RE: UTAS - Trading towards insolvency

From: Karina Groenewoud (karina.groenewoud@utas.edu.au)

To: harveyr35@aol.com

Date: Thursday, 14 September 2023 at 05:52 pm AEST

Dear Mr Hogan

As I recall, the public reporting page has been available on the website for a number of months now.

It is my understanding that the Moody's rating is available to subscribers only and the University is unable to provide copies.

Regards
Karina

From: Robert Hogan <harveyr35@aol.com>
Sent: Thursday, September 14, 2023 1:15 PM
To: Karina Groenewoud <Karina.groenewoud@utas.edu.au>
Subject: Re: UTAS - Trading towards insolvency

Dear Karina

Thank you for your reply.

I was not aware of the Public Reporting Page, despite regularly looking over UTAS' website and being the chief recipient of RTI information. Can you please tell me when the Pu
Reporting Page, and its various constituents, went live?

With regard to Moody's ratings, I am a subscriber and have copies of previous Moody's ratings for UTAS. However, Moody's service appears to have changed in recent months a
appears Moody's 4 September 2023 update to its credit analysis of UTAS ("update") is not available without payment of a very large fee.

Can you please provide me with a copy of this update.

Yours sincerely

Robert

On Thursday, 14 September 2023 at 10:27:26 am AEST, Karina Groenewoud <karina.groenewoud@utas.edu.au> wrote:

Dear Mr Hogan

Thank you for your correspondence outlining your opinions on the University of Tasmania's financial position which have been duly noted.

I also note the State Treasurer's recent advice to the Tasmanian Parliament that he has no evidence or advice from the Tasmanian Treasury that would give him any cause to be
concerned about the University of Tasmania's financial management nor its level of borrowings. I further note that the international ratings agency Moody's recently confirmed the
University of Tasmania's sound financial position in its latest credit opinion, affirming the University's Aa2 credit rating and forecasting a stable outlook. This credit opinion is availa
all Moody's subscribers and highlights the University's success in delivering projects in recent years and in establishing frameworks to manage the various complexities of projec
monitoring and delivery, whilst preserving underlying educational offerings to students.

Finally I note that the University's financial position is transparently presented in the financial statements of the University's 2022 Annual Report which was tabled in the Tasmania
Parliament earlier this year and that there is a wealth of other publicly available information on many aspects of the University's decision making on the Public Reporting Page tha
be of interest to you.

Yours sincerely

Karina

Karina Groenewoud

University Council member

utas.edu.au

UNIVERSITY *of* TASMANIA

CRICOS 00586B

From: Robert Hogan <harveyr35@aol.com>
Sent: Tuesday, September 5, 2023 10:29 AM
To: Karina Groenewoud <Karina.groenewoud@utas.edu.au>
Subject: UTAS - Trading towards insolvency

Dear Ms Groenewoud

Introduction

I am writing to you directly to raise my concerns about the financial situation of the University of Tasmania (UTAS), particularly in relation to UTAS' proposed relocation of its southl campus to the Hobart CBD and redevelopment of the Sandy Bay campus site, as in effect a new suburb within a suburb.

I have been studying UTAS' proposed relocation for the last 18 months, with results documented at www.theutaspapers.com.

In light of financial information that has been released over recent months, I have estimated that UTAS' CBD relocation would involve a loss of over $1.5 billion dolla Realistically, however, UTAS would become insolvent and/or have to make wholesale changes to its plans and operations, such as a permanent reduction in UTAS' regional presence, before such a loss were fully realised.

Any expectation of a cash injection by the State and/or Commonwealth Government salvaging the CBD relocation should be discounted, as the scale of funding required could n justified. Funding on a lesser scale would just be to delay the inevitable and waste taxpayers' money.

The only sensible and prudent course now is to reverse the CBD relocation and refocus the southern campus at Sandy Bay, while - of course - leaving established facilities in the in place.

Any expenditure on relocation from now is, again, wasted taxpayers' money and can be seen as leading to insolvency.

For the sake of readability, I have referenced sources in this email only where it seemed absolutely necessary to do so. Attachment A provides a copy of this email with sources f referenced.

