**Robert Hogan – Statement to the Legislative Council Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992* – 2 March 2023**

I would like to make an opening statement. Since I made my submission in August, thousands of pages of relevant documentation have become available to me including, for example, 778 pages from Infrastructure Australia.

Introduction

Thank you to the Committee for inviting me to appear here today.

I see this Inquiry as an opportunity not just to improve UTAS’ governance and accountability but to establish a best practice model.

I intend to briefly comment on:

* My background;
* My research on UTAS;
* The 2012 amendment to the UTAS Act and the membership of the UTAS Council;
* Accountability and the failure of accountability;
* UTAS’ lack of transparency; and
* Requirements for borrowing and capital works.

My background

To briefly outline my background.

I worked for 30 years in the Commonwealth public service including 19 years as a Senior Executive.

I have a long-standing interest in governance dating back to significant involvement with Commonwealth Government Business Enterprises in the 1990s.

I also served as a Director nominated by the Commonwealth Government to the Board of ANCAP Australasia Limited [also known as the Australian New Car Assessment Program and ANCAP Safety] from 2010 until my retirement from the public service in January 2016.

Within a varied career, for five years I managed a multi-billion-dollar transport infrastructure program as well as having personal involvement with a number of major projects.

My research

I believe a decision of such historical, social and economic importance as the proposed move of UTAS’ southern campus to the Hobart CBD and the development of a new suburb on the Sandy Bay campus site should be the prerogative of the Government and the Parliament, who are answerable to the Tasmanian people; not of the UTAS Council.

Since March 2022, I have been exploring through a series of Right to Information - RTI - applications and other research what, if any, substantive evidence there is to support UTAS’ three main arguments for its relocation, namely: to ensure its financial viability; to improve student access; and to reinvigorate the city.

At the same time, I have sought to explore the decision-making processes of the UTAS Council; UTAS’ relationship with the State Government; and the extent to which state agencies have analysed UTAS’ arguments for a CBD move.

I have spent the last year pulling away a veil of secrecy that just should not be there.

The proposed CBD move is the prism through which I have seen the terms of reference for this inquiry but many of the issues I have identified have equal if not more applicability to the other very serious concerns staff, students and members of the public have raised about UTAS, including issues of on-line learning and mental health.

That matters have reached the current point they have represents a failure of accountability, a failure of transparency, a failure of Government and a failure by the Parliament.

The 2012 Amendment

I see 2012 as a crucial point in the development of this situation.

While there was a series of amendments to the *University of Tasmania Act 1992* between 2001 and 2012 , the amendment in 2012 was the most significant. It implemented an extreme version of the University Chancellor’s *Voluntary Code of Best Practice for the Governance of Australian Public Universities* (2011), which radically altered the composition of the UTAS Council. This extremity is exacerbated by UTAS’ own *Council Membership Procedure*.

* I have emailed a number of relevant documents, including a table showing changes to the Council membership through time, but I would be happy to elaborate today.
* I believe VC Black indicated yesterday that Ministerial appointments to the UTAS Council were akin to elected members – if so, this is nonsense.

In fact, if I had wanted to design a Council in which group think could be embedded, I do not think I could have done better than UTAS’ current model – a Council able to self-perpetuate, with staff and student voices minimised, meeting seven times a year and dealing with 400-500 pages of documents each meeting, as Professor Jamie Kirkpatrick told the Committee. This is also the perfect recipe for a strong Vice-Chancellor with a supportive management to exercise dominant influence.

The dangers inherent in this situation are clearly demonstrated in the 513 pages of UTAS Council Minutes made available to me on 16 January 2023, after ten months of waiting and after involvement by the Ombudsman. In those 513 pages I have only been able to identify one questioning or dissenting voice – that of Professor Kirkpatrick.

Accountability

Even after the 2012 amendment, however, a number of accountability links remained between the UTAS Act and the Government and Parliament and, indeed, much of the debate about the 2012 amendment in the Upper and Lower Houses emphasized UTAS’ accountability. Then shadow ministers Ferguson and Rockliff were prominent in this regard.

It is also notable that in December 2021, Moody’s in providing UTAS with its high credit rating for the issue of the $350 million Green Bond, stated that UTAS was subject to:

“high levels of oversight by the state and Commonwealth governments.”

