academic Division	32
College of Arts, Law and Education	26
College of Business & Economics	21
College of Health & Medicine	32
College of Sciences & Engineering	24
Division of Future Students	21
Research Division	33

Response to Legislative Council Questions on Notice

Table 4. Median age of distinct students by unit teaching school

Course owning College	Unit teaching school	Median student age
Academic Division	Aboriginal Leadership	24.5
Academic Division	DVC-Education	20
Academic Division	Peter Underwood Centre	51
Academic Division	Student Life and Enrichment	31
College of Arts, Law and Education	College Office - CALE	28
College of Arts, Law and Education	Faculty of Education	26
College of Arts, Law and Education	Faculty of Law	22
College of Arts, Law and Education	School of Creative Arts and Media	22
College of Arts, Law and Education	School of Humanities	24
College of Arts, Law and Education	School of Social Sciences	24
College of Business & Economics	AIHSM	40
College of Business & Economics	TSBE	21
College of Business & Economics	University College	26
College of Health & Medicine	Menzies Institute for Medical Research	28
College of Health & Medicine	School of Health Sciences	23
College of Health & Medicine	School of Nursing	32
College of Health & Medicine	School of Paramedicine	24
College of Health & Medicine	School of Pharmacy and Pharmacology	25
College of Health & Medicine	School of Psychological Sciences	27
College of Health & Medicine	Tasmanian School of Medicine	25
College of Health & Medicine	Wicking Dementia Research & Education Centre	48
College of Sciences & Engineering	Australian Maritime College	27
College of Sciences & Engineering	College Office - CoSE	24
College of Sciences & Engineering	Institute for Marine & Antarctic Studies	23
College of Sciences & Engineering	School of Architecture and Design	30
College of Sciences & Engineering	School of Engineering	22

Response to Legislative Council Questions on Notice

College of Sciences & Engineering	School of Geography, Planning, and Spatial Sciences	27
College of Sciences & Engineering	School of Information and Communication Technology	21
College of Sciences & Engineering	School of Natural Sciences	22
College of Sciences & Engineering	Tasmanian Institute of Agriculture (TIA)	25
Research Division	Graduate Research	30

b) by Tasmanian enrolments and non-Tasmanian enrolments; and

Table 5. Median age of distinct students by Tasmanian or non-Tasmanian status

Tasmanian / Non-Tasmanian	Median student age
Non-Tasmanian	32
Tasmanian	23

c) by students studying in Tasmania and students studying online residing outside Tasmania.

Table 6. Median age of distinct students for students studying in Tasmania and students studying online residing outside Tasmania

Study base	Median student age
Studying on campus in Tasmania	23
Studying by distance and residing elsewhere	37
Other combination or unknown	21

Data note: Address origin information will contain a degree of error as it relies on student-supplied addresses. Students supply current residential, permanent, and original addresses. These data reflect the most accurate known address between those, giving preference to residential, then permanent, and finally original based on which are supplied by the student. Students are marked as studying outside of Tasmania by distance if their preferred known address is interstate or unknown (i.e., international) and their mode of study is distance. Students are marked as studying on campus in Tasmania if their preferred known address is Tasmanian, or their preferred mode of study is on-campus or mixed and the campus is in Tasmania.

Response to Legislative Council Questions on Notice

8. What is the average age and median age for UTAS:

a) undergraduate students overall;

Table 7. Median age of distinct undergraduate bachelor's degree students

Course level	Mean student age	Median student age
Undergraduate bachelor	27	22

b) postgraduate students overall;

Table 8. Median age of distinct postgraduate degree students

Course level	Mean student age	Median student age
Postgraduate coursework and research	34	32

c) 2023 commencing students?

Table 9. Median age of distinct commencing students

Student cohort	Mean student age	Median student age
Commencing 2023 students	30.3	27

Response to Legislative Council Questions on Notice

9. In 2023 how many commencing undergraduate students at UTAS are Tasmanian? How many Tasmanian commencing undergraduate students in 2023 are school leavers?

As outlined in our strategic plan, the University is committed to serving our Tasmanian students, supporting them to learn what is needed for their communities, in the regions where they live, as well as attract new people from interstate and overseas.

In 2023, there are 3,698¹³ commencing undergraduate bachelor students. Of these students, 2,172 (58%) are Tasmanian, 1,123 (30%) are interstate and have relocated to Tasmania, and 403 (10%) are international students. Further, 1,040 (28%) are Tasmanians of school-leaver age (defined as less than 20 years old).

¹³ University Enrolment dashboard, 2023 commencing student headcount

APPENDIX E

Alienation of land in University Acts

Parliamentary Research Service, 18 December 2024



Parliamentary Research Service

Parliament House, Hobart 7000

Date: 18 December 2024

Alienation of Land in University Acts

This paper has been prepared for the Tasmanian Legislative Council Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992*.

It provides a short jurisdictional comparison of the power to alienate land provisions in Australian public university Acts.

In 2024, there are 42 universities in Australia (37 public universities and five private universities).¹ Each university has its own Act. The public universities are established by Acts of State or Territory Parliaments. The two exceptions are: the Australian National University which has a Commonwealth Act; and the Australian Catholic University which (although it is a public university) has different legislative arrangements.²

This paper looks at the 36 public universities that are comparable to the University of Tasmania. It does not include the Australian Catholic University or the private universities. From now on, the paper's use of the word 'university' should be taken to mean 'public university'.

The paper looks at the power to alienate land provisions in each public university Act in each Australian State and Territory. It is important to note that the information provided is summarised, and readers need to see each university Act itself for further details.

The paper firstly provides a general summary and then looks at each jurisdiction.

References are provided in Endnotes at the end of the paper.

General Summary

Australian public universities operate on land that has been granted to them by the Crown, land purchased with public money, or Crown land.³ All the public universities

in the Australian States – except for the University of Tasmania – are subject to legislative restrictions or prohibitions on selling or dealing with land.

All public universities in New South Wales, Victoria, and South Australia, are subject to legislative restrictions prohibiting their governing bodies from selling or dealing with their land without approval from the appropriate Minister or Governor.

No Queensland public universities are able to sell ‘State land’. Leases are subject to restrictions.

In Western Australia, two of the four public universities require the approval of the Governor for sale or disposal of certain land. For the other two Western Australian universities, if the land ceases to be used by the University, it is revested in the State automatically, or the Governor decides if the land will be revested in the State. Leases are subject to restrictions.

There do not appear to be any similar restrictions or prohibitions on the alienation of land that apply to the public universities in the Australian Capital Territory and the Northern Territory.

As stated earlier, this short paper does not include all the provisions relating to the alienation of land in the university Acts. Readers need to see each university establishing Act itself for further information.

Tasmania

The *Tasmanian University Act 1951* (Tas) granted land at Sandy Bay to the University for a new campus. Section 11 of the 1951 Act provided that the Sandy Bay site was ‘vested in the university for the purposes of the university’ and ‘public parks or gardens’, and that the land was not to be ‘sold, mortgaged, or otherwise disposed of’. Furthermore, if the land ceased to be used for the purposes of the university it would revert to being Crown land.

The *Higher Education (Amalgamation) Act 1990* (Tas) repealed the *Tasmanian University Act 1951*. The provision of the 1951 Act (that specified that the Sandy Bay site had to be used for the purposes of the university) continued to apply under the 1990 Act.⁴

The *University of Tasmania Act 1992* (Tas) repealed the *Higher Education (Amalgamation) Act 1990*, and created a new Act for the University. The *University of Tasmania Act 1992* did not include the provision that the Sandy Bay site had to be used for the purposes of the university. Furthermore, Section 26 of the new 1992 Act stated that:

26. Certain land to remain vested in University

Notwithstanding the repeal by this Act of the Amalgamation Act, the land specified in Schedule 3 remains vested in the University but free from any restrictions as to the power of the University to sell, mortgage or otherwise dispose of that land that may, but for this clause, restrict the power of the University in respect of that land.

Accordingly, at present, the *University of Tasmania Act 1992* does not place limits on what the University may do with the Sandy Bay site.

On 20 June 2024, the Tasmanian Government introduced a Bill into the House of Assembly, titled the *University of Tasmania (Protection of Land) Bill 2024*.⁵ If passed, this Bill will become an Act which provides that Parliamentary approval will be required for the University to 'dispose' of vested land. The Clause Notes to the Bill explain that: 'The term 'dispose' includes, among other things, to sell or to lease for a term of not less than 99 years.'⁶ The Bill, as it was introduced, included Sandy Bay university land above and below Churchill Avenue in the definition of 'vested land'.⁷

On 28 November 2024, the Tasmanian Government introduced amendments to the Bill which excluded the university land above Churchill Avenue from the definition of vested land, and rezoned two parcels of that land as 'Inner Residential' under the *Hobart City Interim Planning Scheme 2015*.⁸ The amended Bill was passed by the House of Assembly that day.⁹ It will be debated by the Legislative Council when Parliament resumes in 2025.

New South Wales

Section 18(3) of the *University of Sydney Act 1989* (NSW) provides that the governing body of the University 'must not sell, mortgage, charge or lease relevant land without the Minister's approval'. In section 18(7) 'relevant land' is defined as 'land acquired by the University from the State at nominal or less than market value'.

Under section 18(4) there are exceptions for leases in certain circumstances. This includes that the University governing body does not require the Minister's approval to lease relevant land if the term of the lease is no more than 21 years; and the governing body 'is satisfied the leasing of land is consistent with the object and functions of the University under section 6'.

All ten NSW public universities are subject to identical provisions in their establishing Acts.

Victoria

Section 37 of the *University of Melbourne Act 2009* (Vic) restricts the alienation of land by the University. A distinction is drawn between land granted by the Crown to the University under section 36(6)(a) and other land. Land granted under that provision may not be alienated without prior approval of the Minister. Section 37(2) creates an exception for leases not exceeding 21 years. Under section 37(3) the sale of other land for over \$5 million requires the approval of the Minister. Under section 37(4) the approval of the Minister is required for a lease of other land for more than 21 years.

All eight Victorian public universities are subject to identical provisions in section 37 of each establishing Act.

Queensland

All seven public Queensland universities have restrictions on the alienation of land in their establishing Acts. Land vested in or under the control of the university falls within a definition of 'State land' in each Act. Each Act provides that the university may grant an interest in 'State land' only by way of lease. Accordingly, in Queensland, public university governing bodies cannot sell university land defined as 'State land'.

For example, section 44(2) of the *University of Queensland Act 1998* (Qld) provides that 'the university may grant an interest in State land only be way of lease'. In Schedule 2 of the Act, 'State land' is defined as follows:

State land means land—

- a) granted in trust, or reserved and set apart for a purpose, under the *Land Act 1994* [Qld]; and
- b) vested in or placed under the control of the university.

In regard to leasing, section 44(3) of the *University of Queensland Act 1998* provides that:

Despite the *Land Act 1994*, a trustee lease or sublease for land under that Act that is subject to an operational reserve or operational deed of grant in trust may be for up to 100 years.

Sections 44(4) and 44(5) go on to state that if a purpose for which a reserve was dedicated, or for which land was granted in trust under the *Land Act 1994*, includes a reference to 'university' or 'university and college', then the purpose is taken to include anything that is consistent with the university's functions under Section 5 of the *University of Queensland Act*.

These same provisions are present in six of the seven Queensland university Acts.