CBD relocation would be a financial disaster

UTAS' most recent available plans for relocation to the Hobart CBD involve an extensive building program in the city including:

- Construction of 10, potentially 11, new buildings (most multi-storey);
- Restoration/refurbishment of 14 buildings; and
- Demolition of an entire block length of buildings in Argyle Street and demolition of seven other city buildings/structures.

In the *Southern Future Business Case* (**SFBC**) , the basis for the UTAS Council's decision on 5 April 2019 to relocate to the CBD, UTAS' cost estimate for its CBD building progra other works) was $677 million.

To fund its CBD building program, UTAS has planned to **develop and exploit the Sandy Bay campus site rather than simply selling the land**, with the aim of maximizing reve from this 'asset', chiefly in the form of rentals. UTAS envisages a building and development program at Sandy Bay including:

- Construction of about 90 new large buildings up to 8 storeys high;
- Refurbishment of 12 buildings;
- Demolition of over 50 buildings, including new or refurbished buildings.

In the Planning Scheme Amendment UTAS submitted to the Hobart City Council on 6 December 2021, for rezoning of the Sandy Bay campus site (**Planning Scheme Amendme** UTAS' cost estimate for its Sandy Bay development program was $1,650 million.

In UTAS' plans, revenue from Sandy Bay development would pay for both the CBD and Sandy Bay building programs, as well as providing a 'profit' of $200 million to over a 30 year period. However, there would be a significant time gap before revenue from new buildings regularly exceeds expenditure.

To fill this gap, UTAS plans on using borrowings, including the $350 million it borrowed through its Green Bond program in March 2023 and the money it holds in investments.

UTAS' plan was deeply flawed and high risk from the time it was made and is now coming undone.

Even granting UTAS' total cost estimate of $2,327 million for its CBD and Sandy Bay building programs some credence, a $200 million surplus was a ludicrously small 'margin' fo a large program. However, UTAS' building cost estimates have been unrealistically low from the outset. Construction costs almost always increase as building concepts and desi refined and real-world issues such as difficult terrain and labour market conditions are addressed. **UTAS should have allowed a significant contingency for increases in its c estimates, when developing it plans and making decisions on its options**, particularly given the long time-lines involved – 10 years for completion of its CBD building progra at least, 20 years for its Sandy Bay building program.

The following table sets out UTAS' cost and benefit figures for its CBD and Sandy Bay plans, with adjustments for inflation and various levels of contingency to take account of r world issues. The table is explained more , with sources provided, in Attachment A.

	UTAS' figures	**Inflation factor**	**With inflation to March 2023**	**25% contingency**	**50% contingency**	**100% contin**
	$m		$m	$m	$m	
Hobart CBD Building Program (**SFBC**, 5 April 2019)	677	1.23	833	1,041	1,250	
Sandy Bay redevelopment (**Planning Scheme Amendment**, 6 December 2021)	1,650	1.13	1,858	2,323	2,787	

UTAS' Total Cost Estimate	**2,327**		**2,691**	**3,364**	**4,037**	
UTAS' Benefit Estimate (DAE research)	**2,527**		**2,527**	**2,527**	**2,527**	
Net 'Profit'/Loss	**200**		**-164**	**-837**	**-1,510**	

As can be seen from the Table, inflation of construction input prices may already have wiped out UTAS' notional $200 million surplus (the fourth column shows a loss of $164 mill Based on extensive professional experience with construction projects, I believe that allowance for a contingency of, at least, 50% would now be realistic. **In this situation, cost would increase to over $4 billion and rather than producing 'profit' of $200 million, UTAS' relocation would involve a loss of over $1.5 billion.**

In support of this view, I note:

- The cost increase from $86 million to $131 million for UTAS' Forestry Building project, with the likelihood that the final cost will be higher again. I particularly note that the cos estimate for this project should have been well developed and that it only involves refurbishment rather than construction from scratch. The scope for cost increases should there have been relatively minimal. Remember, UTAS' April 2019 cost estimate for its entire CBD building program was only $677 million. The Forestry Building refurbishment alone is over 19% of that amount.

