

REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE No. 2

INQUIRY INTO

GOVERNANCE OF NEW SOUTH WALES UNIVERSITIES

At University of Sydney, Sydney on

Monday, 23 March 2009

The Committee met at 9.00 a.m.

PRESENT

The Hon. R. M. Parker (Chair)

The Hon. T. Catanzariti
The Hon. G. J. Donnelly
The Hon. M. A. Ficarra
Dr J. Kaye
Reverend the Hon. G. K. M. Moyes
The Hon. C. M. Robertson

MICHAEL SPENCE, Vice Chancellor, University of Sydney, sworn and examined, and

ALAN CAMERON, Deputy Chancellor, University of Sydney, affirmed and examined:

CHAIR: Welcome to the third public hearing of the General Purpose Standing Committee No. 2 inquiry into the governance of New South Wales universities. The Committee thanks the University of Sydney for the opportunity to hold the hearing in this fantastic building. At our first hearing some members informed the Committee of affiliations relating to the inquiry: the Hon. Christine Robertson was previously a member of the University of New England Council from May 2003 to December 2004; the Hon. Tony Catanzariti is on the Council of Charles Sturt University; and Dr John Kaye is a member of the International Tertiary Educational Union.

In accordance with the Legislative Council guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the audience should not be the primary focus of filming or photos. Obviously anyone reporting the proceedings is responsible for what they publish or any interpretation they place on anything said before the Committee. Guidelines for the broadcast of the proceedings of the Committee are available from the Committee staff. Notes can be passed through Committee members, staff or witnesses. I welcome our first witnesses from the University of Sydney. Do you wish to make a brief opening statement?

Mr CAMERON: I am the Deputy Chancellor and I appear today on behalf of the university with the Vice Chancellor. I want to make that clear because I am also a writer and an expert in this area. I also do board performance reviews with regard to corporate governance issues for a living. I have written on the subject of representative boards and my business partner has written on not-for-profit boards. Our joint article is the only paper on the subject quoted in the discussion paper issued by the Bradley review last year. While I am in effect speaking to the university's submission, if members of the Committee want to ask questions on the wider sphere, I would be happy to attempt to answer them. However, in respect of the strict subject of the inquiry, I am certainly here on behalf of the senate, not in a personal capacity.

CHAIR: You would be aware from the Committee's terms of reference, and perhaps from other evidence, of the different nature of the structures of university governance. I note that the University of Sydney submission specifically mentions the senate's capacity to remove a chancellor from office; in other words, a chancellor has that position while he or she has the confidence of the senate. Can you flesh out how that might occur? Is that common to other universities?

Mr CAMERON: We say in our submission that we do not think it is common to other universities. To the extent that I did a short trawl of the literature before coming here today, I cannot find it elsewhere. One would expect to be able to find it, because in order for it to be effective it cannot simply be a resolution of the governing body; it has to be something that in some way has the force of law. In our case it does. I have here the university calendar for 2008-09, which is not yet published. I think we gave the Committee the full effect of the relevant by-law with the submission. I am happy to leave this copy, despite the fact that it is marked with my title, if the Committee needs a copy. The by-law—University of Sydney By-Law 1999 (as amended)—was adopted before our time. Neither of us was on the senate or effectively connected with the university when it was adopted, so I cannot speak to the circumstances in which it was adopted.

It provides that it is a condition of which the Chancellor—and the Deputy Chancellor—holds office that he or she retains the confidence of the senate, and the Chancellor shall cease to hold office if the senate decides by resolution passed at two consecutive ordinary meetings of the senate that the Chancellor does not have the confidence of the senate. It also provides that that applies to the current Chancellor and all future holders of the office. The language is quite interesting. It was clearly intended to prevent a coup d'état under which a chancellor could be removed in a heated debate. Both resolutions have to have been passed, not only at consecutive meetings but also at consecutive ordinary meetings. Ordinary meetings of the senate are held six to seven weeks apart.

The by-law clearly provides some relief from the otherwise bland or blank language of the Acts—I say "Acts" because it does appear to be everywhere. While the chancellors and deputy chancellors are elected to terms without any clear provision to remove them, our university by-law clearly provides quite constrained circumstances in which a conflict between a chancellor and the rest of the senate can be resolved. It is quite a

useful model in that it provides protections in both directions; it cannot be done capriciously, quickly or in haste, but it can be done if there is a breakdown in relationships.

The Hon. CHRISTINE ROBERTSON: Why did you put that in place? Was there crisis or was it as a result of a normal review of the by-laws?

Mr CAMERON: It was not an ordinary review. As I said, I was not here, but we can conclude given the timing and from the publicly available information that there was an issue between the then Chancellor and the then senate in early 2001 relating to matters concerning the Vice Chancellor's remuneration and so on. There was an issue about whether the Chancellor should step down because of fundamental disagreements. I deduce that the by-law was adopted after that.

The Hon. CHRISTINE ROBERTSON: Is it a bit unfortunate that by-laws are adopted after a crisis situation, or do you think that perhaps under normal governance the university councils and senates should think about this process?

Mr CAMERON: I would merely point out it is not entirely within the control of the governing body in that this by-law has the force of law because it is ratified by the Government.

The Hon. CHRISTINE ROBERTSON: I understand that.

Mr CAMERON: If university councils felt that they should address this issue and that this was a useful model, they could adopt a resolution that they ask the Government to enact a by-law to change the primary legislation. It is secondary legislation, but it clearly has the right effect.

CHAIR: I refer to performance assessment, key performance indicators and so on. Your submission states that the senate has its own review process. I am not sure how it does that, although you mentioned retreats and things like that. Do you have a formal system of performance review or protocol for the Chancellor?

Mr CAMERON: As we state in the submission, the review of the senate's performance has been done by several distinguished individuals whose primary business was not poor performance review. The final deal has not been struck as yet, but the likely reviewer this year is a professional in the field. The senate's performance review is within the terms of reference to the extent that it is not a review of individual fellows' performance, but of whether the senate is performing its role properly and whether people are satisfied with the information they are getting, the decision-making processes and so on. That includes a loose review of the role of the Chancellor rather than a specific review. It is a review of the chancellor in the same way as it is a review of us all.

Dr SPENCE: Which we actually think is the appropriate way of doing it because the role of the chancellor is to facilitate the work of the senate. Being chancellor is not a job in the sense that it has tasks and key performance indicators [KPIs] and all the rest of it, except that the work of the chancellor is to facilitate the work of the senate more broadly. To think about the effectiveness of the chancellor's work in that context is the right approach.

CHAIR: We have heard from a number of other witnesses in submissions about the sort of training and capacity of members of the council. I think you call them "fellows" here. Some universities put their members through a governance scheme. I understand you have a mentoring system. Do you undertake formal training of any fellows at all in any way?

Mr CAMERON: In addition to the mentoring, there is an induction for new fellows. One of the difficulties about a very formal process is that we have two fellows who were elected only for 12-month terms. We have some fellows who have done Institute of Company Directors courses, including at least one I can think of who has done one purely for the purposes of the university senate.

Dr SPENCE: And indeed we facilitate that for members of the senate.

Mr CAMERON: I might say that the institute also does internal training for officers of the university in the roles and responsibilities of being a director. The institute provides that for staff, and that is facilitated by the university. The difficulty that I personally think the university has is that, if a member of staff is a lecturer

for only a comparatively short term, a very significant financial and investment in formal training is a bit more difficult to justify. But there is some training. I am not sure that I would say it is as much as it could be.

Dr SPENCE: It is one of the things that we are looking at currently, and indeed as part of the more general review.

CHAIR: I gather that those who are elected for the 12-month term are student representatives. Other universities have a longer term. In 12 months, do they get up to speed enough to be able to participate?

Mr CAMERON: I can say that I was never a student fellow; I lost the election back in 1968! I think first of all they usually have had significant exposure to student politics before they come in, meaning the Students Representative Council and the Postgraduate Representative Association, so they usually start with a fair degree of knowledge about the university.

They do not start from a position of not knowing the university, but they do not necessarily have a lot of experience in being the equivalent of a company director and having to make decisions in the interests of the institution as a whole, rather than in the interests of those who have caused them to be there. There is that learning curve.

I have a view that it would be a good idea to consider staggered two-year terms for student fellows so that the undergraduate fellow is elected for two years in one year, and the postgraduate fellow is elected for two years in the following year. In that way there is always one student with a degree of experience and one who is learning the ropes.

Dr SPENCE: And indeed that is also something we are thinking about at the moment. I think it is worth the Committee knowing that not only is there a review currently being conducted on the performance of senate on a routine basis, but also we are initiating a review of our senate structure, in particular our senate committee structure. The senate committees have grown historically in response to particular circumstances or perceived need rather than in any kind of more structured way. At the moment we are looking at senate committees all up, and we are attempting to take something of a kind of a tabula rasa. In that context, a lot of these questions about things such as the student senators' term of office have come up.

The Hon. MARIE FICARRA: My question is addressed to both of you. In your submission you refer to not wishing to see a one size fits all in terms of university governance being applied generally. There needs to be flexibility. Mr Cameron, in respect of your review of expertise in university governance, you were discussing the pros and cons of the vital provision that exists for removal of the chancellor, and also performance review practices at the University of Sydney. In your review of other university governance structures, have you seen a higgledy-piggledy approach? Do you think these basic elements should be prescribed?

Mr CAMERON: One of the things the university argued for in its submission when the national government's protocols were being reviewed was to have a greater degree of flexibility for universities to adopt more innovative structures for decision-making. The present apparently rigid regime into which all universities fall, not only in New South Wales but also across Australia because of the national governments protocols, does rather discourage attempts to innovate and meet particular needs in changing circumstances over time. That is really what we are saying when we say that one size does not necessarily fit all, at all times, and in all circumstances.

If, for example, the senate felt that to meet a particular circumstance it wanted to enlarge itself by another four fellows for three years to address a particular need, we could not do that without persuading the government of the day to legislate. If on the other hand we want to contract the size of the senate to meet a particular problem, we could not do that without legislative approval. There is something to be said for a less rigid structure in the legislation as a whole. There may be differences for other universities. For example, if I read the press correctly, there is talk about merging two larger regional universities. I do not know whether the same structure would be appropriate for a very large regional multi-campus university as is appropriate to the University of Sydney, which is basically not just in one place but in 18 places when I last looked or in the same sort of area, but governance can be focused.

Dr SPENCE: Except for Narrabri.

The Hon. MARIE FICARRA: There are always exceptions.

Dr JOHN KAYE: But that is just an outer suburb really, is it not?

Mr CAMERON: That is really what we mean when we say that one size does not necessarily fit all. Having some degree of flexibility would be convenient. The particular clause I quoted earlier, which I suspect the Committee would be interested in, is a very general clause. I think it would be a case for saying that a clause like that would be appropriate, not only for other universities but in the general legislation rather than as a bylaw adopted by one university. The mere fact that it is there acts as a safety valve. It does not have to be used. But it also cannot be used, as I have been trying to say, capriciously or in the heat of the moment. For example, to deal with it at an ordinary meeting also requires notice to have been given. It cannot come up capriciously, even at the first of those meetings.

The Hon. MARIE FICARRA: How much notice is required at the University of Sydney for an ordinary meeting?

Mr CAMERON: It has to be in the notice of meeting, so the answer to that is probably seven days. But please do not hold me to that; I would have to check. There is a provision that does not allow a matter to come up before the senate unless it has been given notice of, is proposed by the chancellor or the vice-chancellor.

Dr SPENCE: If the deputy chancellor is unsure about that it is because we have a rather unusual and very consultative approach to putting together agendas. We send out a draft agenda well in advance of the meeting for fellows of senate to agree to the agenda before papers are sent out. I am not necessarily recommending it as best practice, but that is the source of the confusion.

The Hon. MARIE FICARRA: Is that something that was here when you came to university?

Dr SPENCE: Yes, it was.

Dr JOHN KAYE: I just wish to talk for a minute about the elected representatives of the senate. I understand there are alumni staff and student representatives. Are there any moves to change the way in which those representatives are appointed?

Mr CAMERON: The way in which they are appointed meaning—

Dr JOHN KAYE: The way in which they find their way onto the council. There are some universities that currently are considering removing the electoral process and replacing it with an appointment process. I was wondering whether there were plans afoot at the University of Sydney or any discussion in your review of changing that?

Dr SPENCE: Plans of abolishing elections for staff and student fellows of senate? No. It is not something we have considered, and it is not something that I can imagine that we would consider.

Mr CAMERON: If I might say so, the one thing that we are doing is switching to electronic voting. I know that other universities already have done it. We are moving to electronic, except for the graduates. Because this university is so old and its graduates go back so far, trying to switch the graduate roll to an electronic roll is proving to be impossible. It is not because they are not electronically there; it is because we cannot find them electronically. All the other elections this year are to be conducted electronically, so we certainly are not planning to abolish the elections.

Dr JOHN KAYE: In your response to question No. 8 of the terms of reference, you said that the staff and student senators were excluded from audit remuneration considerations. Can you give us justification for why that is done?

Mr CAMERON: Justification for why that is done? Yes, I think I can. The reason is that the audit committee, first of all, is monitoring the expenditure of money. In our view it would be inappropriate. In the same way as it is regarded as inappropriate for executive directors or other employees to serve on audit committees in public companies, so the university regards it as inappropriate for staff or students to serve on the audit committee to the extent that it audits.

I might say that in the context of the review of committees to which the vice-chancellor referred, we are considering whether to remove risk management from audit in some way. My own view is that the same argument does not apply to the risk management aspects of the audit and risk management committee, and we might benefit from having staff and student participation on that side of the committee.

Your second question was about remuneration though, and it is really the same argument. The remuneration and benefits committee has to determine and effectively sign off on the remuneration packages, including performance components, for the most senior staff of the university. We do not think it is appropriate necessarily for other employed staff or students to be directly involved in that process. It is a question of probity and what the senate has thought appropriate over the years. On recollection, that is a matter of protocol rather than rule.

Dr SPENCE: I think it is.

Mr CAMERON: I do not think you will find it written down anywhere. It is simply that in the course of selecting the membership of the remuneration benefits committee and the audit and risk management committee—maybe it is a rule in the latter case, but I do not think it is a rule in the former—it is simply the practice of the university.

Dr JOHN KAYE: If you do not mind, I think we will drill down into those a little. In respect of the audit and risk management committee, where is the conflict of interest with somebody from the engineering faculty being involved in an audit of, say, the arts faculty or an undertaking of the arts faculty? How do you compensate for the lack of staff expertise and staff experience as well as, if I may say so, student expertise and student experience when you come to look at the performance of these bodies? After all, staff and students are at the pointy end of your enterprise, yet you are excluding them from the very important function, which is working out what went wrong and what went right.

Mr CAMERON: I think it is a question of not only of doing what you think is the right thing but being able to defend it and seeming to be right. I still think that there is an appearance of interest and they could not really separate the agenda of the audit committee so that it dealt with particular faculties. In fact, from a financial point of view, we rarely drill into the affairs of individual faculties. Our attention is mainly on the overall results of the university. It has simply been a belief by senate that it is not appropriate to have employees dealing with audit matters.

The way universities in effect adopt practices from the corporate world into university governance is always a moot point. I can hear what you say and I understand why you might put it that way, but the university has taken the view, to date anyway, that that particular aspect of corporate best practice ought to apply to what we do. I do think the review of committees will be able to take advantage of reconsideration of all of that. Whether we would go as far as I think I hear you advocating we should go, I am not sure I would agree with.

Dr SPENCE: The audit committee is one of the committees that we want to look at in some considerable detail because at the moment a lot of its work is to do with financial audit. It also has responsibility for the finance committee. There is some duplication of work there for which in the past there has been theoretical justification, but we are hoping to look at that. I think the more general question you raise is an important one that touches not only on committees but on the senate as a whole. There is a bias of course in Australian governments—and these things go in fashion—for having bodies dominated by people who are regarded in one way or another as external to the university.