The *University of the Sunshine Coast Act 1998* (Qld) similarly provides that the university may only grant an interest in State land by way of lease, but it limits the lease to not more than 25 years (section 50).

South Australia

At present, South Australia has three public universities which are subject to the same restrictions on the alienation of land. The three South Australian public universities are the University of Adelaide, Flinders University, and the University of South Australia.

Section 4(5) of the *University of Adelaide Act 1971* (SA) provides that 'The University must not alienate (except by way of lease for a term not exceeding 21 years), mortgage or charge land vested in or conveyed to the University' under various Acts and the Waite Trust, 'except with, and in accordance with any terms or conditions of, an approval given by the Governor.'

Section 3(5) of the *Flinders University Act 1966* (SA) similarly provides that 'The University must not alienate (except by way of lease for a term not exceeding 21 years),

mortgage or charge land vested in or conveyed to the University on trust except with, and in accordance with any terms or conditions of, an approval given by the Governor.’

Section 6(3) of the *University of South Australia Act 1990* (SA) provides an identical provision.

Notably, the University of Adelaide and the University of South Australia are going to merge into a new single university called ‘Adelaide University’ in 2026. Until then the universities are continuing to operate as separate entities.¹⁰

Section 8(3) of the *Adelaide University Act 2023* (SA) repeats the same provision regarding the alienation of land that appears in the current South Australian university Acts (the restrictions will remain unchanged).

Western Australia

All four of Western Australia’s public universities are subject to restrictions or prohibitions on the alienation of land.

Section 14A of the *University of Western Australia Act 1911* (WA) requires the consent of the Governor for the sale of any land granted by the Crown, and certain other land. Under section 15, the University may lease land without Ministerial approval for up to 21 years, and with Ministerial approval for up to 99 years. The University may, with Ministerial approval, mortgage University lands.

Section 28(3) of the *Murdoch University Act 1973* (WA) provides that any land granted to the University by the Governor ‘may be disposed of with the approval of the Governor, but not otherwise’. Sections 29(f) and 29(ga) provide that the University may grant leases for up to 21 years, and with Ministerial approval up to 99 years. Under section 32H, land may be leased for commercial purposes with Ministerial approval.

Section 28(3) of the *Edith Cowan University Act 1984* (WA) provides that where any land vested in the University under that Act is no longer required for the University, the Governor may revest it in the State. Section 2(ea) provides that the University may grant leases for up to 21 years, and with Ministerial approval up to 99 years. Under section 30D, land may be leased for commercial purposes with Ministerial approval.

Under section 20 of the *Curtin University Act 1966* (WA) when University land ceases to be used for university purposes it reverts in the State automatically. Section 2(ea) provides that the University may grant leases for up to 21 years, and with Ministerial approval up to 99 years. Under section 22D, land may be leased for commercial purposes with Ministerial approval.

Australian Capital Territory and the Northern Territory

There do not appear to be any similar restrictions or prohibitions – on the power to alienate university land – under the *Australian National University Act 1991* (Cth), the

University of Canberra Act 1989 (ACT), or the *Charles Darwin University Act 2003* (NT).

Endnotes

¹ The University of Adelaide and the University of South Australia are going to merge in 2026. At the time of writing this paper – December 2024 – both universities are still operating as separate entities. The five private universities are Bond University, Torrens University, the University of Notre Dame, the University of Divinity, and Avondale University. The private university called Carnegie Mellon University Australia announced its closure in 2022.

² The Australian Catholic University was established in 1990 through incorporation as a public company limited by guarantee. It is regulated under the *Australian Charities and Not-for-profits Commission Act 2012* and the *Corporations Act 2001*. See: Australian Catholic University (2022) [ACU Annual Report 2021](#), ACU website, p. i.

³ For example, see the preamble to the [Monash University Act 2009](#) (Vic), it describes the granting of Crown land for Monash University. A different example is provided by Macquarie University in NSW. Prior to the establishment of the Macquarie Uni campus in the 1960s, the site included small farms and market gardens. These properties were purchased to provide development space for Macquarie Uni. See NSW Legislative Assembly Hansard (1965) 'Questions Without Notice: Macquarie University Resumptions', 26 August, Parliament of NSW website, p. 154; GBA Heritage (2018) [Statement of Heritage Impact: Macquarie University Central Courtyard Precinct](#), NSW Government planning portal website, p. 13. A further example is Charles Sturt University which has a number of campuses in regional NSW. The majority of campus infrastructure at the two largest campuses is on Crown Land. See: Charles Sturt University (2016) [Submission to Review of Local Government Rating System](#), 14 October, NSW Government website, p. 3.

⁴ Clause 44 in the Clause Notes to the Higher Education (Amalgamation) Bill 1990, Tasmanian Parliamentary Library Collection.

⁵ Parliament of Tasmania (2024) '[University of Tasmania \(Protection of Land\) Bill 2024 \(31 of 2024\)](#)', Bills webpages, Parliament of Tasmania website.

⁶ See Clause 3 in the '[Clause Notes: University of Tasmania \(Protection of Land\) Bill 2024](#)', University of Tasmania (Protection of Land) Bill 2024 (31 of 2024), Bills webpages, Parliament of Tasmania website.

⁷ See University of Tasmania (Protection of Land) Bill 2024, [Text of Bill as Introduced](#), Bills webpages, Parliament of Tasmania website.

⁸ Tasmanian House of Assembly (2024) Daily Hansard: Preliminary Transcript, 28 November, Parliament of Tasmania website, pp. 73-144. Also see: M. Ogilvie, Minister for Innovation, Science and the Digital Economy (2024) '[Government backs transparency and accountability over UTAS land](#)', Media Release, Tasmanian Government website, 21 November.

⁹ Tasmanian House of Assembly (2024) Daily Hansard: Preliminary Transcript, 28 November, Parliament of Tasmania website, pp. 73-144.

¹⁰ University of South Australia (2024) '[Transformative new Adelaide University launches to the world](#)', Media Release, 15 July, Uni of SA website.

APPENDIX F

Links between Australian Parliaments and University Councils

Parliamentary Research Service, 15 February 2023



Parliamentary Research Service

Parliament House
Hobart, Tasmania, 7000

Date: 15 February 2023

Links between Australian Parliaments and University Councils

This Briefing provides information about links between parliaments and public university governing bodies in Australian jurisdictions. The Briefing has been prepared for the Legislative Council Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992*.

The Briefing looks at Australia's public universities that are comparable to the University of Tasmania.¹ In Australia, the governing bodies of public universities are usually called 'university councils', and this Briefing will use the term 'university councils'.

The Briefing sets out the results of a search for publicly available information on links between Australian parliaments and university councils.

Contents

Acts of Parliament Determine the Size and Composition of University Councils...	2
Members of Parliament on University Councils.....	2
Government Appointed Members to University Councils.....	3
Universities' Annual Reports and Auditors-General Reports on Universities tabled in Parliaments	3
Parliamentary Committee Inquiries into Universities	3
Appendix: Extract from <i>Governance of NSW Universities</i> Committee Report	4
Endnotes	5

Acts of Parliament Determine the Size and Composition of University Councils

The main link between Australian Parliaments and university councils is that Australian public universities are established and governed by Acts of Parliaments. The university establishing Acts determine the size and composition of the university councils.²

Members of Parliament on University Councils

The search found that none of the Australian university councils now include dedicated positions for Members of Parliament.³

The University of Tasmania Council used to include one position for a Member of the House of Assembly (elected by the House of Assembly) and one position for a Member of the Legislative Council (elected by the Legislative Council). The *University of Tasmania Amendment Act 2001* (Tas) removed these positions from the University Council.⁴

In 2004, Howard Government Education Minister, Brendan Nelson, introduced 'National Governance Protocols' for universities. Universities were required to comply with the Protocols as a condition of Commonwealth funding.⁵ The Protocols stated that: 'There should not be current members of any State or Commonwealth parliament or legislative assembly other than where specifically selected by the governing body itself.'⁶

In 2008, the Rudd Government removed the requirement for universities to comply with the National Governance Protocols. The 'Voluntary Code of Best Practice for the Governance of Australian Public Universities' implemented by the Rudd/Gillard Governments (and still current today) retained the same provision regarding MPs (with the exact same wording).⁷

In the case of NSW, university councils used to include dedicated positions for Members of Parliament. Each House of the NSW Parliament used to elect one Member to each university governing body. This practice was ended following the introduction of the National Governance Protocols.⁸

In 2009, the NSW Legislative Council Committee Report on the *Governance on NSW Universities* stated that although the NSW universities were no longer required to have MPs on their governing bodies, the universities had continued the practice by recommending to the Minister that MPs be appointed (see the Appendix to this Briefing).⁹

The *Universities Governing Bodies Act 2011* (NSW) brought in changes to the size and structure of NSW university councils. It included the provision that Ministerially

appointed members of university councils could not include Members of Parliaments.¹⁰

Government Appointed Members to University Councils

All of the university councils, except for the three South Australian university councils, include Government appointed members. Government appointed members are usually Ministerial appointments, some jurisdictions have Governor-in-Council appointments.¹¹

The convention is for Government appointments to university councils to be made on the recommendation of the university councils themselves.¹²

Universities' Annual Reports and Auditors-General Reports on Universities tabled in Parliaments

Legislation in each jurisdiction (university Acts or financial Acts) require universities to provide an annual report to the responsible minister – usually the Minister for Education – who then tables the report in Parliament.¹³ For example, section 25 of the *University of Adelaide Act 1971* states that:

25—Annual report

- (1) The Council must, not later than 30 June in each year, present to the Minister a report on the operation of the University during the year ending on the preceding 31 December.
- (2) The report must include a copy of the audited accounts of the University, and of every statute of the University confirmed by the Governor, and every rule made by the Council, during the year ending on the preceding 31 December.
- (3) The Minister must, within 12 sitting days of receiving a report under this section, cause a copy of the report to be laid before each House of Parliament.

Universities are also subject to financial audits by Auditors-General, which are reported to parliaments.¹⁴

Parliamentary Committee Inquiries into Universities

There have been Parliamentary committee inquiries into Australian universities. These inquiries have been listed, and short listed, in two previous Briefings to the Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992*. The Briefings were titled *Other Australian Parliaments Inquires into Universities* and *Other Australian Parliaments Inquiries in Universities: Short List*.¹⁵

Appendix: Extract from *Governance of NSW Universities* Committee Report

The text below is an extract from the 2009 NSW Legislative Council Committee Report on the *Governance of NSW Universities*. It discussed the practice of appointing Members of Parliament to university councils. Importantly, the NSW university legislation now states that the Minister may not appoint a Member of Parliament to a university council.

The Committee also heard evidence on the practice of appointing Members of Parliament to university councils. Previously each House of the NSW Parliament elected one its members to the each governing body, but this practice ceased with the introduction of the National Governance Protocols. Ms Rytmeister advised that, although they are no longer required to have Members of Parliament on their governing bodies, universities had tended to continue this practice, by 'recommending that the Minister appoint two Members of Parliament to the Council, one from the Lower House and one from the Upper House ...'

Several inquiry participants commented favourably on the role played by Members of Parliament serving on governing bodies. According to Mr Mark Dolahenty, Senior Industrial Officer, NTEU - NSW Division, 'very often members of Parliament can act as the honest broker on a university council because there can be no question of retribution against them – they are members of Parliament'

A similar view was expressed by Dr Beyersdorf, who said that '... members of Parliament often tend to be very independent and forthright. Of course, they have no reason to be afraid of any action by the powers that be. I certainly served with people from both major sides of Parliament and found most of them to be very good.'

