



2010

PARLIAMENT OF TASMANIA

**AUDITOR-GENERAL
SPECIAL REPORT No.91**

**Follow up of special reports:
62–65 and 70**

September 2010

Presented to both Houses of Parliament in accordance with the provisions of Audit Act 2008

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28 September 2010

President
Legislative Council
HOBART

Speaker
House of Assembly
HOBART

Dear Madam President

Dear Mr Speaker

SPECIAL REPORT NO. 91

Follow up of special reports: 62–65 and 70

This performance audit, which assessed the extent to which state entities implemented recommendations made in four previous reports, has been prepared consequent to examinations conducted under section 23 of the *Audit Act 2008*.

Yours sincerely

H M Blake

AUDITOR-GENERAL

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Foreword

Performance audits are conducted with the goal of assessing the effectiveness, efficiency and economy of activities undertaken by the state sector whereas compliance audits are aimed at assessing compliance by State entities with laws, regulations or internal policies. Identification of areas where improvements can be made is one of our primary objectives as is gaining acceptance by state entities and their implementation of any resultant recommendations. Using a collaborative approach with state entities, we aim to reach agreement so that audit recommendations are practical and add value to state sector programs or processes. Accordingly, there is an expectation that our recommendations will be implemented.

This follow-up audit was completed to provide Parliament with information about the extent to which state entities acted on recommendations made in selected special reports tabled between November 2006 to November 2007, namely:

- Special Report No. 62 (November 2006):
 - Training and development
- Special Report No. 63 (November 2006):
 - Environmental management and pollution control by local government
- Special Report No. 64 (November 2006):
 - Implementation of aspects of the *Building Act 2000*
- Special Report No. 65 (April 2007):
 - Selected allowances and nurses' overtime
- Special Report No. 70 (November 2007):
 - Procurement in government departments, but only as this related to the granting of an exemption to tender for the procurement by Police for replacing the *PV Freycinet*.

This Report addresses each of the above audits, examining the original context of the recommendations and detailing the subsequent rate of implementation. Where recommendations were not implemented, we sought explanations.

Despite some of the audits being completed almost four years ago we were disappointed to find that a large number of the recommendations had yet to be implemented. In particular, both *Training and development* and *Environmental management and pollution control by local government* failed to reach our benchmark rate of 70 per cent recommendation implementation rate. Most pleasing, however, was the commitment by management to implement more of the recommendations made in these audits.

H M Blake

Auditor-General

28 September 2010

List of acronyms and abbreviations

AVCG	Australian Volunteer Coast Guard
Board	Board of Environmental Management and Pollution Control established under section 12 of EMPCA
DEPHA	Department of Environment, Parks, Heritage, and the Arts
DHHS	Department of Health and Human Services
DIER	Department of Infrastructure, Energy and Resources
DoJ	Department of Justice
DPAC	Department of Premier and Cabinet
DPEM	Department of Police and Emergency Management
DPIPWE	Department of Primary Industries, Parks, Water and Environment formerly Department of Primary Industries and Water (DPIW)
DTAE	Department of Tourism, Arts and the Environment
EHO	Environmental Health Officer
EMPCA	<i>Environmental Management and Pollution Control Act 1994</i>
EPA Division	Environmental Protection Authority Division
EPN	Environmental Protection Notice
FTE	Full-time equivalent (employee)
HR	Human Resource Management Branch
PMR	Performance Management Review
RHH	Royal Hobart Hospital
Sabre Marine	Sabre Marine & General Engineers Pty Ltd
SSA	<i>State Service Act 2000</i>
State entity	Defined under the <i>Audit Act 2008</i> to include, an agency, a council, Government Business Enterprises and State owned company
TIs	Treasurer's Instructions
TTC	The Training Consortium
T&D	Training and Development
Treasury	Department of Treasury and Finance

Executive summary

Executive summary

Background

We conduct audits with the goal of assessing the performance and compliance of state sector entities. Identifying areas for potential improvement is an essential part of such audits and recommendations are made in support of that objective.

Follow up audits inform Parliament about the extent to which State entities have acted on recommendations made in previous Special Reports.

