

SUBMISSION TO THE LEGISLATIVE COUNCIL ON THE FITNESS AND PURPOSE OF THE UNIVERSITY OF TASMANIA ACT 1972

The Legislative Council is inquiring into whether the University of Tasmania Act is fit for purpose in regard to the powers and functions of UTAS, its governing Council and Senate, UTAS financial management and treatments of academic staff.

The timing of the inquiry is welcome to provide investigation and scrutiny of significant changes that have occurred over thirty years in the governance and management of the University. As a former Senior Lecturer in the Faculty of Economics and Commerce I welcome this inquiry by the Committee.

The Committee's terms of reference are :

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

My submission deals with items 1,2,3,4 and 5

1&2.

The University of Tasmania Act 1951 gifted from the Tasmania government the Sandy Bay campus to the University which required the University to return this land to the Government if it wasn't used for education. In 1992 the 1951 Act was replaced by the University of Tasmania Act 1992 following a major review by the Tasmanian government the original Act.

The 1992 Act omitted the earlier provision regarding government control of the Sandy Bay campus. This may have been because Parliament did not expect the University to dispose of the campus without community support. In other jurisdictions most Australian universities operate on land gifted by government such as the universities Melbourne, Sydney and South Australia but in those cases legislation prevents such universities from parting with that land without Ministerial and government approval for the sale or leasing of land. There is case for similar provision in the University of Tasmania Act 1972.

Additionally, the University has a Council but unlike other Tasmanian bodies such as the Hydro created with public money and subject to the Government Business Enterprises Act requiring them to produce an annual corporate plan for approval by the Minister the Council produces an annual retrospective report which essentially approves what has already occurred.

The University is not subject to the controls that the Hydro and similar enterprises are. It has no shareholders and its powers can be delegated to the Vice Chancellor by s10 of the 1972 Act. In September 25 2021 a University Ordinance of the University by cl 1.2 confirmed this delegation of powers to the Vice Chancellor. What is not known is what powers have been specifically delegated to the present Vice Chancellor Professor Rufus Black unless the Council minutes reveal this. This could be a matter the Committee might chose to investigate.

The way the current management of the University operates was revealed at a gagging of discussion at the AGM of the Alumni Association in November 2018. A number of those attending wanted to discuss the then proposed move by the University to the CBD and the sale/lease of the Sandy Bay campus. We were told by chairperson that there were to be no questions. Following a request I made in April 2019 after the Council had approved the CBD move a University media representative refused to comment on my criticism. In June 2022 I requested the Vice Chancellor to convene a meeting of the Alumni to discuss both the CBD move and the campus sale. He replied that the extensive discussion had already occurred and he put forward the 'representative community panel representing diverse voices'. I commented I could not recall such discussions unless only the whole predetermined plan was discussed.

I described the representative community panel as a mere piece of marketing stage management which underscored the lack of transparency by the University on these crucial issues.

3&4.

The governance system of the University has undergone profound change since the 1980's. The University of Tasmania Act 1972 has had virtually no role in having any effect on the governance and management of the University. Tenure provisions which after the Orr case and 1955 Royal Commission were the strongest in Australia ensured that I had long tenure when appointed to University in 1974 which have since been replaced by contracts, many short term.

Following the Dawkins report of 1987 and changes in higher education, university management has curtailed any real input that academic staff had not just in Tasmania but all Australian universities. This has been well chronicled and criticised in the late Professor Richard Davis's book 'The Idea of The University and Its Enemies: From Socrates to 'ScoMo' (2021). In his view the move from academics once having some say through elected deans and professorial boards have lost out to universities being run by vice-chancellors and administrators concluding that 'the enemies of the university idea appear to have totally triumphed'.

I was elected Dean of the Faculty of Economics and Commerce and my successor Dr Bruce Felmingham was the last Dean. The Professorial Board was also abolished at which I had witnessed Vice Chancellor Alec Lazenby being grilled by members of the Professorial Board over expenditure. Essentially then academics had a say in University policy that should not be underestimated.

The way in which the University has curtailed the freedom of its staff to criticise is illustrated by the University staff being required to sign nondisclosure agreements to prevent those seeking redundancies from criticising their former employer. In addition, from February 2021 staff have been reminded of confidentiality clauses in their employment agreements to protect against 'anti-university sentiment'.

Given the draconian nature of these provisions, the antithesis of free speech and open debate, it is beyond belief these requirements got past the National

Tertiary Union. It is not surprising that staff morale at the University of Tasmania is so low. The Law School over the last few years has had about 12 staff leave with resultant impact on both teaching and research.

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The impact of managerial interference with teaching and its delivery has also had a negative result. The emphasis on online learning is in itself not new. Back in the late 70's and 80's the Faculty of Economics and Commerce was putting lectures online. As part of this development it did not detract from the face to face contact in the tutorials I and other staff and tutors ran. I was able to pair students in tutorials for assignments and with the increase in overseas students could match Wei Ho from Shanghai with Jack Spoule from New Norfolk. Like most staff in the University of that time I found that by developing analytical skills and presentation by students in tutorials they got to appreciate the need to communicate and encourage to learn. In my Marketing Law tutorials I once had one student who ran wine tastings for producers with a female student who worked in hospitality and ended up with a wine and cheese session. Dr Richard Herr was well known for his post graduate 'port tutes' which had an Oxford ring. In this period the University appointed the late Dr Harry Stanton to improve teaching standards of academic staff. This resulted in my lectures including Q&A and set questions. One student made a video illustrating the nature of partnership which got a good response. To the staff promotion criteria was added teaching excellence.

Look at the contrast now -with a current student in the Business School complaining of a lack of a voice for students. Josh Stagg has recently stated: 'My peers and I find it very difficult to have a voice amid the university's restructure. We have found that even though we are on-campus students for the most part, all of our lectures have been moved online. There is no quality control sometimes they are recordings from previous years. for third year students we have one three hour workshop every three weeks and that is our only interaction with our peers and professors. Its pretty bad. I have applied for postgraduate interstate because there is no difference to me studying distance at another university'(source Greg Barnes Talking Point Mercury 8/8/22).

Recently the Law School has reinstated tutorials but essentially on the same as Josh Stagg's experience.

I appreciate the opportunity to make this submission to the Committee and would be happy to appear before it to further explain my position in relation to the matters canvassed

.John Livermore

Senior Lecturer in Commercial law Faculty of Economics and Commerce 1974-2002 and Faculty Dean 1986-1988, Editor Laws of Australia 1990 to date, Visiting Erskine Fellow University of Canterbury(NZ), Certified Practising Marketer, Fellow Australian Marketing Institute , Fellow Chartered Institute of Transport and Logistics

From: [John Livermore](#)
To: [UTAS](#)
Subject: Correction to qualifications
Date: Tuesday, 30 August 2022 9:01:25 AM

Dear Ms Mannering

I have incorrectly given my time as Dean of the Faculty of Economics and Commerce in the qualifications in the submission sent by Professor Jeff Malpass with 29 other signatures and in my own submission

It should read Dean Faculty of Economics and Commerce 1986-1988

Also my time at the University was 1974-2002 NOT 2020!

I hope the corrections can be made in both submissions

Best regards

John Livermore