- The increase in the cost of the Commonwealth Games in Victoria from $2.6 billion to $6.8 billion (mainly related to building costs) in the space of a year, leading to their cancellation.

- The increase in the cost of the Marinus Link from $3.1-3.8 billion to $5.5 billion in less than a year.

- The *Mercury* also recently reported on cost increases for a number of other projects in Tasmania - see "Trouble as Costs Skyrocket", *Mercury* 27 August 2023.

The prospective loss on UTAS' relocation could well be significantly more than $1.5 billion, if UTAS' CBD relocation has to compete for construction resources with t building of an AFL stadium at Macquarie Point.

The rezoning process for Sandy Bay is now underway. Any changes required to UTAS' 6 December 2021 **Planning Scheme Amendment** arising from the formal processes of consultation and consideration would likely come straight off UTAS' estimated benefits and therefore add to losses.

<u>Keeping relocation alive – there are no good options</u>

Clearly UTAS would seek to take action before a scenario involving a loss of $1.5 billion was fully realised. Options might **seem** to include:

  - Seeking a cash injection ('bail-out') from the State and/or Commonwealth Government – this would have to be very large (say, $1 billion plus) to provide any real assistance for UTAS' current plans. Such a large cash injection would be most unlikely and could not be justified on the basis of cost-benefit analysis, particularly given th consolidation of UTAS' principal southern campus at Sandy Bay is a much better financial option, involving no risk.

  - Sale and lease-back of assets – sale and lease back adds to operating costs which would only add to UTAS' losses over time. There are many variations on this

  - Major reductions in operations – in UTAS' case this could well mean reducing its interstate and international presence, **and its presence in the north, northwest or of Tasmania**. However, this would be unlikely to provide anything like the savings required, and would lead to an outflow of students to other universities reducing UTAS revenues. A reduction in operations is, anyway, hardly the hallmark of a successful relocation.

- Some combination of these.

UTAS might also look to borrow more money in the hope that this would bridge the gap between the costs of its building programs in the CBD and Sandy Bay and the time when buildings, particularly at Sandy Bay, start providing revenue. However, given UTAS current borrowing situation, this would require an explicit guarantee by the State and/or Commonwealth Government and, again, as relocation is fundamentally unprofitable, further borrowing would only add to losses over time.

- UTAS' borrowings at 31 December 2022 included the $350 million Green Bond and $174.9 million owed to the Spark Living as part of a borrowing like arrangement, whereby sold forward rents at some of its accommodation properties in return for a cash sum. UTAS also has a $50 million overdraft facility with ANZ.

<u>The current situation</u>

Public policy analyst John Lawrence and I have both written that UTAS already appears in major financial difficulties, with insufficient cash to last beyond two or three years, parti if it continues in pursuit of CBD relocation.

From the Minutes of the UTAS Council meeting of April 2023, it is clear that the UTAS Council is aware (unlike the State Treasurer) that UTAS is facing financial issues and attem to address those issues. It seems clear, however, from reading those same Minutes that the UTAS Council neither recognises the severity of those financial issues nor the fundar cause - needless expenditure on the financially unsound relocation option.

Instead UTAS appears to be looking at short term options to decrease costs such as delaying further building work in the CBD. It also appears to be adopting/considering expedi such as reducing staff and course offerings, which will have little impact on the overall financial problem, and which are likely to have an adverse effect on UTAS' longer-term futu

UTAS appears to also be set on a course of locating staff and students in the CBD in temporary and/or rented accommodation. This makes no financial sense when perfectly go accommodation is available at Sandy Bay and I can only assume this action is about presenting relocation as a fait accompli.

If the plan is to cut UTAS' operational cloth to suit its financial situation in the hope that 'something will turn up', then this is the worst of all possible worlds. As indicated in the pre section, nothing can turn up on the scale UTAS requires.

