

**Legislative Council
Hansard
Tuesday 1 April 2025**

[excerpt...]

The President, Mr Farrell, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

MOTION

**Consideration and Noting - Select Committee Inquiry into the
Provisions of the *University of Tasmania Act 1992* - Report**

[12.40 a.m.]

Ms WEBB (Nelson) - Mr President, I move -

That the Final Report of the Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992* be considered and noted.

At the outset, I acknowledge my fellow committee members who have completed the inquiry with me, the members for Mersey and Rumney. It was certainly a marathon, not a sprint.

Members - Hear, hear.

Ms WEBB - I also acknowledge the previous chair of the inquiry, present with us here in the Chamber today, the former member for Hobart, Rob Valentine; also, the earlier committee membership of the member for Windermere who resigned from the committee when he joined the Cabinet in October 2023; and, finally, the brief initial membership of the committee by the then member for Pembroke, Jo Siejka, prior to her resignation from parliament.

This inquiry report was tabled on 23 December 2024 and I am pleased that we have the opportunity now to speak to it in this place. I look forward to any contributions from others and their reflections on it. I am particularly interested to hear the government's contribution, as we have not yet had a formal government response to the report and its recommendations. I hope the government sees presented in this report and recommendations the opportunity to benefit our much-valued University of Tasmania and to go some way to restoring the deficit of trust, so clearly expressed and documented here in the report, in the current university governance's management, decision-making and strategic direction.

For many years now, the lack of confidence in the governance and management of this essential public institution has been persistently raised by academics, staff and students within the university, and externally by alumni and many in the broader Tasmanian community. The

extent of this deficit of trust is, I think, unprecedented and maybe catastrophically damaging for the future of our university. None of us wants to see that be the case.

A loss of trust and confidence of this magnitude cannot be papered over with platitudes or faux listening exercises and ersatz consultation processes. It cannot be placated by plans for possible future infrastructure that ring hollow in their dearth of detail. It certainly cannot be suppressed, blocked, silenced or threatened out of existence. It is too firmly rooted in a deep and abiding love of the University of Tasmania and aspiration for what this institution could and should be for our state.

Substantial evidence presented to this inquiry was nothing short of a sharp rebuke of the UTAS council and executive management, but also of the Tasmanian government and this parliament. This is a rebuke that we must not seek to avoid or defend against. It is one that I believe we must accept and welcome as an opportunity to play our part in helping this cherished public institution on a genuinely more positive future path.

I will note here the circumstances in which the inquiry was established. In late 2021 and early 2022, the former member for Hobart, Rob Valentine, and I began to be flooded with emails and other messages relating to the University of Tasmania. This was around the time people were becoming more aware of the plans announced by the university to entirely shift from the Sandy Bay campus into the Hobart CBD. There was significant community concern and distress at that proposal. However, it was far from the only concern relating to the university being raised with us. Other matters that were being raised with us included, but were not limited to: executive management practices, workplace culture, strategic decision-making, facilities management and infrastructure development, funding priorities, loss of key staff, and diminishing quality of student experience at the university.

Mr Valentine and I discussed the correspondence and communications we were receiving. We acknowledged that it was not within the purview of parliament to reach into or seek to direct operational management within the university, nor was it appropriate for us, as members of parliament, to try to adjudicate disputes or complaints that people and groups had with the university management. However, given the university is established under a statute of this parliament, many of the matters being raised could appropriately be explored as they related to the provisions of the *University of Tasmania Act 1992*. This most certainly is in the purview of this parliament.

With the support of this Chamber, a select committee of inquiry was established on 24 May 2022. The terms of reference were 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.

Initially, the membership of the select committee included then member for Hobart, the honourable Rob Valentine, as Chair, the honourable Nick Duigan MLC, the honourable Mike Gaffney MLC, the honourable Jo Siejka MLC, and me as Deputy Chair. Before the committee could begin, it was interrupted by a prorogation of parliament in July and August 2022 and had its first change of membership with the resignation of Jo Siejka from parliament. The honourable Sarah Lovell replaced Jo on the committee at that point, and the work of the committee began in earnest.

The response from the community to the call for submissions to this inquiry was substantial, to say the least, with 151 submissions being made. If I may say, some of those submissions were extensive and substantial in their own right. I would like to take this opportunity to express my deep thanks to all those who made submissions. The quality of so many of these submissions was exceptional. I regret that within the confines of an inquiry process and with all the best intention in the world, we were not able to do justice to the entirety of the evidence presented. I think that would not have been possible. To say that I learned a lot from the evidence presented to this inquiry in submissions and hearings would be an understatement.

I would also like to particularly acknowledge and thank the University of Tasmania Council and Executive for the considerable evidence provided to the inquiry by the university. Not only did the university provide an extensive submission in multiple parts, but the Chancellor, Vice-Chancellor and other executive team members made themselves available for many days of hearings with the committee. Of the 12 days of hearings overall, I believe at least three or four were with the university management and council. That was an incredibly generous provision of their time and we appreciated the opportunity to explore things in detail. I also appreciated the willingness not just of presenting there at hearings, but of the Chancellor, the Vice-Chancellor and the executive team to then provide follow-up with us to numerous questions on notice that arose from those hearings, adding to our evidence base.

I would also like to take a moment now to recognise that during the course of the inquiry, three people who had provided valuable evidence passed away. They were each highly respected and demonstrated a deep commitment to the success of the University of Tasmania. Vale Associate Professor Peter Chapman, Distinguished Professor Jamie Kirkpatrick, and Mr Peter Bicevskis.

Members - Hear, hear.