This view was shared by Ms Rytmeister: Of course, one of the positives is that a member of Parliament who is on a governing body has an independent source of authority ... At times when it comes to asking some critical questions that can be very useful. I know in the past that it has been useful in my own institution.

Source: Parliament of New South Wales (2009) Legislative Council General Purpose Standing Committee No. 2, [*Governance of NSW Universities*](#), pp. 42-43. Note that footnotes were removed from the extract. Please see the report itself for its referencing details.

Endnotes

- ¹ See: C. Ross (2022) *Jurisdictional Comparison of Australian University Acts: Governing Bodies*, Parliamentary Research Service Briefing, Parliament of Tasmania, 4 November, p. 1.
- ² See: C. Ross (2022) *Jurisdictional Comparison of Australian University Acts: Governing Bodies*, op. cit., pp. 1, 11-24.
- ³ *ibid*, pp. 11-24.
- ⁴ C. Ross (2022) *University of Tasmania Chronology of Significant Events*, Parliamentary Research Service Briefing, Parliament of Tasmania, 21 September, pp. 6-10.
- ⁵ Parliament of NSW (2009) Legislative Council General Purpose Standing Committee No. 2, [Governance of NSW Universities](#), p. 11.
- ⁶ Department of Education, Science and Training (Cth) (2007), p. 17.
- ⁷ Universities Australia & University Chancellors Council (2018) [Voluntary Code of Best Practice for the Governance of Australian Universities](#), UCC website, p. 4.
- ⁸ Parliament of NSW (2009) Legislative Council General Purpose Standing Committee No. 2, [Governance of NSW Universities](#), pp. 42-43.
- ⁹ *ibid*.
- ¹⁰ See section 8(2) of the [Universities Governing Bodies Act 2011](#) (NSW) and section 8G(2) of the [University of Sydney Act 1989](#) (NSW).
- ¹¹ C. Ross (2022) *Jurisdictional Comparison of Australian University Acts: Governing Bodies*, op. cit., pp. 11-24.
- ¹² For example: see section 10 of the *Australian National University Act 1991* (Cth); section 8G of the *University of Sydney Act 1989* (NSW); G. Schroder-Turk (2021) '[A self-selection mechanism for appointed external members of WA university councils](#)', *Australian Universities Review*, Vol. 63, No. 1, p. 37.
- ¹³ For example: see section 45 of the *University of Queensland Act 1998* (Qld) and section 63 of the *Financial Accountability Act 2009* (Qld).
- ¹⁴ For example: see NSW Audit Office (2022) [Universities 2021](#), NSW Audit Office website; J. Guthrie (2022) '[The State of NSW Public Unis: What the Auditor General's report reveals – and doesn't](#)', *Campus Morning Mail*, 3 July; Victorian Auditor-General's Office (2022) [Results of 2021 Audits: Universities](#), VAGO website; Tasmanian Audit Office (2019) [Auditor-General's Report on the Financial Statements of State Entities, Vol. 1, State Entities 31 December 2018](#), Report of the Auditor-General No. 9 of 2018-19, TAO website, pp. 3-13; Tasmanian Audit Office (2022) [Auditor-General's report on the financial statements of State entities, Vol. 1: Audit of State entities and audited subsidiaries of State entities 31 December 2021 and 30 June 2022](#), Report of the Auditor-General No. 2 of 2022-23, TAO website, pp. 61-63.
- ¹⁵ C. Ross (2022) *Other Australian Parliaments Inquiries into Universities*, Parliamentary Research Service Briefing, Parliament of Tasmania, 24 August; C. Ross (2022) *Other Australian Parliaments Inquiries into Universities: Short List*, Parliamentary Research Service Briefing, Parliament of Tasmania, 16 September.

Disclaimer:

Every care has been taken in preparing this Briefing but it cannot be guaranteed to be error free, so the original documents should always be checked before using information.

This Briefing does not constitute legal advice.

APPENDIX G

**Jurisdictional Comparison of Australian University Acts:
Governing Bodies**

Parliamentary Research Service, 4 November 2022



Parliamentary Research Service

Parliament House
Hobart, Tasmania, 7000

4 November 2022

Jurisdictional Comparison of Australian University Acts: Governing Bodies

This paper looks at the public university Acts in each Australian State and Territory and compares the size and composition of university governing bodies.

Please note that this paper was written in November 2022 for the Tasmanian Legislative Council Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992*. The information in the paper is accurate as of the time it was written (November 2022).

There are 43 universities in Australia (37 public universities and six private universities).¹ Each university has its own Act. The public universities are established by Acts of State or Territory Parliaments. The two exceptions are: the Australian National University which has a Commonwealth Act; and the Australian Catholic University which (although it is a public university) has different legislative arrangements.²

This paper does not include the Australian Catholic University or the private universities. It looks at the 36 public universities that are comparable to the University of Tasmania. From now on, the paper's use of the word 'university' should be taken to mean 'public university'.

Each university Act sets out the size and composition of the governing body of the university, which is usually called the 'University Council'. The paper provides a comparison of the university governing bodies in each Australian State and Territory.

The paper's referencing details are provided in Endnotes at the end of the document.

Contents

Jurisdictional Comparison	3
Tasmania	4
New South Wales	5
Victoria	7
Queensland	9
Western Australia	11
South Australia	13
Australian Capital Territory	15
Northern Territory	16
Endnotes	17

Jurisdictional Comparison

This jurisdictional comparison lists the public university Acts in each Australian State and Territory, and compares the size and composition of university governing bodies. Each jurisdiction has two Tables of information.

The first Table lists the universities in that State or Territory, provides the year each university was established, and the Act of Parliament that governs each university. The titles of Acts are hyperlinked to the legislation itself. Note that the year included in the Table as the year the university was established means the year the university was founded (if the institution has always been a university), or the year the institution achieved university status (if, for example, it was a former institute of technology).

The second Table provides a summarised presentation of the composition of each public university governing body in that jurisdiction in 2021. (Please note that the information provided in the second Table is summarised, and see each university Act itself for further details.)

As explained in the background chapter of this Report, there is a general movement across the jurisdictions towards decreasing the size of university governing bodies. All the governing bodies of Australian public universities have a majority of external members. Members elected from within the universities are the in the minority.

The ex-officio members of each governing body are the Chancellor, the Vice-Chancellor, and the Head of the Academic Senate (or its equivalent). The category of 'Government appointed members' includes Ministerial and Governor-in-Council appointments. If there are two elected students on a governing body, it is generally one undergraduate student and one postgraduate student. Elected staff, students, and alumni means elected by and from the staff, students, and alumni.

In New South Wales and Victoria, the legislation allows some flexibility in the size and composition of governing bodies. The details for those states are derived from the annual reports for 2021 published by each university.

Notably, the exact composition of university governing bodies is subject to change as individual members leave (sometimes mid-year) and are replaced, particularly when there is flexibility in the number of appointments required.

Each jurisdiction begins on a new page.

Tasmania

Table 1: Tasmania’s University, Year Established, and Act

List of Tasmanian Universities	Year Established	State Parliament Legislation
University of Tasmania	1890	University of Tasmania Act 1992 (Tas)

Table 2: Summarised Composition of Tasmanian University Governing Body in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Students	Alumni	Total Members
UTAS	3	5 (Up to 6)	2	1	1	1 (minimum of one student appointed by Council)	0	13 (10-14)

Source: Section 8 of the *University of Tasmania Act 1992* (Tas); University of Tasmania (2022) *UTAS Annual Report 2021*, p. 38.

The University of Tasmania has a relatively small Council with less staff and student representation than most Australian universities’ governing bodies. The average size of the universities’ governing bodies in 2021 was 15.35 members (based on the figures compiled for this paper).

It is notable that the minimum of one student member on the University of Tasmania Council is appointed by Council rather than elected. All the other universities’ governing bodies have one or two student members elected by the students, except for the South Australian universities’ governing bodies which each have two student members who may be appointed or elected.

New South Wales

Table 3: New South Wales' Public Universities, Years Established, and Acts

List of NSW Universities	Year Established	State Parliament Legislation
University of Sydney (USyd)	1850	University of Sydney Act 1989 (NSW)
University of New South Wales (UNSW)	1949	University of New South Wales Act 1989 (NSW)
University of New England (UNE)	1954	University of New England Act 1993 (NSW)
Macquarie University (MQ)	1964	Macquarie University Act 1989 (NSW)
University of Newcastle (UoN)	1965	University of Newcastle Act 1989 (NSW)
University of Wollongong (UoW)	1975	University of Wollongong Act 1989 (NSW)
University of Technology Sydney (UTS)	1988	University of Technology Sydney Act 1989 (NSW)
Charles Sturt University (CSU)	1989	Charles Sturt University Act 1989 (NSW)
Western Sydney University (WSU)	1989	Western Sydney University Act 1997 (NSW)
Southern Cross University (SCU)	1994	Southern Cross University Act 1993 (NSW)

The O'Farrell Liberal-National NSW Government brought in the *Universities Governing Bodies Act 2011* (NSW). The Act facilitated amendments to each of the ten Acts establishing the State's public universities. The Act provided for governing bodies to have between 11 and 22 members, including at least one elected member of academic staff, at least one elected member of non-academic staff, and at least one elected student.³

In the second reading speech for the Bill that became the *Universities Governing Bodies Act 2011*, the Minister stated that the changes were made at the request of the universities.⁴

Table 4: Summarised Composition of NSW Public University Governing Bodies in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
USyd	3	5	2	2	1	2	0	15
UNSW	3	5	2	2	1	2	0	15
UNE	3	5	2	1	1	1	0	13
MQ	3	3	2	2	1	1	3 Council appointed	15
UoN	3	7	2	2	1	1	0	16
UoW	3	6	2	2	1	2	1 elected	17
UTS	3	7	2	2	1	2	0	17
CSU	3	8	2	1	1	1	0	16
WSU	3	7	4	1	1	2	0	18
SCU	3	3* (4)	2	2	1	1	0	12* (13)

Source: The information in this Table has been sourced from the NSW universities' 2021 annual reports, and email communication with UTS and CSU.⁵

* SCU had one unfilled Council appointed position in 2021. The total number of members if that position was filled is 13.

Victoria

Table 5: Victorian Public Universities, Years Established, and Acts

List of Vic Universities	Year Established	State Parliament Legislation
University of Melbourne (UMelb)	1853	University of Melbourne Act 2009 (Vic)
Monash University (Monash)	1958	Monash University Act 2009 (Vic)
La Trobe University (La Trobe)	1964	La Trobe University Act 2009 (Vic)
Deakin University (Deakin)	1974	Deakin University Act 2009 (Vic)
Royal Melbourne Institute of Technology University (RMIT)	1992	Royal Melbourne Institute of Technology Act 2010 (Vic)
Swinburne University of Technology (Swinburne)	1992	Swinburne University of Technology Act 2010 (Vic)
Victoria University (VU)	1992	Victoria University Act 2010 (Vic)
Federation University (FedUni)	1994*	Federation University Act 2010 (Vic)

* Federation University was formed in 2014 by the amalgamation of the University of Ballarat (which became a university in 1994) with Monash University’s Gippsland Campus.