Yet, in answer to a question in Parliament on 27 October 2022, Premier Rockliff said:

“The decision to relocate the southern UTAS campus and how that may align with the university’s educational priorities is a matter for the University of Tasmania as a private organisation.”

In response to another question on 8 November 2022, Premier Rockliff implicitly corrected himself by defining UTAS as “a statutory corporation” but he also said:

“I know there are some who think the Tasmanian Government should intervene in the university’s plans under the mistaken belief that we have a responsibility for the university. This is incorrect.“

The Premier is still wrong.

The failure of accountability

What changed between 2012 and 2022?

From the time of VC Le Grew, UTAS has been building its presence in the CBD in a piecemeal way, at least sometimes with a strong rationale and good results.

However, from documents obtained through RTI and other sources, it is clear that by 2015 VC Rathjen had a clear plan to relocate UTAS’ southern campus into the Hobart CBD, with a proposal for a new STEM facility representing the thin edge of the wedge. By 2016, and probably 2015, it seems that Premier Will Hodgman was on-board with this plan, although he did not commit state funds.

As UTAS’ proposal extended well beyond its educational remit, as soon as Premier Hodgman became aware of VC Rathjen’s plan, good public policy would have been for him to seek a formal proposal from UTAS. This should then have been subject to critical scrutiny by ministers and government agencies.

Arguably, at the same time, the Parliament should have been informed and processes for public consultation started by the Government - not UTAS.

Instead it seems to have become unofficial government policy to support the Rathjen plan from 2015-16 without bringing the matter into the Parliament or the public realm. I stand to be corrected.

Documents obtained under RTI also indicate that UTAS’s proposals for a CBD move have never been independently analysed or tested by Tasmanian government agencies. Indeed the agencies seem to have unquestioningly accepted everything UTAS has said – with no assessment of economic and social issues. Instead there is now the flimsy notion of the Government having “visibility”, to quote the jargon, of UTAS’ plans through the City Deal, when it should have control of the situation.

Snowy 2.0 shows what can happen when ministers and government agencies are not appropriately engaged in assessing projects. Costs can blow out massively and project viability comes into doubt.

I have read the STEM Business Case and the 34% of the Southern Future Business Case for the CBD move that UTAS has left unredacted (UTAS has even redacted the traffic study – why?). In my professional judgement both business cases appear to have been constructed to favour CBD relocation. You could drive a truck through some of the assumptions – and this should have happened long ago. As with all public institutions, the risk of any losses by UTAS will be carried by the public.

I understand from Part 13 of UTAS’ submission to the Inquiry that Deloitte Access Economics (DAE) has updated the analysis in the Southern Future Business Case.

The one major change UTAS notes, since the Southern Future Business Case, is that the value of the Sandy Bay site has increased very significantly (my rough calculation is that the value ascribed to the land may have tripled). This places UTAS in a strong position to profiteer from its new found role as a property developer of land gifted to it by the Tasmanian people, **if** you have any faith in the analysis. Remember the taxpayer would bear the risk, not DAE; not UTAS.

I have submitted an RTI application for DAE’s research, but - given the circumstances - I believe it should be made publicly available immediately, with redactions as only absolutely necessary.

UTAS’ lack of transparency

On transparency, I consider that UTAS’ whole approach is poor.

UTAS does not routinely publish the Council Minutes in any form for reasons that are unclear - a section of the UTAS Council Minutes provided to me for 2018 that deals with this issue has been redacted.

Like Professor James Guthrie and John Lawrence, I am highly critical of UTAS’ annual report. The few pages of text are vapid and full of jargon, while the accounts are presented in a form that appears deliberately opaque rather than transparent. There is no detail on consultancies – an area that causes much public concern. I heard VC Black’s comments on this today; he made a simple question sound difficult. It is easy to publish details of consultancies – Commonwealth agencies are required to do so.