Ms WEBB - It is my view that the process of a parliamentary inquiry provides value at every stage, not just in the delivery of a final report and recommendations. For example, the collection of evidence is an important opportunity that allows information to be shared and discussed in the public domain. In itself, it is a mechanism for transparency and accountability. I believe it is very positive that during this inquiry, while presenting at hearings, the university was able to point to a range of areas in which it was already making what appeared to be constructive changes to policy, practice and approach in response to matters that were being raised in evidence. That in itself is a positive outcome for the inquiry.

With an inquiry of this size, it is not surprising for the deliberations of the committee to take some time. While all members wish to complete any inquiry and provide a final report as

quickly as possible, when working with a very large and complex evidence base, it does tend to take some time. I know this was a point of frustration for many people in the community who were following the process closely and were waiting for the conclusion of the work. I apologise to those people for the frustration. However, all I can say is that inquiries take as long as they take. I know that my fellow committee members and I are very pleased to have been able to finalise the report in December last year and now to have the opportunity to speak about it today.

The final report of the inquiry makes 88 findings and 19 recommendations. I will speak about some of those in some detail under each of the terms of reference. First, whilst speaking generally about the conduct of the inquiry, I would like to give particular thanks for invaluable support and contributions made by parliamentary staff. I express my sincere thanks to Dr Catriona Ross from the Parliamentary Research Service for providing substantial research and briefings for the committee. This work included material that was used in the report, in particular the chapter titled 'Background: Understanding the *University of Tasmania Act*'.

This chapter of the inquiry report provides background information about the *University of Tasmania Act*. It contains a highly interesting short overview of how Australian public universities are established under acts of state and territory parliaments. It explains key points of the legal framework that the University of Tasmania sits within as a public institution. This background chapter also sets out a short legislative history of the act and charts the changing size and composition of the University Council.

Further, the background chapter explains how federal government policy has influenced the provision of state and territory university acts, which prescribe the size and composition of things such as university councils. Finally, 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 - highly relevant to the matters discussed in this inquiry.

In addition, I commend to members Appendix C of the report, which is a chronology of significant events. This is an extensive overview of key events relating to our University of Tasmania, including legislative changes, royal commissions, location and expansion developments, funding and policy setting changes, organisational changes, key strategies and planning documents, and much more. It is a highly informative reference document.

As always, the Parliamentary Research Service was much valued for the professional service provided to the committee as a source of support and information. Similarly and especially, I would like to extend sincere thanks to the secretariat staff who provided the vital foundational support to this committee. In particular, these thanks go to Ms Jenny Mannering, inquiry secretary, and Ms Allison Scott, committee secretariat. We certainly appreciated the patience, good grace and professionalism at all times of the secretariat staff.

On to content of the report. Under the first term of reference, the committee considered the constitution, function and powers of the university in the act. This included discussion that I found highly interesting about the nature of a university and the centrality of its purpose to create, preserve and transmit knowledge. There is something unique and precious in that time-honoured purpose and a clear tension that has arisen from the comparatively recent adoption of a corporate managerial approach to governance and management of universities

broadly. This was a topic that popped up continually throughout the inquiry and in other aspects of the terms of reference.

In discussion about the nature of the university and its core purpose, something that came up unexpectedly in discussions during the inquiry with people who provided evidence to us was the potential value of including in the act and overarching preamble an explicitly stated shared understanding of the mission, and the purpose of the university, from which all other matters addressed in the legislation could be understood to be derived or connected.

The Vice-Chancellor of the university, Professor Rufus Black, brought to the committee's attention the fact that the original *University of Tasmania Act* in 1889 contained a preamble, which was removed subsequently in 1951. From the evidence there appeared to be, I think, broad support for reinstating a preamble in the current act. You will see in the report that the committee made a recommendation to do so.

Another opportunity for explicit inclusion in the act would be the stipulation that the university exists for the benefit of the Tasmanian community; to assert the fact the Tasmanian people are the moral owner of the university; and to require in the act that in conduct and decision-making the university should always act in a way which is consistent with the best interests of Tasmanians.

Currently, that is not something that is explicitly stated in the act, and for some it might be an obvious statement to make, but for others the absence of it in the act does then mean we are lacking, perhaps, a way in which to hold decision-making accountable.

In the course of this inquiry, there was much discussion on the prioritisation of commercial interests rather than community interests in giving effect to the core functions of the university. Questions were put on how the university balances the potentially competing priorities of being a higher education provider or a sustainable business. I share here two quotes that address this issue from different perspectives which I think are informative in terms of the different perspectives that are there. The first quote is from the Tasmanian University Student Association, TUSA, and they said this:

... 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 a 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 (s6(g)), research (s6(b)), and providing opportunities to apply knowledge (s6(e)).

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 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.

That was one perspective captured there. Another one, which I think is equally interesting to contemplate, we heard from Dr Damian Bugg, who was chancellor of the university from 2006 to 2012, and I will quote some of his remarks on this topic. He said:

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.

So, it was clear that funding models from the federal and state governments are a crucial aspect of this tension between core function and a sustainable financial operation. The question certainly arises about the predicament in which the universities find themselves when, as government-funded public institutions delivering a public good, they are starved of government funding and forced to generate it themselves, pushing them into a business model which risks being at odds with their unique nature as a university.

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

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 it 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.

Pat McConville, who was a former university employee and former secretary of the NTEU, Tasmanian division, considered the focus on corporatisation undermines the university's core role and identity, and I am just going to do one more quote from Pat. He said this:

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

I found the discussion and the contemplation of this tension to be quite a fascinating area of consideration for this inquiry. I note here one finding that we had from this area of the report, which was finding 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.

