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THE LEGISLATIVE COUNCIL SELECT COMMITTEE MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON TUESDAY, 6 DECEMBER 2022.

INQUIRY INTO THE PROVISIONS OF THE UNIVERSITY OF TASMANIA PROVISIONS ACT 1992

PROFESSOR HANS ZOELLNER WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED, AND PROFESSOR MANUEL GRAEBER PUBLIC UNIVERSITIES AUSTRALIA (via WEBEX) WAS CALLED AND EXAMINED.

**CHAIR** (Mr Valentine) - I welcome everybody to this Inquiry into the Provisions of the University of Tasmania Act 1992. I welcome those who are tuning in online.

I will commence with an acknowledgement of the traditional people: we meet today on Tasmanian Aboriginal land and we acknowledge and pay respect to the Tasmanian Aboriginal people and elders, past and present. We recognise them as the traditional and original owners and the continuing custodians of this land.

I will introduce members of the inquiry: on this side of the table, Nick Duigan, Sarah Lovell, Meg Webb, myself, Rob Valentine and Mike Gaffney. We have Jenny Mannering as the secretary and from Hansard, Estelle and Roey.

Welcome and thank you for taking the time to come and present to the committee. As I have already seen, and stated, we are taking sworn evidence today and you have made your statutory declaration. Our hearings today are in relation to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Provisions Act. It is important to note that all evidence taken at this hearing is protected by parliamentary privilege. I remind you that any comments you make outside the hearing may not be afforded such privilege. A copy of the information for witnesses is available and if you have not read it, and/or are not aware of the process - have you read that statement?

**Prof. ZOELLNER** - Yes.

**CHAIR** - The evidence you present is being recorded and the *Hansard* version will be published on the committee website when it becomes available.

By way of introduction, I advise that the procedure we intend to follow today is that you will be provided with the opportunity to speak to your submission, if you wish to do so. Following that, the committee will address questions to you on your submission. Do you wish to make an opening statement?

**Prof. ZOELLNER** - Yes, thank you very much. First of all, I would like to say that it's an honour to present to this committee and I'd like to thank you for that opportunity. We, in Public Universities Australia, made a number of recommendations in our submissions, but I'd like to speak specifically to what I believe to be the key recommendation and that is to embed traditional academic values into the act.

I think there'd be agreement that the core functions of any university are to create and disseminate knowledge and also to establish a deep reservoir of expertise that the community,

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including parliament, can draw upon when required. This vision is realised by putting into practice a set of core academic values. I will just read them very briefly: there's rigour in expertise; creation and dissemination of knowledge; collegiality; freedom of speech; robust intellectual debate; freedom of academic research and truth in all academic works.

I've got to say, reading that through I know full well that from the other side of the table, in fact from anywhere, that just sounds like a set of motherhood statements of little practical value. I understand that, but I must assure you that it is by putting these academic values into actual practice that the real work of the university is delivered. These values are also the basis for trust and accountability in universities, where all can be judged and held to account against standards that are defined by those values.

Unfortunately, across many universities in Australia, in recent times, there's been reducing adherence to academic values by all levels of management and indeed by some academics who take their lead from the leadership that management shows. This undermines the work of universities, and it also undermines accountability in these institutions. It is particularly disturbing that this often involves a denial of empirical facts and reasoned arguments and replacement of these with authoritarian determinations that, in a way, are often entirely illogical and completely inappropriate for a university.

I can provide examples from my own personal experience in my former position in the Sydney Dental School, where extraordinary damage has been done by management failing to act in accordance with these values. At times, this has been really quite shocking - shocking to me, anyway. It would include, for example, that the current Dean, Heiko Spallek, gained his position by falsifying his curriculum vitae and job application by claiming a PhD that he does not have, and which was an essential advertised requirement for the job he applied for. Despite discovery and demonstration of that fact, he remains in post, regardless of his untruth; regardless of him being unqualified for his position; and regardless of him having inflicted terrible damage on the school. His unqualified leadership has undone many decades of public investment, building the Sydney Dental School and, I believe, that this endangers the public because the quality and the safety of the dental workforce relates directly to the quality of the training that the school offers.

This is just one example, where there is a real world impact that affects the real world and extends far beyond the university and, in fact, far into the future; just one example of adverse consequences due to a university management failing to act in accordance with academic values.

That's the reason why we recommend that academic values should be explicitly listed in the act, and for the act to specify that all university policies, procedures, ordinances and bylaws should be interpreted and acted upon consistent with these academic values.

This would establish unifying principles that could guide decisions and actions by everybody in the university: management; academics; professional staff - quite simply, everyone in the university should be guided by these academic principles. It would also provide a documented basis for holding all to account for transgressions, that has the full power of the act. Modifying the act in that way would set the standard for Australia - indeed, for the rest of the world - for good governance in universities that aligns academic values with the core functions of the universities. There is absolutely no reason why Tasmania should not show the lead in this instance.

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I thank you again. I will step aside now for my colleague, Professor Graeber, if he chooses to speak.

**CHAIR** - Professor Graeber.

**Prof. GRAEBER** - I would also like to thank the committee very much for this opportunity. My name is Manuel Graeber and I'm the president of the Australian Association of University Professors (AAUP) - one of the founders of Public Universities Australia (PUA).

I would like to thank the committee on behalf of public universities as well for this opportunity to speak.

**CHAIR** - Excuse me, Professor Graeber, I am conscious that at the hearing at the moment we're hearing from Public Universities Australia. The Australian Association of University Professors is the next presentation at 2 o'clock.

**Prof. GRAEBER** - There's no overlap. This is on behalf of PUA.

**CHAIR** - We will still hear from Professor John Kenny?

**Prof. GRAEBER** - Yes, absolutely. He is the local chapter representative of AAUP.

**CHAIR** - That's fine. I needed to get that clarification. Thank you.

**Prof. GRAEBER** - Thank you. I believe it is not an exaggeration to call this gathering one of the most important events in Australian higher education history. Academically-strong universities are of greatest importance for the health of democracy.

I would like to speak briefly on three points that relate to your terms of reference. I will give examples of why your work is so important - not just for your university but, as my colleague pointed out, for the country and probably most likely beyond.

A university is its people. Protecting their ability to pursue academic goals is a priority. A good university act should provide that protection, with academic freedom being only one aspect - a very important one, but only one.

Adherence to the truth is the second point. In everything the university does to create an academic culture, there cannot be trust without truth. Truth is central, because researching or teaching anything else but the truth does not make any sense, as you will agree - particularly in the case of the university.

Number three, management must serve the academic mission. We are miles away from this ideal, so holding managers to account is only one step in the right direction. Rectifying governance fundamentally must be the goal of an improved act, in our opinion.

Now, my three examples. The increasing lack of respect for academic values, which my colleague has cited, in Australian universities is the exact reason why we are here. The University of Tasmania is one example, as many of the submissions to this committee show; the lack of respect for academic values at our universities is not surprising as not only at the

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University of Tasmania - many non or weak academics have been selected, but not democratically elected by academic staff to run our universities. Weak governance has been recognised as the key issue underlying the problems our Australian universities are now facing. Since many Australian university managers are not credible academics, they have assumed power and, in many places, are trying to force staff into submission against all reason - but for monetary and typically personal benefits.

Managerial abuse is now rife at our universities. I, personally, as well as the PUA, have received numerous shocking complaints from staff about bullying, harassment and other management misconduct. One such complaint was brought to me personally in my role as President of the University of Sydney Association of Professors, USAP. This complaint by a desperate colleague made me file a public interest disclosure at the University of Sydney - which, however, led to my own persecution, which seems to be a typical response of Australian university managers, as Australian whistleblower laws do not provide any relevant protection.

This brings me to Dr Mary O'Kane, who has just been appointed to lead the panel that has been proposed to develop the Australian Universities Accord. Dr O'Kane was also hired by the current University of Sydney provost, Annamarie Jagose, to carry out an independent investigation into the alleged criminal matter at the university, which was part of my public interest disclosure. Dr O'Kane has no qualifications as a criminal investigator, as far as we know. Her appointment happened against the explicit advice of our professorial council, because Dr O'Kane is also not considered independent. She did not speak to key witnesses, but confirmed that although money had changed hands, it was not for corrupt reasons, based on her desktop review of the matter.

Dr O'Kane refers to herself as Professor, and advertises on her consulting firm's website her 'pioneering work in artificial intelligence'. However, we were unable to confirm the existence of the vast majority of her more than 100 articles mentioned on the University of Wollongong website, where she received an honorary doctorate and which are also mentioned in *The Sydney Morning Herald*. According to the leading worldwide citation databases, Scopus and Web of Science, Dr O'Kane's pioneering work is not recognised as such by her peers, as it is essentially not cited. Dr O'Kane's h-index appears to be only three, like that of a postdoctoral student, but not of a scholar - and particularly not of a professor.

Clearly, Dr O'Kane should be given the opportunity to explain these discrepancies in her very public biography. Her role in the ongoing cover-up of the alleged criminal matter at the University of Sydney also needs to be investigated before she can lead the national team, whose function it is to restore quality and trust in our universities. It is also worth pointing out, as I have done in my written submission, that Dr O'Kane was an intrinsic part of the managerial system that has so badly failed our universities.

The accord should be led by widely respected scholars, but not weak academics or managers of the current system. We hope, therefore, that the membership of the university accord team will be reviewed by the minister, whose work the PUA wants to support, or the accord will be at risk of simply confirming the status quo.

The second example I would like to give illustrates that even rectifying university governance is not enough. The importance of probity must be enshrined in the university act. My colleagues and I have collected several serious University of Sydney cases where New

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South Wales ICAC has refused to investigate, and we have come to believe there is collusion between ICAC and university management.

We therefore applaud the establishment of the National Anti-Corruption Commission, NACC, and trust that the NACC will investigate the conduct of New South Wales ICAC with priority, as it has huge implications for our university system. We also hope that the New South Wales Parliament will follow the Tasmanian example and conduct an inquiry into the governance of the New South Wales universities.

Lastly, as my third example, I would like to refer to the submission of my colleague, Professor Hans Zoeller, who we've just heard, and emphasise that I fully support it, being sworn in or not, I'm happy to swear on this occasion.

Citing the names from my public interest disclosure, I strongly recommend holding the two previous University of Sydney vice-chancellors Dr Michael Spence and Professor Stephen Garton, as well as the current Chancellor, Ms Belinda Hutchinson, to account for the system of abuse they have created, which not only fails academic standards, but has done enormous harm to the careers of academics and even students.

**CHAIR** - Please, Professor Graeber, I must ask that your comments relate to the terms of reference here in relation to the University of Tasmania Act. I appreciate that you may have concerns in other jurisdictions. We need to be careful with straying too far from the purposes of this inquiry, which is to deal with the University of Tasmania Act.

**Prof. GRAEBER** - This is an analogy. I've heard about problems you have in Tasmania with the university executive, and I am mentioning ours to illustrate.

**CHAIR** - I am aware that those individuals aren't here and they have little opportunity to be able to rebut.

**Prof. GRAEBER** - They should be given the opportunity to explain what happened at the University of Sydney. Taken together - I'm finished with my presentation - from all that the PUA has learned from colleagues nationwide, I can confirm that the type of managerial misconduct reported to your inquiry - there are many examples amongst those 150 submissions - is representative, so your work is so important for that reason.

You are providing the only space safe, as far as I can tell, in Australia at the moment to air these issues. I think the PUA really begs you to use this opportunity and rectify matters in a fundamental way because you have a unique opportunity. Thank you so much, I'm happy to answer any questions.

**CHAIR** - Thank you, Professor Graeber. As I say, it is important for us to focus on the terms of reference here before us. What we don't want to see with this inquiry is an opportunity for 'he said, she said' things happening. It's important for us to get as much information as we can. It's valuable information that you're imparting. I can appreciate that, but we need to keep the focus on the terms of reference that are before us.

**Prof. GRAEBER** - Yes, that was management abuse I mentioned.

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**CHAIR** - Thank you. I appreciate the points made, there's no question about that. So, anything further to add?

**Prof. ZOELLNER** - No, please ask any questions you feel you'd like.

**CHAIR** - Thank you. First of all, I didn't actually announce that you were from Public Universities Australia when I welcomed you. For those who might be listening in, it's submission 27 on our submissions list. That is the submission that we are dealing with, and it is on the parliamentary website for this particular inquiry.

With respect to the act itself, quite clearly you can't be too fine-grained within an act. Do you see that there could be an issue there in how we actually incorporate what you're suggesting should go into the act?

**Prof. ZOELLNER** - I think that's fair enough. The recommendations that we've made, we've tried to give direction for very discrete, short sentences that could be added to the act, as much as possible.

For example, the first recommendation relating to reference 1, the constitution function of the powers of the act, to more clearly state that all stakeholders, including students and academics who are part of the university - one of the things that Professor Graeber pointed out is that university management structures now treat themselves as comprising the university, rather forgetting that the students and the academics are also part of it. So we suggest there that a university consists of 'an academic community of equally important parts that are' - and just a short sentence there that emphasises that everybody in the university is part of the university. We have tried as much as possible to do that.

However, when it comes to the statement of academic values, I think that those academic values need to be spelled out in full - but they are also not very long. You can read through it in a second, so I take your point.