While there was seemingly a rush to adopt the Chancellors’ Code on Governance in the 2012 amendment, there has been no such rush by UTAS to adopt the *Australian Universities Vice-Chancellor and Senior Staff Remuneration Code*. I believe that UTAS should adopt this and publish senior staff salaries, and University Council fees, with the recipients’ name like the Australian National University does, rather than in anonymous bands. If UTAS is not prepared to do this voluntarily, it should be mandated, as should other annual report requirements

With respect to Right to Information, I believe UTAS’ approach has been exactly opposite to the intent of the RTI Act, which is that as much information as possible be released. It is only since I started submitting external review applications to the Ombudsman in August 2022 that I have achieved any real measure of responsiveness by UTAS. To briefly cite some examples:

(1) On 24 March 2022, I sought copies of all UTAS Council Minutes for the period 1 January 2015 to 24 March 2022. UTAS unilaterally reworded the scope of my request – which is not allowed by the RTI Act - and provided me with 22 pages of heavily redacted extracts on 27 May. After I referred this matter to the Ombudsman, UTAS provided me with a remade decision and a 513 page document, including redactions, on 16 January 2023 – as I noted previously, ten months after my initial request.

The 513 page document revealed that UTAS had not only interpreted its own scope subjectively and haphazardly, but - in clear breach of section 22 of the RTI Act - it had excised material that under any interpretation should have been captured by its own reworded scope and had done so without indicating this, let alone explaining why. For example, in the case of the critical Council decision to move to the Hobart CBD on 5 April 2019, 91% of the relevant text of the Minutes was excised.

(2) On 12 April 2022, I sought detailed information on UTAS’ consultation prior to its 5 April 2019 decision to move into the Hobart CBD. UTAS has still only provided summarised descriptions of that consultation, which - based on participants’ comments to me - understate the level of hostility to the move. This is consistent with the way UTAS carefully structures consultation and curates the results.

* VC Black was simply incorrect yesterday when he said that all relevant papers had been made publicly available.

(3) On 3 May 2022, UTAS refused three of my RTI applications and on 5 May I lodged an application seeking evidence to justify this refusal. UTAS avoided the request for evidence both in its primary and review decisions. After taking this matter to the Ombudsman, I received a remade decision by UTAS on 8 December 2022, seven months after my application, providing what appears to be the evidence I originally requested. Quite apart from the question of why, if the evidence was available, it was not provided to me straightaway, the form of the evidence raises a number of questions, which I am pursuing with the Ombudsman.

I have had unsatisfactory responses from UTAS on a number of other RTI applications, including in relation to the overseas fact-finding missions of 2016 and 2017; UTAS’ claim that UTAS staff will spend $15 million a year in the CBD; and my requests for the STEM Business Case and Southern Future Business Case. I also have issues with the 513-page set of Council Minutes released to me. I would be happy to provide the Committee with further information.

 As a public institution, UTAS should be acting as a model litigant. Its response to my and other people’s RTI applications indicates that it is uncomfortable with this role. I also note that in 2016 it made a submission to the review of the Integrity Commission Act that it should not be covered by that Act. Given UTAS’ performance when it comes to transparency, the Committee may wish to give consideration to mandating a requirement for UTAS to act as a model litigant.

Requirements for borrowing and capital works

Section 7(2) of the UTAS Act requires UTAS to seek the written approval of the Treasurer to borrow money. I currently have an RTI application with Treasury seeking to explore the process around UTAS’ borrowing of $350m through issue of a Green Bond in February 2022.

I think the Parliament is entitled to ask: Why did UTAS borrow this money and why did it do so through a Bond issue rather than Tascorp? Did the Treasurer approve the borrowing? Should the Treasurer have to inform the Parliament of such borrowings?

As ultimately UTAS is employing taxpayer funds, with taxpayers bearing the risk, another question worth considering is whether UTAS should have to seek the Treasurer’s approval for capital expenditure above a certain level and whether such approval should also have to be notified to the Parliament.

If such a provision had been in place, UTAS may have found it difficult to continually pre-empt its own CBD move decision by purchasing CBD properties, without public articulation of its larger plan, and without the Government having to declare its hand on UTAS’ proposed move.

Summary

In summing up, I believe that there are major issues with UTAS’ governance and accountability arrangements, making changes to the UTAS Act desirable. In considering changes, thought could also be given to ensuring that Government plays its appropriate role as a link in the accountability chain between UTAS and the Parliament.

Thank you for listening.