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8 November 2024

Hon Ruth Forrest MLC  
Chair  
Public Accounts Committee  
email: [Simon.Scott@parliament.tas.gov.au](mailto:Simon.Scott@parliament.tas.gov.au)

Dear Ms Forrest

I refer to your letter dated 15 October 2024, in relation to the Public Accounts Committee's inquiry into the financial position of the University of Tasmania (UTAS) and your request for further information into the Government's role in respect to the operation of the *University of Tasmania Act 1992* (the Act).

I provide the following information in response to your request.

1. *Apart from section 7(2) of the Act, what do you believe to be the Government's role in UTAS's operations?*

Under subsection 7(1)(f) of the Act, UTAS has the power to borrow money. However, section 7(2) of the Act specifies that, notwithstanding subsection (1)(f), UTAS is not to exercise its power to borrow money unless it has first obtained the written approval of the Treasurer. This is the only legislated role of the Treasurer under the Act.

The Minister for Education, under the *Administrative Arrangements Order (No. 2) 2024*, is responsible for the administration of the Act. Section 8(1)(d) of the Act, the Minister is to appoint two persons to the Council, each of whom must not be a student or member of the academic staff or professional staff and of whom at least one must be a graduate of the University.

Under section 12(3) of the Act, the Minister is to cause a copy of the Council's Annual Report to be laid before both Houses of Parliament within the first 10 sitting days of each House after the report is received by the Minister.

The Government does not believe it has any other roles under the Act.

2. *Does the Government have a role in ensuring the accountability of UTAS to the people of Tasmania and if so, please outline this role?*

No.

3. *Under section 7(2) of the Act, UTAS is not to exercise its power to borrow money unless it has first obtained the written approval of the Treasurer: a. please outline the process followed by the Treasurer when requests for borrowings have been made including -*

- i. *does it require the same level of analysis, scrutiny and due diligence as would be required of other State Government entities?*

- ii. does any approval come with terms and conditions as a loan offer would, and if not, how does it differ?*
- iii. does the Treasurer undertake any ongoing reviews to monitor whether the terms and conditions of any approval are being adhered to?*
- iv. does approval also include oversight of the conditions?*

I understand that advice from Treasury was considered by the respective former Treasurers, when considering UTAS' requests for borrowing approvals. I consider that the level of due diligence applied by Treasury was appropriate in these instances.

It is at the discretion of the Treasurer to place conditions on any borrowing approvals. In March 2021, the then Treasurer's approval for an increase in UTAS' borrowing limit, to \$400 million, was subject to the following conditions:

- UTAS obtains and maintains a stand-alone, investment grade credit rating from an approved rating agency;
- the increase of \$200 million to the existing borrowing facility limit is approved solely for the purposes of the construction of the Southern Infrastructure Project; and
- the \$200 million borrowing facility limit will reduce over time consistent with the maturity profile detailed in UTAS' request.

The onus is on UTAS to ensure compliance with these obligations.

4. *With regard to the current section 7(2) approval including all terms and conditions and any required reductions the maturity profile over time:*
  - a. do you believe UTAS' \$350 million Green Bond borrowing complies fully with the terms and conditions of the two Treasurer's borrowing approvals (issued by former Treasurer Hon Peter Gutwein MP) upon which UTAS relies?*
  - b. please provide a full reconciliation between the terms and conditions of UTAS' \$350 million Green Bond borrowing and those two borrowing approvals*
  - c. have you sought legal advice on whether UTAS' \$350 million Green Bond borrowing complies fully with the terms and conditions of the two borrowing approvals to UTAS, and*
  - d. for the avoidance of any doubt, can you please explain why you would not retrospectively issue a borrowing approval matched to the terms and conditions of UTAS' Green Bond rather than risk legal action by a creditor?*

Yes, I believe the current Bond Program is consistent with the approvals issued in March 2021. The \$350 million capital raising through this exercise is within the \$400 million borrowing limit. Therefore, I do not consider any further action, such as seeking legal advice or a retrospective borrowing approval, is necessary.