We have tried to be fairly specific, pointing to which parts, which divisions, of the act would be relevant. I have the list here. It comes down, in fact, to two pages. The act itself is able to accommodate the small change. In truth, it will be up to your own staff and scholars. You know how to draft an act properly anyway. We have just made suggestions. I think it can be done fairly tidily.

**CHAIR** - Thank you. We appreciate the fact that you actually addressed the terms of reference in here as well. That is good. With respect to your statement on the first page of your submission:

Furthermore, the act does not currently include reference to the full range of important university roles.

**Prof. ZOELLNER** - Yes.

**CHAIR** - Where do you think it is insufficient?

**Prof. ZOELLNER** - Where it is insufficient there is that it does not state - remember I pointed out early on that the core functions of a university are to create and disseminate

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knowledge, yes? But it does not actually refer to the fact that it is meant to be a place, a reservoir, of expertise. Now I know that as parliamentarians, you will be drawing upon, constantly, the expertise of your academics here in Hobart - and elsewhere I imagine. So, that is an important function.

Community groups, industry, all sorts of organisations rely upon the expertise of academics constantly. The media: I have been often asked to speak to the media, to speak to politicians, to speak to industry groups, all sorts of groups - and all academics are. That should just be simply stated in there, because it is a core function. I think it also helps to frame the importance of the university for the community. It is not just a place to get training so you can earn more money or something. It is an institution that serves the entire community constantly.

**Ms WEBB** - Thank you very much for that. One thing I am interested to get your comments on, noting that the PUA is bringing more a national perspective in a sense, and contextualising UTAS and the UTAS act in a broader national context. What we have seen clearly through submissions is people pointing to the balance - or disrupted balance, potentially - between corporitisation and valuing academic values and pursuits, and how that plays out in governance arrangements in the universities.

Could you speak a bit about what I think the PUA would see, or categorise as, an imbalance there that has happened over time, so we can understand more about how that should look? I think there are valid points to be made that the corporate nature of universities has become increasingly complex, and that the corporitisation is understandable within that. Could you speak a little about that balance?

**Prof. ZOELLNER** - I will make a couple of comments, and I will also defer to my colleague, Professor Graeber. I appreciate - and I think everyone understands - that universities have grown enormously, and their complexity has increased. In some ways, it might be understandable that increasingly some sort of management structures are imposed - and, indeed, managers are increasingly being appointed to senior leadership positions in universities. The justification for that is, as you imply, with good reason - that universities have become enormously complex. Perhaps management skills are important.

But if that is the case, how much more important is it that there be guidance, so that the management decisions that are made are consistent with the actual functions of the university? At the moment, managers make decisions that are guided by their experience somewhere else that they have come from, but are not necessarily actually in any way connected to the real functions of the university.

In the not so distant past, the management of the university was in the hands of academics who gained the trust of their colleagues by demonstrating through their lifelong careers' adherence to the core academic values, it's in our mother's milk. You grow up with it, you're trained with it, you live with it, you work with it, they're the values.

Those amongst us who are the most able and perhaps the most cunning, clever and most organised, they would become the senior leaders within the university. That is not so much the case now. Maybe, that's a necessary outcome of the increasing complexity of universities. I personally don't think that would really be the case. My personal sense is that's not really necessary, but I can see the argument for it. If that is to be the case, then there needs to be guidance and that's why we've got a bee in our bonnet about enshrining academic values into

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university acts, so that there is guidance and accountability that brings the management structures of the university into actual alignment with the functions of the university, because right now, they're simply not. That's what creates so much disharmony in the university and it undermines our work terribly.

I should now defer to my colleague, Professor Graeber, because I'm sure he has something to say.

**Prof. GRAEBER** - I am happy to have a more specific question because I certainly would like to say a few things about universities and the importance of values and also what they represent for society, but I don't want to just go ahead. Can you repeat your add-on question?

**Ms WEBB** - Sure. The question is the balance between corporate governance capacity and also academic values and academic capacity being represented in governance structures and management structures and what that balance should look like? Inevitably there needs to be both those things, so how is that out of balance now in your view or how could it be better balanced?

**Prof. GRAEBER** - Perhaps in short, I think that positions of university leadership illustrate this very nicely. We need a moral lead that leads our university. Running a university should be considered a privilege and I think the best person for this job would be someone who would not want a high salary because, again, it is a privilege. Because universities have a unique position in society, they are the protectors of democracy and there is no other space if you look at countries like Iran at the moment, only 4.5 per cent of the world's population live in truly free societies. Universities are necessary to protect their freedom because thorough debate forces politicians to do the right thing. Fortunately, elections rectify, but free debate helps with these rectification procedures. So, again, corporate values do not necessarily help with that.

If money or profits are the focus, it's not really compatible with a deeper view of what universities are for. They are about the truth, they are effectively crap detectors, that's the role of universities in society. We must speak out when things are wrong, it is that simple, I think. Truth is mandatory and truth must not be bent. It has nothing to do with profit. In the case of doubt, the truth must prevail. Fortunately, it does long term, but oftentimes short term does much damage. So, again, universities have a unique role. That's where democracy is effectively anchored in society, or western democratic society. Letting them drift away and become corporations is not a wise decision.

**Prof. ZOELLNER** - If I might also add, the thinking that legitimately guides decision-making in the corporate sphere is about the current circumstances, profits today, maintaining survival of the business into the immediate future, stuff I don't know much about.

What I do know about is that – is what universities are about - it is mostly not today, it's about tomorrow. It's about training our young people to serve far into the future. It's about establishing structures in society that will serve the community long after all of us are dead and gone. It's about tomorrow. It's about doing research. With much of my research, some might say 'what bloody use is that?' I don't think it's going to be applied for decades, but it will be applied, it will be bloody useful, sometime in the future. Universities are about tomorrow.



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The corporate world understandably, legitimately, correctly is about today, it's got to deliver now. But, there is a bit of a difference in thinking that comes from those two worlds, I think, and that's why enshrining of values in the act would help to reconcile that, because then managers who are trying to ensure the place stays open, that the bills are paid, can also at the same time be thinking about what are we really doing this for.

**Prof. GRAEBER** - Also, if I may add just one point, quoting Victor Hugo who said 'there's nothing more powerful than an idea whose time has come.' You can't resist the invasion of ideas, one can resist the invasion of armies, but protecting democracy, free thinking, spirit in Australia, you need universities critically, and there's a need for a paradigm shift. It's not about money. Universities are so important that money really doesn't matter, this is the kind of paradigm shift that I think has to take place.

**Ms WEBB** - Thank you. I will move on to a slightly related part, I suppose, when we think about the acts of parliament underpinning universities, whether it's in this state or others, the thing I find quite interesting, and that's come through in a number of submissions, is that there's no particular way to hold universities to account for compliance with the act. For example, we can actually see and we could probably make a public fuss about a university not following the arrangements in the act about who sits on a university council, for example. But if we put in intangible things like functions, or intangible things like academic values, where's the mechanism by which that becomes a tool of accountability? What you're suggesting is that if we put it in the act, it is to function as a tool of accountability. Accountability to who and how?

**Prof. ZOELLNER** - I think that's a very reasonable question, but I think, in fact, what the act does is it provides, if you implemented that, it would mean that within the institution, because we recommend that all documentation within the university be made with reference to these academic values, and in fact, that it be specified within the university.

Currently, there are multitudinous transgressions that I'm not going to waste time today talking about, but I do know from my personal experience, it would have been enormously helpful for me to be able to point to the documentation and say, 'hang on, these core academic values have been breached in this instance. Stop, let's have a look at this again.' That would be within context of the internal policies, that's why we recommend that the act specify that the policies, that the actual internal documents of the university, be written in accordance with these academic values.

Everyone should refer to the seven academic values. That way, when something happens that is inconsistent with academic values, you can point to one of the God knows how many hundreds of internal university documents that relate to the issue - it could be appointments, it could be promotions, it could be the distribution of funds, anything - and say, 'hang on, what is happening here is in breach of academic value,' and that gives power within the university for staff to hold management to account.

I think you're right, it's largely internal, but it's awfully important, because right now there's nothing, you've got nothing, because really anything is acceptable in the university, any decision by a university manager is acceptable as long as it's acceptable to the managers who manage them. That is no standard for running any sort of university. A decision has to be supportable on basis of first principles, reason and logic.

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**CHAIR** - Sarah?

**Ms LOVELL** - Thank you, Rob. Thank you, professors. I had a question about a recommendation in your submission around improving the status and specifying minimum requirements for senior academic appointments. I just wanted to know how that compares in the University of Tasmania Act to other jurisdictions, to your knowledge. Is what you're asking for consistent with other jurisdictions, or are there some differences across?

**Prof. ZOELLNER** - I am unaware, I've had a look at the University of Sydney Act, I don't recall there being any stipulation there relating to this, there might be elsewhere, Professor Graeber might be familiar with elsewhere, I don't think that's been specified anywhere, but we're suggesting it here because we think it would be helpful. We think it would just be a helpful thing to do for Tasmania. As I said, why shouldn't Tasmania set the standard for the world? I don't see why not. Do it here first, do it right, do it well, show the world how it should be done.

**Ms LOVELL** - Thank you.

**Prof. GRAEBER** - There are two countries that have gone through difficult phases in history, like Argentina, the US and Germany, and they have constitutionally guaranteed freedoms. Some of these values are enshrined within the constitution, like free speech. There are some differences. Some countries are in slightly better shape in terms of the university sector. Italy is probably faring better than Australia at the moment, and there are a few other examples. It is exceptionally difficult here because of the development of the last 30 years.

**Ms LOVELL** - Thank you. I had a question on another matter which is not something that you've addressed in your submission but I'm curious as to whether you have a view on it and anything that you can provide for the committee's consideration.

In your experience, how are other Australian universities delivering broad higher education options across a range of regions? And where is that being done really effectively?

**Prof. ZOELLNER** - That is a good question. I really wouldn't be able to give you a very good answer to that other than to say that I've observed that there is a lot of effort being put into developing online delivery modes into systems where academics are rotated out to regional areas. Charles Sturt University, for example, in my little area of dentistry, has been doing that. They've been experimenting with ways to deliver courses across a multitude of different campuses that are widely distributed. There's lots of stuff being done there. I would be wasting your time to give you my uninformed argument.

**Ms LOVELL** - Thank you.

**Prof. GRAEBER** - I think new technology offers new opportunities. Many developments, including PUA, have happened virtually. I am personally more optimistic than many colleagues that new technologies give us new opportunities to develop teaching and research but there is some need for physical contact, obviously.

**Prof. ZOELLNER** - Certainly, I've personally done a lot of blended teaching where there's a significant amount of online content, but also, as Professor Graeber says, personal contact with students is very important for effective teaching.

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**CHAIR** - Just looking at your submission, on page 4 under Recommendations for Term of Reference 2: The Constitution, Role, Powers and Obligations of the Council and Academic Senate. You make comments about improving the informed academic perspective of the council. In terms of the functioning of the council at the moment - and I'm not just talking about UTAS but universities in general - the way the councils are constituted, it seems to me, that you are concerned about the corporatisation side of things. How do you see that being effectively structured so as to meet some of your concerns? I'm interested in hearing more about that.

**Prof. ZOELLNER** - Yes, I think that that's a key issue. Certainly, councils in Sydney - we call it a senate - but the leading body for the university has key oversight responsibilities. Fundamentally, every problem in the university ultimately is their problem. My limited experience with the University of Sydney council equivalent is that there's remarkably little interest in what goes on in the university. These are appointments, as you said, where a very small proportion of the council comprises academics, and that one or two academics who might be on the council. I believe in the council in Tasmania it's two at most who are actual academics who have worked in the university ever, necessarily. Anything they might raise and say is so easily overwhelmed by the majority of the council who are from outside.

I understand that everyone would reasonably argue, yes, it's important that there be a significant component of the council that is constituted of representatives from business, the community, the government, and whoever else, but there has to be a sufficient body of actual academics who are experienced, senior and well-trusted academics from within the institution who have feet-on-the-floor, hands-on experience with the actual running of the university, who can bring real problems to the council to be discussed and to gain the benefit of the corporate expertise sitting there.

Right now, the corporate people come in. We had a meeting separately, in another context with the council, the senate, in the University of Sydney, and honestly, there was complete and utter indifference to the matters that we brought. One councillor who said, 'Well, yeah, that's really very concerning'. That's all it was. There was another who said, 'The document you gave us was very long'. That's all she could say: it's a long document. Rather than be horrified, anyone would be horrified at what we were sharing. But they didn't see it was important. And that's a real problem.

**CHAIR** - So, you are using senate and council almost interchangeably. I'm interested in the juxtaposition of both of those bodies, and how the structure should be in order to achieve what you're suggesting needs to be achieved.

**Prof. ZOELLNER** - As we've suggested, we think that there should be an appreciable number of senior academics elected onto the council.

**CHAIR** - Onto the council as opposed to the academic senate?

**Prof. ZOELLNER** - I do apologise. When I was talking about the senate, I was referring to the University of Sydney equivalent. In Sydney, they call it the senate.

**CHAIR** - Okay.

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**Prof. ZOELLNER** - That's entirely my fault. I do apologise.