The Baillieu Liberal Government of Victoria brought in the *Education Legislation Amendment (Governance) Act 2012* (Vic), which provided for university governing bodies to be between 11 and 21 members, and removed the requirement for elected staff and students to be included.⁶

The Andrews Labor Government changed these provisions with the passage of the *Education Legislation Amendment (TAFE and University Governance Reform) Act 2015* (Vic). The Andrews Government Act provided for Victorian university governing bodies to have between 13 and 21 members, including at least one elected member of staff and at least one elected student.⁷

Table 6: Summarised Composition of Vic Public University Governing Bodies in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
UMelb	3	4	4	1		1	0	13
Monash	3	10		1		1	0	15
La Trobe	3	5	5	1		1	0	15
Deakin	3	5	5	1		1	0	15
RMIT	3	4	4	1		1	0	13
Swinburne	3	4	4	1		1	0	13
VU	3	5	5	1		1	0	15
FedUni	3	5	5	1		1	0	15

Source: The information in this Table has been sourced from the Victorian universities' 2021 annual reports, and email correspondence with Swinburne University of Technology.⁸

Queensland

Table 7: Queensland Public Universities, Years Established, and Acts

List of Public Qld Universities	Year Established	State Parliament Legislation
University of Queensland (UQ)	1909	University of Queensland Act 1998 (Qld)
James Cook University (JCU)	1970	James Cook University Act 1997 (Qld)
Griffith University (Griffith)	1971	Griffith University Act 1998 (Qld)
Queensland University of Technology (QUT)	1988	Queensland University of Technology Act 1998 (Qld)
CQ University (CQU)	1992	Central Queensland University Act 1998 (Qld)
University of Southern Queensland (USQ)	1992	University of Southern Queensland Act 1998 (Qld)
University of the Sunshine Coast (UniSC)	1999	University of the Sunshine Coast Act 1998 (Qld)

The Palaszczuk Labor Government of Queensland brought in the *University Legislation Amendment Act 2017*, which made changes to the governance structure of James Cook University (at JCU’s request). The JCU Council was reduced from 22 members with 10 elected members (from the staff, students, and alumni), to between 11 and 21 members with 3 to 6 elected members (constituting no more than 25% of the total members of Council).⁹ The Government invited other public universities to consider their governance arrangements and whether they would like to pursue similar reforms.¹⁰

In 2021, the Palaszczuk Government brought in the *Queensland University of Technology Amendment Act 2021*, which reduced the size of the QUT Council from 22 to 15 members, and the number of elected members from 9 to 5. The changes were made at the request of QUT.¹¹

Table 8: Summarised Composition of Qld Public University Governing Bodies in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
UQ	3	3	8	2*	1	2	3 elected	22
JCU	3	5	3	2	1	1	0	15
Griffith	2 Chancellor & Vice- Chancellor	4	7	2	1	2	0	18
QUT	3	4	3	2	1	2	0	15
CQU	3	4	5	1	1	1	0	15
USQ	3	3	5	1	1	1	0	14
UniSC	3	4	6	2	1	2	0	18

Source: The information in this Table has been sourced from sections 13-16 of the Queensland Universities Acts, except for James Cook University which is sourced from the JCU 2021 Annual Report.¹²

* One elected staff position is for a member of the Academic Board.

Western Australia

Table 9: Western Australian Public Universities, Years Established, and Acts

List of Public WA Universities	Year Established	State Parliament Legislation
University of Western Australia (UWA)	1911	University of Western Australia Act 1911 (WA)
Murdoch University (Murdoch)	1973	Murdoch University Act 1973 (WA)
Curtin University (Curtin)	1986	Curtin University Act 1966 (WA)
Edith Cowan University (ECU)	1991	Edith Cowan University Act 1984 (WA)

The Barnett Liberal/Nationals Government of WA brought in the *Universities Legislation Amendment Act 2016* (WA). The Act amended WA's university Acts to reduce the maximum size of governing bodies to 17 and ensure identical composition consisting of:

- three members appointed by the Governor,
- three ex officio members,
- one undergraduate student,
- one postgraduate student,
- two alumni,
- one academic staff member,
- one non-academic staff member, and
- up to five co-opted members chosen by the governing body itself.¹³

The section on Western Australia is continued on the next page.

Table 10: Summarised Composition of WA Public University Governing Bodies in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
UWA	3*	4 – 5** (Up to 5)	3	1	1	2	2	16-17**
Murdoch	3	3 – 4** (Up to 5)	3	1	1	2	2	15-16**
Curtin	3	4 (Up to 5)	3	1	1	2	2	16
ECU	3	3 – 4** (Up to 5)	3	1	1	2	2	15-16**

Source: The information in this Table has been sourced from the WA Universities' Acts and annual reports.¹⁴

* Section 8 of the UWA Act provides that the UWA governing body – called 'the Senate' – includes the 'the Chancellor ex officio', 'the Vice-Chancellor of the University ex officio', and 'the Chair of the Academic Board of the University, as established under statute'.

** Members left or joined the governing body part way through the year.

South Australia

Table 11: South Australian Public Universities, Years Established, and Acts

List of Public SA Universities	Year Established	State Parliament Legislation
University of Adelaide (Adelaide)	1874	University of Adelaide Act 1971 (SA)
Flinders University (Flinders)	1966	Flinders University Act 1966 (SA)
University of South Australia (UniSA)	1991	University of South Australia Act 1990 (SA)

The Marshall Liberal Government of South Australia brought in the *Statutes Amendment (Universities) Act 2017* (SA). The Act amended the governance arrangements provided in the *University of Adelaide Act 1971* and the *Flinders University of South Australia Act 1966* (now the *Flinders University Act 1966*).

The second reading speech stated that, Adelaide and Flinders Universities had approached the SA Government seeking amendments to their Acts to reduce the size of their Councils (from the then current number of up to 21 members).¹⁵

The Minister stated that the ‘universities have made representations to the Government that the current size of the Councils is unwieldy and inefficient, and that smaller Councils would allow Council members to more fully engage in the governance of the universities.’ The Minister noted that ‘some staff and students have expressed concerns about the reduction in staff and student members of Council’. The Government granted the universities’ request, and the Act reduced the size of the governing bodies to between 12 and 16 members.¹⁶

The section on South Australia is continued on the next page.

Table 12: Summarised Composition of SA Public University Governing Bodies in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
Adelaide	3	7 (7 – 8)	0	1	1	2 appointed or elected	1	15
Flinders	3	8 (8 – 9)	0	1	1	2 appointed or elected	0	15
UniSA	3	8 (8 – 9)	0	1	1	2 appointed or elected	0	15

Source: The information in this Table has been sourced from sections of the SA Universities' Acts, and the University of Adelaide, Flinders, and UniSA annual reports.¹⁷

Australian Capital Territory

Table 13: ACT Public Universities, Years Established, and Acts

List of Public ACT Universities	Year Established	Legislation
Australian National University (ANU)	1946	Australian National University Act 1991 (Cth)
University of Canberra (Canberra)	1990	University of Canberra Act 1989 (ACT)

Note: ANU has an additional category of governing body member (elected Dean/ Head of Research School), and accordingly has its own Table.

Table 14: Summarised Composition of ANU Governing Body in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Dean/ Head of Research School	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
ANU	2* Chancellor & Vice-Chancellor	0	7	1**	2***	1	2	0	15

Source: The information in this Table is sourced from the *Australian National University Act*, and the ANU annual report.¹⁸

* The Chair of the Academic Board is a non-voting member of the Council.

** one person who is either a dean or the head of a research school and is elected, in either case, by the deans and the heads of the research schools voting together.

***one member of the academic staff of the Institute of Advanced Studies elected by members of that staff; and one member of the academic staff of The Faculties elected by members of that staff.

Table 15: Summarised Composition of University of Canberra Governing Body in 2021

	Ex-Officio Members	Council Appointed Members	Govt. Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
Canberra	3	0	8	1	1	2	0	15

Source: The information in this Table is sourced from the *University of Canberra Act*, and the University of Canberra annual report.¹⁹

Northern Territory

Table 16: Northern Territory Public University, Year Established, and Act

List of Northern Territory Public Universities	Year Established	Legislation
Charles Darwin University (CDU)	1989*	Charles Darwin University Act 2003 (NT)

* The Northern Territory University was established in 1989. In 2003, the Northern Territory University merged with a number of other educational institutions to form Charles Darwin University.

Table 17: Summarised Composition of NT Public University Governing Body in 2021

	Ex-Officio Members	Council Appointed Members	Administrator Appointed Members	Elected Academic Staff	Elected Professional Staff	Elected Students	Alumni	Total Members
CDU	3	0	8	2*	0	2	0	15

Source: The information in this Table is sourced from section 9 of the *Charles Darwin University Act 2003* and p. 28 of the *Charles Darwin University Annual Report 2021*.

* One person elected by and from the full-time higher education academic staff of the University; and one person elected by and from the full-time TAFE academic staff of the University.

Endnotes

¹ The six private universities are Bond University, Torrens University, the University of Notre Dame, the University of Divinity, Carnegie Mellon, and Avondale University.

² ACU was established in 1990 through incorporation as a public company limited by guarantee. It is regulated under the *Australian Charities and Not-for-profits Commission Act 2012* and the *Corporations Act 2001*. See: Australian Catholic University (2022) [ACU Annual Report 2021](#), ACU website, p. i.

³ E. Chan (2018) [Legislative Changes Affecting the Governance of Australian Universities](#), University Chancellors Council, UCC website, p. 3.

⁴ [Second Reading Speech for the Universities Governing Bodies Bill 2011](#), Parliament of NSW website, p. 7.

⁵ University of Sydney (2022) [University of Sydney Annual Report 2021](#), USyd website, pp. 8-9; University of New South Wales (2022) [UNSW Annual Report 2021](#), UNSW website, p. 56; University of New England (2022) [UNE Annual Report 2021](#), Narrative Report, UNE website, p. 36; Macquarie University (2022) [Macquarie University Annual Report 2021](#), MQ website, p. 8; University of Newcastle (2022) [University of Newcastle 2021 Annual Report](#), UoN website, p. 34; University of Wollongong (2022) [University of Wollongong Annual Report 2021](#), UoW website, p. 17; University of Technology Sydney (2022) [UTS Annual Report 2021](#), UTS website, p. 5; Email communication with Executive Officer to UTS Council, D. Crook, 13 Oct 2022; Charles Sturt University (2022) [Charles Sturt Annual Report 2021](#), CSU website, p. 15; Email communication with CSU Executive Officer, Office of Governance and Corporate Affairs, H. Brimstone, 14 Oct 2022; Western Sydney University (2022) [Western Sydney University Annual Report 2021](#), Volume 1, WSU website, p. 10; Southern Cross University (2022) [2021 Southern Cross University Annual Report](#), SCU website, pp. 17, 20.

⁶ Chan (2018) op. cit., p. 9.

⁷ *ibid.*; [Second Reading Speech for the Education Legislation Amendment \(TAFE and University Governance Reform\) Bill 2015](#), Legislative Assembly Hansard, Parliament of Victoria website, 21 October 2015, p. 3868.