Our previous follow up audit, Special Report No. 79, was tabled in May 2009. That report looked at six audits tabled between April and August 2006. During the period covered by this Report we tabled reports on eleven further audits not all of which required follow up. The five reports selected for follow up are:

- Special Report No. 62, a performance audit examining:
 - Training and development
- Special Report No. 63, a compliance audit examining:
 - Environmental management and pollution control by local government
- Special Report No. 64, a compliance audit examining:
 - Implementation of aspects of the *Building Act 2000*¹
- Special report No. 65, contained two compliance audits:
 - Management of an award breach²
 - Selected allowances and nurses' overtime
- Special Report No. 70, contained two compliance audits:
 - Procurement in government departments (only the replacement of police vessel *Freycinet* is included in this follow-up audit, with other matters to be included in a subsequent follow-up audit)

¹ During the audit, the Department of Justice (DoJ) advised us that recommendations contained within Special Report 64, *Implementation of aspects of the Building Act 2000*, were not acted upon because the functions previously exercised by the Tasmanian Compliance Corporation Pty Ltd, had been absorbed by the department. We therefore felt it was unnecessary for us to revisit Special Report 64, because its findings and recommendations related to an outsourcing of building regulation responsibilities to an external party.

² Not revisited by this report.

- Payment of accounts by government departments (also to be included in a subsequent follow-up audit).

Detailed audit conclusions

Overview

In addition to being a yardstick on the performance of state entities, the follow up process provides feedback on our own effectiveness. A low rate of implementation could tend to indicate that recommendations were impractical or pitched at an inappropriate level. Consequently, in follow up audits we regard an implementation rate of 70 per cent as satisfactory.

Training and development

Five departments were assessed during the *Training and development* audit, which produced 21 recommendations. Since the original audit was tabled in November 2006, the Department of Tourism Arts and the Environment has ceased to exist and its functions re-assigned to other departments, primarily to the Department of Primary Industries, Parks, Water and the Environment (DPIPWE)³. For this reason we acknowledge that DPIPWE encountered difficulties in implementing our recommendations due to the need to integrate many previously separate functions.

The recommendations related to the effective policy development and management of training and development in departments. It also looked at the adequacy and measurement of departmental reporting systems as these related to training and development.

We found that whilst many of the procedural type of recommendations had largely been implemented, policy development and assessment of the effectiveness of the annual training budget recommendations, on the whole, remained unimplemented. Departments largely failed to implement an annual assessment of the effectiveness of the training budget (Recommendation 11). Both DIER and DPAC indicated they intend to implement or consider this recommendation in the near future, despite our report now being almost four years old.

³ The former operating divisions of the Department of Tourism, Arts and the Environment: Parks and Wildlife Service, Aboriginal Heritage Office, Heritage Tasmania and Environment were transferred to the Department of Primary Industries, Parks, Water and the Environment, whilst the operating divisions of Arts Tasmania and Tasmanian Museum and Art Gallery were transferred to the Department of Economic Development, Tourism and the Arts.

Recommendations 15 to 21 focused on policy development, record keeping and reporting. In total, the degree of implementation for these recommendations was very low (28 per cent). DIER is still developing a new learning and development framework (T&D policy).

DIER and DPAC seem to either be slow in implementing many of our recommendations or will address them by alternate means.

The overall level of implementation was a rather low 55 per cent.

Environmental management and pollution control by local government

One department and six local councils were assessed during the *Environmental management and pollution control by local government* audit, producing nine recommendations.

The recommendations related to the implementation of procedures for local councils to monitor Level 1 activities and enforce, where necessary, the *Environmental Management and Pollution Control Act 1994*. We found that recommendations relating to procedural matters had a high degree of implementation by councils. However, two recommendations, one calling for the conduct of environmental audits so as to establish compliance by operators with permit conditions and the other requiring entities to submit to councils annual returns of production levels to enable councils to assess whether or not Level 2 activity thresholds had been exceeded, (Recommendations 6 and 8), rated poorly. This indicated that oversight by councils of Level 1 activities may be lacking in these areas, allowing non-compliant businesses to remain undetected.

Also, the Environmental Protection Authority (EPA) Division had not progressed our recommendation for the completion of a guidance manual beyond undertaking some preparatory work⁴. This means that guidance to councils for assessing activities and setting appropriate permit or Environmental Protection Notice conditions remains outstanding.

The overall level of implementation by councils was just below benchmark at 68 per cent.

⁴ At the time that the original report was written Level 2 activities were monitored within the then Department of Tourism, Arts, and the Environment, but which is now part of the Department of Primary Industries, Parks, Water and the Environment.

Selected allowances and nurses' overtime

Selected allowances and nurses' overtime at the Royal Hobart Hospital (RHH) were examined as part of this audit. However, this follow up audit only revisited the nursing overtime component. The original report made no recommendations. As part of this follow up we looked at not only overtime at the RHH, but also resignations and accrued annual leave data. This was included to establish any relationship between overtime worked and resignations and whether increased work loads were resulting in nurses accruing higher levels of annual leave.