**CHAIR** - That's okay.

**Prof. ZOELLNER** - It's confusing because it's different.

PUA records as its fundamental principle that senior positions should be largely democratically established. That's the sense, yes. I think that's the key principle. There should be a democratic process, and there should be appreciable representation of actual academics who work in the place and who understand the issues, and have a genuine investment in the place. You put your heart and soul into your discipline and your university.

**CHAIR** - You're obviously saying, I think, that the academics keep the academic focus of the institution and the vice-chancellor and other administrative personnel put into effect what the council is saying should be focused on. Is that what you were suggesting?

**Prof. ZOELLNER** - Yes. I think you could put it in terms of that. I think that the collegial academic decision-making process involving academics should decide what should be done; what actually can be done is then in part affected by those who have corporate and management experience. Then there has to be a discussion and negotiation to find a way to do stuff.

**CHAIR** - Coming back to Nick's point that she made earlier about the need for some experience in economics, and the fundamental running of organisations. There is obviously a bit of tension, isn't there? I mean, if the academics are saying, 'We need to go down this path, because otherwise we're going to lose significant capability, for instance, in industry', we do need to go down it. The chancellor or the vice-chancellor might be saying, 'We can't afford to do that, we can't afford to go down that path'. So someone's got to call the shots in terms of the economic -

**Prof. GRAEBER** - If I may comment on that, I think democratic election, increasing collegiality, would be a solution to most contemporary problems. If the VC would be elected by staff, he would stand up on behalf of the university and discuss with the Government what is best for the university. A colleague has actually coined the term that the current Australian university is inverted. The tail is wagging the dog. Management is trying, well, to whip people to do certain things without knowing what the academic business and contemporary problems are like. I think a democratic process that would produce the leadership, and also the majority of senate, that would be the solution.

**Prof. ZOELLNER** - It just comes down to, as Professor Graeber said, collegiality. I mean, you can't imagine that we all get together and agree with each other.

**CHAIR** - I can certainly imagine that that wouldn't always be the case.

**Prof. ZOELLNER** - In a room full of professors, we are all disagreeing, we are all arguing. But we come to decisions and can effect meaningful outcomes because of a collegial discussion and decision-making process. We think that that is what should be guiding the university in this sense. Sure, people with management experience have one perspective but

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there should be a meaningful discussion to see what can actually be done to effect good outcomes for the university.

**Prof. GRAEBER** - If you subscribe to academic principles and truth is the goal, finding and teaching it, then 'the unforced force of the better argument', as Habermas put it, is the goal. That is a bit different about professorial discussions. There may be disagreement but, at the end, the best argument should prevail. That is also what universities should offer to society, governments in consultation and so forth. The unforced force of the better argument is the goal, not someone winning a position.

**CHAIR** - Thank you.

**Ms WEBB** - I am interested to ask a bit more about protection of academic freedom. Some universities interstate, I think Melbourne and Monash, for example, have academic freedom in the acts they are constituted under. Others, like UTAS, have policies relating to academic freedom and would say that they adhere to those policies and have academic freedom well protected through them. Does PUA (Public Universities Australia) have a view on how we would measure how well academic freedom is being protected, whether it is enshrined in the act or within policies under the act? How would we ascertain that the protection of academic freedom is actually occurring?

**Prof. ZOELLNER** - That is a very good question. I think you could measure it by the number of disputes and disagreements there are between academics trying to preserve their disciplines, or to conduct research or to teach their discipline areas with the expertise that they know is required, and interference of that with management. At the moment, it is extraordinary. I think you need to understand that every academic discipline - in fact, it doesn't matter what you do. If you are a concert pianist, you know what it takes to be a concert pianist. Someone will come to you to learn how to do that because you've done it, you know it, you know what is required to achieve that level of skill. You would not go to someone who, you would not go to a plumber to learn that. Different discipline, different skills are required. It is the same across the academic disciplines in universities.

My little discipline of oral pathology is fundamentally different, in many regards, to the discipline of general pathology, for example, within the medical school. And yet you have got some manager who knows diddly squat about it, who has really no idea, honestly, no bloody clue whatsoever, saying: 'No, no, no, no, we are going to put these things together because this is what we think'. There is no understanding that each discipline trains a different set of skills, has completely different nuance and has to be respected.

It is when you are trampling on those disciplines, when you are trampling on the ability of academics to train students in the way they know will work for their discipline, to conduct the research they know, because of their very high level of trained expertise, is the research we need to do right now because this is the burning question in my area. Here I see an opportunity and this is why I am doing this, rather than simply trusting academics with the expertise - and we have highly trained expertise in our narrow little areas. Rather than simply trusting us to get on with our work to the best of our ability and finding new and interesting ways to help us to do our work, we find that management structures, with their great big hobnailed boots, will come trampling all through the garden with no idea what they are doing and interfering. You would actually be able to measure the question of academic freedom by the reduced number of complaints and reduced number of disagreements you would have in the university.

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**Prof. GRAEBER** - Perhaps in positive terms, the productivity, the number of useful ideas. Original thought requires freedoms. I think the better universities have better protections and practice for academic freedom because it should not take courage to think.

**Prof. ZOELLNER** - Absolutely right. Thank you for pointing that out.

**Mr DUIGAN** - Going back to the question of governance and the idea if the governance model is, if those positions are predominantly held by academics, how then does the university seek to serve its community? How does it go out and get those other perspectives it needs?

**Prof. ZOELLNER** - With regard to how does the university seek to serve, I think, in truth, academics do serve the community. It's the daily work of an academic to serve the community, to serve the community through teaching, to serve the community through research and to serve the community as a point of expertise. It can be approached at any time by anyone, by anyone. Academics are constantly being approached by people in the community for advice, for expertise, for help, even for community outreach: 'Can you come and speak to this school for us?' That sort of stuff is just inherent. In fact, within the university it is one of the bases for promotion. There's teaching, research and service, and the service component is very important as part of your academic work and it is part of the basis for promotion within the system. I think that's there.

I don't think we need to have a cast of management people to allow service to the community to happen. But I do see that there is benefit for the university to have access to expertise and different perspectives. I think sometimes also those people can reach out and say, 'Well, hang on, I know of stuff going on at the university that might be helpful', a sort of bridge in some ways. But I don't think that service of the community is dependent upon the current management structures at all. If anything, it inhibits it because it inhibits academic work.

**Ms WEBB** - I am interested in the relationship between the state governments and state parliaments and universities that are constituted under acts of those state parliaments and state governments. What does PUA see as the essential elements of that relationship between state governments and state parliaments, as the entities governing the legislation that forms the universities, and the universities themselves?

**Prof. ZOELLNER** - My personal view is that, as parliamentarians, as the elected representatives for the state, every problem in the state is yours and everything that happens in the state is something you need to be thinking about and concerned about.

The University of Tasmania, in fact every university, is an important public institution that serves your state at every level. It generates your professional workforce, it informs your community whenever a question of expertise is required and it also upholds the principles of democracy. It's the training ground for your leaders, it's the place where, as Professor Graeber said, fundamental principles of democracy are protected and nurtured, and the population is trained, all those students who come and who are trained in that.

I think that whatever happens in the University of Tasmania is your problem. As Professor Graeber said, I am so delighted that you have constituted this committee and that you are looking at the University of Tasmania Act because you're the boss - that's the relationship,

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you're the boss. It's your responsibility, I believe, to make sure that the University of Tasmania fulfils all of its responsibilities and all of its potential. That is why we made these recommendations.

**Prof. GRAEBER** - We actually phrase this within PUA: Parliament is our partner. Parliament is what universities should be reporting to, not individuals, in a democratic way. They are so important for democracy. Parliament is what I think we relate to.

**CHAIR** - It's interesting, because universities have quite a number of strictures applied to them from all sorts of other directions, other than through the act or through the parliament. Indeed, he who pays the piper calls the tune. Tasmania only contributes something in the order of six per cent to the budget of UTAS. The rest comes from the Commonwealth and from its own earnings, through fees and the like.

It's interesting that you talk about parliament as being the boss. Is it more the case that the foundational reason for being is the act? Without that act, the institution would not exist, or at least that's it's the reason for being, and is what underpins it.

**Prof. ZOELLNER** - I think that is right, and you are quite right to point to the fact that much of the funding now is independent of the Tasmanian Parliament. But I don't think that is really the issue. I think the point is that the university serves your state.

**CHAIR** - Well, it does particularly here because it is the only university in the state. We are not like Sydney or Melbourne where they have quite a number. Points are interesting to make.

We do have to call it quits there because our time has expired. I thank you very much again for taking the time to come and talk to us, both of you. I do need to reiterate it is important to note that all the evidence taken at this hearing is protected by parliamentary privilege, but I just have to remind you that any comments you make to the media or others outside of this room, even if you were to repeat what you have said here, will not be protected.

**Prof. GRAEBER** - Thank you.

**CHAIR** - It is important to understand that.

**Prof. ZOELLNER** - Thank you so much for your interest, thank you for convening the committee and thank you for giving us the opportunity to speak with you.

**THE WITNESSES WITHDREW.**

**The Committee suspended at 1.56 p.m.**

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**The Committee resumed at 1.59 p.m.**

**Adjunct Associate Professor KENNY**, AUSTRALIAN ASSOCIATION OF UNIVERSITY PROFESSORS (UTAS CHAPTER) WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Valentine) - Welcome Professor Kenny and this is submission number 46 for those watching online. We welcome you today and thank you for taking the time to come and share your opinions with us, to this hearing.

I would like to introduce the honourable members on this side of the table. The honourable Mike Gaffney, Rob Valentine, Meg Webb, Sarah Lovell and Nick Duigan. We have the secretary of the inquiry, Jenny Mainwaring, and we have Estelle and Roey from Hansard.

I would just ask you to do the statutory declaration if you would not mind, just before we take evidence. We are taking sworn evidence today, as can be clearly seen.

**Prof. KENNY** - I, Associate Professor John Kenny, do solemnly and sincerely declare that the evidence I am about to give the committee is the truth, the whole truth and nothing but the truth.

**CHAIR** - As you would know, I am sure, our hearings today are in relation to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Provisions Act 1992. It is important to note that all evidence taken at the hearing is protected by parliamentary privilege, and I remind you that any comments you make outside the hearing may not be afforded such privilege. A copy of the information for witnesses is available. Have you had the time to read those?

**Prof. KENNY** - Yes, I read through those.

**CHAIR** - Thank you. Now the evidence you present is being recorded, and the *Hansard* version will be published on the committee website when it becomes available, if you wish to review what you have said. By way of introduction, the procedure we intend to follow today is firstly that you will be provided with an opportunity to speak to your submission, if you wish to do so. You do not have to speak to it.

**Prof. KENNY** - Roughly how long would I have for that, Rob?

**CHAIR** - We have three-quarters of an hour for you, so the longer you spend giving your overview, the less time for questions. Something reasonable in time, and following that, obviously, the committee will address questions to you. So, over to you.

**Prof. KENNY** - The submission we put in is on behalf of the UTAS chapter of the AAUP. I don't know if they filled you in earlier on about the history of the AAUP.

**CHAIR** - You can provide that if you like.

**Prof. KENNY** - I presume Manuel has probably said a little bit about it. It is a fairly new organisation, and I think largely it has arisen because of serious concerns with the way in



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which universities are functioning, or not, within our society and our current system. You would gather from my submission that we are very much coming from a systemic point of view, and then we drill that down to what is happening at the UTAS manifestation of that. It is really very much concerned with the way in which the universities are operating largely as corporations, as said earlier, and in a sense the domination of corporate decision-making over the academic decision-making, is the underlying concern.

I worked at UTAS for 15 years as an academic. I am now retired, that is why I had the Adjunct in front of my name, but I am convenor of what is called the Ethics Working Party of the Australian Association of University Professors, and we have developed a framework to help people understand what the academic role is. In the research we have done on that, there are a lot of assumptions made, by academics themselves and also by the general community, about what goes on and what the requirements are to be a good academic.

We set about trying to say, well let us try and pin that down. To be honest with you, I am surprised it hasn't been done before, but from our knowledge such a thing does not exist anywhere else in the world. There are ethical statements you can find, but we have produced a framework and I think I provided a link to that framework. It is now published on the AAUP website and what it aims to do is to communicate, firstly to our colleagues, what our job entails, because in the 30 years since the Dawkins reforms which set about the corporatisation of universities, I think a lot of our own colleagues have lost sight of what the role entails.

The neoliberal emphasis on individualism and so forth has tended to downplay the professional obligations and values that should underpin the work. The driving forces of performativity, workload intensification, casualisation and so forth have all undermined the previous voice that academics used to have within the organisations.

I think a lot of people still think that at some level exists. But the reality is that, in my experience, and the research we have done into this shows it is basically a domination of corporate values over academic values. In our research and in developing a framework, we identified that both are important. They both have a role to play in a modern university, but at the moment, there is an imbalance there.

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

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

I was on academic senate at UTAS for seven years, and I can only describe it as a toothless tiger. There is no power to effect or to challenge corporate decision-making. There is no power to challenge resource allocation. In fact, as an elected member of senate, I had to

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ask that the budget be presented to senate, so senate could see it. We had no input into the budget. We had no opportunity to challenge it. It comes to us as a pre-set entity, which had been decided within the corporate managerial regime.