⁸ University of Melbourne (2022) [University of Melbourne Annual Report 2021](#), UMelb website, p. 83; Monash University (2022) [Monash University Annual Report 2021](#), Monash website, p. 10; La Trobe University (2022) [La Trobe University Annual Report 2021](#), La Trobe website, pp. 16-17; Deakin University (2022) [Deakin University Annual Report 2021](#), Deakin website, p. 64; RMIT (2022) [RMIT 2021 Annual Report](#), RMIT website, pp. 58-59; Swinburne University of Technology (2022) [Swinburne 2021 Annual Report](#), Swinburne website, p. 16; Email correspondence with E. Lincoln, Director Governance and Assurance, Swinburne, 22 October 2022; Victoria University (2022) [Victoria University 2021 Annual Report](#), VU website, p. 52; Federation University (2022) [Federation University Annual Report 2021](#), FedUni website, pp. 27-28.

⁹ Parliament of Queensland, Education, Tourism, Innovation and Small Business Committee (2017) [University Legislation Amendment Bill 2017, Report No. 38](#), PoQ website, pp. 6-7.

¹⁰ Parliament of Queensland Education, Employment and Training Committee (2021) [Queensland University of Technology Amendment Bill 2021, Report No. 11](#), PoQ website, p. 2.

¹¹ Parliament of Queensland Education, Employment and Training Committee (2021) op. cit., pp. 3-4.

¹² See: Sections 13-16 of the *University of Queensland Act 1998*; James Cook University (2022) [JCU 2021 Annual Report](#), JCU website, p. 15; sections 13-16 of the *Griffith University Act 1998*; sections 13-16 of the *Queensland University of Technology Act 1998*; sections 13-16 of the *Central Queensland University Act 1998*; sections 13-16 of the *University of Southern Queensland Act 1998*; sections 13-16 of the *University of the Sunshine Coast Act 1998*.

¹³ [Second Reading Speech for the Universities Legislation Amendment Bill 2016](#), Parliament of Western Australia website, p. 1.

¹⁴ See: section 8 of the *University of Western Australia Act 1911*; University of Western Australia (2022) [UWA Annual Report 2021](#), UWA website, p. 30; section 12 of the *Murdoch University Act 1973*; Murdoch University (2022) [Murdoch University 2021 Annual Report](#), Murdoch website, p. 50; section

9 of the *Curtin University Act 1966*; Curtin University (2022) [Curtin University Annual Report 2021](#), Curtin website, pp. 40-41; section 9 of the *Edith Cowan University Act 1984*; Edith Cowan University (2022) [Edith Cowan University Annual Report 2021](#), ECU website, p. 10.

¹⁵ [Second Reading Speech for the Statutes Amendment \(Universities\) Bill 2017](#), Parliament of South Australia Legislative Council Hansard, 18 May 2017, SA Parliament website.

¹⁶ [Second Reading Speech for the Statutes Amendment \(Universities\) Bill 2017](#), Parliament of South Australia Legislative Council Hansard, 18 May 2017, SA Parliament website; *Statutes Amendment (Universities) Act 2017* (SA).

¹⁷ See: section 12 of the *University of Adelaide Act 1971*; University of Adelaide (2022) [University of Adelaide Annual Report 2021](#), University of Adelaide website, p. 47; section 5(3) of the *Flinders University Act 1966*; Flinders University (2022) [Flinders University Annual Report 2021](#), Flinders website, p. 36; section 10(3) of the *University of South Australia Act 1990*; University of South Australia (2022) [UniSA 2021 Annual Review](#), UniSA website, pp. 54-57.

¹⁸ See: Section 10 of the *Australian National University Act 1991* (Cth); Australian National University (2022) [Australian National University Annual Report 2021](#), ANU website, pp. 78-79.

¹⁹ See: section 11 of the *University of Canberra Act 1989* (ACT); University of Canberra (2022) [University of Canberra Annual Report 2021](#), University of Canberra website, p. 10.

APPENDIX H

Elected Members, University Councils at Comparable Universities

(Source: Dr Peter McQuillan, 2022, Submission #125, p. 2)

Table 1: Examples of governing body memberships at some other Universities 2022.

<i>University</i>	<i>Global Rank</i>	<i>Council Board or Composition</i>
University of Oslo, NORWAY	90	The University Board has 11 members and consists of: 1x The Rector chairperson 3x members elected from among the employees with teaching and research positions, 1x member elected from among the technical and administrative staff, 2x members elected from the student body, 4x external members. (i.e. 6 of 11 are elected from the university community). https://www.uio.no/english/about/organisation/board/
University of Helsinki FINLAND	94	Board of 12 members: 3x professors of the university 2x teachers/researchers/other staff 2x students 5x external (incl. chair) https://www.helsinki.fi/en/about-us/people/university-management/board
Aix-Marseille University FRANCE	180	Total of 36 members: Elected-: 8x reps of university professors and assimilated personnel; 8x reps of other teacher-researchers, teachers and researchers and similar personnel; 6x student reps, and people benefiting from Continuing Education enrolled in the establishment; 6x reps of engineering, administrative, technical and library staff Appointed -: -8 outside people including: 1x rep of the PACA Regional Council; 1x rep of the City of Aix-en-Provence; 1x rep of the City of Marseille; 1x rep of CNRS; 4 external people including: 1x person assuming general management functions within a company; 1x rep of employee representative organizations; 1x rep of a company employing less than 500 employees; 1x rep of a secondary school. https://daji.univ-amu.fr/public_content/conseil-administration/membres
University of Cape Town SOUTH AFRICA	109	30-member Council consists of: executive officers, other employees, students, plus persons who are not staff or students appointed by a wide range of parties. https://uct.ac.za/administration-leadership/council
Victoria University of Wellington	236	12 member Council: including: 2x elected staff (at least) 2x elected students (at least) 1x Vice-Chancellor of

NEW ZEALAND		(6x (up to) other persons appointed in accordance with Statute... https://www.wgtn.ac.nz/documents/policy/governance/council-membership-statute.pdf
University of Chile, Santiago CHILE	392	1x Rector 1x Pro -Chancellor 1x Representative of the Presidency of the Republic 16x Academic Deans 2x Representatives of Union orgs. https://uchile.cl/presentacion/consejo-universitario/nomina-de-integrantes
Flinders University, SOUTH AUSTRALIA	271	Council of 15 members. 4 elected (2 staff, 2 students), 8 appointed, 3 ex officio. appointed members get 4 years, elected members get 2 years. https://www.flinders.edu.au/content/dam/documents/about/council/council-membership.pdf
Charles Darwin University NT	501	Council of 15 members. 4x elected (2 academic staff, 2 students) 8x appointed, 1x C, 1x VC, 1x Chair AC appointed members get 3 years, elected members get 2 years. https://www.cdu.edu.au/about-cdu/leadership-structure/strategic-services-governance/university-council-committees

APPENDIX I

Question on Notice Response, University of Tasmania

(extract from 3 May 2023)

Response to Legislative Council Questions on Notice

6. What recommendations were made from the 2017 external review of the Academic Senate, and to what extent have they been implemented?

The external review and implementation of recommendations of Academic Senate's is managed by TEQSA regulation under the *Tertiary Education Quality and Standards Agency Act 2011* (TEQSA Act), the Higher Education Standards Framework, including the *Higher Education Standards Framework (Threshold Standards) 2021* (Threshold Standards) and the *Education Services for Overseas Students Act 2000* (ESOS Act) and associated instruments (ESOS Framework).

In 2017, an external review of the University's Academic Senate was undertaken to consider the ways in which the academic governance model could be enhanced. The summary finding from the panel outlined:

'The Panel finds that nothing is fundamentally "broken" in the University of Tasmania's Academic Senate model of academic governance, but some improvements are timely, and the recommendations that follow may prove useful. The current model works well, but its efficiency and effectiveness through its standing and sub-committees need to be streamlined, and the communication channels improved.'

The following table provides the details of the recommendations provided by the Panel, implementation progress and further changes since the external review. It should be noted that the next external review of Academic Senate will take place in 2024, in line with TEQSA's seven-year review remit.

Table 2. Academic Senate 2017 External Review recommendations and implementation progress

2017 External Review Recommendations	Implementation of 2017 recommendations	Further changes since 2017
<p>1) The size of the Board should be further reduced. Heads of Schools could be excised as members and replaced by one Head of School representing them all and elected by the Heads of School. Justification: The inclusion of the Heads of School is a strong management presence that can constrain the free expression of ideas. The large number of <i>ex officio</i> members has meant some diminution of the academic 'voice' at Senate.</p>	<p>This recommendation was not endorsed for the following reasons: Heads of Academic Units are an important two-way communication conduit for the matters considered by Academic Senate. As such, reducing membership to one Head of Academic Unit negatively affects the ability of Academic Senate to improve communication channels (as per recommendation 7). This is particularly important as the University academic structure changed to fewer, larger organisational units from 1 January 2018.</p>	<p>As a result of the most recent internal review of Academic Senate (in 2022), the non-management academic voice on Senate has been further strengthened through the inclusion of 9 additional academic positions, as follows:</p> <ul style="list-style-type: none"> • 4 x new appointed roles under 6.1(a)(vi) of the Academic Senate Ordinance which states that: <i>subject to endorsement of Academic Senate, the Chair may, in writing, appoint up to 4 additional members to provide a diversity of views if</i>

Response to Legislative Council Questions on Notice

	<p>Therefore, it was proposed that all Heads of Academic Unit be retained.</p> <p>The Review Report also discussed this recommendation in the context of a need to better balance ex officio and elected members. Accordingly, it was also proposed that the number of electd members increase from 12 to 20 members - four members from each traditional College and two members from the University College (elected by the Colleges). The remaining two members to be elected academic staff from areas not aligned to a College. This change to Senate membership was implemented to assist in improving the balance of ex officio and elected members.</p>	<p><i>the Chair believes the current membership does not reflect the academic and cultural diversity of the University</i></p> <ul style="list-style-type: none"> • 5 x members of Senate's newly established Monitoring and Assurance Committee (MAC) - The MAC comprises seven members: <ul style="list-style-type: none"> ○ Deputy Chair of Academic Senate ○ Five academic staff members who are not ex-officio members of Academic Senate ○ One student representative selected by the Tasmanian University Student Association (TUSA).
<p>2) The Chairs of Academic Senate Committees should become full members.</p>	<p>This recommendation was agreed, noting though that this increased ex officio membership in juxtaposition with recommendation 1, and the commentary surrounding that recommendation in the Review Report, as at this time all chairs of Senate committees were the head of the relevant portfolio (i.e. management)</p>	<p>As a result of the most recent internal review of Academic Senate (in 2022), the chairs of the following Academic Senate committees are no longer the head of the relevant portfolio, but are selected by the Nominations Committee via an Expression of Interest process. Eligibility for nomination is limited to current members of these committees, and non-Ex-Officio members of Academic Senate:</p> <ul style="list-style-type: none"> • Student Experience Committee • University Learning and Teaching Committee • University Research Committee <p>This change has further enhanced non-management academic representation on Senate.</p>