I suggest that UTAS stop needlessly wasting money, accept reality, and reverse all recent moves immediately. The UTAS Council should consider options focused around mainta its principal southern campus at Sandy Bay, while maintaining established operations in the CBD where this makes sense. Having considered this matter at length, I believe a rar potential options are available for the Sandy Bay campus, which would strengthen UTAS' finances and not involve totally unnecessary risk.

I note in passing that the minutes for the UTAS Council meetings of June and August have not yet been published, which appears to run counter to UTAS' new 'Transparency Pro

<u>Can UTAS rely on an implicit Commonwealth or State Government guarantee?</u>

In his evidence to the Legislative Council Select Committee Inquiry into the Provisions of the *University of Tasmania Act 1992* (LegCo Inquiry) on 4 March 2023, Vice-Chancellor Black indicated that UTAS would obtain State funding support if required. In contrast, in Treasurer Michael Ferguson's evidence to the LegCo Inquiry of 6 July 2023, he did his b with Treasury support, to disown any State Government responsibility, asserting that the Commonwealth Government would step into the breach to provide funding support in the of UTAS needing a 'bail-out'.

Moody's rating agency – in its credit rating of UTAS and its Green Bond issuance - has also consistently assumed "a high likelihood of extraordinary support from the Commonwe this is tantamount to an assumption that UTAS operates with an implicit guarantee from the Commonwealth.

I do not believe either the State Government or Moody's has ever bothered to raise this matter with the Commonwealth.

The fact is that neither the State nor Commonwealth Government have indicated that they would bail out UTAS out in a financial crisis. **It would therefore be irresponsible and imprudent to rely on either the State or the Commonwealth Government coming to UTAS' financial assistance, in the event of a crisis.**

<u>The Green Bond</u>

When UTAS borrowed $350m from the market through its Green Bond in March 2022, it not only lacked a valid borrowing approval issued in accordance with section 7(2) of *the University of Tasmania Act 1992* (UTAS Act) for doing so, but it is clear from the borrowing approvals on which UTAS relied that it acted in significant breach of their terms and conditions. It therefore breached the UTAS Act.

  - Copies of the two borrowing approvals and the associated maturity profile on which UTAS relied for its borrowing are available for all to judge in my blog post at: https://theutaspapers.com/rti-papers-fully-expose-utas-green-bond-mess-vc-treasurer-should-accept-responsibility/

- If UTAS experiences a debt crisis or the financial difficulties it is now facing become known, it is distinctly possible that its creditors could seek early repayment and t matter could easily end in court. It would not be surprising, for example, if Dai-ichi, who loaned $103 million to UTAS through the Green Bond, sought immediate repayme its loan, if it became alert to UTAS' breach of the borrowing provision of the UTAS Act and its current financial situation.

I have constantly urged the Tasmanian Government and UTAS, both on my website at www.theutaspapers.com and in direct correspondence, to ensure a valid borrowing approv suited to the Green Bond is issued under section 7(2) of the UTAS Act as soon as possible. It is one thing to borrow in breach of the UTAS Act (presumably due to incompetence quite another thing to knowingly continue in breach of the UTAS Act, with full awareness of the risks this entails.

Legal issues

I believe that any continuation of UTAS' relocation strategy would involve trading towards insolvency. This could involve major legal risks for UTAS Council members, particularly continuing down the relocation path now would not just be negligent or reckless, but knowing and willful, in light of the contents of this email.

While the UTAS Act does not include provisions relating to insolvency, section 11A of the UTAS Act would reasonably be taken to apply to consideration of UTAS' financial health whether actions may be leading to needless expenditure and potential insolvency.

Other regulatory instruments of direct relevance to UTAS Council members and the issue of insolvency are the *Australian Charities and Not-for-profits Commission Act 2012* (AC Act), particularly Division 45, and the *Australian Charities and Not-for-profits Commission Regulations 2022,* particularly Regulation 45-25, and Standards 6.1 and 6.2 of the *High Education Standards Framework (Threshold Standards) 2021.* UTAS' issue of the Green Bond may also 'activate' Section 588G of the *Corporations Act 2001*.