The fashion is to argue that such persons are independent in some way, that they are not in the pay of the university, and that they have some kind of expertise. The argument that is usually made is that they know the questions to ask the expert consultants and all the rest of it. Of course, all those things are contestable. They are contestable because their independence is compromised as soon as they become part of the community and are hostage to one source of information or another and all the rest of it. Their expertise may or may not be helpful in the complex business of running a university as large as this. Correspondingly, the extent to which members of the university internal to its day-to-day life are compromised or conflict in their work on these bodies is again a mute point.

The current fashion is to suggest that they are, that they are frequently, and that they are more so than external members. However, there are also counter arguments. At Sydney we think that a large part of the appropriate response to this is not structural; it is personal and cultural. It is about everybody realising the limits

of their expertise and information, and looking for ways of testing it. It is about developing to a culture of consciousness of conflict. One of the things that I encourage the senate to introduce, which we have not done routinely before, is to appoint a senate agenda when we declare conflicts on things that are on the meeting agenda and we talk about how that conflict might be dealt with appropriately. I do not think it is because those issues were under lively consideration in the life of the senate of the university; I think it is important that we develop a culture in which independence, expertise and conflict are seen to be contested concepts.

Dr JOHN KAYE: I refer to the remuneration and benefits committee, which deals only with the remuneration and benefits of senior university executives. Where is the conflict of interest for a student or a staff member being involved in such a committee, and why should they be excluded?

Mr CAMERON: At the end of the day the senate effectively signs off the remuneration and it is there. What sorts of behaviours would be induced in other contexts if the senior staff member knew that the student was also involved in directly fixing the remuneration? That is something that the senate believes should be avoided. It would simply not be seemly to have a student directly involved in that process or, for that matter, a more junior staff member. It has been a question of propriety. I know that universities are curious beasts because university councils are somewhere between boards of directors and representative assemblies. It is how you make decisions and who should be involved in those decisions. In this respect, the remuneration benefits committee is more like a cabinet group that is simply deciding remuneration issues. It does not otherwise have an executive role; it goes into detail in those instances.

Dr JOHN KAYE: Do you exclude students and staff from the cabinet group?

Mr CAMERON: Yes, for the purpose of determining remuneration.

Dr SPENCE: Two issues are involved and neither of them has to do with conflict. One of them is the issue to which the Deputy Chancellor alluded—that is, the behaviours that might be induced elsewhere from the knowledge that staff and students were involved in those discussions—and the other is the impact of staff and students present on the ability of other members of the remuneration committee to speak their minds freely about the performance of the senior executive group. It is in the interests of the university that that discussion be as robust as possible. For better or for worse, there is the real possibility that that discussion would be modified by the presence of staff and students.

Reverend the Hon. Dr GORDON MOYES: Dr Spence, welcome to your new position.

Dr SPENCE: Thank you.

Reverend the Hon. Dr GORDON MOYES: My colleague was concerned about the expenditure of money but I am concerned about income. I would like to ask you a number of questions about what you see as being your role. For example, when you were at Oxford as the head of a department an important part of your role was to solicit funding, to gain corporate support and to stroke benefactors. In your current position do you see that as the role of a vice-chancellor?

Dr SPENCE: Active engagement in fundraising is an important part of the life of a vice-chancellor. Basically, universities can earn income either through a government grant—and Australian Government grants have been falling in real value over a long period—or through student fees. Of course for most of our students we operate in a price-capped market or through commercialisation—there are very few universities in the world for which that is a large part of their bread and butter operation, and there is certain serendipity in that—or through philanthropy. Philanthropy is an important part of the work of a vice-chancellor, partly because donors generally want to deal with a person that they feel has some institutional authority.

Reverend the Hon. Dr GORDON MOYES: Let me take you to the next level. In some of the other universities the chancellor takes the lead. Some of the strongly corporate-minded chancellors that have come into that position have been able to tap their mates at the Institute of Company Directors and other places, of which I am a fellow, to provide funding for the university. Here you have a classic example of the difference between the roles of chancellor and vice-chancellor. Do you believe that chancellors here should adopt the American model where the president of the university is responsible, more than any single person, for financial streams into the university, or should it be the chief executive officer?

Dr SPENCE: I think it is a team effort. I do not think that philanthropy works if anybody sees it as his or her job. I think that philanthropy works only if the institution as a whole develops a philanthropic culture.

Reverend the Hon. Dr GORDON MOYES: If the country develops a philanthropic culture.

Dr SPENCE: One of the great privileges of working in a university is that all our staff members are in regular contact with people who have the capacity to give in one way or another.

Reverend the Hon. Dr GORDON MOYES: I hate to interrupt the Vice-Chancellor on this point, but if it is everybody's job nobody does it.

Dr SPENCE: There is an important coordination role and, that is, a professional role. There is also an important leadership role and that I would see as being shared between the chancellor and vice-chancellor.

Reverend the Hon. Dr GORDON MOYES: It is a shared responsibility?

Dr SPENCE: Yes.

Reverend the Hon. Dr GORDON MOYES: That might have been the cause of the recent disturbances in another place.

Dr SPENCE: I think the success of that relationship depends on the ability of those two individuals to work together.

Dr JOHN KAYE: Do you see as a weakness of the current arrangements that successive universities are dependent upon the nature of the relationship between those two individuals?

Dr SPENCE: I think it would be overweeningly arrogant of any vice-chancellor to suggest that the success of an institution lands on her shoulders. The success of an institution depends on the excellence of my colleagues in teaching and research. Nevertheless, that relationship is important to the institution.

Dr JOHN KAYE: You misunderstood my question. I was referring to the governance of the institution.

Dr SPENCE: While ever we remain committed, for want of a better word, to a board executive form of governance, that relationship will remain crucial just as it does in a company between a chairman of board and a chief executive officer. Of course, the analogy is inexact in all sorts of ways. I do not regard myself as a chief executive officer any more than I think the chancellor regards herself entirely as the chairman of a board. It is inevitable that that relationship will be important to the university if that model of governance is adopted.

Reverend the Hon. Dr GORDON MOYES: Vice-Chancellor, is it not true that many universities now add the term "chief executive" to the title "vice-chancellor"?

Dr SPENCE: It is not something that we will be rushing to do, or something that I think is altogether symbiotically appropriate.

The Hon. GREG DONNELLY: I direct my question to either or both of you, so feel free to respond as you see fit. I refer to the idea of the senate of the university participating in meetings through teleconferencing or videoconferencing. I do not know what your specific arrangements are in regard to those options. However, more broadly speaking, would you like to comment on whether participating in meetings through either teleconferencing or videoconferencing is an option?

Mr CAMERON: I can speak to it generally and refer, first, to our practice. Our rules do not strictly permit it. Technically speaking, a person attending via telephone or videoconference is not present. Over the past few years there have been only a couple occasions including, if I might say so, the Vice-Chancellor's appointment, when people did that because it was such an important issue that they wanted to be able to hear the discussion and take part in it, even though they were not physically in Sydney. From my experience in the corporate world, I would argue that videoconferencing is an excellent device for people who already know each other well and trust each other to do ordinary day-to-day business.

If neither of those conditions is satisfied, that is, if it is really important business, and the people do not know each other really well, I do not think it is an effective device and it should not normally be relied upon. Again, we have the luxury of being basically a one-city university. If you were faced with the task of running a genuine multi-campus facility that needed a degree of geographic representation that was incompatible with everyone always being present, you would have to make do with videoconferencing to supplement face-to-face meetings, but never to replace them. I have seen this operating, for example, in some of our largest and most successful Australian multinational companies that regularly meet via videoconference because they have executives who are directors who are based in other countries. So they have to do it but even they go to a lot of trouble to know each other really well before they rely upon that as a primary decision-making methodology.

The Hon. GREG DONNELLY: You might not be able to comment on my next hypothetical question. To the extent that there was no cooperation or camaraderie with the government body, in the worst-case scenario one could almost be tempted not to attend meetings and to say, "I can do it via teleconference", as a dysfunctional example.

Dr SPENCE: It also depends partly on the state of technology and the limitations on technology at the moment. For example, our medical faculty has many clinical campuses and it regularly meets via videoconference. I agree with the Deputy Chancellor. There is a lot to be said for it in ordinary day-to-day business when people know one another.

The Hon. GREG DONNELLY: I refer to the size of governing bodies for tertiary institutions such as universities. Do you have any comments or observations about that?

Mr CAMERON: I think I have spent my time here taking the size as a given. You see in university councils what is now a reasonably traditional structure—in New South Wales at any rate. You see a balance between representative roles and things that are clearly driven towards the efficiency and effectiveness of decision-making, the setting of strategic directions and all the other important things done by university councils. Whether or not the present size will be appropriate in the future might well come under consideration again, partly because of your committee and partly because every review of performance might throw up a new round of issues that the university senate decides to bring forward for its consideration. However, as I said earlier, it will not just be us. Even assuming that the current senate were to take a different view about its size it would require a deal of consultation, and eventually a government decision, before it could change.

Dr SPENCE: It is important to state that there is in the culture an assumption that as a newcomer I find surprising, that is, that size has automatic implications for composition. Obviously that is not true.

The Hon. GREG DONNELLY: What lessons have been learned from the governance of not-for-profit organisations? Are there any types of not-for-profit organisations that you think hold some lessons for the governance of tertiary institutions?

Mr CAMERON: I have thought about this. I think the closest parallel is the very large federated professional associations. The ACTU is a very difficult organisation to get to the bottom of in structural terms, because I have tried. I cannot talk about how the ACTU is structured based on public information, but I have looked at the structure of organisations like the Australian Medical Association, CPA Australia and so on. You can see compromises and different structures that are adopted by those bodies that are representative on a geographic and professional basis where a lot of the same issues have been confronted. For example, a lot of them now bring in outsiders even to serve on the governing body—that is, people who are not members of that professional organisation. Of course, universities are at the far end of that because we have a majority of externals.

Professional bodies are only now accepting that perhaps they do need some externals—not all, but some. Whether you create inner groups within those bodies is another question. When I last looked at it, the Australian Medical Association had 36 directors at the national level, but it does not meet all the time. The people who make the decisions are called directors and they have the responsibilities of company directors. From memory, I think there are only six or eight of them. The larger group of directors is prepared to trust a smaller group to act as an executive, but they are all directors. As I said, there are some interesting lessons that universities are still pretty special. They are public organisations in this State and, in effect, they have a public role, although there are one or two notable exceptions in Australia. They usually have a regional focus of some kind that has to be taken into account. As I said, they are public institutions and they are subject to public

accountability. They are also largely dependent on public funding, which is usually from the other tier of government.

The Hon. CHRISTINE ROBERTSON: What is the response rate to the draft agenda?

Dr SPENCE: Not very high. One or two people regularly comment, and it is invariably the same people.

The Hon. CHRISTINE ROBERTSON: You may need to take this question on notice. You mentioned that you are undertaking two reviews: the training review and the committees review. Can you share the terms of reference or the criteria on which those reviews are based? My next question is rather harder. From the reading provided and evidence that we have heard so far, there seems to be a difference between whether or not people perceive a nice, pleasant and controlled environment is healthier than a questioning environment using individual skills and what happens in those circumstances. It seems to me that you are structuring a process to ensure you get input across the State. That is certainly not happening and I am certainly not picking on anyone. However, the Committee has seen some very controlling behaviours. How do you work with change management by taking on growth rather than total control? Is that too heavy?

Dr SPENCE: No. I am really sorry if I gave the wrong impression in response to the first question. When we are looking at the trend thing that is less formal and is a part of our performance review of the senate. One of the things that we have asked the performance reviewers to talk to members of the senate about is whether they think they had enough training and so on. It is an ongoing question and it is something we would look at normally.

The senate committees are a bit peculiar. We have a senate student sports liaison committee, but we do not have a dedicated occupational health and safety committee. I believe we are discharging our legal obligations in relation to occupational health and safety because the Audit and Risk Management Committee takes responsibility for it. However, it is an old signalling device that we do not have a dedicated committee for that whereas we do have for other things.

The Hon. CHRISTINE ROBERTSON: Yours is a rugby university.

Mr CAMERON: We do not think any university has one from our surveys to date.

CHAIR: That is interesting.

Dr SPENCE: Not many universities have a sports liaison committee either. In response to the tougher question—and I am not judging the question—we have had a branding project going for a long time. The recommendation has been that we should make less of our sandstone, which the university is obsessed with, and more of the Sydney tradition of contrarian people and an environment in which ideas are strongly contested. We will never get a senate that looks like a Sunday school picnic, and I do not think anyone would want that. What we want is a senate that is adequately informed so that the heated arguments are the right heated arguments in the sense that they are about a genuine divergence of views. That is, the senate has all the information it needs to decide between those different views collectively. Aspirationally, that is where I as an administrator hope our senate goes. But the Sunday school picnic model just does not work, but neither does the model when the senate fights about issues of less importance in the life of the university as a whole—I am not passing comment on our senate in making that statement—and some of the bigger issues slip by unnoticed. I know that happens in some institutions.

The Hon. CHRISTINE ROBERTSON: Such as what coloured cars will be bought this year?

Dr SPENCE: Yes, that kind of thing.

The Hon. CHRISTINE ROBERTSON: Is this a cultural commitment about which it is not possible for the Committee to make recommendations?

Dr SPENCE: I would hope that the Committee would articulate a very strong vision of the kind of culture that it thinks a university governing body should have. I hope it would be neither a vision of unbridled peace nor a vision of war. I am hoping for a vision of a place where the right issues are fought about on the right information base.

The Hon. CHRISTINE ROBERTSON: That is a very interesting statement because some of the submissions the Committee has received say that the Sunday school picnic scenario would be nice and useful.

Mr CAMERON: I will leave with the Committee the paper that my business partner and I wrote about the challenges facing a representational board. One of the issues raised in that paper is that boards of directors are not elected bodies where you would expect to find a loyal opposition concept. Yet, representative boards of the larger kind—like university councils—will have an element of that in them because people will come from different backgrounds. Even when attempting to act in the interests of the institution as a whole, they will bring different perspectives and have different views on particular matters that might to some extent reflect the preferences and wishes of those who appointed them. There will always be that tension on a university council whereas it is not helpful on a corporate board. It is incidentally why corporate boards do not provide a very good model for university councils. They cannot be perfect. Corporate boards never meet in public whereas our senate tries to meet in public as much as possible. One cannot imagine corporate boards doing that.

CHAIR: That is interesting.

The Hon. CHRISTINE ROBERTSON: Have the recommendations that you have put forward for ministerial appointments always been accepted?

Mr CAMERON: The Minister has the choice of appointing one person or no-one. That is the position I hold; I am a ministerial appointee, but I was chosen by the senate. I am not personally aware of any recommendation having been rejected by the Minister in the time I have been around.

CHAIR: Thank you. The Committee could ask questions all day. You could make some very valid recommendations, but I am conscious of the time. We would appreciate it if the items you have offered to provide to the Committee could be delivered within the next couple of weeks. The Committee probably has more questions. Can the secretariat staff liaise with you about elucidating some of your answers?

Dr SPENCE: Yes.

CHAIR: Thank you very much for appearing today.

Dr SPENCE: Thank you.

(The witnesses withdrew)

CATHERINE RYTMEISTER, Lecturer in Higher Education Development and PhD student, Macquarie University, affirmed and examined:

CHAIR: Thank you for your attendance.

Ms RYTMEISTER: I am appearing in a personal capacity as a researcher in university governance.

CHAIR: Do you wish to make an opening statement?

Ms RYTMEISTER: It is a substantial submission, so I will try to pull it together. Clearly, my submission is based on the premise that while legislation and regulation provide the technical and legal framework for university governance and governors, it is the social and cultural processes that are far more influential. I think members have just heard that from the Sydney University representatives.