Response to Legislative Council Questions on Notice

<p>3) The meetings should be reduced in length to 2 to 2.5 hours and be held by video conference more frequently.</p>	<p>This recommendation was agreed to as meeting times, exclusive of strategic sessions and a short meal break have averaged 2.5 hours during 2017 (2 hours in 2016). Noting discussion in the Review Report on the value of the Strategic Sessions (Focus/Strategy topics), the Standing Orders will be amended to clarify the maximum time for meetings as 3.5 hours.</p> <p>It is proposed that videoconference meetings be trialled at four per annum for 2018. Given Academic Senate's mandate as the primary collegial forum for academic discussion and the difficulties experienced in achieving that mandate through videoconference meetings, it is proposed that only the first and last meeting of each year be held face to face (in Hobart and Launceston, respectively) and that the Planning Day continue to be held in Hobart.</p>	<p>During COVID (from May 2020–Nov 2022) all Senate meetings were held via Zoom due to social distancing measures. The December 2022 Planning Day was the first face-to-face meeting of Senate post-pandemic. As a result of the most recent internal review of Academic Senate (in 2022), the following schedule of meetings was agreed:</p> <ul style="list-style-type: none"> • 6 meetings per year plus 1 planning day. • 2 meetings to be shorter strategic sessions (2.5hrs including short break) held via zoom • 4 meetings to be longer sessions (3.5 hrs, including lunch break) with 2 of these meetings face-to-face (one in Hobart and one in Launceston) and 2 to be held via zoom) • Planning Day to be held face-to-face in Hobart.
<p>4) Faculty Boards need to be empowered and strengthened in the University. The role of Faculty Boards in academic governance needs to be clarified, with particular attention being given to reporting to Senate. Academic governance is to be construed not as Senate + subcommittees, but as Senate + Subcommittees + Faculty Boards. Decision-making needs to be decentralized through the whole academic governance system, with greater alignment between local and university levels. All elements are responsible for academic quality and review.</p>	<p>This recommendation was agreed to with a Working Party comprising the Chair of Academic Senate and Pro Vice-Chancellor (Learning and Teaching) considering the Academic Structure Policy following the redesign of the University's academic structure. This recommendation validated discussions held by that Working Party in relation to the clear articulation of the purpose and responsibilities of College Boards and other College Committees.</p> <p>Academic Senate received an update from</p>	<p>The University's academic structure has been amended so that there are no longer Faculty Boards.</p> <p>An academic delegations framework was adopted in 2020. As part of that framework, the Academic Delegations Ordinance clearly outlines the decentralisation of many governance functions into Colleges, including particularly explicit identification of responsibility for academic quality, monitoring and review.</p>

Response to Legislative Council Questions on Notice

<p>5) Reports to Senate from Committees and portfolios must be clearer and more detailed, for example, outlining the issue, the discussion that occurred, and the justification for the decision reached. Senate must have confidence that its decisions have been fully debated. The Standing Committee should have a role in vetting the quality of reports.</p>	<p>the Working Group at its 3 November 2017 meeting – noting the scope has been broadened to include the Heads of School Policy. That Policy was redeveloped as an Academic Leadership Policy to complement the Academic Structure Policy.</p> <p>This recommendation was partially agreed to, noting that the majority of reports progressing to Academic Senate do so via Academic Senate Committees. Briefing note templates will be amended to ensure the papers presented to those Committees, and the ensuing reports to Academic Senate conform to the recommended requirements.</p> <p>In relation the Standing Academic Committee, it was noted that <i>Ordinance 13 – Academic Senate</i> provided Standing Academic Committee a role in assisting with the management of the Academic Senate Agenda. However, the timeframes involved and the workloads of Standing Academic Committee members do not allow for considered pre-meeting vetting of reports. As a more holistic approach to the issue of the quality of papers and reports, it was proposed Standing Academic Committee work with the Chairs of Academic Senate Committees in an educative manner in relation to the use of the revised templates and post-meeting to address any issues which may remain.</p>	<p>Since the start of Vice-Chancellor Black's tenure at UTAS (2018) a new format for all committee briefing notes was implemented (Known colloquially as SCR (Situation, Complication, Resolution). This format has greatly enhanced the consistency of papers to Senate and its committees and the ability of Senate and committee members to understand what is being asked of them in a timely and efficient manner which has streamlined the work of Senate and its committees.</p> <p>With the recent establishment of the Monitoring and Assurance Committee of Senate, further updates to the additional Report Template (which is used as an attachment to briefing notes) have been made to ensure gaps in reporting are reduced and members spend less time needing to ask for further information, thereby continuing to streamline matters of business considered by Senate and its committees.</p> <p>The minutes of all committees are available to all University staff through the intranet. There is a standing invitation to contact</p>
--	---	--

Response to Legislative Council Questions on Notice

<p>6) Mechanisms must be found to better educate members (particularly elected members and students) about their roles, particularly in monitoring performance against the strategic plan, improving policy and practice, debating university and sectoral trends, and looking outward and innovatively. Additionally, student representatives must have stronger training about their roles in Senate generally, and academic governance in particular.</p>	<p>This recommendation was agreed to and the Academic Senate's Information Booklet was updated to further outline both corporate governance generally and academic governance in particular; the role and delegated authorities of Academic Senate, and; the role and responsibilities of members. Induction sessions continued to be provided for all new members and offered to all returning members, including student members of Senate and its committees.</p>	<p>Chairs should there be particular questions. Since 2020, in addition to the Information Booklet and induction sessions for all new members, student members now meet with the Chair and Secretary of Senate prior to each meeting of Senate to discuss each item in the agenda and answer any questions the students may have about the upcoming meeting. This session also assists student members to prepare for any agenda items they are presenting at the meeting.</p> <p>In addition, in 2023 all members of the newly established Monitoring and Assurance Committee (including the student member) attended a professional development course run by the Association for Tertiary Education Management called 'Reporting to governance committees in a higher education environment'. The Chair and Secretary of Senate also ran a separate induction session for MAC members prior to their inaugural meeting.</p>
<p>7) Communication to all academic staff and students, in channels additional to the formal Senate website, needs to be improved and streamlined. At the moment the communication appears to be 'hit and miss.'</p>	<p>This recommendation was agreed to, noting that all members have a responsibility to provide information from their College/Academic Unit and to disseminate the discussions, decisions and recommendations from Academic Senate meetings as appropriate, but it was somewhat apparent that that communication was not as effective as it could be. It was agreed that Academic Senate would work with members to ensure communication channels were formalised. As noted above,</p>	<p>Since 2018, subsequent to each meeting of Academic Senate, a Senate Newsletter is published on the Staff Intranet that captures the highlights from each meeting and includes information on how readers can access further information about Senate (i.e. the agenda, minutes, meeting outcomes etc, which are available to all staff). Senate members are sent the link to the newsletter and encouraged to share it with their colleagues.</p>

Response to Legislative Council Questions on Notice

	<p>Heads of Academic Units have an important role in the two-way communication of issues related to Academic Senate discussions and decisions. The changes to the nomination of elected members discussed above also assisted, as elected members have a clearly defined group of staff to communicate to/with. In addition, the Chair of Academic Senate agreed to consult with counterparts in the sector to ascertain additional and effective mechanisms for that communication.</p>	<p>The Senate web page is now focussed on external readers and an Academic Senate staff intranet page has been developed for internal facing Senate information.</p> <p>Additionally, the Chair of Senate occasionally publishes a video on the staff intranet or via a bulk email to all staff to update staff on relevant Senate news – such as the call for nominations for the Monitoring and Assurance Committee at the start of 2023.</p> <p>Bulk emails to all staff are often used to further communicate Senate information – such as nominations for elected members, nominations for membership of Senate committees and upcoming graduation rounds to encourage staff attendance at graduation ceremonies.</p>
<p>8) Research and researcher development needs to become an integral part of the academic governance discussions at the Board, informed by a strong researcher voice in the University Research Committee.</p>	<p>The following information was provided in relation to this recommendation:</p> <p>The composition of University Research Committee was reviewed in 2015. As a result, this Committee comprises eight ex officio members (Deputy Vice-Chancellor (Research), Chair, Academic Senate, the Pro Vice-Chancellors (Researcher Development and Research Infrastructure), and four elected Associate Deans/Directors Research. Associate Deans/Directors Research are senior researchers. The remaining seven members comprise four experienced researchers (nominated by Academic Senate), a research fellow, a higher degrees</p>	<p>All Senate committees are reviewed each year to ensure their Terms of Reference and Membership remain fit-for-purpose in the ever changing higher education sector.</p> <p>Currently (2023) the University Research Committee comprises the following membership:</p> <ul style="list-style-type: none"> • Chair (selected by Nominations Committee via an EOI process) • Deputy Vice-Chancellor Research • Chair/Deputy Chair of Academic Senate • Dean of Graduate Research • Assoc Dean Research Performance, CoHM

Response to Legislative Council Questions on Notice

	<p>by research candidate, and an external member with research and development experience. As such the Committee comprises a strong researcher voice.</p> <p>The Chair of Academic Senate will work with the Chair of University Research Committee to ensure regular and fulsome reporting to Academic Senate on research and researcher development issues. In addition, the development of an annual workplan as discussed below will assist in this regard.</p>	<ul style="list-style-type: none"> • Assoc Dean Research Performance, CoSE • Assoc Dean Research Performance, CALE • Assoc Dean Research Performance, CoBE • University Librarian • Research Fellow of Academic Senate Nominated by Academic Senate • 4 x Academic Staff nominees • HDR Candidate • TUSA Postgraduate Education President • Observers with speaking rights • Senior Advisor to the DVCR • Executive Director, Research <p>The implementation of the Academic Senate Workplan in 2018 has greatly enhanced the consideration of Research and researcher development matters at Senate as this forward planning mechanism has allowed paper authors the time required to develop and present their agenda items.</p>
<p>9) Senate's relationship with Council needs improvement. Reports, both written and verbal, need to be revised to better articulate and draw engagement and input from Council, and to allow Council to understand the underlying logic of recommendations.</p>	<p>This recommendation was agreed to, noting that this has been an area of regular discussion and consideration between the Chair and the Chancellor. The Chair agreed to work with the Chancellor to improve reporting to Council and Council's engagement with that reporting.</p>	<p>As of 2020, all Council members have had a standing invitation to join each Senate meeting, and since the arrival of the new Chancellor in June 2021, Ms Watkins has been a regular attendee at Senate. This has increased Council's understanding of Senate and has strengthened relations between the two bodies. There is no change to the planned Senate agenda as a result of any member of Council being in attendance.</p>

Response to Legislative Council Questions on Notice

<p>10) While there was no strong indication that management was unduly exerting influence on Senate, it appears that the distinction, and indeed the role of Senate itself, must be clarified with Senate members. The Chair's 'roadshows' in this regard are appreciated, but more must be done. The whole academic community needs greater education about the role of Senate.</p>		<p>At every Council meeting there is both a written and verbal report from the Academic Senate Chair who is an ex-officio member of Council.</p> <p>In 2023, it was agreed to move the report form Senate earlier in the Council agenda to assist in setting the scene for the meeting.</p>
<p>This recommendation was agreed to, reiterating the Academic Senate Information Booklet which outlines both corporate governance generally and academic governance in particular. The role and delegated authorities of Academic Senate are articulated to provide an understanding of the distinction between governance and management, and this is echoed during meetings. The roadshows conducted by the Chair resulted in very minimal attendance. The Chair therefore agreed to work with counterparts in the sector to ascertain alternative and additional mechanisms for educating the academic community.</p>	<p>During the COVID years, the Senate Chair established zoom drop-in sessions which all members of staff were invited to attend to ask any questions in relation to Senate in general or academic matters in particular. Although these sessions were well received by attendees, once again the sessions (like the roadshows before them) resulted in minimal attendance.</p> <p>Another initiative that has been implemented is academic staff attending Senate meetings by invitation as observers with speaking rights. A recent example of this is the special meeting of Senate scheduled for 3 May 2023 to discuss the forthcoming referendum. All of our Indigenous Fellows have been invited to this meeting to share their thoughts around the referendum. By inviting academic staff to attend Senate it is hoped that understanding of the work of Senate will be increased and this will encourage more academic staff to nominate for membership of Senate and/or its committees.</p>	<p>The Academic Senate Workplan has been in</p>
<p>11) Senate needs to outline which key</p>	<p>This recommendation was agreed to, noting</p>	