So, essentially there is no power. You said that whoever pays the piper calls the tune. That was a clear example of where there is no real power given to the supreme academic decision-making body within the university. There is a lot of lip service paid about it, but ultimately no real power to affect any decision-making.

That is essentially what drove our submission. In the submission, I gave some examples of how elected representation has been reduced over time. That happened during my term. I was also president/ secretary of the NTEU here. I wrote to Nick McKim at the time - the initial council decision. We got no response to that. I am afraid the decision was already made. I was also on academic senate when some of these other changes were brought up by Professor Rathjen. I argued strong against them at the time, but eventually I was overruled because academic senate is dominated ex officio. By that I mean academic members who are part of the hierarchy

This is another area where universities are quite unique, because an academic member can be a member of the management hierarchy and a member of the academic profession at the same time. They have a foot in both camps and so it's really important that we sort through what decision-making processes need to be in place in order for proper shared governance to happen, in order for representation of the university community to feed into decision-making, and in order for the academic mission to be accomplished more effectively.

Again, the research shows that if you reduce the power of the academics in the organisation, it becomes less effective as a university. That's essentially the background to that submission.

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

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

**Ms LOVELL** - Okay.

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

We are concerned with the impact that is here. When we developed the framework for the submission that we've now published on the website, we also developed an academic paper that really outlines the research that underpins it all. Whatever we've got in the framework is

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backed by research. That paper's currently out for peer review, so I can't present it at the moment, but it really points to the fact that there are serious issues that have to be addressed around governance, because it's by no means the shared governance that it is meant to be.

From our point of view, we provided in that paper a suggestion of how that might be done, but we've also developed a research project to explore that even further. I've got ethical clearance and now I'm seeking funding. Then we'll go through the rigmarole of collecting the data and doing the analysis and everything else that goes with it.

One of the key things we've suggested is that if you're going to strike that balance, academic senate is the key body within the university - it's called the council in other places, that's why that person before me was a little confused too. But at UTAS, the council's the governing body and academic senate is the primary academic decision-making body. The academic staff must have control of that body. At the moment, as I said before, it's a paper tiger. It's dominated by managerial - there are a lot of academics on it, but they're also part of the managerial hierarchy - and unfortunately, when someone is appointed to a position in the managerial hierarchy, often their allegiance will go to the corporation. You're expected to be a team player, you're expected to implement what comes down from above. You're expected to park your academic scepticism over here and do what -

I have seen that happen to many of my colleagues, unfortunately. That's why I think we need something like a framework which spells out that the academic values are your predominant values. If you get into a position like this, then you have to balance them up but you still have to maintain your academic values in decision-making. Unfortunately, those things tend to get overruled. But the key thing is that the senate must be controlled by the elected academic members.

**Ms LOVELL** - Okay. You might want to add more to this but is it your view that this would be the best governance structure that positions universities to be able to meet the skills needs of regional areas and disadvantaged cohorts as well?

**Prof. KENNY** - I think so because a lot of the work on that has been done by our colleagues. They would be able to draw on whoever has expertise in those areas to make these decisions. More work needs to be done on this and that's part of what the research project will look at. But where do you get the evidence to make those decisions? You get it from the work of academics in those fields. A body controlled by academics will draw on the expertise and the evidence base in order to make its decisions. It wouldn't be 'What's the most cost-effective solution?' That wouldn't be the first question they would ask. It would be one of the last questions they would ask. You would get it conceptually right first.

**Ms LOVELL** - Chair, I did have some questions about further parts of the submission, but before we move on to that, if others have questions on governance, I'm happy to -

**Ms WEBB** - I've got academic senate questions. I'm interested to drill down a little bit more into some of your views and experiences on academic senate. You talked about the equal power. You mentioned that TEQSA (Tertiary Education Quality and Standards Agency) has an assumption that there is that shared power. Is that overtly assessed in any way through TEQSA? I know there is a lot of regulatory requirement and assessment against a whole range of standards for TEQSA. Is that balance in governance assessed in some way?

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**Prof. KENNY** - Not that I'm aware of. I am aware that they did a risk assessment exercise a couple of years ago, as I recall. I think they had managerial representatives, they had various high-level groups represented. One of the glaring omissions, from my point of view when I read through it, was there was no academic representative, no academic body represented. Even the NTEU wasn't at that particular meeting on risk assessment.

One of the things we've mentioned in our paper is that if the university is there to serve society and develop high-quality teaching and research, which is essentially what its mission is, and that that work has to be done by academics, and the assumption is that academics have a key role in decision-making in the university, then there is a hell of a risk for universities if that is not the case. We suggest in our paper that this is something TEQSA needs to look at, as the system-wide quality assurance body.

How effective are our universities going to be? What risk is there by cutting genuine academic voice - and that means that sometimes you're a pain in the bum because you ask awkward questions, you don't just take the assumption, you don't just accept what's given to you. You've actually got to question it. You have to measure it against the research. You've got to challenge it in some cases. And, of course, that goes against corporate line decision-making. That's the challenge - how do you marry those two things together?

**Ms WEBB** - On the same thing, focusing on that aspect of equal power, I'm interested to tease out the difference between having a role in decision-making and being a decision-maker. From what I gather, in terms of academic senate and looking at the UTAS submission to this inquiry, quoting from that:

As the principal academic body of the university, Academic Senate has a broad role in academic decision-making and providing advice on academic matters.

That's how it's described. You've described having a decision-making role. Is academic senate in any sense a decision-maker? From what I read in the material, it's about advice, oversight, monitoring, review, those sorts of functions, which is input.

**Prof. KENNY** - And largely quality assurance matters.

**Ms WEBB** - Sure. Is academic senate in any sense a decision-maker? And should it be?

**Prof. KENNY** - Your academic senate at UTAS, I don't think it is, to be honest, because they don't have any power, they don't get a chance to question policies. Policies are largely presented, except certain ones on the periphery, to do with new courses, or things like that. But the decisions about the budget, academic senate has no power over that. Who is appointed to senior positions, there's no representation of academic senate on that. Maybe the chair in some cases, but there is no formal requirement for academics to have a say in that.

There's no formal mechanism for academic senate to form policy or to look at federal requirements for the university and how they might be best implemented. Those decisions are usually presented to academics. They can say yay or nay. Generally, they say yay, they go along with what management has put forward because most of the body is part of the management hierarchy. The elected members, of which I'm one, there have been a lot of occasions where I've opposed the decision and I can just hear the crickets in the room, because

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it is essentially a rubber-stamping body in my experience. I think that's unfortunate and we need to find ways to re-empower that body. It needs to genuinely reflect the opinions of the academic body. I don't mean that if you're part of the corporate I don't count you as part of that because of the other demands on you. But the general broader academic body should be able to elect representatives to academic senate and control the chair of senate and the decision-making of senate. In many cases, that might lead to much more questioning and challenging of decisions being made by the other side. There would have to be some way of reconciling those.

**CHAIR** - Can I just take that a little further? For instance, in the circumstance in which there might be something that comes before the academic senate or the academic senate themselves might feel that there is a new degree course needed, what path would that take? What I am hearing is that it would come down from management first to the academic senate to say 'yes, agreed', just to get the opinion of the academic senate and then for management to decide whether it went ahead or not. From what I am hearing, are you suggesting that the academic senate is where the identification that a new degree course is needed would come from first of all and then the mandate, if you like, would go to the administration to say 'make this happen'?

**Prof. KENNY** - Currently, those decisions largely come to senate anyway, the course structures and changes to courses, new programs and stuff. They largely come to senate and different bodies put them up to senate. In the situation I am describing, where there is academic control over it, those people would still put proposals to senate and the senate would debate it or run along the lines of the academic values and so forth that go with that, and probably make a decision based on that. Then the corporate side would have to look at the cost-effectiveness of it and that sort of things.

I am trying to think of a situation a couple of years ago. They employed an outside body, I can't remember the name of the body but they used to do technical training and so forth. There have been a couple of occasions under the previous administration where they said, 'Oh look, we will get this body from outside and we'll give them a UTAS brand and they will run our courses for us'. I know there was quite a bit of angst in senate about that because of the lack of quality control over what was happening with this other entity being given a UTAS badge, and the risks that were associated with that without the proper oversight of the senate.

**CHAIR** - Did that pushback go back and that be taken notice of?

**Prof. KENNY** - That was one occasion when I can remember the senate forcing some concessions from the managerial hierarchy at the time, where the idea had come from. They did force some concessions and they did force a certain amount of rethinking about the arrangement but it still went ahead. It went ahead as a trial though, as I recall.

**Ms LOVELL** - I wanted to go to your submission around working conditions for academic staff. You talk about intensification and casualisation of academic work, particularly in relation to reducing the ability and willingness of academics to speak out. I wondered if you wanted to elaborate on that a little bit and maybe talk a bit more about your former role as president of the NTU and how you've seen that impact?

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**Prof. KENNY** - Again, that's a systemic issue. UTAS is probably no worse than many other universities in that one. Essentially if we go back, the framework basically says, 'Look, what's the academic role?' We identified four elements:

- (1) Academics as co-leaders, and therefore we've talked a lot about governance and how they fit into the governance structures;
- (2) Academics as professionals, and again the literature on that is fairly limited. There are a lot of assumptions made about that. What we try to do is pin that down in our article and in the framework. We train every other profession and we've never had a professional framework of our own - to me it's ludicrous. You go to nursing, you go to medicine, you go to teaching, there's professional frameworks out there but academia has never had one. This is why we think the framework's important and why it should underpin some of these things;
- (3) Academics as scholars, and that's what we think is the unifying factor - academics as scholars. It doesn't matter what your discipline is. It doesn't whether you are in nuclear science or whether you're in nursing, or whether you're in teaching. Whatever you do, you're expected to be scholarly. That's an old-fashioned word but, essentially, it means you should know what's happening in your field, you should be right up-to-date with the research and what's going on, and you should be able to carry that further. You should be able to translate that into meaningful teaching programs for your students so they know they're getting up to date stuff. That means you have to really be across your thing and it might mean at times that if someone's making a decision that cuts across your field, you say, 'Well, hang on, no, the research doesn't say that, the research says this', and you have to speak out and challenge it;

If you're on a casual contract and it's awarded from semester to semester or if you're on a short-term contract, you'll very quickly, in a corporate culture, get labelled a trouble-maker, stirrer, not a team player and you get pushed to the side. That's the reality and we all know that's the way the world works at times but we're saying, 'No, the job of an academic is to do that.'. You should be expected, in fact you're probably being derelict in your duty if you don't challenge bad decisions or you don't raise questions when they should be raised. We're saying in the framework, that's your job, do it. That's what you're expected to do, whether people agree with you when you get that through is another question but your job is to question, challenge and to raise issues.

Having casualised and short-term contracts cuts right across that. There are people who speak out and there are people who stick their neck above the parapet but I've seen a few of them get chopped down too. It is a fundamental thing. The levels of casualisation in the tertiary education sector are just appalling. It's probably leading the country. The danger with it is that it cuts across the essence of academic work and that's the part that really burns me up. I can see the need for some casualisation, but it is rampant.

**Ms WEBB** - I am interested to hear about your view on where the protection for that should sit. This inquiry is obviously focused primarily at that statutory level looking at the act that underpins everything. You are talking about the framework which you have developed, which is really interesting to look at in relation to that. In terms of things like casualisation or working conditions, how does that intersect with or articulate from the statutory basis of the university?

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**Prof. KENNY** - Well, I think I made a couple of recommendations in the end of that submission. If you define academic work as leadership, professionalism and scholarliness, then the corporate structures, the resourcing structures, need to be in place to enable that to happen.

- (4) The fourth element of that framework is the working conditions and that involves how the work is determined.

Myself and my colleague Andrew Fluck have done a lot of research into this area over the last 10 years and we have developed what we think is the forerunner of a set of professional standards of practice because in so many universities, and UTAS is the same, the way in which the academic work is determined is questionable. A lot of important things are left out, some things are counted and other things are not. You are expected to do all this stuff, but we are going to count this bit, but we are not going to count that bit. We are going to count if you get a grant and you bring in \$2 million to the university, terrific, we will give you a tick for that. But those grants, for example the ARC grants, four out of five of them fail. So, four out of five people have put just as much effort in to getting it and they say, well, bad luck. But the work that has gone into that is just enormous and we are saying, 'No, you have actually got to say that their job is to put grant applications in place, but you cannot expect them to win them' because that is beyond their control, things like that. The sort of inequities and anomalies in the way the system has evolved over time and need to be fixed. Again, the research we have been doing over the last 10 years is to try to address how to fix things.

**Ms WEBB** - So in terms of how that articulates back to the act, I am testing this with you, do you feel that addressing that shared power situation around governance is the starting point for then ensuring that these things flow through into policies, into agreements, into frameworks that exist?

**Prof. KENNY** - Yes I do. I think that's a starting point and I think the other thing is acknowledging what the role of the academic is in the university. You are not there as a functionary of the management. Your primary role is as a questioner and a scholar in your field, and your value to the university is to put those ideas forward. Again, whether they get taken up or not is another thing, but your job is to do that and to challenge where it needs to be challenged. I think this is the challenge for us as a professional group as well. I think many of my colleagues have become fearful, have lost our way a bit, and I think that framework is as much for us to get our heads around what we are supposed to be doing as for other bodies to get their heads around what they are supposed to be doing as well.