Moving along, section 5 of the act is the constitution of the university, which, to be clear, is a list of who the university consists of. The act says that the university consists of the members of the council, the members of the academic staff, the members of the professional staff, the graduates and the students. The committee noted in finding 7 that section 3 of the act does not include casual staff in the definition of academic and professional staff and, therefore, in section 5 of the act, casual staff are not included in the constitution of the university. This is an omission that is recommended to be addressed through amendment to the act.

When it comes to functions of the university, the functions of the university, laid out in section 6 of the act, are listed from (a) to (g), and they are an interesting -

Sitting suspended from 1.00 p.m. to 2.30 p.m.

Resumed from above (page 32).

[3.03 p.m.]

Ms WEBB (Nelson) - Mr President, I had just begun talking about the functions of the university laid out in section 6 of the act and listed as (a) to (g) in that section. I mentioned that they are an interesting list and there was much consideration of them during our inquiry process.

For clarity and to contextualise the discussion that I will share here in my contribution, I am going to read through the functions as they are listed in the act and they are these:

- (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.

There was a discussion in much evidence to the inquiry of what should be the core functions of universities and whether the list in the current act was, in fact, appropriate and fit for purpose.

For example, the Vice-Chancellor, Professor Rufus Black, noted this during the hearings, and I quote:

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

Further, there were a range of suggestions for additions to the list of functions in the act. An example that I wish to point to here is from the late Distinguished Professor Jamie Kirkpatrick AM, who suggested the following could be added to section 6 of the act after subsection (g). I will quote the things he suggested could be added. They were:

- (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.

Then, Professor Kirkpatrick went on to provide a rationale for those, saying:

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.

I appreciated the suggestions that were made by a number of submitters as to matters that could be considered as changes or additions to the list of functions. I did also note that an interesting area of concern that was raised in evidence was a discrepancy observed between who constitutes the university, who makes up the university, and the functions of the university and the governance structures within it.

Accountability was a consistent theme and the relationship between those different elements in the act were also seen as either providing or lacking in the provision of accountability. Accountability was explored here in relation to how it is to be assessed and reported on that the university is delivering on the functions in the act. I note the late Peter Bicevskis made the following suggestion to improve accountability of the university in this respect. He said:

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

I believe this ties into discussion later in the report under term of reference 3 about the annual report of the university, which is tabled in parliament. I will mention it again and pick up that discussion further in that section of my contribution.

The committee made two recommendations here, in this space, relating to functions of the act. One was recommendation 3, which was that section 6 of the act be reviewed and amended to ensure contemporary and appropriate functions are included. The other was recommendation 4, which was to consider a mechanism to assess the performance of the university against the functions in section 6 of the act. Both of those elements seem important for ensuring the act is fit for purpose and for building accountability into the act wherever we can.

This is a good time to mention the committee made an overarching recommendation in this report, which was:

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.

A comprehensive review of the act, as per that overarching recommendation made by the committee, would be an appropriate opportunity to consult more broadly, and to give effect to the recommendations that we have articulated in this report through an appropriate legislative developmental process. We did not presume to specifically draft amendments to the act or make particular prognostications about what they should be. Rather, we pointed to the areas that did require amendment and why, then look to a comprehensive review from the government to give effect to that through a proper development process for reform legislation.

Moving on to the powers of the university, which are also prescribed in the act. I note that Emeritus Professor Peter Dawkins AO observed the following in relation to the constitution, functions, and powers as stated 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.

A number of witnesses in fact expressed concern regarding inconsistency between the powers and the core functions of the university. In particular, a number of witnesses expressed concern in relation to the university's powers under the act, which give it the ability to pursue for-profit enterprise activities with little relevance to the pursuit of knowledge. As an example

of those concerns expressed, I note the quote included in the report from Judy Tierney OAM, that the power to conduct business activities is becoming the main focus at the expense of the core roles of the university. She said:

The 1992 Act introduced a new Section 7 with subsection 1 effectively giv[ing] 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.

The power of the university to sell land gifted to it is a matter of considerable interest dealt with in this report and of current relevance for this place. The following extract from the Parliamentary Research Service chronology in the report provides relevant context for this and I am going to quote an extract from that. It says this:

... 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.

A briefing paper was prepared for us 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. That is in appendix E of the report. It is very interesting actually to see how that is dealt with across the different jurisdictions and different universities.

The university, in its evidence to us, outlined its discretion and autonomy to manage its assets to support its core activities. I will quote from their submission on that matter. It is important to see how the university regards that. Here is the quote:

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.

What we also heard though from a significant number of submissions made to the inquiry were comments on this subject of the disposal of land that had been gifted to the university. Overwhelmingly, these comments did not agree that the University Council should have the unconstrained power to sell or dispose of public land gifted to the university for educational purposes. Some suggested that the removal of the previous legislative restraint on the sale of gifted land in the 1992 act would never have contemplated the wholesale disposal of Sandy Bay campus, for example.

Hansard from that debate does not mention such a potential scenario as a possible future consequence of the removal of that previous requirement for ministerial approval.

Other evidence reflected on land management strictures in the acts of other universities and suggested changes to the act here in Tasmania to better align with the approach taken elsewhere. As an example of that, a quite neat, succinct list is provided by Robert Hogan in his evidence to the inquiry, and I will quote from his evidence:

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

So, there are many examples in other jurisdictions of this being a common approach, that ministerial or government approval is required for significant alienation of land gifted to

universities. I personally feel strongly about the need to amend the act to re-establish a requirement for some parliamentary approval for the university to sell or dispose gifted public land and note, the committee, in its deliberations, has specifically recommended that the act be amended to provide a constraint or prohibition on the university having the power to sell land gifted to it by the state.

As we will likely debate a bill related to this matter in the near future, I will not go into further discussion at this point but because it was such a feature of our deliberations and in many of our submissions and evidence, I did want to put it on the record here in my contribution.