Response to Legislative Council Questions on Notice

<p>reports it is to commission annually, complete with targets identified in the strategic plan. These reports must incorporate data showing implementation and improvements.</p>	<p>that the recommendation reinforces work already underway to establish an annual workplan of reporting and monitoring, informed by both the Higher Education Standards Framework and the creation of the Business Intelligence Unit.</p>	<p>use since 2018 and continues to be a beneficial addition to each Senate agenda. The Workplan lists each agenda item for each meeting and cross-references the item against the relevant section of the Academic Senate Ordinance and the associated Standard from the Higher Education Standards Framework (HESF) which outlines reporting obligations mandated by TEQSA.</p>
<p>12) <i>Ordinance 13 Academic Senate</i> should be amended to place the University's budget before the Senate for noting.</p>	<p>This recommendation was agreed to, noting that <i>Ordinance 13 – Academic Senate</i> currently indicates (in 2017) that Academic Senate was to provide advice to Council on the longer term implications of the distribution of resources. It was agreed that the Chair would discuss amendments to <i>Ordinance 13 – Academic Senate</i> with the Chancellor to clarify further the advisory nature of Academic Senate's role in this regard.</p>	<p>Ordinances, rules, governance level principles, policies, procedures, guidelines and minimum standards were replaced with a new suite of ordinances, policies and procedures at the conclusion of the Governance Instruments Review in September 2020.</p> <p><i>Ordinance 13 – Academic Senate</i> was re-titled <i>Academic Senate Ordinance</i> and the role of Academic Senate was revised to align with Standard 6.3 of the HESF. Standard 6.3 does not provide any remit for academic senates or boards to provide oversight of, or advice on, the financial resources of universities. Having said that, the University Performance Report is a standing item on each Senate agenda in the 'For Information Only' section and is included for the general awareness of members.</p> <p>The annual budget is also presented to members and is able to be starred for discussion by any member.</p>
<p>13) General Amendments to <i>Ordinance 13 Academic Senate</i></p>	<p>This recommendation was agreed to, noting that Academic Senate would work with</p>	<p><i>Ordinance 13 – Academic Senate</i> was re-titled <i>Academic Senate Ordinance</i> in</p>

Response to Legislative Council Questions on Notice

	University Council in relation to the amendments proposed to <i>Ordinance 13 – Academic Senate</i> .	September 2020 and the role of Academic Senate was revised to align with Standard 6.3 of the HESF.
--	--	--

APPENDIX J

University Rankings and UTAS

Parliamentary Research Service, 22 February 2023



University Rankings and UTAS

This Briefing provides information about university rankings, and the performance of the University of Tasmania within these rankings. The Briefing has been prepared for the Legislative Council Select Committee into the Provisions of the *University of Tasmania Act 1992*.

The three most important international rankings organisations are the 'Times Higher Education World University Rankings', the 'QS World University Rankings', and the 'Academic Ranking of World Universities'.

The Briefing firstly provides an introduction to university rankings. It then provides a short explanation of each of the three main ranking organisations, the criteria they use, and how they rank the University of Tasmania.

Disclaimer:

Every care has been taken in preparing this Briefing but it cannot be guaranteed to be error free, so the original documents should always be checked before using information.

This Briefing does not constitute legal advice.

Contents

Introduction	3
Times Higher Education World University Rankings	4
Table 1: THE World University Rankings – Australia 2023	4
Table 2: THE World University Rankings – Australia 2015-16	6
THE Webpage on the University of Tasmania	7
THE Ranking of the UTAS Law School 2018 and 2023	7
QS World University Rankings	8
Table 3: QS World University Rankings 2023 – Australia	8
Table 4: QS World University Rankings 2020 – Australia	10
QS Webpage on the University of Tasmania	11
Academic Ranking of World Universities	12
Table 5: Academic Ranking of World Universities – Australia 2022	12
Table 6: Academic Ranking of World Universities – Australia 2015	14
ARWU Webpage on the University of Tasmania	15
Endnotes	15

Introduction

There are a number of different university rankings organisations. It is widely recognised that the three most influential international rankings organisations are the Times Higher Education World University Rankings (THE), the QS World University Rankings, and the Academic Ranking of World Universities (ARWU).

Each of these organisations uses different criteria to produce an annual list ranking the world's best universities. The organisations also provide lists of the best universities in particular regions, so each provides an annual ranked list of Australian universities. The lists are published on the organisations' websites and attract media attention.¹

The methodologies used by the ranking organisations to determine the rankings are subject to criticism.² Some critics argue that the ranking of whole institutions does not adequately reflect all the particular characteristics of that institution.³ Critics are also concerned that some universities are too focused on pursuing higher rankings.⁴

Research also shows that university rankings are influential, that they play an important part in a university's reputation, and its ability to market itself to students, particularly to full-fee paying international students.⁵ It is also argued that the reputation bestowed by rankings improves graduate employment prospects, and attracts higher calibre staff and research funding.⁶

Times Higher Education World University Rankings

The website of the Times Higher Education (THE) World University Rankings states that it provides a list of the world's best universities, with an emphasis on research. It states that it assesses universities according to the following criteria:

- Teaching (the learning environment)
- Research (volume, income and reputation)
- Citations (research influence)
- Industry income (knowledge transfer)
- International outlook (staff, students, and research).

The website further states that it uses 13 performance indicators to provide comparisons, and that the overall list is accompanied by 11 subject specific rankings.⁷ The Times Higher Education rankings website provides information on the University of Tasmania from the year 2011-12.⁸

Table 1 below shows the Times Higher Education rankings of 37 Australian universities for 2023. Table 2 then shows the Times Higher Education rankings of 31 Australian universities for 2015-16 (when the UTAS ranking was at its highest since the THE rankings began in 2011-12).

Table 1: THE World University Rankings – Australia 2023

Australia Rank 2023	World Rank 2023	University
1	34	University of Melbourne (Vic)
2	44	Monash University (Vic)
3	53	University of Queensland (Qld)
4	=54	University of Sydney (NSW)
5	62	Australian National University (Cth)
6	=71	University of New South Wales (NSW)
7	88	University of Adelaide (SA)
8	=131	University of Western Australia (WA)
9	133	University of Technology Sydney (NSW)
10	175	Macquarie University (NSW)
=11	201-250	Curtin University (WA)

=11	201-250	University of Newcastle (NSW)
=11	201-250	Queensland University of Technology (Qld)
=11	201-250	Western Sydney University (NSW)
=11	201-250	University of Wollongong (NSW)
=16	251-300	Australian Catholic University (NSW)
=16	251-300	Bond University (Qld)
=16	251-300	University of Canberra (ACT)
=16	251-300	Deakin University (Vic)
=16	251-300	Griffith University (Qld)
=16	251-300	La Trobe University (Vic)
=22	301-350	Flinders University (SA)
=22	301-350	RMIT University (Vic)
=22	301-350	University of South Australia (SA)
=22	301-350	University of Southern Queensland (Qld)
=22	301-350	Swinburne University of Technology (Vic)
=22	301-350	University of Tasmania (Tas)
=28	351-400	Charles Darwin University (NT)
=28	351-400	Edith Cowan University (WA)
=28	351-400	James Cook University (Qld)
31	401-500	Murdoch University (WA)
32	501-600	Victoria University (Vic)
=33	601-800	Central Queensland University (Qld)
=33	601-800	Federation University Australia (Vic)
=33	601-800	Southern Cross University (NSW)
=33	601-800	University of the Sunshine Coast (Qld)
37	1001-1200	Charles Sturt University (NSW)

Source: Times Higher Education (2022) '[Best Universities in Australia 2023](#)', Times Higher Education website.

Table 2: THE World University Rankings – Australia 2015-16

Australia Rank 2015-2016	World Rank 2015-2016	University
1	33	University of Melbourne (Vic)
2	52	Australian National University (Cth)
3	=56	University of Sydney (NSW)
4	=60	University of Queensland (Qld)
5	73	Monash University (Vic)
6	=82	University of New South Wales (NSW)
7	109	University of Western Australia (WA)
8	=149	University of Adelaide (SA)
9	201-250	University of Technology Sydney (NSW)
=10	251-300	Charles Darwin University (NT)
=10	251-300	Flinders University (SA)
=10	251-300	Griffith University (Qld)
=10	251-300	James Cook University (Qld)
=10	251-300	University of Newcastle (NSW)
=10	251-300	Queensland University of Technology (Qld)
=10	251-300	University of Tasmania (Tas)
=10	251-300	University of Wollongong (NSW)
=18	301-350	Deakin University (Vic)
=18	301-350	Macquarie University (NSW)
=20	351-400	La Trobe University (Vic)
=20	351-400	University of South Australia (SA)
=20	351-400	Swinburne University of Technology (Vic)
=23	401-500	Curtin University (WA)
=23	401-500	Murdoch University (WA)
=23	401-500	RMIT University (Vic)

=23	401-500	Southern Cross University (NSW)
=23	401-500	Western Sydney University (NSW)
=28	501-600	University of Canberra (ACT)
=28	501-600	Central Queensland University (Qld)
=28	501-600	Edith Cowan University (WA)
31	601-800	University of Southern Queensland (Qld)

Source: Times Higher Education (2015) '[World University Rankings 2015-2016: Australia](#)', Times Higher Education website.

THE Webpage on the University of Tasmania

The Times Higher Education website provides a webpage on the University of Tasmania. It provides information on the THE rankings of UTAS since 2012. Click on the link to view the webpage:

<https://www.timeshighereducation.com/world-university-rankings/university-tasmania>

THE Ranking of the UTAS Law School 2018 and 2023

The Times Higher Education ranking of the UTAS Law School began for the year 2018. For 2018, the UTAS Law School was ranked 6th in Australia and equal 61st in the world.⁹ For 2023, the UTAS Law School was ranked equal 12th in Australia (with Flinders University Law School and La Trobe University Law School) and 151-175 in the world.¹⁰

QS World University Rankings

The QS (Quacquarelli Symonds) World University Rankings also provide an annual list of the world's top universities. The QS World University Rankings website states that institutions are assessed across six categories to 'indicate' their performance. The six indicators include:

- Academic reputation
- Employer reputation
- Faculty/student ratio
- Citations per faculty
- International student ratio & international faculty ratio.¹¹

The QS World University Rankings has been assessing UTAS since 2012.¹² However, the QS website only provides a comparative list of Australian universities from 2020 onwards. Table 3 below provides the QS rankings of 38 Australian universities for 2023. Table 4 then provides the QS rankings of 37 Australian universities for 2020.