The social and cultural processes are much more meaningful in building governing bodies members' understanding of their role and in shaping their practice. In that sense, legislation and regulation should be seen as enabling and not prescribing; that is meaningful, constructive roles and practice. Obviously, a legislative framework is required because the State, on behalf of its citizens, has an interest in the role, quality, outcomes and performance of universities and their governing bodies. It is an enabler of what actually makes governance work, which is the people. I will leave it there.

CHAIR: You talk quite a lot in your submission about cultural capability. Can you flesh that out and explain what you mean and why is it important, particularly in relation to selecting or recruiting governing body membership?

Ms RYTMEISTER: I have developed the term "cultural capability" over the course of my PhD and as it became clear that certain cultural conditions are really important if governing bodies are going to be able to do the things they are meant to do. The characteristics of a positive governance culture include trust, openness, inclusiveness, commitment and good working relationships—that is, the people aspects.

When governing body members are selected there is a lot of emphasis on expertise. There is less explicit emphasis on the people skills, the ability to think critically and to make sense of an issue and the ability to draw out what is important. Many things might come before a governing body, but only some should be examined in detail. Most of them can be left to the other structures in the university. So there is making a judgement and then working with very different perspectives of those things. Different people will make different judgements. They come from different backgrounds and they have different experiences.

One of the important skills that I think helps to build that desirable culture is the ability to deal with diverse views and put them together to try to construct a shared understanding of what the purpose is and what the goals are. Essentially it is a social process, so people who contribute to that positively are people who have good people skills, who are good communicators, who can synthesise and distil ideas, and who can relate to other people. That values diversity rather than trying to smooth it out too much.

CHAIR: We certainly could not put that in any sort of legislation.

Ms RYTMEISTER: That is exactly right, but you can require selection processes that are rigorous.

CHAIR: Right. In terms of the mix between what is legislated and what is a desired outcome, how do you get the right balance? There has been quite a lot of discussion in this inquiry about the corporate model versus the traditional university model and about the size of the governing body, and whether it should be a large governing body or a smaller one, as well as what is most effective. I think you recommend limiting at the bottom scale, which is a minimum rather than a maximum. Can you talk about those tensions on how you see a way forward?

Ms RYTMEISTER: Sure. There are a lot of questions in there.

CHAIR: There are.

Ms RYTMEISTER: There has been a move towards corporate models, not just in governance but throughout the management structures of universities. By that I mean the commercial corporate model as

opposed to the collegiate corporate model because a university is really one of the most ancient forms of corporation. When people are negative about corporate models, they are usually talking about the commercial corporate models that are drawn from the private sector. There is some tension here. Chris Cornforth, when talking about not-for-profit governance, talks about a tension between conformance and performance roles in governance. By conformance he is talking about an approach that focuses on the interests of owners of the corporation. The performance is talking more about an approach that looks at the institution itself and advances the institution.

I do not believe you can just replace the concept of owners with the concept of stakeholders because stakeholders are a much broader and much more diverse group. Stakeholder interests are much more diverse than our own interests. But there is a parallel with the university as it relates to values. The conformance approach might be more focused on externally valued things. It is looking at current outcomes and it tends to be risk averse. It is looking at how the external expectations are met, so there is an external orientation to that. The performance approach in the case of universities focuses much more on what I call authoritative resources in my submission, which are things like identity, mission, the core business and reputation, those sorts of things, and things that look to advance the institution and look to its future.

It seems to me that governing bodies are becoming increasingly interested in the performance and more strategic issues, but they still tend to spend more time on the compliance and conformance sort of issues. I guess the question is: Does the adoption of corporate forms push it in one way or the other? The common view would be that the corporate form is interested just in the immediate outcomes and short-term gain and that sort of thing. I do not think that is necessarily true, but I think if universities are not careful to draw their governing body membership from diverse backgrounds, that could be an outcome, and that will not necessarily be good for those intangible resources, such as reputation and mission, that a governing body should be looking after. Those intangible things are the things that make it a university and they are things that define it as a university, so it is very important that those things are nurtured and looked after. I did not mention the size, but I can come back to that.

The Hon. MARIE FICARRA: Do you wish to expand on that?

Ms RYTMEISTER: Just to add to what the University of Sydney representative said earlier. I think the size of a university governing body needs to be the size it needs to be to do the things that the university meets. If there are broad stakeholders—you see this particularly in multi-campus dual sector institutions where there are many, many diverse stakeholder groups—you need to have voices that not so much represent those groups but that can bring those perspectives to the governing body. If you need 22 people, that is what you should have; if you need 25, that is what you should have. Some universities seem to be able to do it with 15, and that is why I suggested 15 as the minimum. There are some universities in Australia that have 15. They seem to work well. I do not think it is worth getting into arguments about whether it should be 15, 19, 22 or 25.

The Hon. MARIE FICARRA: You mentioned legislation that is more enabling than prescribing. If we go to the relationship between chancellors and vice-chancellors and to their roles and their performances, how prescriptive should we be in the performance of both of those roles by the fellows or members of the council? It is wonderful to be enabling and to secure the future of universities, but there are some core business items. We have seen structures that are in place not being adequate. How would you deal with performances and relationships between those major roles of chancellor, vice-chancellor, fellows and the council?

Ms RYTMEISTER: I agree that enabling is all very well, but you do need some frameworks and some hard points whereby decisions can be made. In terms of where legislation could perhaps be strengthened a little, if there is confusion over the executive role of a vice-chancellor in comparison to chancellor, okay, there is room to perhaps strengthen that in legislation. So the Acts might state more clearly what the executive role of a vice-chancellor entails. As I think I mentioned earlier, most of the Acts designate the vice-chancellor as the chief executive officer. Perhaps if people do not quite understand what that means, it could be clarified a little further.

In terms of the role of chancellor, I know that one of the issues has been that there seems to be in most institutions no mechanism for assessing the performance of the chancellor and removing a chancellor, if that performance is found to be satisfactory. Certainly it would be useful to have in legislation something akin to the University of Sydney by-law that says that the chancellor holds office as long as he or she retains the confidence of the council during their term. I think that would be useful. And beyond that, the principle underpinning legislation should always be: Is this going to help or hinder?

We have to be very careful if we define something to the point at which it actually prevents the incumbents and the people on the governing bodies themselves making sense of those roles. A rule is not useful if something that does not quite meet or obey the rules still works.

I guess I would not like to see some very prescriptive legislation that shifts the focus onto people saying, "Oh, do the rules say we can do this, or do the rules say we cannot?", rather than saying, "The vice-chancellor and the chancellor have negotiated boundaries between them and that is very transparent to the council or the governing body. People understand it, people know where the grey areas are and we have a way of dealing with those because we have discussed them and we make them meaningful together."

I am not sure if I am answering this very well, but the principle comes back to this: Would it prevent that sort of negotiation taking place? If rules would prevent that happening or shift the focus off that, then I do not think it would be productive.

The Hon. MARIE FICARRA: Do you think the model that they have at the University of Sydney for removal of a chancellor, whereby due notice has to be given to two ordinary meetings, eliminates anything radical or unbalanced or unjust or inequitable happening at one particular meeting? Do you think that we should recommend a process whereby due diligence and due notification and justice are dispensed?

Ms RYTMEISTER: Yes. It seems to strike a good balance. It has not been used yet. Among the people I spoke to in my research, although their current institutions and current governing bodies seem to function extremely well, several of them had experience of these sorts of issues in the past. Really, for the most part those things are dealt with by a series of informal approaches. If it really gets to the point where people want someone to go and they will not go, then, yes, you need a process. But I would think in the vast majority of cases that process would be an absolute last resort, and most issues would be resolved long before it got to that point.

Dr JOHN KAYE: First of all, I thank you for the effort you have put into your submission.

Ms RYTMEISTER: You are welcome.

Dr JOHN KAYE: Reading it opened a door of enlightenment. It was a fantastic, and thank you for that. Can I take it to a couple of specific things you recommended that pick up on the question asked just then by Hon. Marie Ficarra? In your recommendation No. 7, which is on page 7 of your submission, you outline a fairly detailed mechanism for removing the chancellor. As we heard from the University of Sydney folk beforehand, it sensibly says that you cannot just boot them out on a whim. It has a number of mechanisms, which I think is sensible.

However, I do note that it points in (v) and (vi) to a no-confidence motion only having the effect of removing a chancellor if it is carried with a significant majority of the membership. It strikes me that there can be a majority of the membership who no longer hold confidence in the chancellor, yet under your mechanism he or she would continue in office.

I was wondering why you went for a "significant majority". I think you even suggest, for example, the two-thirds rule when some people would argue the issue the other way round; that a chancellor who continues should hold a consensus majority or a two-thirds majority of support in order to maintain their position, particularly given the way that there is now a clear understanding that the chancellor needs to be a leader of the council or senate, not by virtue of office but by virtue of their personality, abilities, and so on.

Ms RYTMEISTER: I think I was looking at the two-thirds in a sort of parliamentary way, possibly.

The Hon. CHRISTINE ROBERTSON: Oh, no, we do it by one.

Ms RYTMEISTER: Yes, but if you look at—

Dr JOHN KAYE: Changing the constitution?

Ms RYTMEISTER: Proposals for change, yes, and things like that—

Dr JOHN KAYE: Some Parliaments do, yes.

Ms RYTMEISTER: Yes. I guess what I was trying to ensure was that it means people have to do the work.

Dr JOHN KAYE: To get the numbers?

Ms RYTMEISTER: Well, yes, but not just to get the minimum numbers. I guess it guards against ending up with a split, sort of fifty-fifty, or almost a fifty-fifty split. Of course you can get rid of the chancellor, but if you have got to the point at which you have a fifty-fifty split, or just over a majority or just under, in a split, you have a pretty dysfunctional governing body. You have a problem.

Dr JOHN KAYE: I am sorry to dwell on this point.

Ms RYTMEISTER: No, that is okay.

Dr JOHN KAYE: I think this goes to something deeper here. We spoke before about the Sunday-school-picnic council versus the robust council.

The Hon. CHRISTINE ROBERTSON: And the stacking.

Dr JOHN KAYE: That is exactly where I am headed. Is it not true that hypothetically it is divisive when a council has a chancellor who divides the council but is allowed to remain, even though they do not want that chancellor to be there? The role of the chancellor is such that that chancellor needs to be successful to hold the confidence of the council and the majority of the council.

Ms RYTMEISTER: If you ever reach that point the council would have a problem—whether it is two-thirds or one-third either way, or half and half. I see where you are coming from. Given the range of arguments, I would be prepared to change my mind on this. Because of the way in which I have constructed this process I guess in a way it is probably overly bureaucratic.

Dr JOHN KAYE: It appealed to me, so it is fine.

Ms RYTMEISTER: Maybe it is our consensus orientation, John; it has gone beyond the two-thirds. I tried to put in place a process that gave many opportunities for this situation to be resolved before it came to a vote.

Dr JOHN KAYE: The Sydney University process does that. It gives two opportunities, plus two agendas.

Ms RYTMEISTER: Yes.

Dr JOHN KAYE: I refer to item 12 in your recommendations in which you talk about ministerial appointments to university governing bodies being reduced from six to three, and transferring the responsibility for appointing three positions to the governing body. So you are increasing the capacity of the governing body to be self-perpetuating. In your research have you come across issues that arise where bodies are more of the nature of self-perpetuating bodies rather than determined outside?

Ms RYTMEISTER: There are some States where universities appoint external members without going through a ministerial process. There is probably ministerial assent, but there is no longer the drawn out process that we have here. For example, the Victorian model has a mixture. There are council appointments, governor-in-council appointments and one or two ministerial appointments on each council.

Dr JOHN KAYE: By "governor-in-council" do you effectively mean government?

Ms RYTMEISTER: Effectively I mean government. There is a strong expectation. A university would be shocked if its recommendations for governor-in-council appointments were overturned. It is a convention that would—

Dr JOHN KAYE: Are there issues that a council can self-perpetuate? Are there risks associated with council if dominant individuals become a dominant faction through that process?

Ms RYTMEISTER: There are always risks in any self-perpetuating board. There is a risk of stagnation and there is a risk of seeking only members who think like we do. That is always a risk. In the case of universities, provided we maintain a balance between elected membership—internal and external membership and external appointments that are done through diverse processes—that is not a risk for universities. I do not think it would be a risk under the model that I have proposed.

Dr JOHN KAYE: When we went to the University of New England we heard evidence, we read evidence and many of us have read in newspapers that one of the issues at the University of New England was a growing cliché around the chancellor. At least there is a widespread perception that through the process of self-perpetuation the chancellor, as an individual, had been able to capture the governing body and convert it into an image of his own style. I do not wish to go into those details.

Ms RYTMEISTER: I know what you mean.

Dr JOHN KAYE: What mechanisms would you put in place to stop that happening? Every submission that we have read refers to the importance of diversity. Some submissions are probably paying lip service but your submission in particular emphasises the importance of council's diversity of viewpoint, yet self-perpetuation works in the other direction.

Ms RYTMEISTER: It does not necessarily work in the other direction, but it is certainly open to that interpretation. Let me go back to the Victorian model. You have council appointments and governor-in-council appointments that are recommended by council and accepted. People would be shocked if they were not accepted. However, councils will recommend ministerial appointments but the minister can, and sometimes will, reject those recommendations and choose someone else.

The Hon. CHRISTINE ROBERTSON: When has that happened in New South Wales?

Ms RYTMEISTER: I do not know about New South Wales. My research was not carried out in New South Wales because I am in New South Wales so I went interstate. If I am looking at other models it means that the state interest is exercised occasionally, but not always, in that way. However, the opening is there to do that. If an issue arises we should make it either a matching process or change the six to a three and that is then matched by council recommendations. That allows a balance. If there is a concern that a council is becoming unbalanced the Minister can put some people in there to try to redress that. In the Australian Capital Territory the Australian National University Act has ministerial appointments on the recommendation of the council, but if the Minister wants to overturn one of those recommendations he or she has to provide the reasons in writing to the council. That is a safeguard against political appointment because it can also go the other way.

Dr JOHN KAYE: Sure.

Ms RYTMEISTER: Any system can be abused if there is the will to do it. I am recommending a process to try to balance the risk between those two extremes.

The Hon. GREG DONNELLY: Thank you for coming along today and for speaking to your submission. I think you were in the room when we took evidence from earlier witnesses about the by-law in the legislation governing the University of Sydney. For want of a better phrase, that legislation deals specifically with the termination of the chancellor. I was interested to note that that provision was included in the by-laws on or around 2001, so it is relatively recent. From your experience, and in particular as a result of your research of tertiary institutions around Australia, is that type of provision commonplace, quite unique, or all over the place? Could you give us an overview of what you have discovered through your research?

Ms RYTMEISTER: Yes. I do not know all the Acts off by heart, but I do not think many of the Acts contain that provision. I have scanned most of the by-laws of the institutions in my sample, but I would not be in a position to speak generally about them.

The Hon. GREG DONNELLY: If not, could I ask you to express a view about those types of provisions? It was put to us that there was an inherent balance in the nature and the way in which they were

drafted and their inability to terminate a chancellor at will. Obviously some careful thought went into the structure of that provision, which you have probably heard about. Can you express a view?

Ms RYTMEISTER: I think that provision was put in place in response to a particular situation. You have to keep in mind that you have to be careful about making laws just to deal with bad cases. A very clear effort has been made to balance the principles of natural justice to which the chancellor should be entitled, like everyone else, with the problems that arise at that leadership level. It seems to me to have achieved a reasonable balance, until it is put into practice or it is called on and put into practice.

The Hon. GREG DONNELLY: You cannot generalise?

Ms RYTMEISTER: No. However, if that provision had been in place, for example, at the University of New England, things may not have descended into the public arena as they did.

The Hon. GREG DONNELLY: At the University of New England it took five or more years for that implosion to take place, if I could describe it that way.