**CHAIR** - Can I just take you back to say the 80s? Can you go back that far at the University of Tasmania?

**Prof. KENNY** - I go back that far, but I was not at UTAS.

**CHAIR** - Oh, you were not at UTAS then?

**Prof. KENNY** - No. I came to UTAS in 2005.

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**CHAIR** - Okay. Well, prior to corporatisation, if you like, becoming the thing, how did you see the status of academics within the university operating within the frame that they had back then. Did that function well? Or did it have its problems as well?

**Prof. KENNY** - No, I have read some stuff about the supposed golden age of universities back then and we are certainly not arguing that we go back to that. Those universities, there were generally old white men running the place, they were very elitist, they didn't deal with the diversity of students who come through universities now. They tended to operate like clubs in some respects, is what I've read around that. What we're suggesting, we have said we actually need to rethink the academic role in this modern environment.

**CHAIR** - You're not saying go back?

**Prof. KENNY** - No.

**CHAIR** - You are saying reshape or restructure?

**Prof. KENNY** - Again, I hope the framework doesn't give the other impression but we say, no, both forms of leadership are important and that the university is supposedly a shared governance thing. In that sense it is unique, I think. Maybe there is some other form of organisation that is supposed to operate that way. Maybe a hospital. I don't know how they do it. But the research and teaching expertise on which they rely is the academic body. You have the managerial body which makes those decisions about how things work. But, in my view, they are there to support the mission and the mission should be something that's jointly agreed upon. I think the academic body, once they have power, has to accept some accountability for what goes on. That's why I think it's important that they have a powerful voice in how it's done and they elect whoever gets to represent them at the academic senate and they control them.

**CHAIR** - In your submission, towards the back of it, just prior to the tables, you talk about professional values and you say: 'The underpinning values of the academic profession are based on the nature of the work as articulated through the following professional values - '. You name four of them. Which of those, at the moment, would you be suggesting aren't being done well, or which ones are in danger of being severely impacted the way things are running at the moment, or are being severely impacted?

**Prof. KENNY** - Certainly, academic freedom and autonomy are under threat. More and more you get tied funding coming from government which puts restrictions on what the university can do with it. A clear example would be something like the ERA (Excellence in Research for Australia) which is the research assessment exercise. That is supposedly to be able to compare institutions' research performance and see who is doing the best. They assume that if you win the most grant money you are doing the best research. That is the measurable assumption there but it isn't necessarily the case. As I said, four out of five miss out and there is probably a lot of good research amongst that lot. That is often governed by whatever the priorities of the moment are. So, if four out of five of those people miss out, how are they supported to keep their ideas going along? Often the organisation will only recognise the ones who've got the money. The other ones are left to fend for themselves.

Those sorts of government impacts can impact on their autonomy and their ability. They can also impact on what research the university will support and what it won't.



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**CHAIR** - It's not a function of what's in the act that's a concern in relation to that, I presume? It's something that's coming from outside?

**Prof. KENNY** - I don't know if the act can specifically say that with academic roles there should be scope for open inquiry other than just what is driven by job-ready graduates or whatever the current flavour of the month might be. That there is still scope for the basic research to happen and that academics also have service requirements. They are often ignored in workload allocations. The peer review system, for example, only functions because people act as editors on journals, put hours and hours into that. Other people peer review papers and put hours and hours into that. But the university doesn't recognise that as part of the work so it essentially becomes voluntary. But the whole system would grind to a halt if people didn't do it. It's really an expected part of the work.

The act could stipulate that the academic role involves all of these things. The details of that can be left to the policies and other stuff. But, certainly, the act could clearly identify what the academic role entails and what is expected of academics. That could then be written into other policies and mechanisms.

**CHAIR** - Thank you. We have about four minutes left.

**Ms WEBB** - Just a couple of things I want to revisit. You mentioned briefly about academic freedom and it being constrained. I'm interested to hear more about that.

Some acts that underpin universities in other states explicitly protect academic freedom in the act. In other instances, like UTAS, they have policies that sit within the university about that. The university would say that is the protection being provided to academic freedom and it's effective. What I'm interested to know is how do we assess if academic freedom is being constrained in ways that some are asserting? And what would characterise the successful protection of academic freedom?

**Prof. KENNY** - I think one of the problems with things being in policy at the moment is that, as a leader of the NTEU, we encounter this all the time. The policies were outside of the industrial agreement so we had no real power over those. But if academics had the power to shape policy, especially around their work, then those policies could be made to serve what the work entails, as opposed to being a managerial version of what the work entails.

Again, having genuine academic leadership with policy decision-making powers would help to alleviate that dichotomy. At the moment, the industrial agreements, in my experience, are not very effective in helping protect academic work. There is research going back 30 years, when this started to happen, and nothing has really changed. In fact, it's just got worse over those 30 years. I think now we are coming out the other end and the wheels were bound to fall off.

**Ms WEBB** - Is there any evidence that having an explicit protection or statement in the act around academic freedom provides a greater level of robustness to its protection within the institution?

**Prof. KENNY** - I don't think it could hurt, for a start. But I think that combined with decision-making power going to the academics around policy, especially on those sorts of

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matters, it shouldn't be in the realm of the management to make that decision. A fundamental aspect of academic work is that freedom to investigate, freedom to question, freedom to challenge whatever's going on.

It was only a year or so ago, I remember having it reported to me that one of the - I won't mention the person, but one of the leaders at UTAS was heard to have made the statement 'Well, academic freedom is aspirational' at this part of the organisation he was talking about. 'It's aspirational.' In other words, 'we might get there if we can afford it, it's nice to have', whereas we're arguing no, it's not a nice-to-have, it's a fundamental part of work. If you degrade that, you degrade the academic role and therefore degrade the ability to develop high-quality teaching and research, and all the scholarly work that goes around that. You eventually make your university nothing, or less effective.

**Ms WEBB** - Briefly, to finish up on that, if I may, Chair, I am interested in avenues of recourse or complaint or raising issues where someone feels they're being constrained in that way or that the institution isn't best protecting. Are there such avenues for recourse? If not, what should they look like?

**Prof. KENNY** - I'm not sure if there are avenues for it. I know there are disciplinary bodies for people who may have done the wrong thing by some ethical requirement - things like plagiarism and that sort of stuff - there are disciplinary bodies and those complaints can be raised. Specifically in relation to academic freedom, I suppose it would come down to someone specifically wanting to do something and providing good justification for it and it had been dropped off for some other reason. For example, one I heard recently, someone who is on a group that's developing an ARC grant, they've done a lot of work putting together, they put an idea forward and the person has been told 'we're not going to approve you being on that body because UTAS isn't the lead organisation'. In other words, someone else is getting most of the money. Well, that person would have a serious complaint and has every right to be concerned about it.

**Ms WEBB** - I am more interested if there is an avenue for that such a complaint to be raised?

**Prof. KENNY** - Not that I am away of, no, because it is a managerial decision. Unless his manager is supporting him against the other manager, where do you go?

**CHAIR** - We are out of time. I would like to thank you for taking the time to share your views with us for your submission. You obviously have a very extensive submission there. It has been good to have that chat. As you go, it is important to note that all the evidence taken at the hearing is protected by parliamentary privilege, but I need to remind you that any comments you make to the media or others outside this room, even if you were to repeat what you have said here, will not be protected. Okay.

**Prof. KENNY** - Will I get mobbed when I go outside?

**CHAIR** - I just need to make sure you're aware.

**The Committee suspended at 2:47 p.m.**

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**The Committee resumed at 3 p.m.**

**Dr DAMIAN BUGG AM QC**, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** (Mr Valentine) - Welcome Dr Damian Bugg. Thank you for coming along to share your thoughts in relation to this particular enquiry. I will introduce the members on this side of the table, you probably know them all. We have the honourable Mike Gaffney, myself, Rob Valentine, Meg Webb, and indeed, Nick Duigan. One of our number has had to go, Sarah Lovell, but she will be back at a later point. We have Jen Mannering who is the secretary, and we have Estelle and Roey from Hansard.

Thank you for taking the time to come in. The submission for those who are watching online is submission number 101.

I just provide you with the necessary preamble that we always have for witnesses that come before us. Our hearings today are in relation to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Act 1992, in case you thought you came here for some other reason. It is important to note that all the evidence at this hearing is protected by parliamentary privilege and I remind you that any comments you make outside the hearing may not be afforded such privilege. A copy of the information for witnesses is available and if you have not read it, or are not aware of the process. Have you had the opportunity to read it?

**Dr BUGG** - I have.

**CHAIR** - Thank you. The evidence you present is being recorded, and the *Hansard* version will be published on the committee website when it becomes available for your review if you wish. By way of introduction I advise that the procedure we intend to follow today is that you will be provided the opportunity to speak to your submission if you wish to do so. It is not essential but the opportunity is there. Following onto that, the committee will ask questions of you or your submission. Do you wish to make a statement?

**Dr BUGG** - Just very briefly, Chair.

The situation is that I have tried to confine the submission to the question of the constitution of the university council under the University of Tasmania Act 1992. Primarily, because when I was chancellor at the university from 2006 until 2012 I was involved in a consideration of our compliance with current trends towards reform of governance of universities and, as a consequence, put forward, through the council with the approval of council proposals for further amendment to the University of Tasmania Act to the Minister for Education, the Honourable Nick McKim, when he was that minister.

The amendments that were made in late 2012 were the last amendments to the act. They related to the structure and constitution of council. I was very much involved in making the submissions to the minister for those amendments to take place and I thought that it would be useful to at least have someone with corporate knowledge of those events to tell this committee about it.

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

I sent an email by way of additional comment to Ms Mannering on 16 November and I think it highlights the point because the significance of the federal government's contribution in the sector is best demonstrated by the financial statements for UTAS for 2021 and from its annual report, which discloses a total Australian Government financial contribution of \$536.6 million to the university compared with the state and local government contribution of \$24.12 million. However, you must put against that the profits and losses or financial statements of the university, a payment to the state government of payroll tax of \$23.2 million, which equates to a net contribution of less than \$1 million.

So, although the university is a creature of a state statute and an act therefore of the parliament of the state of Tasmania and one might say subject therefore to the parliament, the net contribution to the university's running expenses in 2021 was less than \$1 million from the state government and \$536 million from the federal government and that is a situation that is mirrored around the country. As a consequence in the late 1990s the federal government began to push for reform of governance of all universities and that is what I highlight in the submission. That's it.

**Mr GAFFNEY** - Thanks Dr Bugg. Thank you very much for the background. I thought that was really helpful and also I appreciate the copy of the second reading speech by Nick McKim. I thought that filled in a few gaps as well.

**Dr BUGG** - It's a good summary.

**Mr GAFFNEY** - It is and there is just one or two sentences there that I will read in for people that check here and this is from Nick McKim in his second reading speech of the 2012 amendment bill, he says:

As with other Australian universities, the University of Tasmania has been responding strategically to an altered environment, including strong growth in enrolments, changing funding arrangements, increasing competition, and new regulatory frameworks. These changes have been reflected in the University Council's desire to adopt contemporary management and government practices.

Although, I was interested that he also says:

And today, the tabling of this Bill, continues this evolution.

So he recognised that it is a work in progress, as education is, and so my question would be today and in your last statement, in your submission you said:

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I am satisfied that the reforms which were made to the constitution of Council from 1992 to 2012 were both necessary and appropriate.

We have heard from other people saying that there has been a decrease of academic representation involved with the university, so my question would be whilst those changes were made in 2012, have you concerns now in 2022 that those reforms were made in the best interests of the university of where it is going now, or does it need reassessing because of the lack of academic representation on the council and through the constitution?

**Dr BUGG** - No. Look, I would say that where UTAS sits in terms of the constitution of its council is about right in terms of the Australian situation. In terms of the protocols or best practice protocols that have been formulated and adopted by all universities around Australia, so that is 41 universities, that is one of the reasons why I refer in the second and third attachments, to the voluntary code of best practice for the governance of Australian universities. That is attachment three and you will also have the document which I obtained from the Legislative Assembly library in New South Wales, which demonstrates the reason why the federal government was able to implement these reforms. It said, look, if you do not adopt these reforms then there will be financial benefits that you will not obtain. That attachment two to my submission is headed 'The Purposes of This Chapter', and the minister Mr Refshauge was tabling that document on 26 October 2004.

The purpose of this chapter is to set out the requirements known as the National Governance Protocols that higher education providers eligible for grants under the Commonwealth Grant Scheme need to satisfy under section 33-15(1)(a) of the Act and to specify a date for higher education providers to meet these requirements under section 33-15(1)(c) of the Act.

The federal government was saying 'reform, or else'. Some might say that was heavy handed, but when you are contributing \$535 million to a university in Tasmania, you want to be confident that proper governance is being undertaken at the university.

The question you asked was whether or not the reduction in numbers in the representation of academic staff on the council, with the benefit of hindsight, is seen as not quite appropriate, or inappropriate. I would say no, because the whole governance arrangement for a university is so much more complicated now than it was. You need people there - not just academics. So, you create, as there is under the act, a compulsory advisory role for the academic senate, to advise the university on all academic matters. That's in the act.

We've got an academic senate where there is ample representation. When I was chancellor, there were 126 people on academic senate. They never all met. There were usually about 30 apologies for any one meeting. It was way too big. But it represented every sphere of academia within the university cohort. It has that statutory authority.