Table 3: QS World University Rankings 2023 – Australia

Australia Rank 2023	World Rank 2023	University	Overall Score 2023
1	30	Australian National University (Cth)	82.1
2	33	University of Melbourne (Vic)	81.6
3	41	University of Sydney (NSW)	79.6
4	45	University of New South Wales (NSW)	78
5	=50	University of Queensland (Qld)	74.8
6	57	Monash University (Vic)	71.6
7	90	University of Western Australia (WA)	61.7
8	109	University of Adelaide (SA)	57
9	137	University of Technology Sydney	53.2
10	=185	University of Wollongong (NSW)	45.4
11	=190	RMIT University (Vic)	44.6
12	192	University of Newcastle (NSW)	44.5
13	193	Curtin University (WA)	44.4

14	=195	Macquarie University (NSW)	44.2
15	=222	Queensland University of Technology (Qld)	41.5
16	266	Deakin University (Vic)	37.5
17	=293	University of Tasmania (Tas)	35.6
18	=296	Swinburne University of Technology (Vic)	35.4
19	=300	Griffith University (Qld)	35.2
20	316	La Trobe University (Vic)	33.9
21	=363	University of South Australia (SA)	30.2
22	=425	Flinders University (SA)	27.2
23	=461	James Cook University (Qld)	25.5
24	= 481	Bond University (Qld)	24.8
25	501-510	Western Sydney University (NSW)	–
26	511-520	University of Canberra (ACT)	–
27	561-570	Murdoch University (WA)	–
28	601-650	Edith Cowan University (WA)	–
=29	651-700	Central Queensland University (Qld)	–
=29	651-700	University of Southern Queensland (Qld)	–
=31	701-750	Charles Darwin University (NT)	–
=31	701-750	Southern Cross University (NSW)	–
=31	701-750	Victoria University (Vic)	–
=34	801-1000	Australian Catholic University (Vic)	–
=34	801-1000	Charles Sturt University (NSW)	–
=34	801-1000	University of New England (NSW)	–
37	1001-1200	University of the Sunshine Coast (Qld)	–
38	1201-1400	University of Notre Dame Australia (WA)	–

Source: QS World University Rankings (2022) '[QS World University Rankings 2023: Australia](#)' QS World University Rankings Website.

Table 4: QS World University Rankings 2020 – Australia

Australia Rank 2020	World Rank 2020	University	Overall Score
1	29	Australian National University (Cth)	82.1
2	38	University of Melbourne (Vic)	79.5
3	42	University of Sydney (NSW)	77.8
4	43	University of New South Wales (NSW)	77.1
5	47	University of Queensland (Qld)	75.7
6	58	Monash University (Vic)	70.9
7	86	University of Western Australia (WA)	62.9
8	106	University of Adelaide (SA)	58.6
9	140	University of Technology Sydney (NSW)	51.2
10	207	University of Newcastle (NSW)	43.1
11	212	University of Wollongong (NSW)	42.7
12	224	Queensland University of Technology (Qld)	40.7
13	230	Curtin University (WA)	39.9
14	237	Macquarie University (NSW)	39.5
15	238	RMIT University (Vic)	39.2
16	271	Deakin University (Vic)	36.1
17	274	University of South Australia (SA)	35.9
18	291	University of Tasmania (Tas)	34.8
19	320	Griffith University (Qld)	33.2
20	377	James Cook University (Qld)	29
21	383	Swinburne University of Technology (Vic)	28.8
22	400	La Trobe University (Vic)	28.2
23	424	Flinders University (SA)	27.2

24	442	Bond University (Qld)	26
25	468	Western Sydney University (NSW)	25.1
26	484	University of Canberra (ACT)	24.5
27	571-580	Murdoch University (WA)	–
=28	601-650	Central Queensland University (Qld)	–
=28	601-650	Victoria University (Vic)	–
=30	651-700	Charles Darwin University (NT)	–
=30	651-700	Edith Cowan University (WA)	–
=32	751-800	Southern Cross University (NSW)	–
=32	751-800	University of Southern Queensland (Qld)	–
=34	801-1000	Australian Catholic University (Vic)	–
=34	801-1000	University of New England (NSW)	–
=36	1001+	Charles Sturt University (NSW)	–
=36	1001+	University of the Sunshine Coast (Qld)	–

Source: QS World University Rankings (2022) '[QS World University Rankings 2020: Australia](#)' QS World University Rankings Website.

QS Webpage on the University of Tasmania

The QS World University Rankings website provides a webpage on the University of Tasmania. It provides information on QS rankings and ratings of UTAS since 2012.

Click on the link to view the webpage:

<https://www.topuniversities.com/universities/university-tasmania>

Academic Ranking of World Universities

The Academic Ranking of World Universities (ARWU), also known as the Shanghai Ranking, focuses on research excellence, and does not claim to measure teaching quality or graduate employability.¹³ The ARWU website states that ARWU uses the following indicators to rank world universities:

- number of alumni and staff winning Nobel Prizes and Fields Medals,
- number of highly cited researchers selected by Clarivate,
- number of articles published in journals of Nature and Science,
- number of articles indexed in Science Citation Index - Expanded and Social Sciences Citation Index,
- per capita performance of a university.¹⁴

The website further states that more than 1800 universities are ranked by ARWU every year and the best 1000 are published.¹⁵

The ARWU was first published in 2003. The ARWU website provides its rankings of Australian universities for every year since 2003. The most recently published ARWU rankings are for the year 2022.¹⁶

Table 5 below provides the ARWU rankings of 33 Australian universities in 2022. Table 6 then provides the ARWU rankings of 20 Australian universities in 2015.

Table 5: Academic Ranking of World Universities – Australia 2022

Australia Rank 2022	World Rank 2022	University
1	32	University of Melbourne (Vic)
2	47	University of Queensland (Qld)
3	60	University of Sydney (NSW)
4	64	University of New South Wales (NSW)
5	75	Monash University (Vic)
6	79	Australian National University (Cth)
7	99	University of Western Australia (WA)
8	101-150	University of Adelaide (SA)
9-18	201-300	Curtin University (WA)

9-18	201-300	Deakin University (Vic)
9-18	201-300	Griffith University (Qld)
9-18	201-300	La Trobe University (Vic)
9-18	201-300	Macquarie University (NSW)
9-18	201-300	Queensland University of Technology (Qld)
9-18	201-300	Swinburne University of Technology (Vic)
9-18	201-300	University of Tasmania (Tas)
9-18	201-300	University of Technology Sydney (NSW)
9-18	201-300	University of Wollongong (NSW)
19-22	301-400	James Cook University (Qld)
19-22	301-400	RMIT University (Vic)
19-22	301-400	University of Newcastle (NSW)
19-22	301-400	Western Sydney University (NSW)
23-24	401-500	Flinders University (SA)
23-24	401-500	Murdoch University (WA)
25-27	501-600	Australian Catholic University (Qld)
25-27	501-600	University of South Australia (SA)
25-27	501-600	University of Southern Queensland (Qld)
28-29	601-700	Edith Cowan University (WA)
28-29	601-700	University of the Sunshine Coast (Qld)
30-33	801-900	Charles Darwin University (NT)
30-33	801-900	Southern Cross University (NSW)
30-33	801-900	University of Canberra (ACT)
30-33	801-900	University of New England (NSW)

Source: Shanghai Ranking (2022) '[2022 Academic Ranking of World Universities – Australia](#)', Shanghai Ranking website.

Table 6: Academic Ranking of World Universities – Australia 2015

Australia Rank 2015	World Rank 2015	University
1	44	University of Melbourne (Vic)
2-3	77	Australian National University (Cth)
2-3	77	University of Queensland (Qld)
4	87	University of Western Australia (WA)
5-7	101-150	Monash University (Vic)
5-7	101-150	University of New South Wales (NSW)
5-7	101-150	University of Sydney (NSW)
8	151-200	University of Adelaide (SA)
9-11	201-300	Curtin University (WA)
9-11	201-300	Macquarie University (NSW)
9-11	201-300	University of Wollongong (NSW)
12-19	301-400	Deakin University (Vic)
12-19	301-400	Flinders University (SA)
12-19	301-400	Griffith University (Qld)
12-19	301-400	James Cook University (Qld)
12-19	301-400	Swinburne Institute of Technology (Vic)
12-19	301-400	University of Newcastle (NSW)
12-19	301-400	University of Tasmania (Tas)
12-19	301-400	University of Technology Sydney (NSW)
20	401-500	Queensland University of Technology (Qld)

Source: Shanghai Ranking (2015) '[2015 Academic Ranking of World Universities – Australia](#)', Shanghai Ranking website.

ARWU Webpage on the University of Tasmania

The ARWU website provides a webpage on the University of Tasmania. It provides information on the ARWU rankings of UTAS subjects. Click on the link to view the webpage: <https://www.shanghairanking.com/institution/university-of-tasmania>

Endnotes

¹ See for example: J. Baker-Dowdell (2017) '[Agriculture research hits world standard](#)', *Advocate*, 22 March; R. Hanson (2017) '[Uni ranks in top 100 for farm research](#)', *Mercury*, 3 April; P. McCarthy (2023) 'Our universities are growing in revenue and reputation', *The Australian*, 21 February; T. Dodd (2022) 'University of Adelaide joins six Australian institutions in Times Higher Education top 100', *The Australian*, 13 October.

² S. McKenna (2020) '[University rankings don't measure what matters](#)', *The Conversation*, 15 September.

³ R. Williams (2008) 'Methodology, meaning and usefulness of rankings', *Australian Universities Review*, vol. 50, no. 2, p. 54.

⁴ G. Croucher (2021) '[Australian universities may be at a turning point in the rankings chase. So what next](#)', *The Conversation*, 18 March; G. Carnegie and L. Parker (2021) '[Rankings: irrelevant and wrong for universities](#)', *Campus Morning Mail*, 24 November.

⁵ N. Fisk & I. Jacobs (2021) '[New global rankings system shows Australian universities are ahead of the pack](#)', *The Conversation*, 7 January; L. Dowsett (2020) 'Global University Rankings and Strategic Planning: A Case Study of Australian Institutional Performance', *Journal of Higher Education Policy and Management*, Vol. 42, iss. 4, pp. 478-494; S. Matchett (2020) '[Big four ranking successes and how they do it](#)', *Campus Morning Mail*, 23 January.

⁶ D. Freshwater (2022) 'Global University Rankings Matter: They play an important role', *The Australian*, 28 June.

⁷ Times Higher Education (2023) '[World University Rankings](#)', Times Higher Education website.

⁸ Times Higher Education (2011) '[World University Rankings 2011-2012: Australia](#)', Times Higher Education website.

⁹ Times Higher Education (2018) '[World University Rankings 2018 by subject: law, in Australia](#)', Times Higher Education website.

¹⁰ Times Higher Education (2022) '[World University Rankings 2023 by subject: law, in Australia](#)', Times Higher Education website.

¹¹ QS Top Universities (2023) '[QS World University Rankings Methodology](#)', QS Top Universities website.

¹² See: QS Top Universities (2023) '[About University of Tasmania: Rankings and Ratings](#)', QS Top Universities website.

¹³ M. A. Lim (2018) '[University Rankings: How do they compare and what do they mean for students](#)', *The Conversation*, 28 September.

¹⁴ Shanghai Ranking (2021) '[About Us: About Academic Ranking of World Universities](#)', Shanghai Ranking website

¹⁵ *ibid.*

¹⁶ Shanghai Ranking (2022) '[2022 Academic Ranking of World Universities](#)', Shanghai Ranking website.