I am going to move on to term of reference 2 and the consideration by the committee of that aspect of the terms of reference. It relates to the constitution, role, powers and obligations of the council and Academic Senate.

There have been a number of legislative changes to the governance structures of the University of Tasmania since it was established in 1889. The Parliamentary Research Service provided a briefing paper outlining significant events, which I have mentioned earlier and can be found in Appendix C of the report. In summary, though, the size of the council of the university has been reduced a number of times, particularly in the last 30 years since the 1992 act came into effect.

In the membership 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 six 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 at that time, which represented academic staff and was responsible for the allocation of resources for academic matters. Following the implementation of the Dawkins reforms, the passage of the *University of Tasmania Act 1992* and the amending acts in 2001, 2004 and 2012, the council has been reduced to its current size and composition, in which it is to operate with a minimum operating level of 10 members and a maximum of 14. The professorial board has been replaced by an Academic Senate, which is limited to an advisory role, not one that can allocate funding.

A number of submitters to our inquiry commented on the shared managerial academic dual governance model employed by universities and the need for balance in its implementation, and this was another very common tension which is experienced not just by the University of Tasmania but I think commonly across many universities. As an example of this, Adjunct Associate Professor John Kenny made the following observations 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.

It is a governance tension that is not unique to UTAS, as I said. It is acknowledged as existing in all universities in Australia, and in many international jurisdictions. We seem to have erred on the side of leaning into the managerialism and configuring our university council in that way, rather than accepting that tension that exists, and continuing to work with it in its complexity.

The University Council is the supreme governing body of the university. It is clear that changes over time to that key governance structure within the university have had consequences in relation to who is making decisions and the accountability of decision-making back to those who comprise the university and the Tasmanian community.

In particular, over time there were a series of amendments to the act which resulted in the reduction in both numbers and representation on the University Council. At the time the amendments were made to the act in 2012; the reason provided was the federal government reforms that were occurring.

Some witnesses expressed the view that changes to the composition of the council, while in line with national reform initiatives, have resulted in a range of negative impacts. These include 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 governance of the university; and the potential for the council to self-replicate, leading to groupthink, without offsetting such a risk with increased accountability requirements elsewhere.

I also note that there were a small number of submitters who commented favourably on the changes to council membership and the positive outcomes they regarded it to have in terms of decision-making. This includes people who had been members of the University Council and so could be trusted to be well informed on such matters.

It was identified by university regulatory and governance expert Michael Wells that UTAS was at the lower end of the range in terms of the number of people on the governing body compared to other Australian universities. He suggested that it would certainly be open to consider making additional appointments to the University Council - perhaps two to four positions would be appropriate - and that that would still be in a very average range in terms of numbers on a governing body.

I note also that, as is mentioned in the report, Chancellor Watkins from UTAS also indicated that she would not be concerned about the addition of some more members to the council. She cited an additional two as no concern, but as many as six perhaps presenting concerns about fragmentation once the numbers had grown to that extent.

However, as is discussed in the report, it is not only about raw numbers; it is about the characteristics of the council members, the method of their appointment, and the degree of representation from groups that constitute the university. The loss of academic, student and alumni representation on the University Council was linked to a loss of voice and influence in decision-making by university academics, especially on academic matters.

There is an interesting table from Pat McConville's submission, included on page 67 of the report, which shows the changes at each amendment to the total council numbers and the number of staff representatives on the council. That number is a percentage of total council.

I found that an interesting table to demonstrate that not just a loss of raw numbers, but a loss of what could be seen as representation, has occurred over the years with those amendments.

In evidence, there are many who have argued for the addition of more members to the University Council, specifying that those should be elected from the academic and professional staff and the student body. This would be a more direct link back to those who constitute the university, as prescribed in the act.

In the report you will see the committee made recommendations relating to membership of the council. Those recommendations were as follows:

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.

The effect of those amendments would be very interesting to see. It effectively doubles the elected representation from both the academic and professional staff that is currently there in the council. It adds another student member who would need to be elected. At the moment, that is only one appointed role. It points towards a need to make sure that the majority of members on the council are not appointed in a potentially self-replicating way by the council itself.

The make-up of the council is closely shaped by various methods by which the members are appointed. Division 2, section 8 of the act provides detail on the process of making an appointment to the council. In the university's submission, the process of recruitment was detailed with specific reference to council academic, professional and student member vacancies. 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.

However, 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 who are aligned in their thinking, and less

challenging debate in relation to decision-making - the risk that some spoke about as 'groupthink' that may become an entrenched feature of the council. John Lawrence, economist and accountant, set out the legislative basis of council appointments and its lack of a feedback mechanism. He spoke of this:

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?

The relationship between the state government, the parliament and the University Council is an interesting one. Previously, there had been a requirement that a member from each Chamber of the Tasmanian parliament be appointed to the University Council, but that was dispensed with in the 2001 amendments. Protocols attached to Commonwealth funding, under the Howard federal government, precluded state or Commonwealth MPs from membership of university governing bodies. However, this is not to say that there is not good reason to consider the relationship between the university, as a public institution established under statute, and the Tasmanian parliament.

Dr Richard Herr, in his evidence to the committee, encouraged the re-establishment of a meaningful role for parliament, possibly through the University Council. The committee does not make a recommendation in this report to do so, although there are recommendations relating to accountability to parliament and regular scrutiny of the university. These are addressed in term of reference 3, which I will come to shortly.

It is noted that while the act specifies two government-appointed members of the University Council, there is currently no meaningful way in which this differs from those members really appointed by the council itself. The selection process is conducted by the university. The convention here and in any other jurisdictions, similarly, is that government appointments to university councils are basically made on the recommendation of the university councils themselves. In hearings, Mr Jaensch drew attention to the function of government-appointed members to the council, being to represent the public interest, which he described like this:

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.

