

**INQUIRY INTO THE GOVERNANCE OF NSW  
UNIVERSITIES**

**Organisation:** University of Technology Sydney  
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**Position:** Chancellor  
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Chancellor  
Professor Vicki Sara

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The Director  
General Purpose Standing Committee No.2  
Parliament House  
Macquarie St  
Sydney NSW 2000

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### INQUIRY INTO THE GOVERNANCE OF NSW UNIVERSITIES

Dear Ms Duffy ,

On behalf of the Governance Committee of the University's Council, I would like to thank you for the opportunity to provide a submission to the Inquiry.

The Inquiry would be aware of the recent *Bradley Review of Australian Higher Education* for the Commonwealth Government and the review of university governance legislation currently being undertaken in Victoria. I note that the Victorian review addresses a number of matters relevant to the Inquiry and commend its '*Statement of Intent*' for your consideration.

Both I and the Governance Committee are firmly of the opinion that the success of a University Council depends upon the collective expertise of its members who interact in a transparent way in an environment of mutual trust and respect. While the Council must operate in a framework of accountability and transparency, it is important to never lose sight of the fundamental issue that quality decision making and Council effectiveness is determined by the competency, skills and the contribution of its members.

Diversity within the higher education sector needs to be encouraged. A 'one size fits all' approach to governing bodies will not support a diverse higher education sector. Universities need flexibility to determine the appropriate governance model for their own special circumstances. However, while recognising the need for each university to determine its own objectives, this must be achieved within a framework of transparency and accountability.

The following themes underpin the Governance Committee's perspective and practice on the roles, responsibilities and performance of governing bodies and Vice-Chancellors:

### ***Roles and relationships between the Council, Chancellor and the Vice-Chancellor***

The Council of UTS regularly makes strategic assessments of the UTS environment and takes key decisions on such matters as the UTS strategic direction, long-term financial scenarios and major infrastructure - matters which will affect the University's operations in ten, twenty, fifty years or more.

Council has specific powers and functions set out in the *University of Technology, Sydney, Act 1989* which distinguish its role from the roles of other bodies and the Vice-Chancellor. Council has summarised its function as being 'to review, advise, approve and propose policy and strategy in pursuit of UTS's goals and to raise matters of general University concern'. The UTS Act as the enabling legislation, establishes the functions of Council in furthering the objects and functions of the University, supported by the National Governance Protocols (NGPs) made under the *Higher Education Support Act (Cth)* which have been incorporated into the governing legislation of universities in New South Wales.

The Council's Governance Committee has observed that the integration of a governing Act passed by the New South Wales Parliament, and Guidelines made by the Commonwealth Minister, makes for an unnecessarily complex legislative framework. For example, it is entirely appropriate that universities be properly accountable for their controlled entities and their commercial activities, but a university's governance role would be more effective if the legislation regulating these matters were more concise, consistent and clear.

The UTS Act itself makes only brief references to the roles of Chancellor and Vice-Chancellor. As a consequence, Council adopted by resolution (in February 2004) the following Role Statement for the Chancellor:

- 1 *The Chancellor is the Chair of the governing body of the University, the University Council. The position is honorary and is traditionally filled by a person who is not an employee of the University. It is customarily filled by a person who has a high level of public esteem and who is thus well placed to represent the University in public, governmental and civic occasions.*
- 2 *The Chancellor has a key role in ensuring that the Council of UTS works effectively to fulfil its responsibilities under the UTS Act as the governing body of the University. This entails;*
  - *ensuring that a strategic and effective approach is taken to the development of agendas for Council meetings, and that Council's decisions are based on soundly prepared and effectively presented information and analysis;*

- *effective Chairing of Council meetings;*
  - *a very strong commitment to encouraging and assisting Council, its Committees, and the Vice-Chancellor and senior executives of the University to work fairly, with integrity, respecting confidentiality within transparent process and in an atmosphere of mutual trust and respect in an informed fashion; in particular, ensuring that Council functions as a cohesive, accessible, effective, enquiring and informed body with a paramount fiduciary duty of loyalty to act in the best interests of the University.*
- 3 *The Chancellor works co-operatively with the Vice-Chancellor and the Senior Executives of the University, providing counsel and strategic advice, encouraging free, trusting and frank communication on all issues concerning the well being of the University, and promoting the aims, ethos, independence, morale and spirit of the University, and encouraging high standards.*
  - 4 *In consultation with the Vice-Chancellor, the Chancellor provides a high level bridge to governments, the business community, the professions and the wider community, promoting the aims of the University and guiding the University to respond to the interests and concerns of society.*
  - 5 *The Chancellor presides on important ceremonial occasions such as graduation ceremonies, public lectures or seminars, sharing that responsibility as the Chancellor judges appropriate, and facilitating the visibility and accessibility of the Council within the University community and in particular to staff, students and graduates of the University.*
  - 6 *On appropriate occasions, the Chancellor expresses the values of the University.*

With respect to the roles of the Council and the Vice-Chancellor, it is clear that the Council has the overall control and management of the affairs of the University (UTS Act s.16(1A)(b)).

