

The Honourable Dean Winter MP
Tasmanian Labor Leader
Member for Franklin

Via email: dean.winter@parliament.tas.gov.au

Dear Dean,

I am writing with our appreciation for the support Tasmanian Labor has provided in response to our concerns with the proposed legislation to amend the *University of Tasmania Act 1992* (the Act) to require parliamentary consent to sell the Sandy Bay Campus.

I am also writing to let you know that I have written to the crossbench to communicate these issues. Specifically, I have highlighted our University Council's concern that the proposed legislation to require parliamentary consent to sell the Sandy Bay Campus will in practice deter virtually all prospective development partners.

I have shared that our initial legal advice is that this bill looks to be inconsistent with the fundamental principles of landownership in Tasmania, amounting to a reverse compulsory acquisition that:

- effectively prohibits sale in order to force a use of the land which the University Council would otherwise have decided is not in the best interests of the University;
- deprives the University of the value of the land;
- imposes an ongoing cost burden on the University through ongoing holding and upkeep costs for the land and buildings which it is prohibited from disposing; and
- inhibits the Council's long-term planning for the University to achieve the objectives set out under the Act.

The Chancellor is also concerned this legislation impacts individual Council members' governance duties (which are akin to director's duties under the Act) and likely prevents or impedes members of Council from making decisions that they believe are in the best interest of the University, ultimately affecting the good governance of the University and potentially exposing Council members to liability.

As we have discussed, our existing Treasury debt approval includes a condition relating to maintaining our debt maturity profile (which includes revenue from the Sandy Bay campus development) and this bill creates uncertainty with regard to our ongoing funding arrangements which is of considerable concern to the Council.

In addition, the proposed Ministerial power to place a caveat on the Sandy Bay Campus would not appear to be required as part of any Parliamentary legislative approval process, and would very likely detract from the University's capacity to attract commercial partners, for example under lease arrangements.

Of serious concern is that it is highly unlikely any development partners would contemplate a transaction dependent on parliamentary approval. The chilling effect will be further reinforced by the requirement that any sale motion include 'details of the amount of payment or consideration, or any other benefits, that the University is to receive if the sale is approved as required under this section'. This could require disclosure of much of the 'usual' parts of the contract, such as purchaser indemnities, purchaser waiving rights to claim for problems with the property, and so on.

I have also emphasised that Australia's higher education sector is largely funded and regulated by the Commonwealth. Given the Sandy Bay campus was originally Commonwealth land provided to the University via a transfer through the State in 1951 for the purposes of sustaining higher education in Tasmania, it seems very important that the Commonwealth be consulted about the State's proposed restrictions on the University's use of the Sandy Bay land.

Furthermore, considering the scale of the Universities Accord reforms the Australian Government is currently pursuing and the bold ambitions for Tasmania, the relevant agencies and Ministers should understand the impact this legislation will have for resourcing higher education in Tasmania into the future.

Finally, we warmly welcome and appreciate your support for a new STEM facility in Hobart. In consultation with our staff, students and representatives of industry, community and future students, we are scoping the detail of the facilities required to support the approximately 2900 students and 360 staff that study and work in our outdated facilities currently on Sandy Bay, and we look forward to sharing the outcomes of that process with you in due course.

Thank you, again, for your strong advocacy on behalf of the next generation of University of Tasmania staff and students. We are very appreciative of this proactive support and look forward to further discussions with you and your team in the weeks ahead as the government's legislation is considered by Tasmania's elected representatives.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'N. Farrelly', written in a cursive style.

Professor Nicholas Farrelly
Pro Vice-Chancellor, Campus Life (Southern Tasmania)
19 July 2024