So, I would say, no. I'm tabling this document, which I mentioned out of session before I started. It's really a useful summary of the legislative changes affecting the governance of Australian universities. It gives a brief outline of the history behind this process of reform, and then refers to each of the universities in Australia and what they've done to meet the desire to see more business-like and professional governance structures for the university, not to the exclusion of the voice of academia, but for the governance of the university. In the same way that our university can have an audit committee with two external accountants, or auditors, or

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whatever. You are advised and assisted by this fantastic resource of academics, the academic senate. I say no.

This document, which is published by the University Chancellors Council, will give the committee an opportunity to see in summary form what each of the universities have done in terms of reduction in council numbers, reduction in representation, which I highlight in my submission. It's not a question of representation. It's a question of skill sets on the council.

**CHAIR** - The document that has been tabled by Dr Bugg is the Legislative Changes Affecting the Governance of Australian Universities, 21 February 2018, by the University Chancellors Council.

**Mr GAFFNEY** - I'm comforted to hear that you feel that the governance structure is correct. We have had evidence presented to us in submissions that perhaps it is the balance and interaction between the council and that governance structure that is creating some concern, thinking that the academics do not have enough input into where some of the funding goes, how the courses are run, that sort of thing.

It is hard for you to say, I suppose. There is some concern that the balance is not correct. Here you have a governance structure leading the university and we have a firm commitment from the academics that the academic side of the decision-making has been somewhat overshadowed by the economic and financial structure.

**Dr BUGG** - I can only speak of my experience, and that ceased 10 years ago. I stepped down as chancellor at the end of December 2012.

There will always be the risk of tensions where there has to be a business case about the operations of university, and that was really where the reforms were being pushed from by the federal government. That is, the university has to have a budget. It has to operate to create a level of income that supports the structure and operation of the university.

There are levels of financial support through grants for research. If you look at the financial statement for the university, you will see that the principal source of income for the provision of teaching, facilities and services is from what is paid by way of student fees. That is underwritten by the federal government in the main.

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

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

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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.

**CHAIR** - If I can just continue that thought, and play devil's advocate, what we are hearing through some of the submissions is that the academic side of it is being dumbed down, in effect. The performance of universities in general are not focusing so much on the academic. They are focusing more on the business because of the people that are elected even to the council. It has more of a business focus as opposed to an academic focus, perhaps, and at the end of the day. Yes, you have your university and yes, it is meeting its bills, and it has a good budget, but academically, some would say, it is failing.

So, where is that balance? Clearly, there's a balance that's needed to make sure that these institutions - and I say Australia-wide because we have had submissions from Public Universities Australia and the like, who say that this is happening elsewhere. How do you get that balance so that you don't lose the special focus that some universities might want to put on certain areas? For us, it might be climate science or the Antarctic, or those sorts of things.

**Dr BUGG** - That's the challenge for any university today, particularly in Australia. That's my experience. I've read and I know what happens elsewhere. But the real challenge is trying to achieve excellence, both in research and in teaching. How do you achieve that? You have to attract good people and you have to support them.

I have no direct experience of what's happened in university, except for the Law School and I would be misleading you if I said I've been at a distance. There were concerns about the Law School. I joined in expressing those concerns because people had approached me. The university responded and, as I understand it, a measure of adjustment has been undertaken there.

These things need to be debated, they need to be resolved. I don't have the facts at my fingertips. I'm sure the university is going to be appearing before you. They are the people to ask.

But, certainly, any university has to have its specialisations. Whilst I was chancellor, we focused on a number of strengths that we could play to and one of them was the Institute of Marine and Antarctic Studies, and medical research. But research in all fields. The university has done excellent research across a broad spectrum of disciplines.

I don't want to buy into that debate because I'm not sufficiently informed. However, I would have thought that when you are the only university in the state, you have to be as many things to as many people. That may mean that to achieve access for people in remote areas, you have to be more expensively spread by having three campuses - arguably four if you take into account your controlled entity, the Australian Maritime College. However, just looking at the three campuses, you say we have to attract. It's a known fact that we have poor performance

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levels at year 12 by comparison with other states and we have to lift that. That's not just a university problem.

**Ms WEBB** - I'm going to follow on from the Chair's question but a little bit more specifically. You've expressed that you believe the governance model is appropriate. The UTAS submission to us makes the same sort of claim. In fact, they say:

The University of Tasmania Act 1992 provided effective governance for the university at the time of its commencement and has continued to do so over the years through various amendments.

This is, effectively, what you have also said. What I'm interested in is how would we assess the effectiveness of the governance model currently legislated in the act? How would we judge that? On what criteria? Clearly, there's a bottom line, financial. Fine. And complexity of business, we've talked about that.

Given the range of other matters that come under what is set by the governance model, how are we to assess that this is the effective governance model for this university currently?

**Dr BUGG** - The first thing you look at is does the governance model permit a balance of skill sets necessary for the oversight and governance of the institution? The best-practice model suggests you should have two persons with accounting backgrounds, a person with a commercial background. There's three. You have your vice-chancellor, chair of academic senate and your pro vice-chancellor or deputy vice-chancellor and provost.

**Ms WEBB** - I'm so sorry to interrupt you. In the interests of time, the gist of my question wasn't about, on paper, what does the mix look like, because we can look to other jurisdictions and see slightly different mixes in place. My question is about how would we assess the effectiveness of the governance model in terms of the outcomes and performance of the university and the experience of the university? Not who does it look like in the mix, but beyond the bottom-line financial viability.

**Dr BUGG** - Okay. There are performance criteria on which you can make an evaluation. Is it working? What are the issues? It's probably a hard test to look at, the last two-and-a-half years with COVID-19 and the impact that's likely to have on performance. But, to me, is a governance model working? Is it getting the best results or as close as you could anticipate to the best results in terms of the energy and return you are getting from your academic cohort? Are its policies attracting the right mix of students? Is the model working? How do you make that evaluation?

**Ms WEBB** - That is what I'm interested in.

**Dr BUGG** - You may have management issues, which seems to be one of the complaints I was hearing the tail-end of just then. Why do you have management issues? You'll have to dig into them to see what they are. There will always be, in any multi-faceted organisation like a university, some parts that are getting squeaky at some stage. People are tired and cranky. People feel that they've been ignored or not properly serviced in the system. How do you evaluate that? What's an objective form of evaluation?



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I think you've got a big task ahead of you, to be quite honest, because you will need to understand what the challenges are for the university; how is the university dealing with those challenges; and is there a better model?

At the moment the model you've got is one that's been more or less predicated for the country by the federal government. The state Government, through various ministers through the Ministerial Council, has adopted those recommendations and gone with them. All the amendments that have happened have not been the university surreptitiously amending the act; they've gone through parliament, they've been debated in 2001, 2004 and 2012. They were when the three principal amendments were made.

**Ms WEBB** - Can I ask a few more questions around that, Chair?

**CHAIR** - You're right.

**Ms WEBB** - In fact I have many questions, we're not going to get to them all.

**CHAIR** - No, we're not.

**Ms WEBB** - In terms of how we are to judge effective governance, given that under the act it's hard to see where we would hold the university to account on its effective governance externally, broadly, or in terms of fulfilling what is in the act around functions, powers, et cetera, do you have a view on how that could or should look in terms of holding that to account so that we can have discussions of success or otherwise?

**Dr BUGG** - I think a lot of it comes down to the annual report and to the rapport between the minister and the council. There needs to be candour around the communications that are had.

It was a given that in your annual report you reported performance against various strategic goals that have been set, be they in teaching and learning, research, research grants. Sometimes, your success in research is evaluated by the amount of money you get in research grants. I think sometimes that is a bit of an unfortunate dollar sign in front of a very, very important aspect of a university's work and reputation, that is, what is the research being done? It might attract a lot of money because it's popular in some cheque-paying field. However, is it good research? Is it being well done? And is it world-standard? Those sort of yardsticks should be reported in your annual report so that you can pick it up and look at it and say: 'Well, they've set some targets and they look to me to be sensible, and they have met them', or 'they haven't.

**Ms WEBB** - On the topic of the annual report, we generally don't see it presented to parliament until about eight months after it has effectively concluded the period it is reporting on. And beyond noting in parliament, there is not a mechanism by which there is sort of reachback into the university to do any adjusting or steering as a result of that. Is that problematic? Should there be some more timely way, that there is a meaningful articulation between parliament and government and the university?

**Dr BUGG** - From my perspective, I always thought that when you were signing off on the annual report and it was six months after the end of the calendar year, or financial year for the university, it was a long time after the event. It should be sooner.

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**CHAIR** - Their's is calendar year.

**Dr BUGG** - The financial year is an academic year, which is a calendar year.

**Ms WEBB** - I want to come back to this issue about how we assess an effective governance model. To pick up on that, you spoke about your more recent involvement in terms of the Law school. We know because it was widely reported over time of issues around discontent in the law school around changing teaching methods, loss of key staff and all sorts of things. You mentioned being part of a legal profession delegation, effectively, that came forward to asked for that to be addressed differently. Would you say that it's a sign of effective governance that it takes such a significant intervention by the legal profession with people of standing such as yourself to have a response provided to an internal matter which related to teaching and management of academic staff, and a vision of the way forward?

**Dr BUGG** - I am hesitant to answer that in the way that I need to try and assist you. I do believe that there was a measure of oversight to some of the complaints that were being made. You need to dig into the internal aspects of that, all the interstices of people called. I was impressed with the response we got. We didn't go to the governing body. We went to management. Had this gone to the university council, I don't know, because my point of contact with the people I was with was with the vice-chancellor. There are management issues and there are governance issues. Sometimes that becomes a point of confusion for people who believe that the governing body should manage.

The governing body should oversight the managers, as we all know. You've been on boards and you can delve too deeply and you wonder whether or not the process for consideration, when you look at that particular problem, how far did it go with academic senate, as the representative body of the academics on campus? Did they take it to the university council? I don't know because our point of contact, from which we had immediate response, was with the vice-chancellor.

**Mr DUGAN** - To walk you back, Damian, to some comments you were making about access and excellence, were you saying those two things are incompatible? Has increased access had an impact on excellence?

**Dr BUGG** - No. It can stretch resources, increased access. But, one would like to think that your business case for access considers the university's goals around excellence in research, teaching and learning.

**CHAIR** - Thank you. Just going back to the governing body, as you call it, the university council I imagine you are talking about?

**Dr BUGG** - Yes.

**CHAIR** - Not the academic senate, obviously. The role that the executive, if you like, plays within that body. You've been a chancellor. You will have seen that up close and personal, I suppose, to a fair degree. Some of the submissions are saying the vice-chancellor of a university, like UTAS, has too much power and control. Do you have any comment on that? I'm talking about universities in general, here. Obviously, our focus is on the University of Tasmania Act, but do you know of any other models that would see the role of the

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vice-chancellor, or indeed the chancellor for that matter, in that governing body, being different to what we have at the moment?

**Dr BUGG** - No, I don't think so. I think you need a vice-chancellor as your lead executive away from the governing body. It's a changing role. You've got to be a person who, in effect, is the chief executive of the University, which has about 50 per cent academic staff, 50 per cent professional staff, and obligations to the community, obligations to your students, and your researchers, and reputationally. This is one of the things that really worries me about some of the negativity that you see, it can be destructive of reputation. If people are angry, they don't consider the likely effect of something that has the potential to be destructive. All they want to do is to attack someone. And some of what I've read said, really does play the person beyond the point which I'm comfortable with, to be quite honest. I think people need to say, you know, what are we doing here? Can we have a dialogue with, for example, the dean of the faculty and discuss this matter, and then where does the dean elevate that particular concern to? I don't know what those steps are within the university now. I've been away from it for 10 years.

But I think that the model where you have a chief executive vice-chancellor who is an executive director, the managing director, who sits with the board and is a part of the board, joins that link between your governing body and the university. Just as the chair of academic senate, who is also on your council, joins that link with your academic cohort. I felt there were occasions when I was chancellor where we needed more input from the academic cohort, even though it was more fully represented at the table, and as a consequence I adopted a different approach to how we would record what had happened at the last meeting of the academic senate, and have the chair of senate discuss in more detail what we had in our paper files, and try to get our head around any issues that were arising at the table.

You don't want to be aloof from the university if you're a member of the governing body. But you don't want, as I was saying to Meg a moment ago, to be delving into what are really management issues. You need that lightning rod, and it can be like that vice-chancellor who is your chief executive, who people can go to for those management issues which need that level of seniority to be dealt with.

**CHAIR** - Further to that, some of the submissions talk about the secrecy, the lack of transparency in decision-making and those sorts of things. Do you have any comment on whether the functioning of the council could be more transparent, for instance, or not?

**Dr BUGG** - I do not know about this council. You have a representative of the whole academic senate as an ex-officio member of your council. I would have thought that that was your line of communication if there is not enough detail in decisions that are made by council. But I haven't, and I wouldn't really wish to comment on actual matters that have come to you as complaints about secrecy because I am speaking without knowledge.

**CHAIR** - It is just something specific to talk about transparency, not anyone in particular. It is just how it happens.