He went on to say:

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.

However, having made those comments, when questioned, the minister was not able to identify the mechanism or criteria in the selection process that provides for the ministerial

selections to be able to fulfil that consideration of the best interests of Tasmania. I asked the minister in a hearing the following:

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?

The minister's far-from-satisfactory reply was:

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.

It is hardly any kind of firm guarantee that those roles are actually purposefully chosen and then, in an accountable way, undertaking a function of bringing the best interests of Tasmania into decision-making within the University Council.

I note here that the committee has made a recommendation on recommendation 10 that the act be amended to clarify the purpose and the function of ministerial appointments to the University Council. It would be better if this were clarified further in the act, Madam Acting President.

I am mindful that this will be a long contribution, and I will wrap up my comments on term of reference 2 by briefly mentioning it contains interesting reflections on the appointment of the chancellor of the university as a key role of the council. The powers and the obligations of the council are covered, and the lack of review, scrutiny and accountability of the University Council.

On that final aspect, I will note that in a range of evidence, it was raised that university governance, planning, deliberations and decision-making appears to lack visibility and accountability to the students, the staff, the parliament and the general Tasmanian community. For example, comments from Professor Brian Yates, who suggested a more open approach should be adopted for council operations were:

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 am not sure what it was like in the past, 10 or 12 years ago - but possibly making available summaries of University Council meetings or a regular update of what is going on at the University Council. There might even be, these days

opportunities to have open University Council sessions or meetings where they are 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.

I thought those were solid suggestions. My understanding is, in fact, there is a little bit more openness and transparency in the fact that the minutes of council meetings, in very recent years, have largely been brought to light through RTI requests from Mr Robert Hogan, and it may now be more common practice for the University Council to make public its minutes. This is certainly a step in the right direction. It does not go to all those suggestions made by Professor Yates, but I think there is plenty of room to improve further.

The issue of corporatisation of the university, without similar corporate accountability, has come up time and time again in the inquiry. It certainly did in relation to activities around University Council.

The reason there is so much time spent contemplating the University Council in this report, and in my contribution, is that really, it is the foundational and supreme governance body as specified in the act. A lot of the matters relating to decision-making, accountability, outcomes and transparency flow from the way in which the University Council is configured and the way in which it operates. This issue of corporatisation, alongside accountability, is a key one, because it is at the heart of what has changed in recent decades.

I did note Ian Howard, who is apparently an engineering graduate of the university, in his submission, said he believed the management structure of the university is subject to very little scrutiny. I appreciated the summary he provided to make his point. He said:

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 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 State [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

I believe these points are well made in relation to a disparity between accountability that would be expected in a corporate world that is just simply not there when it comes to the governance of UTAS or, in fact, many other universities.

In a publicly listed corporate company, there would be much greater transparency and accountability around the governing body. Shareholders would be in an empowered position to take action if there was a catastrophic failure of governance or management in the company. There is no such mechanism in relation to the university. Those who constitute the university, who make up the university, have no recourse to exercise accountability on the University Council, the chancellor or vice-chancellor.

Term of reference 2 also covered aspects of the act relating to the Academic Senate, which I am not going to go into in great detail, other than to say that our examination included the membership of the Academic Senate, the functions and the role, and the review or evaluation of the senate. Familiar themes emerged on those matters. In a range of evidence presented, the viewers expressed that the Academic Senate was dominated by upper-level management, lacked a majority of elected members, and further, that the senate had a predominance of more junior academic members rather than senior staff actively engaged in significant teaching and research.

The university provided considerable evidence in relation to the membership and functioning of the Academic Senate. It also indicated that this was an area in which the university was making some changes in response to some of the matters raised in this inquiry. That was pleasing to hear.

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. They called for changes to be made to the act to improve accountability and transparency, those familiar themes applying also here to the Academic Senate.

Certainly, of note, I will point to page 103 of the report. You will find there the National Tertiary Education Union (NTEU) provided to us a selection of reflections from its members showing their opinions on the operations of the Academic Senate. They are fairly stark reading, to be honest, and hopefully do provide a really good reason to consider further reforms in that space, particularly in terms of transparency and the effectiveness of academic staff being able to have a say.

The committee makes some recommendations relating to the Academic Senate. Those are recommendation 12, which says that the act be amended to prescribe peer 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.

Recommendation 13 was the act to be amended to prescribe the functions of the Academic Senate to include a determinative role on core academic matters, which would take it beyond its current advisory role.

Moving on to term of reference 3, a central matter for consideration in the inquiry was 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 in relation to decision-making by the University Council or senior executive of the university.

I note here a quote from Adjunct Associate Professor Terese Henning, when she reflected on this matter of executive decision-making and accountability:

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).

I also note the late Peter Bicevskis, architect and urban designer, claimed the act was inadequate for ensuring appropriate and accountable decision-making by the university. He said this, and you will see that there are familiar themes emerging:

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 e.g. 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.

There is discussion in the report about the fact that, while the university rightly points to the complex regulatory environment in which it operates, a system of regulation is not the same as a system of accountability. In fact, as emeritus Professor Jeff Malpas is quoted as saying in the report:

... 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...

The issue, when it came to decision-making around consultation and the lack thereof with staff and students, was raised in evidence presented at the inquiry. Reflections were made 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. There is no obligation under the act to consult with anyone in making decisions and, certainly, I think, over the last few years, when we have seen the university engage in quite public ways in what they describe as consultation, there is a real question mark that hangs over how genuine those processes are and where we draw the line between information sessions and genuine consultation. I think, personally, that you really have to accept that genuine consultation must provide an avenue by which a decision can be influenced and the outcome of a decision can be influenced by those participating in consultation.