Ms RYTMEISTER: If you have that hard provision at the end that you can get rid of a chancellor if you need to, it means there is much more motivation to resolve the issue before it gets to that point. If a governing body appoints the wrong chancellor the legislation will not help, except in that final call.

The Hon. CHRISTINE ROBERTSON: I am interested in your paper in which you discuss politics, which I perceive to mean the politics we play rather than the politics of the university, which in their own right are incredibly extensive politics—internal politics, council politics and external politics that do not bear a relationship to party politics. Your paper infers that the word "politics" relates to party politics. I have declared a conflict of interest in relation to this issue, but when I spent time on the council there were no party politics whatsoever. There were other politics involving sub-factions within the council, which is normal, but that meant that there was more discussion. You refer in your paper to politics, but that relates only to party politics.

Ms RYTMEISTER: I am sorry if I gave that impression. At one point I talked about people's perceptions of political leanings, as in Left and Right, et cetera. Normally, when I use the word "politics" in this context I am talking about the local politics of the council. It depends very much on the council. People in my sample said, "I would not even hazard a guess at how most people vote on this council in relation to party politics. I have no idea and it is completely irrelevant in this room." Other people said, "You can see that some people are in one camp and other people are in another camp."

It rarely made a difference in their decision-making, but it influenced their perceptions and their construction of how things worked within council, which is why I included it. This is grounded theory. These findings have come out of the things that people said. It is about their experience and their understandings of what they do. Where people mentioned that I felt obliged to acknowledge that it had been mentioned. I do not think party politics has a huge influence within councils, although sometimes it can explain the way people approach certain issues.

The Hon. CHRISTINE ROBERTSON: I know that your research did not include New South Wales University. Do you know of any instances within New South Wales—somebody indicated that there had been one—where the Minister knocked back council's recommendations?

Ms RYTMEISTER: I am not aware of that happening. I have heard rumours to that effect, but I do not know whether that is the case. I would not be able to make a statement on that.

The Hon. CHRISTINE ROBERTSON: This is a personal thing that I picked up when I was reading your submission. Do you think people could be perpetuating that rumour because the recommendations did not suit some individuals within the council?

Ms RYTMEISTER: That is possible. I have heard of one case of a ministerial appointee who did not seem to observe the role of the governing body with respect to internal academic decision-making of the institution and that appointee tried to make some suggestions about curriculum and things like that.

The Hon. CHRISTINE ROBERTSON: Are you sure that person was not just a pain in the neck?

Ms RYTMEISTER: It could have been, but it was a parliamentary appointment. This is before those appointments were changed in accordance with the—

The Hon. CHRISTINE ROBERTSON: Do you mean the person was a member of the upper House?

Ms RYTMEISTER: The appointee might have been. Since the national governance protocols changed the processes of appointment I do not know whether that has been an issue. That would have been some years ago.

The Hon. CHRISTINE ROBERTSON: Those were the only appointments that were not recommended by the council.

Ms RYTMEISTER: No, they have to be recommended by the council if they are going to be put on. Of course, one of the positives is that a member of Parliament who is on a governing body has an independent source of authority and is not beholden to the Vice Chancellor. At times when it comes to asking some critical questions that can be very useful. I know in the past that it has been useful in my own institution.

The Hon. CHRISTINE ROBERTSON: I thought we lost that under the new law.

Ms RYTMEISTER: You could appoint members of Parliament only if the university asked you to. The deal is that universities usually ask if that has worked well for them in the past.

Dr JOHN KAYE: With respect to your second recommendation, where you talk about the Chancellor being appointed, you point to a small high-quality selection committee for both refining the terms of reference for appointing the Chancellor and also to execute that selection and make a recommendation to council. I think we have come to an agreement that we need a chancellor who is going to achieve the respect of the entire council. Are you satisfied that that mechanism will ensure that all members of council respect the appointee?

Ms RYTMEISTER: If that selection committee is composed of people who represent the diversity of the council, yes. The council still has to ratify the appointment in the end. It is probably not all that practical or fair to a candidate to have a large council sitting around at length discussing an individual's merits or otherwise. If the council has the right conscience, if there is that level of trust in the council, there is no reason why a small representative group could not do that hard work and make a recommendation. They justify that recommendation to the council. It is still open to question. If someone knows something about a candidate and has a serious problem with them it is actually their duty to speak out. You would expect that to happen. I see what you mean that it may put a decision in the hands of a few. However, provided those few are trusted by the council as a whole that should not be a problem.

The Hon. CHRISTINE ROBERTSON: Do you know who normally appoints the selection panel?

Ms RYTMEISTER: It depends on the council. I hope it is something that is done cooperatively.

Dr JOHN KAYE: That is probably the issue.

CHAIR: Your submission and presentation today are incredibly valuable to our deliberations. We really appreciate the way in which you have addressed our terms of reference. There are many more questions we would like to ask, but time does not permit. I hope that you are open to our secretariat staff engaging in follow-up discussions with you as we prepare our report. In one or two sentences, are you able to give us a final comment about the outcomes you would like to see our inquiry achieve?

Ms RYTMEISTER: It is hard to sum up. I would stress that any recommendation you make for changes to the legislation need to be tested against that principle that they better enable the development of governance capacity and that they do not obstruct it. That goes to both individual and all other council levels. That is because of the importance of the non-quantifiable things—the cultural, social and relationship aspects. If I wanted to leave you with any message, it would be that.

CHAIR: Thank you very much. We really appreciate your contribution.

(The witness withdrew)

(Short adjournment)

JESSICA MILNER DAVIS, former member of a university governing body, sworn and examined:

CHAIR: Welcome to this public hearing. In what capacity are you appearing today?

Dr MILNER DAVIS: I am appearing in a personal capacity but as a former member of a governing body of a university in this State.

CHAIR: Thank you. Do you wish to make a brief opening statement?

Dr MILNER DAVIS: I should say something about my background and identify the governing body of which I have been a member. I was briefly a graduate member of the University of New South Wales council in the late 1960s when the council had a very different form from what it has now. I went overseas in the 1970s and came back to Australia with my family in the 1980s. I was then elected Deputy Chancellor and served under Gordon Samuels as Chancellor for nine years. On council I served principally on the audit committee—in fact, I was part of a small group that pushed to have an audit committee created—and I was also pro-chancellor, which is a purely ceremonial position involving doing lots of graduation ceremonies, from 1996 until 2006.

In addition to spending a lot of time at the university, I was for 15 years a consultant to schools. I have delivered staff development programs to more than 200 New South Wales schools in the country and up and down the coast. I have twice been president of the University of New South Wales Alumni Association. My submission relates to the special role of the alumni on university councils. I note, with respect, that my current president, Dr Ian Walker, is present today. I am not now involved in the council or the alumni association. Therefore, I will refer to the president any questions about the present alumni association. I am retired and it may amuse the committee—but I take it quite seriously—that I am now an independent researcher looking at humour and laughter. I am also a former president of the International Society of Humour Studies.

CHAIR: Excellent. You should observe Parliament from time to time.

Dr MILNER DAVIS: I take the view that through comedy truth can be discovered.

CHAIR: That is wonderful. There has been a great deal of discussion about the assessment of the performance of chancellors and vice chancellors. You state that the national governance protocols are silent on that. How do you see that assessment taking place and what value might that have for universities?

Dr MILNER DAVIS: That is a very important question. It must go to the core of good governance in universities how one assesses the performance, particularly of the vice chancellor. The council's confidence in the chancellor has arisen in this morning's discussion. I have said in my submission that in my experience tensions arise in a governing body when the tasks of selection, appointment, evaluation and remuneration of, usually, the vice-chancellor are not well handled and there is no transparency, and when the entire governing body is not engaged when problems arise. That tends to happen when the decision-making is caught up in the in-group/out-group question. That can easily happen on a university governing body because it has internal and external members. One of the reasons that alumni are so important is that they are externals but they also know about their institutions. It is their institution, they were students there and they know about it. They tend to bridge between this internal/external split that can happen.

I draw the Committee's attention to the differences I have observed over a long time between the responsibilities of a conventional business chief executive officer, which is how some vice chancellors like to think of themselves, and those of a vice chancellor. The Committee heard this morning from a vice chancellor who says, "No, I am not just a CEO but something else as well." The performance appraisal reflects this conceptual question, and it must one way or another. If a council is appraising a vice chancellor purely on business matters as a business chief executive officer would be appraised, they are missing some of the other roles that a vice chancellor ought to be playing.

I mentioned in my submission that there are three areas in which a vice chancellor's performance needs to be assessed. The first is his or her relationship with the council as a whole, not just with an in-group; secondly, his or her relationship with the academic community, and not by simply taking into account what the vice chancellor's executive team thinks of his or her performance; and, thirdly, his or her relationship with the community at large, and that includes relations with Parliament and, very importantly, with the alumni body and

other supporters of the university. The second and the third issues—relationships with the academic community and the alumni community—are quite different from issues about which a business chief executive officer would be called to account. There is no such comparable body as alumni for a business chief executive officer. That must involve a much greater degree of collegiality than is expected from a business chief executive officer.

I have thought about the role of a vice chancellor and my view might be of some use to the Committee. A modern vice chancellor is really more like a managing partner in a professional firm than just a chief executive officer. That is, there is parity of esteem between the academics on whom the work of the university depends for its success and the vice chancellor. If that esteem disappears there is a problem. If a small group on the council does not understand that that esteem is very strong because it does not bother asking those who know about it, they can be misled into a wrong appraisal of the vice chancellor's performance.

CHAIR: We have often discussed the ability to assess a chancellor and, indeed, dismiss a chancellor if his or her performance is deemed to be unsatisfactory, and the mechanism available to do that. Do you have a view about that? In particular, do you have a view about by-laws covering the dismissal of a chancellor? Do you think a two-thirds or a simple majority might be the best solution? What are your views generally about that?

Dr MILNER DAVIS: I am aware that a proposal has been put to the Committee that such a vote of no confidence, if you like, should be subject to a two-thirds majority, and I think that that is really very risky. I also think that is actually unrealistic. It is risky because unless there is a radical change or a proposal regarding the composition of governing bodies, there will always be subgroups; that is to say, there are staff, there are students, there are ex officio positions, there are ministerial appointees and there used to be Parliamentary members but there are not any more except, as we have heard, almost co-opted by the council. But these membership groups tend to break.

If you have a diverse group like that imposing a two-thirds majority, it becomes highly politicised. So you could have a single blocking one-third, which I think would disrupt the work of a council. That would be my view. But if it is to be prescribed at all, I think it should be a simple majority, as I think it would be in other places.

CHAIR: Thank you. My final question is that you talk about the value of the contribution of the alumni. I can see from your submission that that is something you are quite passionate about.

Dr MILNER DAVIS: Indeed.

CHAIR: Can you discuss how that has changed in recent times, and what sort of tensions there are in relation to that? I think there are some universities that are quite keen to diminish the role of the alumni. Could you talk about that?

Dr MILNER DAVIS: Yes. If I can very quickly recap: I think there are three reasons why the alumni in a contemporary Australian university might have a special role, and could be said to have a special role. I suppose I am doing some special pleading, but let me plead the case. Firstly it is because, as I have said, they combine this external and internal dimension, so they can be somewhat of a bridge. Their daily lives lie outside the university, but they have a deeper knowledge of it than has a non-graduate.

Secondly, they have a direct and personal stake in the university from which they graduated. The success or diminution in degrees of that institution hits their nerves and their trousers pockets, their wallets and their handbags. It is really very much more personal. There is an abiding interest in an ongoing membership and the ongoing success of the university of which they are members.

Thirdly, the previous person giving evidence, Ms Rytmeister, mentioned that the university is the oldest form of corporation in the Western world. This is true. All university Acts start by defining the body corporate of an Australian university. The body corporate has only two classes of life members, the alumni and the emeritus staff. Everybody else is temporary. I think those three things could give alumni a very special role.

Indeed, if we look at overseas models, many overseas universities place special responsibility in the hands of alumni. For example, at Harvard, there is a board of overseers which oversees the Harvard Corporation Trust. They must consent to the appointment of the president. They also have the responsibility for laying down investment policy, or at least for approving what is recommended to them. That is because the alumni are the sustaining source of Harvard College and Harvard University.

A lot of private colleges have processes which allow ballots or petitions on issues from alumni to get things changed at the university or considered or onto the agenda of the governing body. Even the publicly funded universities frequently recognised the alumni role. At the University of California, for example, ex officio both the president and the deputy president of the alumni association are members of the Board of Regents, most of whom are appointed by the state parliament of California because that is the chief funding source. The second funding source, of course, is alumni.

Chair, that brings me directly to what you are asking about. We are very familiar with the cry now that with the drying up of public funds universities must raise funds themselves. To whom will they look? It is automatic and axiomatic that they will look to the alumni. In a way this gives the big, old universities, like the University of Sydney and the University of New South Wales, a leg up because they both have living alumni bodies, which must be well over 100,000. The University of New South Wales is only approximately 50 years old, but it was growing very fast during its 50 years. Other universities have changed by amalgamation and have grown, but that gives you subgroups of alumni who have loyalty to a particular campus rather than another.

But all of them, whether they are young institutions or old, want to and do spend a lot of money on cultivating alumni relationships. It just seems natural to me that if you want to say to the alumni, "We would like your money. We would like your support. We would like you to open doors", you might do them the courtesy of saying, "And we would like you to participate in running the place from which you obtained your degree."

Dr JOHN KAYE: Dr Milner Davis, first of all I thank you for drawing our attention to the issue of the alumni and how important they are. I take that as a very important contribution. Before I ask my questions, I declare an association. I intend to ask about some matters concerning the University of New South Wales at a time when I was a member of the academic staff. I want that to be on the record. Dr Milner Davis, you were on the council of the University of New South Wales during the time when the UNSW-Asia decision was made. I am not seeking in any way to—

CHAIR: I remind you of their terms of reference and adverse mention.

Dr JOHN KAYE: I do not seek to go outside the terms of reference, nor do I seek to play the blame game. What I am interested in is the role of elected members of council, particularly the staff and the academics, and the role they were able to play in warning the council about a decision that subsequently turned out to be an exceptionally poor decision.

Dr MILNER DAVIS: Chair, I take your caution. I thank you very much for your question. I think it is actually very apposite and within the terms of reference, as I think you will see if I make just a small statement, and then I will come to this matter because I believe that previous evidence given to this Committee could possibly risk leading you somewhat astray in your understanding of this matter. The reason I think this is apposite is because it is a question of what is the composition of a governing body. Does it need internal members, or should it be all external members?

I am not aware of any university in Australia at the moment that is asking for a possible and possibly good model of the university governance that is 100 per cent a governing body of externals. The corollary of that would be that such a body, composed only of externals, would have to totally get out of all kinds of things, such as academic strategic direction. All of that would be delegated to the academic board because there simply would not be knowledge or information or wisdom about these matters at the governing body level, if that was the composition.

Such models do exist, but I do not think any Australian university is actually asking for them. I also think that such a body would be much smaller, but that is another matter. It could be made to work, but as long as Australian universities have the mixed model of internal and external, then the question that you ask is very apposite, which is: What is the contributing value of the insights that the internal members bring?

I am aware that previous testimony to this Committee has suggested that it was an absence of external financial competence on the governing body of the University of New South Wales and a push from elected members which led to a very poor business decision being made. I was very surprised when I read that. I was not aware that this view was being taken by the current management of the university because the current management—the testimony in your first day of hearing was from the vice-chancellor of the university—was

not at the university at the time, and certainly was not on the council. He was the managing director of Fairfax. I need to correct the record.

My personal experience is that this business plan was critiqued intensively by the people who were elected by the staff, by the students, and by the graduates. I believe it was critiqued because not only did they have the information to critique it—that is, what was the impact on Kensington in doing this huge investment with borrowed money in Singapore—but because they have the independence to question the management proposal.