**Ms WEBB** - Just a follow-up on that. You have already used the word 'board' a couple of times in relation to the council. I can see that there's ways you can make the analogy between the university council and the board. However, it is not, because it does not have the same sort

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of arrangements and accountabilities and in fact the same transparencies and accountabilities that typically private entity boards would have even, or for public entities either.

There is not visibility around minutes of meetings or those proceedings. There is not an annual meeting of shareholders and stakeholders where questions could be put. Shareholders do not agree to remuneration of executives and all those sorts of things we typically see with a board. That, I think, is the basis on which the concerns about the lack of transparency or accountability are placed. What is your reflection on that? It would appear a lesser accountability and transparency than we would expect to see either in government or the public sector or the private sector to similar board entities?

**Dr BUGG** - Yes, well it didn't trouble me when I was in the chair, but -

**Ms WEBB** - I can't imagine would trouble the chair at any stage in a way because it would make life easier perhaps.

**Dr BUGG** - You wanted people to know what was happening. There are some things you need to decide that require secrecy around them in any situation, that is a confidentiality. Secrecies -

**CHAIR** - Tenders and things like this?

**Ms WEBB** - Sure, boards encounter that but they still have other mechanisms of accountability. So, here we don't have mechanisms of accountability in a very basic way, so shareholders, for example.

**Dr BUGG** - No, you don't. The ownership of the university is the entire community. If you looked at the definition of the university, it includes all the alumni, it includes all its professional staff, all the academic staff, and everyone.

**Ms WEBB** - So, can you comment on the fact that there is no accountability back to that body of the university comprising all those different groups from the university council?

**Dr BUGG** - There is an accountability, that is you owe a duty to them. But, a duty of disclosure. Accountability to me is you act in the best interest of the university, and that's enshrined in the act. Everyone has to act in the best interests of the university. The attempt to get that to happen was why this reform occurred. There was a perception that individuals on council were there to represent a constituency. That constituency, whilst it may have been a part of the whole, was not focused for the benefit of the university, but for the benefit of that particular component.

That is why the governance model is the one you have now. Turn it into a company limited by various legal protections and shareholders, it is not the same. It cannot be the same in terms of how you protect the reputation of the university and how you get the best out of the university. You cannot say, 'Everyone come and sit in the council meeting'.

**Ms WEBB** - I think, that issue of transparency is key. So, to the greatest extent of making the council visible and transparent would achieve some form of accountability that, it appears from what we hear through this evidence, is not currently there.

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I am interested in why you think that there is not a greater effort from the council, over time, and now, to maximise transparency around their operations, given the legislative imperative to act in the best interests of the university as constituted under the act.

**Dr BUGG** - I think there is every need for the council to communicate. If there is a sense - and I am not conceding that. I really don't know. I tried to read as many of the submissions as I could. I think there are about 149.

**CHAIR** - There are 149.

**Dr BUGG** - Yes, just shy of 150. I felt like putting in a second one.

In some of them, there is a lot of hearsay. Some of them, I cannot factually check them; however, I would be disappointed if the council, knowing that there was a concern that there was more information that should be publicised, and the council was able to publicise it, that it does not, or has not.

There may be very good reasons for confidentiality, or secrecy, as it is called, but, I would have thought a council, governing the university in the best interests of the university, will protect some things from disclosure, obviously, but feel an absolute freedom to disclose those matters which it is able to without putting at risk either the reputation or transactions that the Council is contemplating.

**CHAIR** - I am sure we could go on for quite some time with the questions, but our time is up. I want to thank you for taking the time to come. I hope you found it interesting as we have.

**Dr BUGG** - Yes, thanks, I have. Thank you for your questions. If there is anything that occurs later, I will endeavour to assist if you wish to get back to me. I did put that qualification because I really, once I got out of the driving seat, I got out of the bus.

I did make available two documents to Jenny which were relevant to the last witness's evidence about academic freedom and the University Chancellors Council's (UCC) policy on academic freedom. You should have that now.

**Ms WEBB** - Do you want to table that officially.

**Dr BUGG** - Yes. Thank you. That was handed down on 4 August last year, and it basically is the policy upholding freedom of speech and academic freedom as a paramount value, and required under the model code.

**CHAIR** - Its title is?

**Dr BUGG** - It is a Freedom of Speech and Academic Freedom, an attestation statement template approved at the UCC Meeting on 4 August 2021. That template is a guidance which requires some recitation of it in the annual reporting of each university party to that document, and UTAS was a party to that policy.

**CHAIR** - Thank you for that. Just to remind you - and you probably don't need reminding because of your profession over the years - that all the evidence taken at the hearing

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is protected by parliamentary privilege. I remind you that any comments you make to the media, or others outside of this room, even if you are to repeat what you have said here, will not be protected.

**Dr BUGG** - Thank you.

**THE WITNESS WITHDREW.**

**The Committee suspended at 3.49 p.m.**

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**The Committee resumed at 3.50 p.m.**

**PROFESSOR PAM SHARPE**, CHAIR, AND **MR MICHAEL FOSTER**, DEPUTY CHAIR, SAVE UTAS CAMPUS, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIR** (Mr Valentine) - Welcome. I need to make sure you are aware that our hearings today, and I am sure you are aware of this, but I will say it anyway are in relation to the Legislative Council Select Committee Inquiry into the Provisions of the University of Tasmania Act 1992. It is important to note that all evidence taken at this hearing is protected by parliamentary privilege and I will remind you that any comments you make outside the hearing will not be accorded such privilege. A copy of the information for witnesses is available. Have you both read that?

**Prof. SHARPE** - Yes.

**CHAIR** - Thank you. The evidence you present is being recorded and the *Hansard* version will be published on the committee website when it becomes available should you wish to review it. By way of introduction, we will give you the opportunity to make a statement and then members will take the opportunity to ask questions about your submission or what you might say during your opening statement. Do you wish to make an opening statement?

**Prof. SHARPE** - Yes.

**CHAIR** - Thank you.

**Prof. SHARPE** - We represent Save UTAS Campus Inc. formed in September 2021 because of our concerns at the lack of scrutiny and public consultation on the university's radical proposal to abandon its entire Sandy Bay campus, become Tasmania's largest residential property developer, build a high-density suburb on the Sandy Bay site and shift the university to buildings scattered around the Hobart CBD.

Our involvement over the last year, including hundreds of interactions with UTAS academics, particularly the senior academics and professors, with UTAS students and student associations and with community members shows that the future of the state's only university is threatened by three big problems:

- (1) Appalling management culture and relationship with staff;
- (2) Collapse in relationship with students, including poor delivery of courses;
- (3) An extraordinary relocation proposal, poorly planned, which is strongly opposed by most of the staff and students and the community. Recently, 74 per cent of electors in the Hobart City Council area voted against the move.

We believe that the cause for all of this is the failure of the governance and accountability provisions in the act. The University of Tasmania Council is dominated by management. UTAS management measures its success by whether it can force relocation against the opposition of staff and community. Management gives inadequate weight to the welfare and retention of staff or to UTAS reputation in either education or research. Because UTAS

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Council is dominated by UTAS management, the council reflects senior management views and can no longer differentiate between the best interests of the university and the best interests of a management group that is massively invested in forcing relocation and avoiding genuine consultation or scrutiny.

This has been graphically illustrated by two unprecedented decisions of the University Council:

Firstly, it substituted its own chair, Chancellor Alison Watkins, in place of the leader of UTAS management, Vice-Chancellor Black, in an unsuccessful but terribly expensive - perhaps \$1 million of educational funds - public advertising campaign to get public opinion behind management's relocation proposal through the elector poll.

Secondly, the council has, for the first time at any university in Australia as far as we are aware, given the vice-chancellor an indefinite employment contract, presumably as a reward for his unremitting work in trying to force relocation against this strong community, staff and student opposition. It was obviously not because he has been able to maintain satisfactory relations with either the staff he employs or the students that UTAS should be educating.

The failure of UTAS management and governance has had a range of consequences, including:

Firstly, UTAS has lost focus on the welfare of staff and students, who are fleeing. Who can blame them when law students and staff have to seek the support of the legal profession to save their faculty from UTAS, which is not teaching them adequately. With the amount of bullying and staff departures reported, it is clear that staff are treated with disdain.

Secondly, the council says it can do what it wants and is not required to disclose its deliberations or the information upon which it makes crucial decisions. It even refuses to disclose to the community the information and options, and the business case which were before it in April 2019, when it made its big decision to relocate from one of Australia's best campuses and inflict itself on the Hobart CBD; and, at the same time, become Tasmania's biggest commercial residential property developer.

Thirdly, UTAS Council once had broad and balanced membership, including state parliamentarians and strong academic representation. Now it simply appoints many of its own membership.

Fourthly, it reports annually to the state government, but only in retrospect when it's too late for government or community input. It is not required to develop a plan for approval in advance, like other government business enterprises that are dealing with public assets and income, just as UTAS is.

Fifthly, it is not required to produce figures like staff turnover, the number of non-disclosure agreements it issues, the number of staff under investigation for serious misconduct, et cetera.

Sixthly, the common requirement that ministerial approval is required for land sale or long lease was mysteriously removed so that it can sell or lease its entire campus without approval of government or community.



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Finally, instead of being in partnership with the Tasmanian community, as boasted in its Statement of Values, UTAS Council is secretive and defensive, diverting scarce education funding to its battles with its own staff, its students and the Tasmanian community. It devotes substantial resources to avoiding compliance with right to information disclosure requests. And its spend of about \$1 million on its elector poll campaign may have been the most expensive advertising campaign ever undertaken by a public institution in Tasmania. That's where I will end the introductory comments but Mike Foster, the deputy chair of Save UTAS Campus, has nine documents he wishes to table for the committee.

**CHAIR** - Do you wish to make a statement?

**Mr FOSTER** - No, this is the second half of that, if you like. These documents are just to bring things up to date since we put in our August submission and really just to illustrate.

**CHAIR** - Can you read the title of what you are tabling so that we can have it for *Hansard*?

**Mr FOSTER** - The first document is a page that comes from the briefing paper provided to the Legislative Council by the university earlier this year. The significance of it is simply because it's the university setting out its own current council members and the point of handing it up is to highlight the number of ex-officio - that is, management - positions and the number of people who are appointed by council. It shows the imbalance that exists.

The second document is taken from the same Legislative Council briefing earlier this year. It sets out what appears to be the University Council's relocation rationale. The reason we are relying on it is because, in a sense, it illustrates what we say is the confusion in thinking by this group, the council, which is dominated by management. You will see in the document that the university says that the key outcomes from a relocation are, firstly, improving access to higher education. There's absolutely no data or research the university has ever been able to find that indicates that; that it will stimulate small business in quiet parts of the Hobart CBD - am I going too long?

**CHAIR** - Well, we can read that when we get the documents.

**Mr FOSTER** - Just in summary, the items that the university sets out as being its rationale, the outcomes that it is trying to achieve, many of them aren't things that the University of Tasmania should be doing. Its job is not to boost small business.

The next document is particularly important and this is our list of specific requests that Save UTAS Campus has made to the university over a period of months this year, never responded to. You will see that what we've asked for is transparency. We've asked for a public consultation process because the Hobart City Council asked for that. Then, we've asked for a series of basic pieces of information, the sort of transparency and accountability items that you would probably expect. We've asked for that relocation business case and so on. None of that has ever been provided. We've never had a response to that.

The next document is a letter from the Lord Mayor to the Vice-Chancellor, dated 8 September. This is the third letter, as you will see from reading the letter, that the Lord Mayor has written to the university asking them to implement the genuine consultative process that

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the Hobart City Council resolved should take place in March. You'll see that the Lord Mayor confirms that the shakeup is not acceptable to them.

I won't bother to tender the next one.

The next is some copies of our brochure which illustrates the university's plan for the Sandy Bay campus. The reason we're handing that up is because it shows that the university's plan for rezoning was so inept that it does not include any provision for the immovable and priceless collections relied upon by faculties, for their reputations and research, and it doesn't include parking for students and staff, even though the University Council submitted its rezoning application 12 months ago. Our point is that the planning is so inept that it didn't include these basic functions of the university, and that shows the disconnect between the university and the community.

The next document is a document that only came into our hands today. It's authored by someone called Jeffrey Hills. I don't know who Jeffrey Hills is.

**Prof. SHARPE** - He's a UTAS alumni now based in the UK and he works in the area of legal financial regulation, as I understand it.

**Mr FOSTER** - In the letter to us today, he encourages us to ask the Legislative Council inquiry to obtain information from the university about the bond and the borrowings of the university, which he says 'may represent a vulnerability to the state government'.

The next document is headed 'Statement on the University's Hobart City Move', dated 3 October 2022. It is authored by 11 student associations, and it opposes the relocation. Thank you very much for your patience.

**Ms WEBB** - I am going to skip straight to the part of your submission on page 13, which talks about your recommendations for amendments to the act, because the focus of the inquiry is the basis of that act and then how that flows through to other matters. Noting there, your call for the University Council to be restructured to match the 1992 structure.

We've had evidence presented to us, and argument made that there was an appropriateness to refining that 1992 structure in view of increasing complexity and different skillsets and things that were required on council. Would you acknowledge that a return to the 1992 structures might not be the appropriate way forward, and that there would be a relevant argument to be made for some adjustment to that model through to now, to balance shared governance, as we've been hearing about it, between corporate imperatives and academic values and voice?