If a decision is already made, if it is predetermined, and in fact all that is happening is informing people of that decision, listening to things they have to say with no actual intention or avenue for that to then feed back to influence the result, then that is mislabelled consultation.

Financial decision-making by the university was a much-discussed topic in evidence. 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 us across the inquiry period between 2022 and 2024.

While it is clearly of significant public interest and the subject of concern for some stakeholders and community members, it is not in the terms of reference of this inquiry to make detailed analysis and assessment of the financial position of the university.

The committee did note, however, in the report mentioned, the Joint Standing Committee of Public Accounts had established an inquiry into this area on 13 August 2024, and I do note that just today in this Chamber that report has been tabled.

Evidence that we discussed in this area in this report is focused on matters raised relating to accountability of financial decision-making as established in the act, rather than making assessments about the financial situation of the university. Chancellor Watkins outlined the governance and financial management responsibilities of the council and provided a great deal of information about how those mechanisms operate. We then, though, heard others express in evidence that the reshaping of the university operations under new business models is having a detrimental impact.

With the fact that elements of market rationality have been brought in, people are seeing universities more as storefronts for making money. Legislative changes by governments at state and federal levels have been pushing universities to reconfigure their governance structures and this has led to such outcomes we have seen in this sector on reducing faculty and shifting to contract labour - casualisation, effectively - of staff and the positioning of students primarily as customers in this space - which also has significance in terms of decisions made about the delivery of that learning environment.

An area of financial operations that attracted a lot of attention in evidence was that of the university's borrowings. On pages 116 and 117 of the report, you will find an interesting exchange from a hearing, where the member for Rumney asked Vice-Chancellor Black about the shortfall between funding from government and the cost of operating the university. Professor Black provides an overview of why that is a particular challenge for the University of Tasmania. He mentions the university's investment portfolio, property investments, fossil-fuel-free investment strategy, small sources of income such as rents and intellectual property. He comments as follows and I quote briefly:

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.

The size of the university's property investments and range of borrowing activities attracted particular comment in evidence. I will be certainly interested to see how the Public Accounts Committee has assessed those areas of the university's financial situation. Certainly, we were provided with a lot of complex, potentially concerning information and correspondence from those who are critical of the way the university is engaging in its borrowing activity, but we also had the university provide us with information about its perspective of how that operates.

It was not something that we, as a committee, were in a position to delve into with any expert approach. We were more looking at how the act is configured in terms of what is allowable and what is not under the act, and what accountability there is in giving effect to the act. Evidence was presented which noted and raised questions over the shift in the proportion of university expenditure which is allocated to core academic activities of teaching and research compared to expenditure on administration, including executive management. Criticism was made of a shift over time, which saw the balance move away from those core activities of teaching and research to more investment into expenditure and administration, including executive management. In a similar vein, concerns were raised in a number of submissions

relating to what people determined to be or deemed to be inappropriately high salaries for the executive management roles at the university.

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. Certainly not a good look. The National Tertiary Education Union pointed to this discrepancy quite starkly. They said this:

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.

That does seem to be a problematic discrepancy. If the Vice-Chancellor ranks 13th of 37 VCs but the rest of the staff at the university are way down the bottom at 34th and 35th, it is not a good look, especially in light of the significant casualisation to staff losses and the underpayment scandals we have seen from the university sector, including UTAS in recent years. When asked about how decisions were made in relation to the executive and the VC remuneration, Chancellor Watkins said:

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

Well, that is interesting, considering how we do appear to have a discrepancy in terms of rankings across the sector between the university vice-chancellor role and that of regular staff within the university. I note UTAS is not unique in this space. The issue of executive remuneration in this sector is clearly a concern at a national level too, and it is a specific focus of a current Senate inquiry looking at this. Issues relating to a lack of transparency of information about decision-making was raised in this inquiry. Concerns were raised in evidence that the act does not establish mechanisms to ensure accountability of decision-making by the council or the executive. People reported to us they had experienced difficulties accessing information from the university through right to information requests, which also highlighted a lack of transparency and accountability.

It was noted that the university is included in the definition of public authority in our *Right to Information Act* in this state and is therefore included in the requirements of that act. There really is no excuse at all for the university to fall short on this front and it invites speculation when information by which it may be held accountable is withheld from public access.

A range of evidence presented to the inquiry 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. Many noted the significant delay in tabling and public availability of the annual report. I believe after it was discussed during the inquiry process, there was an improvement in the timeliness of tabling the 2023 annual report. However, there is an opportunity to include a timelier requirement in the act. Comment was made in evidence that the financial reporting in the annual report is insufficient to adequately scrutinise financial decision-making. It was further noted that 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 investment as opposed to stated university activities of learning and teaching, research, knowledge transfer, research training and community engagement.

An interesting suggestion came from Emeritus Professor James Guthrie 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. He said:

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.

An acting president in the Save UTAS campaign, in their submission also commented on the opportunity for greater accountability if there were a requirement for the university to produce a corporate plan for approval or scrutiny. They talked about the value that could bring, in a similar way to GBEs like Hydro Tasmania being subject to the *Government Business Enterprise Act*, which requires them to provide to their responsible minister a corporate plan for approval, if the university were treated in that similar way. Apparently, the *University of Western Australia Act* makes that university subject to its *Financial Management Act* and, as a result, it has to submit an annual draft resource agreement to their treasurer for approval, setting out the services and the cost of services and other matters required to the treasurer for the financial year. These are all interesting suggestions that would deliver more visibility to the university's intentions - more accountability for the activities that it was undertaking, and the investments and financial decisions it was making.

The committee agreed that these suggestions had value and we did make some recommendations in this space. Recommendation 14 was to:

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 on all salaries, remuneration and fringe benefits of executive management roles at the University; and
- d. a requirement for more timely tabling of the University's annual report in Parliament.