The corollary I must say, and I am sorry to say it, is that the business people that we had on the council at the time, which included as a matter of public record the chair and the deputy chair of the finance committee and the chancellor and deputy chancellor, were all thoroughly in favour of the proposal. If the Committee is interested, I actually can lay my hands on a highly intelligent analysis critiquing the business plan which was prepared by one of the elected members of staff.¹

The Hon. CHRISTINE ROBERTSON: Is that within public knowledge?

Dr MILNER DAVIS: I am taking the view, and I am very much in the hands of the Committee, that the confidentiality of these matters has been, as it were, waived by statements made in Professor Hilmer's testimony to the Committee.

Dr JOHN KAYE: Perhaps we should consider the report.

CHAIR: If you could provide that, we will then have a look at the content and make a decision as to whether it is a public document or not.

Dr JOHN KAYE: Thank you for that answer. Can I take you to a similar issue? This morning we heard that there were no elected members of the audit committee of the University of Sydney and that they were excluded from the audit committee because of a perceived conflict of interest, or the possible perception of a conflict of interest, or a real conflict of interest. Can you comment on that in the context of what happened during your time on the University of New South Wales's council when a large number of fairly severe issues arose about qualified audit reports and how they were dealt with?

Dr MILNER DAVIS: Yes, I am happy to, again on the basis that confidentiality has been waived because these matters are raised in previous evidence given to the Committee, and if I do not correct the record, I fear that the Committee might be seriously misled.

The Hon. GREG DONNELLY: Point of order: I am not quite sure whether this automatically flows. I am seeking some direction from the Chair. The assertion is that there is an automatic waiver by virtue of evidence given by another witness to this inquiry. I guess I seek some guidance on that, if not now then perhaps after a chance to reflect on that. But what has been asserted may or may not be the case, as a matter of right. I am not trying to prevent testimony from being given.

Dr MILNER DAVIS: No.

The Hon. GREG DONNELLY: Rather I seek some guidance.

CHAIR: I take that point. I guess we are now going down a path where we need to explain that evidence provided it is under parliamentary privilege. In relation to any tabled documents, the Committee may make a decision as to whether to publish the material or not. If in revealing the evidence presented today we decided that there may be adverse mention or that there could be some issues, the Committee has a capacity to review that and either make that public or confidential. But in doing so I would suggest that everybody needs to be mindful of the path we are going down. Perhaps general discussion might be better than specifics, if that is possible. I will take some advice.

The other issue is that if any witness presenting today has signed a confidentiality clause historically or in relation to any of the matters that have been discussed. That is a matter for them and perhaps something upon

¹ Dr Milner Davies asked that given the confidential nature of the document she not provide it to the Committee. The Committee agreed.

which they need to take legal advice. All of those matters can be taken into account prior to publishing today's evidence. I guess we can proceed, if the Committee is happy with a course along those lines?

The Hon. GREG DONNELLY: On that basis; as long as it is clearly understood and people are aware of what they are saying.

CHAIR: We will proceed along those lines?

The Hon. GREG DONNELLY: Yes.

Dr MILNER DAVIS: That is extremely helpful. Thank you very much. I would like to continue by saying I was simply surprised by Professor Hilmer's statements that a bloc of elected members at the university council—he stated that they numbered about one-third of the council, which is the kind of alumni proportion—had been "absolutely disruptive and unproductive, to the point that you get what we had, which was musical chairs at the vice chancellorship." I do feel, having been an elected graduate member at the time, that this is a very poor reflection on me and a number of other members of the council.

CHAIR: Certainly.

Dr MILNER DAVIS: The only thing that I would say about it is that I believe that Professor Hilmer may be labouring under a misapprehension. The chief reason for disagreement on the council in my years there was not so much bad governance as bad management. This was a cumulative process which affected the university from 2002 onwards, coming back to the audit committee when the audit committee made—again it is a matter of public record and it would be in the minutes of the university council—its first confidential report on to the council, other than a normal report.

Over the years there were a series of ICAC and Ombudsman reports on the university. I will not labour over that history, but they culminated in two years of qualified audit. These are public documents so I easily extracted statements from the Auditor-General's reports, which I will provide for the Committee. In 2004 and 2005 the Auditor-General qualified the university's reports. There is no point in labouring over this but the plain fact is that unfortunately it took some time for the council to persuade successive managements to deal with these problems, which entailed several senior management changes.

CHAIR: Thank you for your clarification of that issue. It is important information for the Committee to have.

Reverend the Hon. Dr GORDON MOYES: The point that you made had not escaped us.

Dr MILNER DAVIS: Thank you very much, Dr Moyes.

Dr JOHN KAYE: This morning it was suggested, but there is no evidence of specific cases, that Ministers had rejected council recommendations for appointees. Do you have any evidence of that having happened? If so, can you comment on whether you think that is a good thing or a bad thing? Taking the point that I made earlier this morning, did they relate to self-appointing bodies and the danger of self-appointing bodies? Perhaps you would care to comment on the need to avoid self-appointing bodies. I have asked a double-barrelled question.

Dr MILNER DAVIS: It is a wonderful question, which contains several questions, but I enjoy stories that go back into the past and I hope that Committee members will too. We had a marvellous Minister for Education—sadly, he is now dead—whose name was Paul Landa. I am sure that some members will at least remember Paul. Somewhere in the early 1980s when the university council on which I then sat was still numbering 49 and working pretty well, the Minister appointed a large number of those 49 people.

The Minister was obliged to take nominations from a series of colourful and valuable nominating bodies. For example—and I have the list here—the Country Women's Association sent us some marvellous people, as did the Electrical Trades Union, or maybe the Trades Council, and so on. Each nominating body could give the Minister a slate with three names. The Minister was obliged under the then Act to take a name from one of those three in the case of about 20 or 30 of these nominating bodies.

The Hon. CHRISTINE ROBERTSON: That was a ministerial appointment!

Dr MILNER DAVIS: It was ministerial appointment all right and they were accountable to the Minister because he appointed them. I will come back to that issue. But this issue was fettered. Paul did not like any of the names, so he sent them all back. It took three goes for some of these nominating bodies to come up with their seventh, eighth and ninth names that finally harmonised with the Minister's names. However, the chancellor and I at the University of New South Wales had a serious problem because for eight months—getting on nine months—we did not have a quorum on the council. I tell this story not just for the sake of amusement. Finally, we got some wonderful members of council.

The serious point is that traditionally, for good reasons, there have been limits on the proportion of ministerial appointees to a university. Practicality is one of them. It is difficult to fetter ministerial discretion. There are all kinds of ways around it if you want to do so and it looks safe. However, you might think, as apparently some leaders of universities do, that you have the Minister in your pocket and he or she will appoint whomever you like. But the Minister is not obliged to do that and he cannot be made to do that. There is that practicality but there is also the question of the all-important academic autonomy that a university must have, which to some extent is emblemised in its council. To give good research and teaching a university must have academic autonomy. Emblematic of that is to what extent is it a political creation and to what extent is it an independent creation?

Reverend the Hon. Dr GORDON MOYES: I have heard, like you, that a number of universities want to get rid of alumni representation altogether, or diminish its size and significance. To my thinking it has been a challenge. What you said today has been helpful. In the total mix we have to take into account what you had to say on the second page of your submission about contributions that can be made by alumni. I am aware of how the alumni in America become a major source of benefactions and endowments to a university. I am a member of three alumni groups, one of which is well organised and which regularly gets to my chequebook. It runs functions and dinners and it is involved in a lot of things. It creates general goodwill and good feeling, but it does not seem to be wanted by some of the universities. How do we get over that?

Dr MILNER DAVIS: If I might say so, we get over that by selecting the right vice-chancellor. It seems to me that that issue, in addition to the performance appraisal, is an important part of it. I have suggested that one of the areas in which a vice-chancellor should be appraised is the relationship of the broader community, of which the alumni is an important part. If that is in the performance appraisal suddenly the vice-chancellor will discover that relationships with the alumni are serious.

The Hon. CHRISTINE ROBERTSON: How do you think a selection panel for new members of council should be structured and who should put it there?

Dr MILNER DAVIS: That is a wonderful question, which goes to the heart of one of the terms of reference that you are expected to address. However, behind it lies an important question, that is, what are the routes to the membership of council? I think the Deputy Chancellor of Sydney University raised that issue this morning. Where do members come from, whether they are representatives or whether they are returned by a certain section of the university, and how do they get there? You could, for example, have a system whereby a Minister appointed staff members to a university senate at the nomination of the staff association, or something like that. It would be feasible to have that. It is important to make a distinction between that member and how he or she gets there.

Fundamentally, there are four routes onto membership of a governing body. One is *ex officio*, for example, the vice-chancellor or the president of the academic board. Those are probably the two that I can think of, but some universities might have others. The next is co-option by itself. I think that might be the area that your selection committee might deal with. In a real sense, the chancellor is a co-opted position; he or she does not have to come from within the council but can come from outside. That is within the control of the council. The third is ministerial and it used to be parliamentary but, as we heard today, that is now excluded by Federal legislation. There was an important difference between a parliamentary member and a ministerial appointment.

The University of New South Wales has been blessed with excellent parliamentary members. Indeed, the President of the Legislative Council was a parliamentary member who played a key role, and others have too. I mention also Ms Lee Rhiannon and Deirdre Grusovin who was a member in her time. Parliamentary members were rather different from ministerial appointments because they came from the Parliament; they did not come from the Minister. The fourth, of course, is election. I was surprised when I read Professor Hilmer's written testimony to this Committee that the University of New South Wales is thinking not only of excluding

specific reserved alumni positions, but also of abolishing elections of its alumni. I think those are two quite separate things. You could continue to have reserved positions for alumni but you might find a different route of appointment. Am I correct in thinking that was your question?

The Hon. CHRISTINE ROBERTSON: That is good cover, thank you. We will use that information. However, my question referred to the choosing of appointees by the council on the recommendations of the Minister. They are called ministerial appointments but for many years there were internal appointments by council, even though you have your amazing story from the 1980s. Councils put forward recommendations that were agreed to, usually using a selection committee, as in the case of the appointment of the vice-chancellor and the chancellor.

Dr MILNER DAVIS: That is quite true. I believe also that there have been individual cases in which there has been toing and froing between the Minister and the chancellor or vice-chancellor about particular names. You might find that the names that end up being appointed in all cases are not necessarily the identical list that was put forward by a council. I repeat that you cannot fetter ministerial discretion when the Minister has the right to appoint under the legislation. I refer now to the composition of the selection committee. I am coming back to your question.

The Hon. CHRISTINE ROBERTSON: Having experienced the other end of that I know that is not quite true. However, I will listen to your answer.

Dr MILNER DAVIS: I think we have experience of different institutions.

The Hon. CHRISTINE ROBERTSON: Yes.

Dr MILNER DAVIS: It must vary according to the institution. Some would have a permanent standing nominations committee and others would not. I note that Professor Hilmer, in his testimony, said that it is not proper for a vice-chancellor to be a member of the nominations committee. The list that appears on the website of the University of New South Wales continues what applied in my day, that is, that a vice-chancellor is a member of that committee. That committee is a small committee in the University of New South Wales; it is not one which it could be said embraces in its membership a mini-council or a microcosm of the membership of the entire council. Nevertheless, its recommendations would have to go to the whole council and it would have to sign off those recommendations.

The Hon. CHRISTINE ROBERTSON: Do you think the council should appoint the committee? Who should decide on the membership of that committee?

Dr MILNER DAVIS: The council should decide. It could take recommendations from any committee that it likes, but the committee would be wise to consult with the whole council.

The Hon. CHRISTINE ROBERTSON: Who decides on the membership of that committee?

Dr MILNER DAVIS: If it is a committee of the council, the council must decide.

The Hon. CHRISTINE ROBERTSON: That is not always the case across the State. I again refer to the ministerial process. Do you think in any way that a ministerial sign-off would influence the rigour of the work put into a recommendation by council for a council nominee?

Dr MILNER DAVIS: I think there is a valid reason why there are ministerial appointments on a university council, and I think there should continue to be some.

The Hon. CHRISTINE ROBERTSON: In what way do you think that influences it?

Dr MILNER DAVIS: New South Wales is justly proud of its universities. They play an important role in the aspirations of people in industry and commerce and in professions in New South Wales. I think that legislatively the Parliament should take that responsibility seriously.

The Hon. GREG DONNELLY: Thank you for coming along today and speaking to your submission. I thought I heard you refer earlier to key vice-chancellor relationships—I am pretty sure that this was in regard

to the vice-chancellor and not the chancellor. You talked about the relationship with council, the relationship with the academic community, and the relationship of the community.

Dr MILNER DAVIS: As a vice-chancellor, yes.

The Hon. GREG DONNELLY: With respect to the community you refer specifically to the alumni. Let me go back to student representation on the council. There is a direct connection between the vice-chancellor and the students, in the sense that they are represented on the council. A Martian might land on Earth today, look at a university that was managed along those principles, and say to himself or herself, "The university plays a large role in our community. It conducts research and it teaches, and those two aspects are important to the nature of this institution"—referring to student representation or student connectivity between the vice-chancellor and the students. If you apply the principles that you outlined it could be argued that there is a tenuous connection, or a small connection, in that strict sense. Would you like to comment on that? If you acquired the principles that you enunciated it could be argued that the student representation or student input would be quite limited.

Dr MILNER DAVIS: If you were to evaluate a vice chancellor on relationships with students you would not want a love-fest or the Sunday school picnic; you would want a robust but respectful exchange and relationship. That is what I would score highly in such an assessment method.

I think you have raised a very important question that I had not reflected on at all before coming here today. It is the parallel question about how one would assess a chancellor's performance. I have not had much time to give thought to that. I do not think that the same set of relationships on which one would assess a vice chancellor would quite apply to a chancellor. It seems to me to be much more a question of esteem, respect and functionality between a chancellor and the members of the council, and specifically between on a chancellor and a vice chancellor. There is another dimension that involves traditional ceremonial conduct. We would then want someone who enjoys doing graduation ceremonies, not someone to whom it would appear to be a burden to suffer through those days on stage. I do not know how one would assess that; they would either say that they liked it or did not.

The Hon. GREG DONNELLY: It could be whether they smile.

DR MILNER DAVIS: I have seen some very po-faced chancellors in my time. I have appreciated their pictures on walls all over South-East Asia. I am not sure about that.

The Hon. GREG DONNELLY: We are not looking for specific examples, but the general point is made.

CHAIR: Thank you. We have gained a sense of your passion for the alumni and appreciate your submission and presentation. Thank you for the documents that you have provided. We will certainly take them into account when we are preparing our report. The secretariat may contact you with other questions. This is a two-way exchange, so if you would like to contact the secretariat you are most welcome to do so. Thank you very much for appearing today.

DR MILNER DAVIS: Thank you.

(The witness withdrew)

WARWICK WATKINS, Deputy Chancellor, University of Technology, Sydney, sworn and examined:

CHAIR: Would you like to make an opening statement?

Mr WATKINS: Because the Chancellor is overseas, I am the Acting Chancellor. I think that the best thing that can occur is dialogue. The University of Technology, Sydney is 21 years old. However, its antecedents go well back in that it has the oldest connection to a university in Australia because of its relationship with the Mechanics Institute of Sydney. The university has some 31,000 students, both here in Australia and offshore, 2,500 academic and support staff and a budget of approximately \$500 million. By any measure it is a complex, diverse and mutually reinforcing structure based on teaching, learning and research.

CHAIR: Your submission refers to the legislative framework. The Committee may make some recommendations about that. It also refers to the legislation being confusing and Commonwealth guidelines versus New South Wales enabling legislation. It also states that it should be tightened up. Can you give the Committee your views on that?

Mr WATKINS: Very simply it is like a couple in the country who build a house when they have one child. They build the house big enough for them and that child then progressively add rooms as they have more and more children. They do not necessarily go back and start again with an architecturally designed structure to provide accommodation for 10 children and to perform or function in a particular way. Given my substantive day role as Registrar General and Surveyor General of New South Wales and as the head of a department administering multitudinous pieces of legislation, I know that the university's legislation is no different from the myriad other legislation that is progressively amended as a result of advice and Government actions.