Council appoints the Vice-Chancellor on conditions and for a period that it determines (s.12). By reason of s.12(3) of the Act and one of the Rules made by Council under its rule-making power (which derives from s.29 of the Act and clause 44 of the University's By-law), the Vice-Chancellor is the chief executive officer (CEO) responsible to the Council for implementing the decisions of the Council, promoting the interests and furthering the development of the University and conducting the "business" of the University. In addition, under s.17, Council may delegate any of its functions to the Vice-Chancellor, except the power of delegation. Council may also resolve not to delegate certain functions but reserve their exercise to itself if it wishes to limit the scope of the Vice-Chancellor to act in any area of his/her capacity as CEO.

In practice, UTS has been fortunate in that its Councils, Chancellors and Vice-Chancellors have enjoyed sound working relationships, underpinned by a shared understanding and commitment to an appropriate system of accountabilities for a governing body and the Vice-Chancellor and his executive group. The Chancellor does not act independently of Council. Any 'grey areas' of Vice-Chancellor versus Council responsibility that might arise would first be discussed between the Chancellor and Vice-Chancellor, who would take into consideration how such issues might be treated under a Corporations Law framework, prior to the issue being put before Council if necessary for resolution.

Early in my appointment as Chancellor, I proposed the following six Governance Principles for consideration of Council. They were adopted by way of Council resolution (in August 2005) and have served the University well as a practical point of reference in support of the UTS legislative framework:

- 1 *Focus on the University's purpose and goals*
- 2 *Perform effectively in clearly defined roles and responsibilities*
- 3 *Promote and act in accordance with UTS Guiding Principles*
- 4 *Take informed, transparent decisions within UTS accountability systems*
- 5 *Develop the effectiveness of the UTS Council and others responsible for governance*
- 6 *Recognise and engage the relevant interests of the University's stakeholders.*

Both the Governance Committee and I believe these Governance Principles reflect best practice, but each university governing body would no doubt develop its own set that best meets its particular circumstances.

### **Performance review of Council**

The Governance Principles are the foundation of induction briefings for new Council members and underpin the two-yearly Council evaluation process. Evaluation of Council's own effectiveness is clearly accepted by all Council members. UTS has recently reviewed its system of Council evaluations and has committed to a rotating cycle of 2-yearly self-evaluation surveys and governance audits; supplemented by a commissioned external review on a 4-yearly basis. Evaluation of the performance of members is essential to building an effective Council.

### **Composition and size of Council and appointments processes**

Although the composition of governing bodies is within the jurisdiction of state governments, you would be aware that the former federal government tied grant funding to compliance with National Governance Protocols which determined a maximum size of 22 members. Support for having a minimum and a maximum size and the need for flexibility was raised consistently by university submissions across all states to the recent MYCEETYA review of the National Governance Protocols. This is also the endorsed position of both the University Chancellors' Council and

Universities Australia. A 'one size fits all' model is widely regarded by universities as compromising diversity within the sector.

The Committee commends for your consideration the proposed Victorian model, which recommends that in recognition of the constantly changing environment and the diversity of constituencies, that universities may themselves determine the optional number within the range of 14-22 members. The fundamental issues are the effectiveness and collective skills not size. The Governance Committee is of the view that the Council is in the best position to make the appointments and would support an increase in the proportion of Council-appointed members.

Universities are complex organisations with needs and activities different from commercial enterprises and, as such, we are strongly of the view that the skills and experience that staff and students can bring to a governing body are particularly important. Decision making needs to be underpinned by a sound understanding of the University's principal functions of teaching/learning and research. Financial and commercial expertise is necessary, but not sufficient, for the governing body to be able to make effective decisions that are in the long-term interests of the University.

However, while the contribution of staff and student members of Council is valued, a new model for the student and staff appointment processes is needed. A model that is based on the skills of the individual in the context of the skills set of the whole Council, rather than the current representative model is supported. UTS has successfully introduced such a model for its Convocation (alumni) members of Council.

I would be more than happy to discuss any of these matters, on behalf of the University's Governance Committee, and can be contacted via my secretary Diane Murray on

Yours sincerely,

A handwritten signature in black ink that reads "Vicki Sara". The signature is written in a cursive, flowing style.

**Professor Vicki Sara  
Chancellor**