- I also note that Section 25 of the *Government Business Enterprises Act 1995* (Tas) deals extensively with insolvency, demonstrating the fundamental importance of this issu

There are other legal issues that UTAS Council members might reasonably need to consider. For example, I believe that the description of UTAS' borrowings on page 29 of UTA *Annual Financial Statements – 31 December 2022* submitted to the ACNC, which is repeated at the bottom of page 71 of *UTAS Annual Report/2022*, constitutes a material error the terms of Section 60-65(1)(b) of the ACNC Act. UTAS' borrowings have been approved under certain conditions and, as I have indicated, borrowing through the Green Bond constitutes a clear breach of those conditions.

The 'red herring' of improved accessibility

As it will likely be put forward as a reason for 'sticking' with relocation, no matter the cost, it seems important to comment on the accessibility 'red herring'.

Improved accessibility, leading to increased student numbers, has been one of UTAS' principal arguments for its proposed relocation to the Hobart CBD; second indeed only to U argument that relocation would provide financial sustainability.

However, until recently, UTAS has not provided any substantive documentation to support its argument. This changed on 11 July 2023, when – in response to a decision by the Ombudsman on my Right to Information (RTI) application seeking an unredacted copy of the **SFBC** and its appendices – UTAS released the appendix on this issue at:

- https://www.utas.edu.au/__data/assets/pdf_file/0009/1664775/Appendix-08-Southern-Infrastructure-GFA-Requirements-Analysis,-Mar-2018.pdf

This document shows student numbers increasing for both the CBD relocation and the remain-at-Sandy Bay options. As presented in the cost benefit analysis in the bo the **SFBC** there is a net gain from increased student numbers of $22 million over 30 years for the CBD option relative to the Sandy Bay option. While this is a 7% Net Present Va figure, and the nominal (cash) amount might be something around $50 million, this is miniscule 'gain' when relocation costs would run well into the billions of dollars in both UTAS relocation cost estimate ($2.33 billion) and mine ($4.04 billion+).

The difference between student numbers for the CBD and remain-at-Sandy Bay options in the appendix was, anyway, driven by an assumption that relocation of UTAS to the CB would, of itself, lead to UTAS achieving university retention rates similar to those in other states. This is simplistic and unsupported by data. On the other hand, there is strong anecdotal evidence that prospective UTAS students are starting to move interstate to universities where they can enjoy a true campus experience.

Even if some modest increase in student numbers could be predicted with certainty from UTAS' relocation to the CBD, it would be ridiculous to relocate the southern campus at h cost to the CBD to achieve this result, **even if that cost could be afforded**. The student accessibility issue should, first and foremost, be addressed by improving secondary edu attainment and retention rates. Dedicated/express bus services and other transport options should also be considered, together with enhanced outreach activities by UTAS.

I do not believe that increased accessibility was ever genuinely a major factor in the thinking of the main proponents of the CBD move; rather it was a marketing tool

The onus must be on UTAS to argue its case, with full transparency

UTAS management may seek to question the validity of my financial analysis, particularly the summary table, I have provided here, but I have presented this in good faith on the of material published by UTAS. This material was published by UTAS only after the direct intervention of the Ombudsman in relation to RTI applications that I have made to UTA UTAS is still fighting my RTI application to obtain copies of research by Deloitte Access Economics (DAE), which may contain more detailed and recent figures on its proposed C relocation, and this matter is currently with the Ombudsman.

The onus must be on UTAS to place the DAE research and all other relevant material (not just edited excerpts) in the public domain, where it can be critically assessed.

My strong belief is however that, whatever additional information UTAS may put forward, a realistic cost estimate of UTAS' CBD relocation plans would remain much to a loss of $1.5 billion than a 'profit' of $200 million.

I look forward to your attention to the matters raised in this email.

Yours sincerely

Robert Hogan

Canberra

(BA Hons, UTAS, 1981)

This email is confidential, and is for the intended recipient only. Access, disclosure, copying, distribution, or reliance on any of it by anyone outside the intended recipient organisa prohibited and may be a criminal offence. Please delete if obtained in error and email confirmation to the sender. The views expressed in this email are not necessarily the views University of Tasmania, unless clearly intended otherwise.