In that sense it is very appropriate to check from time to time on how things can be streamlined and, particularly, the fit between Federal and State legislation. New South Wales can be justifiably proud of its universities, which are structured under New South Wales legislation. Like so many other facets of society, there is a strong interface with the Commonwealth. That is no more evident than in the general governance areas that bring us together today. Rather than speak to the specific aspects of the submission, I point out that it is really an overview. It is timely to look at whether the way in which those pieces of legislation interact either help a university to unlock value and streamline their administrative and governance structures, or continue a more complex labyrinth of interacting activity.

CHAIR: What is on your wish list of changes to the New South Wales legislation?

Mr WATKINS: Much has been said about whether a university is a business. That has probably been discussed by the Committee and by witnesses. It can be like a discussion about the meaning of "sustainability" and "climate change" and what they embrace. The real issue is that there is no doubt that we should never lose sight of the fact that a university is complex organisation, but it must focus on its pursuit of excellence under its charter in research, teaching and learning. In doing so, it is measured by and must report to a labyrinth of accountability structures. In New South Wales that covers everything from the Independent Commission Against Corruption, the Ombudsman and the Public Finance and Audit Act, let alone the various provisions of its own legislation. There are ways in which we can take on components of corporations law, not necessarily to have the debate about whether that law should apply or whether we should have some other structure, and to take the best practice mechanisms and include them in our legislation. My personal view that is we should maintain the legislative framework under which we operate, but we must streamline it and test it against best practice models.

CHAIR: Thank you. A large part of our discussion has been about the role of the chancellor, the vice chancellor, the ability to assess their performance and, if necessary, how we might make decisions about their suitability to maintain that role. The University of Technology, Sydney has taken steps to address some of those issues, including defining those roles. Can you provide more information about why you did that and what conclusions were reached?

Mr WATKINS: Irrespective of whatever structure is in place, whether it be a university or some other area, you can legislate and write things down, but the real measure of performance is based around goodwill, partnerships and the way in which people undertake their activities. Nothing will ever replace that.

We have been blessed at the University of Technology, Sydney in having two eminent chancellors in my time—and I have been a member of the council since 2002: Sir Gerard Brennan and Professor Vicki Sara.

They come from diverse backgrounds. Sir Gerard is obviously one of the nation's leading legal minds and he brought a certain presence, governance and stature to the university. Professor Vicki Sara, in contrast, comes from an extremely strong research background, both nationally and internationally. She has the same qualities of leadership in respect of the core roles of a chancellor.

The university's legislation has scant detail about the roles of the chancellor, vice chancellor and deputy chancellor. It is important within a piece of legislation not to be so prescriptive that we must constantly check it to establish whether we are fulfilling our role. That role and the overall governance of the university should be measured against a range of matrix, not only those within the legislation. Therefore, the council, with the support of both chancellors—and both chancellors had a part to play in this—saw that it was important to put down a form of words that would describe the role of the chancellor. I think we included that in our submission. That was not in any way designed to bind the chancellor or to provide a set of guidelines under which the chancellor would operate. It was part of the awareness and education process for everybody inside and outside the university to get a better feel about or handle on the way it was operating. In that sense, it is the skill, knowledge, capacity and standing, both within themselves and outside, that is more important than what is written in the legislation.

CHAIR: Should there be a capacity to dismiss a chancellor if his or her performance is deemed unsatisfactory? If so, how should that occur?

Mr WATKINS: Clearly, the most fundamental role that a council can play is in its choice of and continued relationship with the vice chancellor and the way the university operates as a result of that. That is a fundamental governance issue. It is important for the council and the executive arm of the university to get that fit right, and that will vary from one university to another because of the nature of the university, the way the council operates as an entity and the way it performs generally.

The chancellor is selected by the university council. I had the fortunate opportunity to be on the selection panel for the current chancellor. I also had the opportunity to move a motion unanimously within council for her reappointment. That showed that, notwithstanding the myriad difficult issues that our university and others are facing, we have been able to strike a balance between those various challenges. The following is a personal view. If a chancellor were ever to be the subject of a vote of no confidence and the motion were passed—that is, he or she had lost the confidence of a council—it would be incumbent upon that chancellor to reflect closely on his or her ability to move forward. Therefore I believe it would be healthy to have an arrangement for a mechanism so that, should the governance of the university break down to that extent, that triggered the mechanism whereby it could be severed.

The Hon. MARIE FICARRA: In the University of Technology, Sydney's submission, I go to issues of council members. There was one suggestion of an increase in the proportion of council-appointed members. I believe it was based on the Victorian model. Do you know what has triggered that feeling?

Mr WATKINS: We currently have a council of some 20 individuals. That make-up is comprised of three ex officio, the chancellor, the vice-chancellor, the chair of the academic board, six ministerial nominees, six council elected persons, which include the two convocation or alumni, two elected academic, one elected support staff and two elected students, one undergraduate and one postgraduate. I think it is important, and again this is a personal view, that there is not one size fits all.

Clearly as you cast your eye across all universities—and I have had a lot to do with universities over time, not just from graduating but from having attended the Harvard Business School, Harvard University, and I have a lot to do with them internationally because of the work I do with a lot of academic institutions—it is a healthy situation when we have diversity. Therefore it is important that we do not create structures that squeeze everyone in through the same mould.

That is why I believe that the focus in Victoria, which without checking I think was somewhere like 14 to 22, provides a university with the flexibility needed to get the fit right. The fit is really not just a matter of fit as far as representation from various categories is concerned. The fit is important with respect to schools and the quality of individuals, but more important at times is the way in which they form a cohesive team to bring out the results.

The right set of knowledge without a cohesive team is of very little use. It is like having a mob of horses pulling a dray and they are all pulling in different directions. That is why it is critically important. I think

it is a fundamental role of the chancellor, with his or her skills, to ensure that they are pulling that team together. As I say, we have been very fortunate at the University of Technology, Sydney. It is something that does not happen by accident. It is something we are very conscious of.

The Hon. MARIE FICARRA: You recently introduced a new method of electing the alumni. Your submission refers to the importance of having a strong student and staff representation. Are there any plans to change the process of election? How did you change the alumni? What do you plan to do with the staff-student representation?

Mr WATKINS: As we went through and reflected on the guidelines we were given from the Commonwealth and the way in which the State reacted to that, we seized an opportunity for the benefit of the university to try to drive collectively changes that were going to enable the university to meet the challenges of the future rather than look retrospectively. Our submission talks about the value that the university places on the representative people from around the table. To that extent, if you look at the way in which the university is structured, there are student representatives on the seven faculty boards, the academic board, right through the university and right through the council.

It was important as we were looking at the skill match in the university or in the council, or as the council set down broad guidelines, that we looked at the convocation, bearing in mind a convocation can comprise ex-students and ex-staff. There is a large pool of people from whom we could choose. We thought we would then take nominations, but so that people were aware when they were nominating that there were a range of skills that we were trying to get the best fit for. The real interface here is the debate that we are still to have as a council—and we will do so at our next retreat—which is whether it is appropriate to take that type of representation against a broad range of skill sets to the elected members of the university.

As I say, the council has not had that debate. It will be a healthy one when it happens. But I have every confidence, against a whole range of difficult financial and other matters, that the council will take it in its stride. I personally believe there is merit in that. That does not fundamentally change the issue of representation. What it does is allow people who are nominated to be aware that the university council comprises a range of skill sets to which we wish them to contribute.

It is important that we do not have a council comprising all academic-orientated people or all business people or financiers, but that we have a suite of skills and a suite of personalities that are mutually reinforcing. The best way of doing that is to have some transparency in the way in which we conduct that, still leaving the nominations process in place.

The Hon. CHRISTINE ROBERTSON: You still want an election process?

Mr WATKINS: Exactly.

The Hon. CHRISTINE ROBERTSON: But you want the nominees to actually have criteria before they stand?

CHAIR: That they must address.

The Hon. CHRISTINE ROBERTSON: We could do with that in Parliament.

The Hon. MARIE FICARRA: I was just thinking that.

Mr WATKINS: I will leave that for someone else to judge.

Reverend the Hon. Dr GORDON MOYES: You would set up a matrix of particular needs.

Mr WATKINS: Exactly.

Reverend the Hon. Dr GORDON MOYES: And then have an overlay of the contributions that individual members could make.

Mr WATKINS: That is right. I believe that is a healthy situation. The individual who is nominated has a clear sense of knowledge and understanding about what the role is.

CHAIR: That is right.

Dr JOHN KAYE: I am sorry, I am confused. Consider this: I want to nominate as a staff member of your university. I want to nominate to be on the council, but I do not fit the skills criteria you have. Does that eliminate me as a candidate?

Mr WATKINS: Why would you not fit?

Dr JOHN KAYE: I just do not have it. My interests do not fit. I do not know whether you need someone who can teach ancient Greek.

Reverend the Hon. Dr GORDON MOYES: You could become a volunteer!

The Hon. MARIE FICARRA: He is very nice!

Dr JOHN KAYE: I am sorry, but this is a serious question.

Mr WATKINS: I treat it very seriously.

Dr JOHN KAYE: You specified a set of skills, and I do not fit into that set of skills. Does that mean that I am knocked out of the nomination process?

Mr WATKINS: The skills that we have set in the broad would not preclude any individual from being able to find a position within which they could contribute. Surely if you want to contribute to the ideals, goals and objectives of the university and you nominate, you will clearly fit within that category.

Dr JOHN KAYE: Mr Watkins, I simply do not understand your answer. My question really requires a yes or no answer. If I do not have the skills that you put on that list, am I prohibited from nominating?

Mr WATKINS: No. I do not believe it requires a yes or no answer, with respect. What it does require is that when someone is applying, nominating, or being nominated, they will be matched against that broad range of skills and knowledge sets that make up a university.

Dr JOHN KAYE: Who will do the matching? I am sorry, perhaps I am just not following. I simply do not understand what you are saying here. Are you saying that there are barriers against some individuals joining the council because they do not fit your criteria, or that they just have to be aware that that is what is expected of them?

Mr WATKINS: No. I am saying that a university council comprises 20 people, of which there are six nominees from which the council can choose, of which two are convocation. That provides the council with the ideal opportunity to try to get a match of skills, including those from the nominated people.

Dr JOHN KAYE: What mechanism will the council use?

Mr WATKINS: It has a nominations committee. At this point in time, I am fortunate to be on a nominations committee. That enables us to look, both objectively and subjectively, the best skill sets of the university council so that the council as a whole can look at that balance. If there are elected nominees who are nominating and they believe that they have particular skill sets, not just because they are a graduate from the university but because they are suitable as a result of their previous relationship with the university or their current relationship, or because of their skills that they acquired since they left university, I believe that being aware of those and the way in which they believe they can contribute better enables the university, through the council in respect of those six council-nominated people, to look at the balance squarely.

If we have two convocation people who are nominating for election and they come forward and say, "We believe we can actively contribute in these areas", I believe it is a better situation to look at who is taking the nomination. Clearly we then know where they believe, as objectively as possible, they can contribute. It helps us also in the balance of choosing the other nominees.

The Hon. CHRISTINE ROBERTSON: So you do not wish to vet the elections?

Mr WATKINS: No. I am talking about trying to get the best balance in there. We are not vetting elections. We are getting people to nominate. That is the way we do it for convocation. They nominate against a whole range of criteria that enable us to get a better outcome.

The Hon. MARIE FICARRA: Thank you.

The Hon. CHRISTINE ROBERTSON: I am not clear that he is right.

Dr JOHN KAYE: I am simply not following what you are saying. Is it possible for you to table a document that describes the proposal?

Mr WATKINS: I am happy to write to you and describe to you the process we went through for the convocation.

Dr JOHN KAYE: What about in respect of the staff representatives and the student representatives?

Mr WATKINS: No. What I said earlier was that the council has not progressed to that stage at the moment. Whether we do or not will be a matter for the council. What I am reporting on is what we did with respect to the convocation.

CHAIR: Thank you. I think that might have clarified it already, but if you would like to provide a little bit of extra clarity for that, it would be good.

Mr WATKINS: Sure.

Reverend the Hon. Dr GORDON MOYES: Under the paper presented, the chancellor would provide a high-level bridge to governance in respect of the business community, professions and the wider community by promoting the aims of the university and guiding the university in the interests of society.

Mr WATKINS: Yes.

Reverend the Hon. Dr GORDON MOYES: Good statement. I would feel that that was also the vice-chancellor's role. Because it is the role of both, is there room here for conflict?

Mr WATKINS: No. Again, I do not believe so. There is always room for conflict if the personalities and the structures are so rigid and lack clarity, or the persons themselves do not enter into the spirit and the operational framework within which the act and the various components are written. I hasten to add—

Reverend the Hon. Dr GORDON MOYES: This goes back to the collegiality.

Mr WATKINS: It does. After all, there is nothing more fundamental to a university than collegiality, in academic or other areas. Indeed, in any governance structure across public or private sectors, I come back to the aspect of skill, knowledge, capacity, good will, transparency and accountability as being fundamental. Therefore while it could be argued that there is an overlap in that area, clearly it is up to the two individuals to ascertain who is looking outwardly and upwardly more than the other and where the lines of clarity are between them. In my experience at a number of universities, particularly at the University of Technology, Sydney, the two chancellors that I have had a relationship with have been able to forge that relationship well with their vice-chancellors.

The Hon. GREG DONNELLY: Mr Watkins, in your evidence today you spoke about the notion of best practice models.

Mr WATKINS: Yes.

The Hon. GREG DONNELLY: The phrase "best practice" essentially is a term that has come out of the business community and major institutions, such as the Harvard Business School.

Mr WATKINS: Sure.

The Hon. GREG DONNELLY: It is not a phrase that has always been around. The other aspect of best practice is that what is best practice today perhaps may not be best practice tomorrow, next month, or next year. Given the fluidity of the term "best practice" and what it can mean at any point in time, for a tertiary institution or university to operate according to, or while aspiring to, accomplish best practice, could you explain how it actually does that? Is it done as an internal process? Does it do it through comparing it to the benchmarks outside the industry of the university, if I can put it that way, or is it a combination of both? Can you explain that, as you understand it?

Mr WATKINS: It is the latter; it is a combination of both. That is as a result of the accountability structures that are set by the entity itself as well as external bodies such as ICAC, the Ombudsman and those sorts of legislative structures, and also with respect to financial aspects under the Public Finance and Audit Act. Mechanisms and organisations are set up to benchmark a university's performance on a worldwide basis as well as on an Australia-wide basis. I can speak for our university where we have quite a structured program not only of business plans but also of performance indicators that enable the executive arm of the university to gauge its performance and adjust it accordingly.

The council has the overall governance structure for the university to enable it do that. In my mind, it will always be a combination of the two. A university, as an entity, must then continually be responsive to those internal and external governance arrangements to ensure the best personnel are attracted by providing the most appropriate courses. The University of Technology, Sydney [UTS] prides itself in having an extremely strong link with business. Over the weekend I was extracting some figures that show that in 2007, 87 per cent of UTS students were in full-time employment three months after completing their studies, which is a very strong link. That did not occur by accident; it occurred as a result of the university engaging in structured learning and teaching practices. It is important not to have a homogenised university structure, a homogenised community—business or otherwise—or a homogenised social construct.

A university must create its own path in teaching, learning and research, and it must respond to those pressures otherwise it will cease to be as relevant as a university. That will be reflected through student attendance and it will be reflected through its inability to attract the most appropriate professional lecturers, professors and other academic staff. It is an extremely competitive business. It is important that you do not lose sight of your fundamental goals. Universities are the bastion and are right at the forefront in underpinning a knowledge-based community. We throw around words such as "knowledge-based", "best practice", and "sustainability", but if you break them down to the most fundamental level you have to ask whether the university is relevant in this day and age.