Recommendation 15 was:

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.

Many submitters, when we were discussing the accountability of decision-making, raised insufficiency of the act to provide accountability for the council and executive back to those who constitute the university in the broader Tasmanian community. They pointed to the need for reform of the act to require such accountability in some form. Greg Barns SC, member of the Tasmanian Bar, stated this in his submission:

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. ... 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.

Also, Professor Brian Yates succinctly commented on the need for greater accountability to staff, students and the community. He said:

Essentially, I would like to see more reporting to staff and students of the university, reporting to the community ... and indeed, reporting to the government in some way. That probably is the way that university council can demonstrate their accountability in these ways.

Vice-Chancellor Black commented on the emergence of the civic university movement and the potential for Tasmania's university to create a state-based civic compact. This is a really interesting idea and it was pleasing that Vice Chancellor Black brought it up. He said this about this movement:

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.

I thought that was a really interesting suggestion and one that I hope there is further discussion about, between the university, the parliament, and the community.

The *University of Tasmania Act* does require Treasurer's approval for borrowings by the university and this is discussed in some detail in the report. There is also discussion as to whether or not the financial position of the university represents a financial risk to the state, and various views were expressed in evidence on that. It is quite mind-boggling really. There are differing views between the university and the state government. I am interested to see, when we have a chance to look at the PAC report, whether that is something that is addressed there.

In addition to the regular borrowings by the university, which do require Treasurer's approval and must be within the borrowing limit that is set by the Treasurer, it was discussed in our inquiry that in recent years the university is increasingly engaging in borrowing-like activities, such as the university's financial arrangements with Spark Living in relation to the accommodation facilities, and the university's issuance of green bonds, which both sit outside the approved borrowing limit and sit outside requiring approval from the Treasurer, I believe.

As a result of the discussion we had on that matter during the inquiry, we made the following recommendation in the report, recommendation 16, which is to:

Review Section 7(2) of the Act to retain Treasurer's approval for University borrowings and ensure it reflects contemporary borrowing and borrowing-like -

The Council suspended from 4.00 p.m. to 4.30 p.m.

Resumed from above.

Ms WEBB (Nelson) - Mr President, I was just finishing mentioning recommendation 16, which was relating to borrowing-like arrangements of the university.

I will move on to another area which is perhaps of particular interest to this place 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. We are well placed to have a good hard think about it here.

Criticisms were made in the evidence of the minimal level of relationship and scrutiny between the parliament and the university. As an example of that, Patrick Naughtin, a submitter, commented on the responsibilities of the Tasmanian parliament in relation to the university. He said this:

In basic legal terms, the *University of Tasmania Act 1992* should be viewed as any parent or enabling Act that delegates power to subordinate authority. In practice, 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.

He further went on to say:

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 proceed without normal scrutiny of its operations and development...

That sentiment was echoed by Greg Barns SC when he was commenting on the importance of parliamentary scrutiny of the university to ensure accountability. He said in his submission:

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.

...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

It is food for thought. There is clearly an opportunity for this parliament to be more engaged in its relationship with the university. The report contains some material from evidence we had received which had novel suggestions for additional mechanisms of accountability to parliament, for example, that of a public works committee style process to be established to scrutinise and approve major infrastructure investment by the university. The late Peter Bicevskis has provided an overview of his evidence to the committee of how a state public works committee might include examination of significant university infrastructure projects. That is a pretty interesting one to contemplate at this time.

The Tasmanian University Student Association suggested there should be a minister for higher education in state cabinet to accord a particular prominence to consideration of that

function here at a state level. It would also provide a clear articulation to a cabinet member who is focused at the higher education end of things.

The committee did not pick up some of those novel suggestions from evidence, but we did make recommendation 17, which said:

Consider formalising processes for regular Parliamentary scrutiny of the University, including:

- a. The Annual Report
- b. The annual corporate plan
- c. Major infrastructure projects.

Without going into detail of what that could look like, it is something for the parliament to consider in relation to its relationship with the university.

I am going to move on to the fourth term of reference, which is appropriateness of the act to protect and promote academic freedom, independence and autonomy. The university provided a considerable amount of information to us in evidence defining academic freedom, outlining why it is important for it to be protected in a university environment, and describing the policies in place for its protection at UTAS, and indicating that the university is compliant with legislation and treaties that govern freedom of speech.

The importance of promoting academic freedom was reiterated in evidence from a number of other key stakeholder groups and particularly, as you can imagine, stakeholders such as the NTEU and Public Universities Australia. I was interested to see in evidence to the inquiry a number of submitters made very direct links between concepts of academic freedom and also the protection of democracy. For example, the university, in its submission, said on the importance of academic freedom and autonomy to the development and protection of democracy:

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).

The University of Tasmania's submission suggested that there was adequate protection for academic freedom provided in the act and in other relevant legislation, and by industry regulators. There were some who provided similar evidence in agreement with this to the inquiry, while others made a case for a more explicit inclusion of the promotion and protection of academic freedom in the act itself. For example, Dr Graham Wood from the 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.

It is interesting because he acknowledges the value of the protections that already exist. He said this:

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.

I thought that was a very valuable idea. A range of views were presented through evidence on the current protections provided in policies, procedures, the enterprise agreements at the university et cetera. On the balance of consideration of these views, the committee made the following recommendation: Recommendation 18, that the act be amended to include a requirement to protect and promote academic freedom. We erred on the side of believing that explicitly stating that protection in the act was a good foundation for those further policies and procedures and other things to flow.

