

Submission
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**INQUIRY INTO THE GOVERNANCE OF NSW
UNIVERSITIES**

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Submission to NSW Parliamentary Inquiry into the governance of NSW universities by Kay Hempsall of the University of New England

I am the Manager of Organisational Development at the University of New England (UNE). I have held that position since November 2001. In this role I have gained significant insight into the culture and values of UNE through the implementation and management of projects such as the Performance Planning and Review protocol, the Voice Project staff satisfaction survey and through managing professional development programs of the University such as the Staff Leadership Program.

I was elected general (non-academic) staff member of the UNE Council in August 2006 and was re-elected for a further two year term in August 2008. I would like to say at the outset that since 11 December 2008 when Richard Torbay took office as Chancellor that the UNE Council has taken significantly steps to put in place procedures that will facilitate much improved governance-management relationships between members of Council and Senior Management. This reflects the success of the personal style of the Chancellor and demonstrates to me the importance of electing a person to this position who understands, and can work effectively with, the values of an organisation such as a University.

It is my personal belief that a conflict of values was a principal cause of the governance issues that this University faced very publicly in 2008 but which began several years earlier. I understand that it is not possible to write legislation to avoid this but it does illustrate the critical importance of understanding the responsibilities and accountabilities of council/board/senate membership. UNE's own Council Policies document makes a clear statement of this in its preamble:

"The Council shall educate itself regarding the values held by the persons it represents and shall act always under the influence of those values. The Council's education may be facilitated by (1) reviewing reports in the media, (2) studying responses in citizen questionnaires and comments by key informants, (3) discussions with elected representatives, consumers, and service providers, and (4) monitoring the demand and utilisation of services."

While reflecting on events of last year it seemed obvious to me that if all members of Council were to act in accordance with its own policy, together with the UNE Act, that many of the events of 2008 would have had very different outcomes. However, it seemed there were in effect two Councils: what one could call an inner circle and an outer circle. And the values of these two groups it seemed were often at odds with each other. To resolve this I would suggest that it needs to be absolutely clear that all Council members are equal and that Council has power only as a collective body, and that no one Council member (or sub-group of Council) has power over any other except where resolved by a resolution of the whole Council. This is in fact my understanding of the role and powers of Council as prescribed in the UNE Act 1993 and yet this was often not my experience during 2008. It perhaps therefore needs to be spelled out that no member of the Council, including the Chancellor, has executive power, and that the role of Council is not to *manage the affairs of the University* but more to act in an advisory and monitoring capacity on matters pertaining to the management of the University. It is possible that the term "management" in the UNE Act has been misinterpreted to mean that Council has a management role.

It has been suggested on several occasions during the last few years that the Council is too large and unwieldy with 22 members, and that it should be made smaller to enable (a) quicker decision-making and (b) to remove possible conflicts of interest through the elimination of the elected representatives. I would like to make a few points on this:

1. In my experience the size of Council only ever slows down decision-making over contentious issues. All routine and non-contentious matters are expedited. I would argue that it is in fact sensible for debate to occur over contentious issues because it is through healthy debate incorporating a range of views that the best interests of the University can emerge, and which safe-guards against poor and hasty decision-making that can occur when there is 'group-think' operating.

2. In order to ensure that all views of all stakeholders are represented I believe that elected representatives form a critical membership of a University council. They represent the views of the staff, the students, and the alumni, which in the case of UNE number some 70,000 plus individuals.
3. I believe that it is a mistake to draw direct comparisons between an executive board of a private company, whose principal focus is to make a profit to increase shareholder value, and a university council/senate, whose principal focus is to provide a quality public service: education and research. However, I would stress that I also believe that universities do need to be well-managed to allow them to prosper, and that they do need to be accountable to the public purse. Nevertheless, the principal focus is quite different and this drives a very different set of values.
4. The alignment of values drives cooperation in any organisation. When leadership values are aligned with those of the organisation, the members of the organisation will willingly cooperate with the management / leadership. Smart leaders understand and work with this: they know how to inspire and lead change in ways that minimise resistance. This requires patience and consultation. Leaders who are disrespectful of the values of the members of the organisation will meet resistance.
5. Section 5, Schedule 2A of the UNE Act 1993, expressly deals with conflicts of interest. I believe there is scope to increase the clarity of interpretation of this concept in the UNE Act. In its present form it uses the term 'material interest' which had been interpreted at UNE in the last few years to mean a 'pecuniary interest'. The University Governance Professional Development National Induction Pack¹ makes it somewhat clearer:

"A Council member has a conflict of interest when an interest creates an incentive for the member to act in a way which may not be in the best interests of the University. A conflict of interest may be financial or non-financial, direct or indirect, professional or family related; it may be potential, actual or perceived."

However, determining what is in the best interests of the University is also a value judgement. I would suggest therefore that when minority group values are not aligned with majority group values this leads to the loss of confidence in leadership. Votes of no confidence are powerful statements of the mood of an organisation. It is difficult to comprehend how anyone can ignore even one vote of no confidence, let alone several.

6. I believe as a matter of good practice Council members should be the role models for the rest of the University. In this regard all University policies that apply to members of staff and students should equally apply to members of Council in their role as public officers. There should not be one set of rules for one group and a different set of rules for another. This creates an environment where there is no trust in leadership.

¹ A program of the National Institute for Governance at the University of Canberra