**Prof. SHARPE** - The world has changed, and the world of academia has changed since 1992, but I, and I think those of us who have looked at it, would still not support the fact that we've gone to a much smaller council. In common with most other universities in Australia, as we've heard earlier, I don't see that the UTAS council does have the skillset necessary to run the modern university effectively. It has people from diverse areas of the community, that's fine. But the main people involved in running universities, I believe, should be the academics. It should be the education or the research personnel. UTAS only has one UTAS council member who is entirely an academic, not a manager as well. I think that's inadequate. Many

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people from different areas have now looked at this and believe that what was there in 1992 was much more fit for purpose.

**Ms WEBB** - I'll just move on to another question, unless you'd like to add anything further to that, Michael?

**Mr FOSTER** - My only thought is that because some other safeguards were lost, for instance, the requirement to either give back the land or get ministerial approval for things and because the council operating like a private corporation in regards to secrecy and non-disclosure is quite important, it means there is almost no connection between the university and the community. I think the Government is an obvious means of providing that connection. In 1992, there were members of state parliament who were part of the UTAS council so you could have lost some of those safeguards and still been pretty sure that the community, through parliamentary representatives, would have provided that balance.

I am not saying you should have parliamentary representation again, but I am saying that you must have something that will create that connection between the university and the community that it says it represents.

**Ms WEBB** - So, it is a mixture of both the composition of the council, but then also requirements and safeguards and checks and balances that sit around the council that achieve the end you are looking to achieve, which would be what?

**Mr FOSTER** - As is common with the University of Melbourne, the University of Sydney and the University of South Australia and so on, you cannot sell land or long lease land without ministerial approval. You can see that if the University of Tasmania wanted to sell a small piece of land that it no longer needed and it could sell it off and build a couple of houses on it, a minister would sign off that in a moment. But if it wanted to get rid of its entire campus I would have no doubt that the minister would say, 'I am not sacrificing my career by ticking off on this. We will have to create a process'. Sadly, that requirement did not exist and the university is taking advantage of that and got itself into this hole.

The other reason I think it's got itself into this hole is because of the small nature of the council and its imbalance and the fact that management and governance are almost synonymous, there is no scepticism. There is no one to challenge management's ideas around the council. Unless you have some sort of group that can provide the scepticism to challenge management, then questions won't be asked, such as, 'Do you think the community should be asked?' in a serious way about this project. What are the implications for trading? What are the implications for consumers and so on? What are the other options?

The other thing that does apply to some universities but doesn't apply here is the usual requirement for GBEs; that is, an obligation to put forward an annual plan and the minister ticks off on it. Generally, I am sure, when the Hydro does that it is probably non-controversial, and the minister says, 'That's pretty sensible'. Here, if the University of Tasmania was running Hydro, then the Gordon Dam could have been sold last year and the parliament would hear about it next year.

**Mr GAFFNEY** - Just a follow up question. I understand the rationale for going back to the recommendations to the 1992 act. I understand that point of view, but it has been pointed out to us that in 2002, I think, minister Brendan Nelson did Higher Education at the Crossroads

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and in 2004 there were national governance protocols. It's been put to us that the way of the 1992 act would not be able to support the recommendations from minister Nelson and the protocols so therefore there needed to be change in the governing structure. I am just interested in your point of view.

**Mr FOSTER** - I listened to that evidence and I could not quite work out what the reason was, but I did hear that that the explanation for changes was federally driven. I did not quite understand, perhaps I just didn't listen carefully enough to find out what it was that made this imperative.

**Mr GAFFNEY** - What I would appreciate is if your group could have a look at submission No. 46 from Dr Love and come back to us with a response to the position he put forward about what was required and the difference. I would be interested in your opinion. If you could do that at some stage that would be helpful.

**Prof. SHARPE** - We certainly can.

**Mr GAFFNEY** - I am not saying it has to be done by next week.

**Prof. SHARPE** - I must say I didn't know that there was any federal input into this. So, yes, we need to investigate it.

**Mr GAFFNEY** - I think that would help us and give a better reflection on what needs to be done.

**Ms WEBB** - I'm interested in the idea about whose interests are being served because I think in your submission you make assertions about the UTAS council acting in accordance with its self-interest. I would think that there would be a high likelihood that the council would say it acts in the best interests of the university. In fact I'm sure that's somewhere throughout the UTAS submission made to us at this inquiry, and it would be certainly claimed. The idea of best interests and whose best interests are being served is an interesting one to test. Given that you have asserted that the council somehow has a self-interest, what would you regard as being important mechanisms by which we could assess and test whose interests are being served by decision-making of the council?

**Prof. SHARPE** - My answer to that would be that we are, yes, making an assumption that it's acting self-interestedly because we don't see the support, say, for the relocation that you would expect, and we don't see the reasons for the relocation that you would expect.

It's all speculation because we simply don't know what council was thinking because we haven't been let into their secret world. There is no open information at all. We sought and had a meeting with the chancellor, and the chancellor chairs the council. At the end of that, we're no wiser even though it was a long meeting. So we don't know, is what I would say.

**Mr FOSTER** - In terms of self-interest, our observation is that senior management in the university is just personally heavily invested in the idea of relocation taking place. You see that showing itself in the whole style in which it conducts the debate, what it says and what it does.

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We would say it releases selective material and runs faux consultation processes. Just a long string of things which are only explicable if you reach the conclusion that management, itself, sees the success of this project as important in somehow to itself. It no longer can step back and say, 'Forget my interests, forget my career or whether I'm personally invested. I've spent a lot of time and I've made a lot of decisions and I might be embarrassed about what I've done if it didn't happen'.

I think we're past the point where the management which, as we say dominates council, can step back and say, 'Hang on, let's stop and have a really good look at this. We haven't talked to the people properly, our staff are against us, haven't we got to take the community, our staff and our students with us?'.

**CHAIR** - Just exploring the issues that you see and the decisions that are being able to be made by the university council, how do you specifically see the provisions of the act being changed to prevent that? Are you saying that it needs greater emphasis on the academic? Are you saying that it needs less emphasis on the corporatisation side of it?

**Mr FOSTER** - Indeed. When we've touched upon these things, we've suggested, for example, that there be an obligation as for other GBEs to provide an annual plan for ministerial approval - it shouldn't cause any difficulty to the university; to publish financial statements more frequently; to have the usual provision about land sale and long lease requiring ministerial approval that the minister has to sign off. It seems like a very small thing and yet it creates that connection with the community and with the parliament that would prevented the need for Professor Sharpe and I to have spent the last year getting to know things we didn't know before.

It could have an obligation to be transparent. That is a default position, to be transparent, so that it no longer devotes lots of staff time to unnecessarily fighting RFI battles. Why fight RFI battles about things that are of no consequence, or no harm to the university? It certainly needs that additional academic representation, because there is almost no academic representation, or not enough to create that scepticism in debate that would operate on a board in order to challenge ideas.

**CHAIR** - Do you have specific concerns about the academic representation that is there, in terms of how that person gets elected to the position? That it is not broad enough in terms of the academics themselves who are choosing? Or are you saying that there is interference with the way that election happens?

**Prof. SHARPE** - I'm not suggesting interference, but there is a number of people stand for council every time positions are advertised, and there's just one position, and I think that puts that person who will be speaking later on in proceedings into an extremely difficult position of responsibility for almost the entire university's academic interests.

We have found it very difficult when trying to pick apart why the university is relocating, to find any convincing academic reason why it would be better to be delivering courses and carrying out research in the CBD compared to on the campus that we believe the university should not be giving away. We want arguments that really stand up robustly. That's what universities should be teaching people to do. They should have management and constituents of the council and chancellors and vice-chancellors who can engage in that kind of debate and effectively win the debate if what is being proposed is enormous. And I think this is enormous.

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I'm aware of one other university that has sold its campus and moved to the CBD in Australia, and that's in Perth. But, of course, there are a whole lot of other universities in Perth. So, to be in a situation where the only university in the state is planning something dramatic that would have historic consequences for a city, needs a whole lot of input than can currently be provided by the situation that we've got with council.

**Ms WEBB** - Just another quick matter. You mentioned a few times in your evidence to us today a figure of \$1 million, or thereabouts, being spent on advertising and campaigning in terms of the elector poll that was undertaken. On what basis are you making this assertion of that figure?

**Prof. SHARPE** - Our group, Save UTAS Campus, is quite remarkable in the expertise that we've managed to pull in. The diverse people from the community who have been so concerned about all this that they put their own skills and expertise into it. I've got one of the people who's in public relations media to look at the different elements that UTAS have spent, particularly things like having television advertising in the Grand Final, I mean, that's astronomically expensive. So, therefore someone has made the decision that we are going to use funds that you would think you might be using for students on prime-time advertising to swing an elector poll in in one particular direction. And to have the Chancellor who, as far as I know, is usually a person who stands back from things and takes a role a bit like the Governor, appearing as the prime person in this advertising. Astonishing.

Your question, we are basing it on people who are used to buying media time making an assessment that that would be what UTAS has spent. We'd have Buckley's chance of ever finding out how much they spent because, as we keep saying, their accounts and finances are pretty secret and what is actually reported in the annual report is extremely scant. And the annual reports are getting more and more deficient each year as far as being an accurate representation of what the university is spending on anything, in my view.

**CHAIR** - On page 10 of your submission, you make a statement up the top, in that first paragraph:

In the view of the UTAS Council it is a decision for the Council alone and Council has no obligation to the Tasmanian community to seek a social licence nor even to disclose the information upon which the decision was based.

Do you have evidence that that is their view? Is that in the documents you tabled?

**Mr FOSTER** - Absolutely. It is in the list of questions we have put to the university. We have written to the Chancellor about that list of questions a number of times and the university refuses to - we have met with the Chancellor and discussed that. The university is steadfast that it will not disclose the discussions, options, research, data that underlie what, as Professor Sharpe says, is such a big decision not just for the university but for the whole community, for the city, for everybody.

It takes the view that it is akin to - it has been explained to us that it is a corporation, ordinary board of directors. It is not to the point that it does not have shareholders or accountability; it is still a board. We have met with the minister for Education a couple of times and I think you would find that he would probably not get any information from the state

## PUBLIC

Government's nominees on the board because they take the view of confidentiality so seriously that I think the council would regard it as a breach of their confidentiality for even those nominees to talk, which just shows you how completely severed the connections are.

**Prof. SHARPE** - I was going to expand on this. We believe there was a business case for the move because the chief operating officer mentioned that in an article. So, we have asked for this business case many times and never have been able to get it.

I have had one conversation with the one academic member of council. Other than that, he has been told he is not allowed to speak to me, which I consider outrageous when the university is operating for the benefit of the community. But he seemed to say to me - and I may have got this wrong because it was just a brief telephone conversation - that council may have been given more than one option about relocating. Again, we would like to know what the vote was based on. Only the month before they took the vote, the NTEU had done a survey which showed that an overwhelming percentage, I forgot what the percentage exactly was -

**Mr FOSTER** - I think 16 per cent of staff supported the move.

**Prof. SHARPE** - Only 16 per cent of staff and postgraduate students supported the move. So, we wanted to know whether Council knew that. Were they presented with that survey, which also had a lot of staff commentary on it about what they thought of the move? We have never been able to find out. We have tried under RTI and we have not been allowed to, absolutely nothing. That has now gone to the Ombudsman.

**CHAIR** - If there are no more questions, you have certainly given us a significant number. I have lots of green on questions for UTAS itself. It is an interesting document. You make a reasonable number of assertions and we will test that evidence with the university when we get to see them.

Apart from that, it is getting close to time. Are there any closing statements you would like to make?

**Mr FOSTER** - Could I make two very quick statements?

**CHAIR** - Yes.

**Mr FOSTER** - One of them is that the university has a statement of values. In that statement of values, it says it is in partnership with the Tasmanian community. We have suggested that that concept should be incorporated in the act because there is no way that the university behaves as though it is in partnership with the community. So, that is important.

Secondly, the Leader of the Opposition in the House of Assembly, Rebecca White, wrote to me and suggested that this committee might have the capacity to request the university to pause its processes of relocation until the committee's inquiries are finished. My expectation is that it could be many months before this committee produces a report. I do not know if that is a possibility but I simply leave that with you as something to pass on.

**CHAIR** - I don't think we would have that power. I guess it is something we can explore but I don't think we will have that power and I don't know that it would be appropriate for us to do that.

## **PUBLIC**

It is the case that this may take some time because we have hearings this week and next week, and there will be other hearings next year when we come back. Clearly, there is a lot of information to process. It is not going to be an overnight process, so you can be assured that you are not going to get a quick report from the committee at this point in time.

For what it's worth, we provide recommendations to the Government, we make a series of findings and recommendations that will come out of this inquiry, then that will go to the Government for their consideration. I don't know that we have the power to call a halt to anyone's activity in that regard, unless my members.

**Ms WEBB** - That is about as much as you can say about that.

**CHAIR** - Before you leave, thank you for coming. Thank you again for presenting your views on the submission that you provided and the tabled documents are noted.

It is important that you understand that all the evidence taken at the hearing is protected by parliamentary privilege. I remind you that any comments you make to the media or others outside of the room, even if you are to repeat what you have said here, will not be protected. Thank you.

**THE WITNESSES WITHDREW**

**The Committee suspended at 4.34 p.m.**