As an aligned area of consideration, the committee noted there can be other barriers to academic freedom and freedom of speech in a university setting that flowed from, say, workplace culture and management practices and the environment in which people work. A number of submissions highlighted reports of managerial bullying, poor working conditions including intensification of workloads and onerous administrative loads, staff experiencing a lack of academic freedom, independence and autonomy, and references to workplace culture issues leading to stress and burnout at the university.

Further, a number of submissions noted a reluctance among the university workforce to speak out or criticise management for fear of reprisal. Evidence pointed to a workplace culture in which staff and students felt constrained in speaking up or raising issues due to fear of repercussions and reprisals. The casualised workforce felt this vulnerability even more acutely. On page 168 of the report, you will find a compelling set of quotes provided in the NTEU submission. They are direct quotes from NTEU members reflecting on staff experience of intellectual freedom at the university. These quotes do not paint a happy picture of freedom of speech at the university.

Additionally, a number of submissions made reference to the widespread use of non-disclosure agreements (NDAs), and non-disparagement clauses (NDCs), which are 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. While the Vice-Chancellor and the executive members presenting at hearings addressed questions on the use of NDAs and NDCs, I personally did not observe them to adequately acknowledge the level of distress on this matter which was self-evident in the evidence submitted to the inquiry.

In a similar vein, evidence was received in a number of submissions raising the issue of inadequate internal complaints resolution processes at the university. In addition to less-than-effective internal complaints processes, it was also raised that the current external bodies providing potential oversight - the Ombudsman's Office, the Integrity Commission - may also not have been effective in their respective roles relating to UTAS.

Proposals had been put forward in evidence for the establishment of such things as an external independent body to ensure compliance with the act, as well as to hear complaints and determine disputes between members of the university. A 'university ombudsman' was the term that was used in some of these suggestions. While the committee did not go as far as to recommend such a body be established, it did recommend, under recommendation 19, that 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.

That brings me to the fifth and final term of reference for the inquiry, our usual catch-all of any other matters incidental thereto. The committee chose to address the matters here that did not strictly fit into any of the other terms of reference but which the committee found compelling or important and felt were worthy of being noted within the report. I will not be speaking about these matters in my contribution today other than to note that included here in terms of reference 5 were the following topics: performance and ranking of the university, regionality of the University of Tasmania, respecting and valuing the history of the university and its cultural collections, the Alumni Advisory Committee and the University Foundation, and the loss of identity of the Conservatorium of Music and the Australian Maritime College.

In conclusion, many aspects of this inquiry report align with findings in the Australian Universities Accord's interim report. I also note the establishment in January this year of a federal Senate inquiry into the quality of governance at Australian higher education providers. That inquiry is due to report on 1 August this year. There is a great deal of crossover between that inquiry's terms of reference and the matters that have been considered in this inquiry we are discussing today.

UTAS is a fundamental and cherished public institution in this state. As the only tertiary institution in the state, it is of primary importance to the social, economic and environmental success of our state. The university does and will continue to hold a special place in shaping our state. Given that, I think it is of no surprise that there are so many Tasmanians, especially here in the south of the state where the university has the longest history, who have a sense of stewardship towards it. Many Tasmanians, as alumni, also have a personal fondness, pride and sense of care for the university.

Having said that, over time many within the institution, in the Tasmanian community and in this parliament have perhaps become complacent in thinking the university is a fixed and enduring presence in our state and invulnerable to being fundamentally changed. In recent years, however, we have all discovered that this is not necessarily the case. As we discovered in this inquiry into the provisions of the *University of Tasmania Act 1992*, the winds of change started blowing some time ago. Incremental legislative change over the past 30 years has set the scene for where we are now.

To recap: in this inquiry we heard clearly expressed deficit of trust in the current university governance, management and decision-making due to being insufficiently consultative and lacking in transparency and accountability. We noted a considerable number of people connected with the university, including students, alumni, and current and past academics, who are highly concerned and distressed by aspects of the governance, management and strategic direction of the university.

In evidence, we saw a real grappling with the core traditional purpose of a university versus corporate managerial approaches. It was clear that changes over time to key governance structures within the university had consequences in relation to who was making decisions and the accountability of decision-making back to those who comprise the university and the Tasmanian community.

A central matter of consideration in the inquiry was the adequacy of the act to ensure accountable academic, executive and financial decision-making. Evidence indicated the act, as it currently is, does not provide nor require appropriate accountability.

I heard an overwhelming aspiration in the evidence to this inquiry for the University of Tasmania to be an exceptional institution operating with transparency and accountability and as an exemplar of good decision-making in the service of its core purpose. I strongly recommend to the government the overarching recommendation in the report, which is that the government promptly undertake comprehensive review to update the *University of Tasmania Act 1992*, including addressing the 19 further recommendations in the report. I know people may say, 'Wasn't this inquiry supposed to be that? A review of the act.' But that was not the function of this inquiry.

This inquiry was to identify issues with the act and its relationship to the governance and operations of the university. Having identified a range of issues and areas to be addressed and made recommendations on possible ways forward on those, the work of this inquiry is done.

I am hopeful we will see the government positively pick up this work and run with it. A review of the act by government, with the departmental and policy resources to undertake it, will provide for consideration of specific options for reform for each section of the act, broad consultation on those options and careful drafting of an exposure draft bill for reform and consideration.

That is what I hope we will see as the fruits of this inquiry's labour. The university is challenged with providing tertiary education statewide within federal funding models driving it to need to pursue other sources of funding beyond that insufficient amount that is provided through the federal government. It is essential for the social, cultural and economic development of the state that the university successfully delivers on its central mission of teaching and research to a level of excellence.

The aim of the final report of the committee and its recommendations is to make the University of Tasmania a better, more robust and accountable institution for our state and our people. I note the report and I commend it to the House.

Report considered and noted.