Surely any measure of relevance has to be around its teaching, learning and research. Is that meeting the needs of society? We have almost a 90 per cent student uptake as reflected through our key areas of research grants and so forth. We are extremely proud of our academic staff and the way in which academic support staff have formed a strong bond. I, as a deputy chancellor and councillor, am concerned about the myriad performance indicators that benchmark us with other universities, but do we have the internal culture? Do we have the fit and the partnership that are so important? That is something at which we will have to work. As a council we constantly are working and reflecting on that, so much so that at the end of each council meeting—and this is not meant to be trite—we pass a resolution: Have we, in our operations today, undertaken our activities reflecting on the core goals and activities of the university? That is reflected through the council.

At the start of that same council meeting there is a standing motion with respect to disclosures. Putting all that to one side, if the individuals do not enter that body in a sense of good spirit or in a spirit of collegiality, irrespective of where they have come from, whether they were selected or nominated, or how they ended up on the council, any measure of structure within statutes will not change the performance.

The Hon. GREG DONNELLY: Looking at the University of Technology, Sydney, at its roots as a university, and as a body over time that has trained and taught students entering into practical employment opportunities, obviously the articulation of training at the university and entering into employment is a priority for the university today. Does this notion of a university and the governance issues that it provides differ from an institution that focuses on liberal arts training? Let me refer to a practical example such as an arts faculty and the training of students in philosophy and what goes with it—new ideas and new ways of thinking. Obviously you do not look up the career section in the *Sydney Morning Herald* over the weekend and find a job as a philosopher, and I am not being trite in saying that. In your view, does the model that you articulate apply to universities that have that focus or tradition? If it does not, should it apply?

Mr WATKINS: I cannot comment on all the other universities, but I would like to believe that the University of Technology, Sydney, has a measure of all those things—the philosophers as well as the hard-edged technologists. That is what makes up the diversity of any institution. In fact, on a day-to-day basis, in my areas of work, I want a combination of people who are mutually reinforcing what you want at a university. If the university sector is to fit in with the tertiary education sector, to some extent it should reflect the microcosm of the issues to which it is responding. Look at the social, environmental and political challenges in society today.

If the university is to train people and meet the requirements of technologists through deep thinkers, the governance of the university must be structured in such a way that it allows freethinking. That knowledge must be grounded in sound and objective principles; it must not be closed to such an extent that it does not allow it to become fertilised and develop. I would be concerned if I were involved with a university that had a structure that suppressed that because that is very much what a university is about. A university is there to create an environment in which people can seek excellence and explore and stretch the boundaries.

The government or the community establishes the governance and practices within which universities have to operate. The way in which a council and the executive arm of a university operate is fundamental to the tone of the university. The partnership model of the council and the executive arm, through the vice-chancellor and president of the university, are important.

The Hon. TONY CATANZARITI: Mr Watkins, I refer to the role of the chancellor and to a vote of no confidence. If a chancellor got a vote of no confidence should he or she be removed from that position? If so, should that be enshrined in legislation, or should it be included in the code of conduct or the policy of each university?

Mr WATKINS: No. In my view I do not think it should be enshrined in legislation. I think it is important to give universities flexibility within which to operate. I believe that codes of conduct or guidelines in that respect are far better because, clearly, the performance of a university in this area depends on the integrity of an individual, whether it be a single councillor or a chancellor. When the operational performance, integrity, and transparency of an individual on a council, in particular, a chancellor, affects the internal and external reputation of a university, that individual should take stock of the situation and the university as a whole should take stock. If external mechanisms might benefit from that they would be best structured through some form of arbitration and negotiation. That should be left to the universities to negotiate. Today this whole aspect of mediation is a well-practised operation. I believe that the legislation should not be so prescriptive that it binds every university to the same practice.

The Hon. CHRISTINE ROBERTSON: How is the deputy chancellor appointed?

Mr WATKINS: The council appoints the deputy chancellor.

The Hon. CHRISTINE ROBERTSON: How are the selection panels in your institution appointed—the selection panels that nominate council positions?

Mr WATKINS: The nominations committee is appointed by council.

The Hon. CHRISTINE ROBERTSON: At an ordinary general election?

Mr WATKINS: Yes, at an ordinary council meeting.

The Hon. CHRISTINE ROBERTSON: While listening to the profit margins in universities I drew an interesting analogy.

Mr WATKINS: It is a challenge.

The Hon. CHRISTINE ROBERTSON: I am equating what has happened in the public and private hospital sector with what has happened in the university sector. In the minds of some people health equals wealth. It was interesting to hear that the university is having similar discussions. What sorts of risks are there for the university sector as a whole on governance issues and on picking up the profitable cream as private hospitals have done?

Mr WATKINS: If we were all given an essay to write about what comprises a university I am sure we would all come back with a similar type of content, only written differently. One thing that is similar in a financial context that would always underpin it would be the fact that they are all big businesses. Many universities would have between half a billion to \$2 billion worth of financial structures. That in itself provides an enormous challenge for any executive team to manage, let alone the core aspects of academic standards through the academic board and the pursuit of diversity and greater opportunity for students, one of the key areas on which a university focuses. It is up to every university to look at the broad structure in the community and to say, "What will be our contribution to the university sector?"

It is clear that the University of Technology, Sydney, has not tried to be one of the sandstone universities. It does not have the size and it does not have the inclination. We do not have a large endowment and we do not have a number of the other qualities that some universities have. However, we have a great sense of self-belief and an ideal about what our contribution to society should be and how we can bring to fruition that valued proposition. The challenge for us is how to do that within our financial constraints. For a number of years I was given an opportunity, which was a challenge, to chair the audit committee and the review committee. I was also a member of the commercialisation committee that examines the university's commercialisation structures. Currently, I chair the physical infrastructure committee that is undertaking a \$700 million university refurbishment program.

By any stretch of the imagination that is a very large undertaking that requires a lot of business analytical work. Something that may not have come out in the Committee's various deliberations is that it is just as important to look at the members of the council committees as it is to look at the council members themselves. In the physical infrastructure committee that I chair, I have two or three council-related people, but I also have two or three from outside the university who are eminent in their own field, including an architect and a person who has been involved in a lot of commercial building.

The Hon. CHRISTINE ROBERTSON: Were they co-opted?

Mr WATKINS: Yes. Those people are the other real value contributors to the way in which a council operates. The value of those people is underestimated. They equally form part of that team. When I report back to council on how we are going against the master plan, building structures and so on, as I do at each meeting, I have a great deal of confidence that I have tried to pull together the best team that I can. It also includes a representative of the finance committee and some strong external skills. I cannot speak for other universities, but that brings transparency and contributions that we value very highly at UTS.

The Hon. CHRISTINE ROBERTSON: We have had discussions about different council structures such as a Sunday school picnic or a challenging and growth-focused structure. I am interested in your comments about collegiate models. I realise that that cannot be legislated and that it is about interpersonal relations. How do you prevent a collegiate model turning into a Sunday school picnic model with no interesting issues coming forward?

Mr WATKINS: Part of that depends on the agenda. The agenda must be challenging and it must look at not only current issues but also the future. You should be stretching the members' minds and looking for their individual contributions. It goes back to selecting the right people for the council to the best of your ability and the structure. It is also important that the line between the operational focus of the executive arm of the university fits well with the governance arm of the council. In that way the council does not immerse itself in the day-to-day operation of the university and, in fact, holds the vice chancellor accountable. There are many mechanisms available to the council and the chancellor depending on the level of confidence and the structure between the council, the chancellor and the executive arm, the level of delegation the vice-chancellor may have and the various other mechanisms of policy structure that are put in place. I agree that you cannot legislate that; you cannot legislate commonsense.

The Hon. CHRISTINE ROBERTSON: You cannot even define it.

Mr WATKINS: It is very hard. In my experience on council since 2002, we have had some very robust discussions, particularly around the difficult issues of fees and some of the things that are at the heart of the historic nature of the university. I pay credit particularly to the elected members of staff and the students who entered into those debates about structures in a spirit of not singly representing where they came from but the collegiate perspective; that is, they acted in the best interests of the university. I remember student sit-ins and many other things. However, when all the dust settled, everybody walked away saying that we had made the

best decision with the best knowledge we had. We will reflect on that. That is a mark of the respect of the individuals who make up the council as much as the structure.

CHAIR: We have asked a number of other witnesses about the training of members of the governing body. Some universities send the members of their senate or council off to the Australian Institute of Company Directors course, and others have other methods of induction and training or a mentoring program. Do you see that as important and do you do that at the University of Technology, Sydney?

Mr WATKINS: It is important to have an appropriate induction program. Dare I say, the chancellor should go through an induction process, albeit a different process. It is critically important in a university to have a handover period between two chancellors. It is the culture that is being challenged very much as you hand over these things. At times there is a need for a cultural change. When there is such a need, it must be transparent and obvious. At other times, it can be very seamless.

In respect of the selection of a new chancellor, it is very much a transition. A number of council members like myself who were on the selection panel were involved in that process and ensured that the incoming Chancellor was appropriately briefed, not only by the Vice Chancellor but also by the council as a whole, prior to taking up that role. We do have a structured induction program for council members. We also have a two-yearly internal review process with the Chancellor and a four-yearly external review process. These things are built into a structure that enables people to be comfortable with their position. We also hold a special meeting prior to every council meeting for any council member who wishes to ensure that they are appropriately briefed on financial matters, which can be quite difficult for some council members. We do not want a situation that we have seen in both the public and private sectors where directors—which is what we call them in that context—sit around a table and say, "Yes. I do", particularly about financial matters, when they do not understand the issues. There is a sense of accountability. From that point of view, we take our responsibility very seriously with the members of the council, from the Chancellor down, and provide the opportunity for them to fulfil their role in a transparent and accountable manner following due process.

CHAIR: Thank you very much for your submission, presentation and contribution today.

Mr WATKINS: It was a pleasure.

CHAIR: The secretariat may contact you to clarify some issues. The Committee would appreciate receiving anything you have undertaken to provide in the next couple of weeks.

(The witness withdrew)

ROBIN FITZSIMONS, Fellow, University of Sydney Senate, affirmed and examined:

CHAIR: Welcome. Do you wish to make a brief opening statement?

Dr FITZSIMONS: I am appearing in a personal capacity, but informed by the fact that I have been an elected fellow of the University of Sydney Senate—elected by the graduates—since December 1997. I have made a quite detailed submission. I simply emphasise those over-reaching considerations that I mention in paragraph three; namely, autonomy, the individuality of different universities and, therefore, different missions and very different histories, and the reality that we all live in a competitive environment. I add another important point, which is the importance of the diffusion of power in a collegiate institution. It is very important that excessive power not be in the hands of any one individual, whether that be the Chancellor, the Vice Chancellor or any other person. That underlines the value of the role of councils or university senates.

I have not comprehensively read the various submissions, but I am struck by the fact that the concept of chancellor and the primary qualifications or functions thereof differs at least in emphasis from institution to institution, and it is right and proper that it so do. One crucial aspect of the chancellorship at the University of Sydney is that it has the iconic status of someone who embodies all that is best about the university and reflects those values in that person to the university and the outside world. It might be argued that that person is the university's chief diplomat. That is extraordinarily important. In our case it places great emphasis on a prior immersion in the culture of the university.

I have a book that illustrates that very clearly. I have photocopied bits of it and the Committee is welcome to examine it. It is the graduation addresses made by one of our most revered chancellors, Sir Hermann Black, which were published in 1996. It contains a foreword by Dame Leonie Kramer, a subsequent chancellor. She states:

Sir Hermann was a fearless defender of the faith. A sceptical man by nature, he consistently and tirelessly defended the nature of the University to those who taught and studied in it, and to the community it serves. Any person or policy which threatened the University's viability was his natural enemy. When he sensed danger his eloquence took on a fiery passion, and this is nowhere better illustrated than in his attack on the reduction in the size—

That was when it was being reduced to 22, not from 22, and when the alumni membership was reduced from 10 to five. She continues:

—and on political interference in university affairs.

Dame Leonie then quotes extensively from one particular graduation address given on May 1988 to the Faculty of Economics and Dentistry entitled "The insinuation of government nominees into the governing body". Sir Hermann voiced a criticism of the fact that the elected positions were being reduced but the number of government nominees remained the same. That is of some interest.

Another chapter contains a speech given in 1986 about the need for graduate commitment to the university. That speech was "The responsibilities of graduates as members of Convocation" in March 1985 and it refers to the fact that, under the Act which provides for the creation of the governing body of the university, each graduate will have an opportunity to vote for his or her choice of 10 persons.

I quote those at some length because they underline the importance in this university of (a) graduate involvement it had and (b) of the very meaningful way in which it has always been a part of that culture that that attachment to the university has been expressed by way of voting for meaningful numbers of fellows on the university senate. In the last couple of graduate elections it has been approximately 10,000 electors, or maybe just under, so it is a very real mark of that.

Another mark of that and the involvement of alumni is that I noticed that two presidents of alumni councils are from the two oldest universities of the state, the University of Sydney and the University of New South Wales, and they happen to be in the gallery today, if that is the correct term. Whether or not they have something to say is for the decision of the committee, but I would be very surprised if they did not have strong thoughts on these issues. It underlines the importance of involvement and commitment.

There is another issue, which is the role of government, in this sort of situation. As I said, I am a strong believer in institutional autonomy and that government involvement should be a last resort. That said, one very

important function that the government does have is, as it were, the ultimate guardian of what I could call the constitution of each university, which is the Act. If you are going to change the representation, you do not just consult the existing governing body; you consult the members of the university.

If you are going to do anything to the detriment of one group of electors, you do not just consult the existing governing body where the people whom that group elects may well be in a minority. You make sure that the constituency, whether that comprises the staff or the graduates, is consulted—which in this day and age is pretty easy to do—as to what their views on the matter are; otherwise, no minority would be invulnerable.

I will again adopt something from a decision of the United States Supreme Court on the issue of citizenship, which is that it is not up to any one group of individuals temporarily in office—in that case the Congress, but in our case the governing bodies—to take away the citizenship rights of any other individuals. I refer again to an article which is part of my submission. It refers to a biblical parable about the different components of the one body and the importance of diversity, not just having eyes and ears and so forth. In looking through other people's submissions, I am struck by the fact that—and I had better be careful how I put this—the most corporate institutions are not necessarily visibly the most transparent, if I may put it that way.

Finally, I noticed that concern about access to information has been an issue at the University of New England. Again I am not going to comment on any other university, but suffice to say that the issue of access to information is a legal question, I suspect. In the corporate world, as I understand it, a member of a board has a right to every piece of paper relating to decisions that are being made, and indeed an obligation to request more than a summary document, if that is necessary.

Therefore I suspect—as I am not aware, I do not know, but I think you might well seek legal advice on this—members of the university governing bodies should have access to all documentation, without question, that is relevant to their decisions as opposed, for instance, to idle curiosity about a student's examination results, which obviously is not relevant to a decision. That concludes my introductory comments. I might come back to that.

CHAIR: In the points you made, you referred to not having a one-size-fits-all approach, but you also mentioned in your submission about the University of Sydney having regular performance reviews. We have heard some of that today. I wonder whether that translates to an opportunity to take action against the chancellor for vice-chancellor or a fellow? My understanding is that in some places that occurs and in other places it does not. What is your view on that? Should it be an absolute majority that makes that decision, or should be a composition of a certain number of the council? How should that work?

Dr FITZSIMONS: That makes a decision as to whether someone should be removed and whether it be a chancellor, a vice-chancellor or someone else?

CHAIR: Yes.

Dr FITZSIMONS: That goes back to their respective electorates, although that may not be strictly the right term. But, again by way of corporate analogy, as I understand it except in cases of gross incompetence/pseudo criminality, a member of a board cannot be removed other than by the shareholders. As far as elected members of the governing body are concerned, that is a matter for the electors, except in the most extreme circumstances.