5. *What analysis did Treasury undertake when considering the current section 7(2) approvals and please provide any evidence of how the Treasurer informed their decision on UTAS' future capacity to repay its debts.*

As noted above, I understand that advice from Treasury was considered by the respective former Treasurers, when considering UTAS' requests for borrowing approvals.

For instance, I understand that the analysis provided by Treasury, relating to UTAS' \$400 million borrowing request for the Southern Infrastructure Project, included:

- background on the history of UTAS' borrowing requirements;
- information in relation to the borrowing guarantee provided by the then Treasurer in context of the COVID-19 pandemic;
- commentary on the potential impact of the request on the State's credit rating (noting that this was relevant at the time because UTAS was considering borrowing through Tascorp, but this is no longer relevant);
- a description and analysis of the request, including: the context to the proposal and UTAS' governance structures; project costs and funding requirements, including proposed debt structures; financial modelling and key assumptions, including commentary on its revenue and cost profile and capital expenditure estimates; potential downside scenarios; Tascorp's credit assessment; options available to the Treasurer; and other funding sources available to UTAS.

6. *Are you aware of any other Government agency that may have assessed UTAS plans, and if so which agency?*

No.

7. *Has Treasury been asked or has it undertaken any analysis of UTAS proposed \$500 million STEM facility and if so, what did the analysis find?*

I understand that Treasury provided advice to the then Treasurer on UTAS' STEM proposal in both 2017 and 2018. The advice was for noting only. As noted above, Treasury later provided advice to the Treasurer on UTAS' borrowing requirements for the broader Southern Infrastructure Project.

8. *Are you aware of formal requests from UTAS regarding State Government assistance to fund the STEM project:*

- a. *if so, when and how much was requested, and*
- b. *what was the Government's/then Treasurer's response?*

No, I am not aware of any formal requests for assistance to fund the STEM project.

9. *Moodys' favourable credit rating of UTAS is largely based on the 'oversight' by the Commonwealth and State governments:*

- a. *the previous Treasurer (Hon Michael Ferguson MP) indicated to another Legislative Council Committee Inquiry that he thought the Commonwealth Government would provide additional funding to UTAS if this was required - as Treasurer do you concur with that view?*

- b. *are you aware or have you discussed with the Commonwealth any avenue for additional funds?*
- c. *the UTAS Vice Chancellor (Professor Rufus Black) informed a Legislative Council Committee Inquiry that he thought that the State Government would provide additional funding support to UTAS if needed. He later informed this Committee on 22 August 2024 that UTAS would not require such funding, but that it would become a smaller university. Would the State Government allow UTAS to become a smaller university rather than providing more assistance?*

I expect that the Australian Government would consider additional funding to UTAS, if the situation presented. However, I have not discussed this with the Australian Government. The State Government has no role in determining the size of the University.

10. *In 2017, UTAS entered into a Purpose Built Student Accommodation Agreement (PBSAA) with the Spark Living Consortium. The current Act predates such service concession arrangements and does not define the word 'borrow'. With this in mind:*

- a. *do you consider a borrowing like arrangement such as the PBSAA to fall under the ambit of section 7(2) as contemplated by Parliament in 1992?*
- b. *did the Treasurer seek advice on the matter?*
- c. *did UTAS tell the Treasurer about the deal, and if so, when was the Treasurer informed and what was the Treasurer's response?*

No, I do not consider that these are like borrowing arrangements. UTAS' financial statements present this arrangement as a "grant of right to operate" which is presented as an "other liability", not as debt. The financial statements were independently audited by the Auditor-General and no concerns were reported in relation to the accounting treatment.

Thank you for writing to me in relation to this matter.

Yours sincerely



Hon Guy Barnett MP  
**Deputy Premier**  
**Treasurer**