If there was evidence of gross misconduct where you would have to have appropriate safeguards which were not actually used as a kind of pseudo-political move to get rid of someone, that should be a matter for the electors. There is one aspect of it which might be of some concern, which is my understanding—and I am subject to correction on this—that under the present legislation the decision of getting rid of an elected person is easier, if I may put it that way, than it is in relation to a company director. That has not been an issue with us so it is "academic" as far as elected members are concerned—that is, elected by the graduate staff and students.

To come to the specific issues of the chancellor and vice-chancellor, with the vice-chancellor there are clearly contractual issues which would probably be inappropriate to deal with here. Obviously there are clearly situations in relation to performance reviews, et cetera. You actually do not need the performance review to know when someone's performance is going off, or at least you may not need them. If you have your ear to the ground, people probably have a pretty cluey idea. Either way, I underline that that is not a reference to any

individual whatsoever. It is taken in the history as a whole of the university, which I am aware is from before my time.

As far as the chancellor is concerned, at present in all universities, and certainly this is the case in the University of Sydney, the chancellor is elected by the governing body, which is by the way a very strong argument why governing bodies should do not have too small a group, particularly one with a corporate focus, choosing the chancellor when culture is such an important aspect of it.

The Hon. CHRISTINE ROBERTSON: Do you have many competitions?

Dr FITZSIMONS: We have some. Again, I would not want to go into details, but I am speaking historically. Please do not interpret that as implying that it has been during my time on the senate. Historically there have been competitions. Having said that, I think that is probably semi in the public domain. Historically there have been competitions, and I do not regard that in any way as unhealthy.

The Hon. CHRISTINE ROBERTSON: I was just interested. I was not making a values statement.

Dr FITZSIMONS: Yes. I think what is important is that the governing body should consult widely before it makes a decision. I personally would like to see mandated a process for consulting all the members of the university, that is, graduates, staff and students, which we have done in an informal way, by the way. But I think it is a crucial aspect of the involvement of constituents and in informing the governing body.

CHAIR: I just wish to clarify that. That means that you would have to contact all of your alumni.

Dr FITZSIMONS: We have sent emails around to all members of the university asking for their viewpoints, and that has been a very constructive process.

CHAIR: But that cannot be all of them. They may not all be alumni.

Dr FITZSIMONS: No. That is absolutely correct. That is why I said that a structured process would be very useful. If the time lines were worked out in advance, you could then put it in the regular University of Sydney alumni magazine, for the sake of argument, which comes out quarterly.

Dr JOHN KAYE: We are talking in respect of the appointment of a chancellor.

Dr FITZSIMONS: The election of a chancellor, yes.

CHAIR: Removal of a chancellor as well.

Dr FITZSIMONS: Okay. Coming to the removal of a chancellor—

Dr JOHN KAYE: If I may say in relation to the appointment, to consult widely on the appointment of the chancellor, you would have to name the candidates.

Dr FITZSIMONS: No. You request names of candidates, which has been extraordinarily useful.

Dr JOHN KAYE: But that is not really consulting.

Dr FITZSIMONS: It depends on how you define "consulting", does it not? I think it should be meaningful consultation. There is a conversation to be had here, and there is probably not enough time to discuss it. There is a conversation to be had, especially when you consider the Oxford system where there is actually an election by all alumni of the chancellor, which is how Chris Patten came to be elected. His competitors were the Master of the Rolls, which is Britain's second most senior judge, a former vice-chancellor of Oxford, and a comedienne. The vote was among those four. It was a very healthy process. I was informed that it was very valuable in bringing the university back to Oxford. I am not suggesting a direct translation, but I think it opens up a conversation, which it is very important to have.

CHAIR: There is a suggestion from those who seek to reduce the number of alumni representatives or alter the way in which they are elected that there often is not a large representative group participating in those elections, and that there could be as few as a few hundred out of a possible pool of thousands.

Dr FITZSIMONS: Yes.

The Hon. CHRISTINE ROBERTSON: Compulsory voting?

CHAIR: Do you have a view on how representative the election process is?

Dr FITZSIMONS: Far be it from me to comment on other universities, but if that view were expressed at Sydney, there would be blood on the streets, not to mention withdrawal of funding, which is at a time when we are crucially conscious of funding. The engagement of alumni, by feeling that they participate in the governance of the university and those elections, is such a traditional part of the university that there would be a very strong backlash. You might care to ask an alumni president on that.

But on the subject of figures, which would be grossly inappropriate as far as Sydney is concerned, I happen also to have with me—and even have photocopies—something from a schoolgirl's scrapbook. It was kept because my headmistress was elected to the University of Sydney senate. In fact, she topped the poll in the days when there were 10 elected. An article appeared on page 3 of the *Sydney Morning Herald* from 1964 and continued from page 1 under the heading "Declaration Of Senate Poll" and "To Control University". It is a mark of the importance. None of the nine individuals were people who you would consider in any way to be lacking in substance, if I could put it that way. They include several judges, a future Governor-General, one Mr Kerr—who did not get elected, by the way.

Dr JOHN KAYE: No, he never did—to anything.

Dr FITZSIMONS: There was an alumni base of 27,000. Only 6,000 voted. That gives you an idea. That 6,000 is very high. We have a much larger alumni base. It is now a lower proportion, which I think is due to the expansion of the university and the acquisition of other related entities. But nevertheless, having approximately 10,000 people voting—it might be 10,000, or just under—is a real mark of the involvement, and I suspect it is a multiple of 10 of the voters in any other constituency.

As far as we are concerned, I have to say that the arguments, if anything, would be for an increase in alumni to something at least between the five we have now and the 10 in the future. To do it any other way I think would be to invite major problems. Certainly if there were any other proposals to decrease, then I would think you would require that there should be a mandated plebiscite of alumni. It is exceptionally important.

CHAIR: Thank you. Your headmistress looks like a very formidable woman, too, by the look of her.

The Hon. MARIE FICARRA: Dr Fitzsimons, have your alumni e-news and your electronic communications increased as well as the involvement with the alumni? The University of Sydney would have to have one of the largest alumni bodies of any university in Australia, I would imagine.

Dr FITZSIMONS: Yes it is. I am sorry; I cannot put a figure to it, but it has increased communication. It would not surprise you to know that there is an age-related bias simply because of when people came on board. I agree with those who say that we might not be quite ready for electronic elections—we do it by paper—otherwise you would get an unacceptable bias. Referring to alumni involvement, our alumni forms a significant part of our donor base.

The Hon. MARIE FICARRA: You referred in your submission to the importance of directly elected alumni members as opposed to appointed alumni. Do you wish to expand on that?

Dr FITZSIMONS: As I said, far be it for me to comment elsewhere, but if the proposals put forward by Professor Hilmer were put forward at Sydney there would be fireworks. It then comes down to the issue that I raised earlier. One important function of government, as the guardian of the constitution, is to ensure that the relevant constituencies as opposed to just the examining governing body—even the best governing bodies can be skewed this way or that—are formally consulted. It should be easy because every university sends out the equivalent of periodic alumni magazines.

The Hon. MARIE FICARRA: Was there an unsuccessful attempt in the past to reduce the alumni representation?

Dr FITZSIMONS: In 2004 there was an unsuccessful attempt when the State Government, acting beyond the requirements of the protocols, put forward draft legislation. Because the draft applied to all universities in a blanket sort of way, in the case of Sydney that would have enabled graduates to be appointed by the Minister—I mean, really!—or else chosen by the others. You got away from this critical issue of direct accountability and direct involvement. I was so angry about it—I was not the only one who was angry—that I rang the editor of the *Sydney Morning Herald* and said, "Would you be interested in an article?" The editor said, "Yes please." I duly wrote that article from Sweden, and the status quo for alumni was entrenched in our Act.

The Hon. MARIE FICARRA: I remember that. I have a vested interest in alumni. I well remember that article. You were successful and heated feelings were expressed. What would you like this Committee to recommend?

Dr FITZSIMONS: That is an interesting question that I had not thought about.

The Hon. CHRISTINE ROBERTSON: That is why we came.

Dr FITZSIMONS: Underlying the importance of the issues that I just mentioned, I suppose being highly selective in the issues in which you have become involved. As I mentioned earlier, one of those issues would be as the guardian of the constitution to preserve the interests of members of universities. It sounds odd.

The Hon. CHRISTINE ROBERTSON: That would require changes to the university Acts.

Dr FITZSIMONS: When you are looking at changing the university Acts if there is a proposal to change those university Acts in a way that is detrimental to any one group of university members, there should be a requirement that those university members be consulted. There would be ways of doing that. That important issue, which should be considered, should probably apply to all universities. I cannot speak for other universities, as I do not know whether they wish to have alumni election involvement. I strongly suspect that they would, but I do not know and I do not want to interfere.

You might wish to make inquiries from alumni bodies. I would disagree with the general point made by Professor Hilmer who said that the older you become the less important elections become. I would say that the older a university becomes the more established the alumni base becomes and therefore alumni elections are more important. Those are some of the issues that should be addressed. I hope that there is general respect for alumni that have put in not only money but also time and sacrifice, who wish to have the value of those degrees maintained in a competitive environment.

Dr JOHN KAYE: Thank you for your submission and for your testimony today. I refer to the bottom of page 4 of your written submission in which you state:

The nuances of the duties of Chancellor and relationships with the governing body and Vice-Chancellor are for the governing body of each university to decide.

I understand why you said that. I am not seeking to question your statement but do you think they should be required to decide that before anything goes wrong? Do you think it would be sensible for there to be a legislative requirement that each university governing body had in place mechanisms that decided what those relationships ought to be?

Dr FITZSIMONS: There is a lot in that question. Broadly speaking the answer is no. I think you are on dangerous ground as soon as you start codifying the functions of the chancellor, first, because it will vary in each university and, second, because it will vary from time to time within one university. I think our current chancellor pretty much gets 10 out of 10, but beyond that I would say that no one chancellor is likely to embody all the best characteristics that you are looking for. Therefore, the relationships will depend in part on particular individuals. To adapt something from the course that I did with company directors, sometimes you cut across the dogma and you choose the best person to do the job that needs to be done.

The Hon. CHRISTINE ROBERTSON: Does that include having the chancellor make financial decisions?

Dr FITZSIMONS: No.

Dr JOHN KAYE: To pick up on that issue, somewhere along the line a university must draw some boundaries. Nothing that I said suggested the university should not do that. Do you agree that there ought to be a requirement that a university should draw some boundaries?

Dr FITZSIMONS: It could be argued that in the absence of any statutory requirement about what the chancellor does other than chairing committees and governing body members there is no assumption that the chancellor does anything. Therefore, if a chancellor does something that the governing body thinks inappropriate, whether with respect to the vice-chancellor or otherwise, it is for the governing body to say, "Hang on, this is wrong." A chancellor who did not respect that should be in trouble. You asked earlier about the removal of a chancellor.

We have a by-law that you have probably heard about—I do not think other universities have by-laws—that was very controversial when it was introduced at the time. I was unhappy about the context in which it was introduced because it was introduced for a specific purpose. I am in no way commenting on that past history. That said, the fact that we have a by-law that enables an egregiously performing chancellor to be removed by a process, is a significant reserve power of the governing body. If another university had had that I wonder whether it might not have arrived at the troubles that have been in existence.

The Hon. CHRISTINE ROBERTSON: I asked this question earlier. I have read your submission and I would be interested in hearing your response to this question because you spent such a long time as a representative member on your senate.

Dr FITZSIMONS: I was a hideously long-time student, so I feel this huge sense of investment.

The Hon. CHRISTINE ROBERTSON: A lot of the evidence that we have heard and the submissions that we have received concentrate heavily on an issue relating to universities being heavily tied into profit in specific areas. I have been thinking about a personal issue, that is, that in some areas health equals wealth. Private hospitals have been picking up the profitable cream. If university councils do not remain functional governing bodies could education equal wealth? I am making a comparison between hospitals and education. Some health sectors are about wealth and they pick off the profitable cream. In our current climate could individual universities or sections of those universities decide that education equals wealth rather than having the academic body about which we heard earlier with philosophers and job educators?

Dr FITZSIMONS: That is an interesting question.

The Hon. CHRISTINE ROBERTSON: You might not have time now to answer such a comprehensive question.

Dr FITZSIMONS: It is a comprehensive question that relates to the general issue of risk management—long-term incentives versus short-term incentives and the basis of a university's mission. In the past I have referred to them as incentives that exist in the sector—not in my university—for shonky diplomats to make a quick dollar. Would that be an appropriate paraphrasing of your question?

The Hon. CHRISTINE ROBERTSON: Give me an example.

Dr FITZSIMONS: A diploma in surfing.

The Hon. CHRISTINE ROBERTSON: Whole areas of academia could be removed because they no longer fit into any profitable margins.

Dr FITZSIMONS: I see what you are getting at. You are looking at the important issue of courses that are fundamental to our understanding of civilisation—courses that do not bring in a quick dollar. This is a crucial part of the culture issue, and it is a crucial part of why we need governing and not just corporate bodies. I think it is clear that it is not our function to get involved in the details of courses. However, there is a potential for oversight to ensure that others bear these kinds of priorities in mind. These are the sorts of issues with which we will come up. I think there is a risk that universities will depart from their core vision.

The Hon. CHRISTINE ROBERTSON: Or create a new mission.

Dr FITZSIMONS: Or create a new mission. There is a risk that they will create a new mission that is not part of their core business. Let me pick up on what I learned from the course I did at the Institute of Company Directors. Companies that have gone under—and I am thinking of Burns Philp when it went into the spice business without being aware of the larger environment for that sort of thing, international competition and consumer practices, and AWA when it went from transistors to hedging. That is dangerous unless you do a complete new risk evaluation, and you must do that in the concept of what is your fundamental mission. We live in the real world where there is a global financial crisis and where governments have not been looking kindly at universities.

Some of us think that Australia ought to have universities that are up in the top tier competing with the Harvards and Oxfords of this world. You have to take all those things into consideration. That is one reason for having a larger rather than a smaller governing body so that you get the expertise that you have to have, and you get fundamental accountability by having most members elected. If things go off the tracks something can be done about it. The year I was first elected a new vice-chancellor had just come in and the effects of having that new vice-chancellor had not been obvious. There was great concern among alumni that the University of Sydney was going downhill; therefore they got rid of the incumbent. There was another issue four years later, but I think these sorts of issues are really important. I could not agree with you more; this is the sort of risk about which we have to be constantly mindful.

The Hon. CHRISTINE ROBERTSON: My next question relates to the role of the Government. Currently, apart from individual university Acts, which do not help, the Government has no way of knowing when a council becomes totally dysfunctional.

Dr FITZSIMONS: Right.

The Hon. CHRISTINE ROBERTSON: That is why we are faced with this issue.

Dr FITZSIMONS: When a council becomes totally dysfunctional—we do not know for long it becomes totally dysfunctional—maybe it should have elections reasonably frequently so that what I mentioned occurred in 1997 would be able to occur.

The Hon. CHRISTINE ROBERTSON: But that means you have people—

Dr FITZSIMONS: I will take that on notice.

The Hon. CHRISTINE ROBERTSON: That would be useful. That means you would have people for a short time. That would make it more difficult to create a collegiate atmosphere.

Dr FITZSIMONS: There is that difficulty too. I will take that question on notice.

CHAIR: It has been suggested that, as happens with local governments, an administrator be appointed for a period.

The Hon. CHRISTINE ROBERTSON: I do not know where you would find one.

Dr FITZSIMONS: That would have such an effect on the university's reputation nationally and internationally and on its ability to attract staff that the down side might well outweigh the down side of putting up with a difficult council for a period.

CHAIR: That might be true. Thank you very much for your presentation today. The Committee appreciates your coming in and so passionately representing your position.

Dr FITZSIMONS: It has been my pleasure. Thank you.

CHAIR: The secretariat may contact you for further information.

(The witness withdrew)

(The committee adjourned at 1.02 p.m.)