We reported in 2007 that we were satisfied overtime hours worked by nursing staff at RHH were not excessive. In this follow-up audit we noted an upward trend in overtime hours worked, but by 2009 this was less than two per cent of total hours worked. At cost centre levels we identified overtime levels of 3.9 per cent in the neo-natal unit and 3.1 per cent in the children's ward. We remain of the view that overtime hours worked by nursing staff at RHH were not excessive even at cost centre levels.

We also reported in 2007 that our original audit revealed no correlation, pattern or relationship between overtime worked and staff resignations. The inclusion of updated data affirms our original finding that an increase in overtime does not result in an increase in resignations. The lack of any relationship may reflect the relatively low level of increased overtime.

Our review of annual leave identified that on an FTE basis, this increased by 6.4 per cent over two years. This could indicate that nurses are deferring leave because of work pressures. However, it could also indicate nurses were taking less leave for reasons other than workload. We found leave balances to be an inconclusive indicator of whether nurses are being subjected to increased workloads.

Procurement in government departments — PV Freycinet

This follow-up audit concentrated solely on reviewing the procurement process undertaken by DPEM in seeking an exemption from calling for tenders for the replacement of the *PV Freycinet*. However, the scope was broadened to allow us to determine whether we had been misled during the original audit. In addition, and in respect to the replacement vessel, we also looked at the vessel's warranty arrangements, serviceability and final cost.

We found, in practice, we were not misled by information provided or withheld by officers at the Department of Police and Emergency

Management (DPEM) during the original audit because we queried ‘operational urgency’ as a ground for an exemption, we gave only peripheral consideration to subsidiary matters such as similarity.

We also questioned whether incorrect references by DPEM officers to a naval architect as ‘independent’ were intended to mislead us. At worst, the incorrect claim marginally exaggerates the independence of the process. Accordingly, we do not believe that the inaccurate claim was evidence of an intention to mislead.

We determined that the replacement vessel for the *PV Freycinet*, the *PV Fortescue*, has not satisfied the operational requirements originally sought by DPEM and which were required to enable it to effectively enforce both state and Commonwealth legislation. We also found that the cost to rectify many of the design faults inherent in the *PV Fortescue*, may add approximately \$500 000 more to the original \$1.179m cost.

List of recommendations

The following table reproduces the recommendations contained in the body of Chapter 4.

Rec No	Section	We recommend that...
1	4.3.1	... Treasury and departments coordinate to ensure that funds are provided in a manner that encourages adherence to tender-based procurement processes.
2	4.3.1	... regardless of urgency, departments should always undertake due diligence checks with respect to the goods or services being procured and the capacity of the provider to supply goods and services.
3	4.3.1	... officers responsible for signing a procurement contract should have a basic understanding of the essential elements of the contract rather than predominantly relying on the advice of others.
4	4.3.2	... that DPEM undertake a review to determine whether to replace or repair the <i>PV Fortescue</i> . The review should take into consideration DPEM’s state and Commonwealth offshore responsibilities.

Audit Act 2008 section 30 — Submissions and comments received

Audit Act 2008 section 30 — Submissions and comments received

Introduction

In accordance with section 30(2) of the *Audit Act 2008*, a copy of this report, or relevant extracts of this report, were provided to applicable government departments, councils and individuals with an interest in the matters reported. A summary of findings was also provided to the Treasurer and all relevant Ministers.

The comments and submissions provided are not subject to the audit nor the evidentiary standards required in reaching an audit conclusion. Responsibility for the accuracy, fairness and balance of those comments rests solely with those who provided a response or comment.

Submissions and comments received

Submissions and comments received for this Report, including comments from those individuals afforded the right to respond to this Report, have been included at the end of each Chapter. No submissions were received from the Treasurer or from any Minister.

Introduction

Introduction

Background

We conduct audits with the goal of assessing the performance and compliance of state sector entities. Identifying areas for potential improvement is an essential part of such audits and recommendations are made in support of that objective.

As a matter of course, we try to reach agreement with clients when framing our recommendations. Due to this collaboration we have an expectation that our recommendations will be actively implemented.

Follow-up audits are undertaken to provide Parliament with information about the extent to which state sector entities have acted on recommendations made in previous Special Reports.

Audit objective

The purpose of the audit was to:

- ascertain the extent to which recommendations in the previous audit reports were implemented
- determine reasons for non-implementation.

Audit scope

Our previous follow-up audit, *Special Report No. 79*, was tabled in May 2009. That report looked at audits tabled between April and August 2006. This follow-up audit looks at special reports 62–65, tabled between November 2006 and April 2007. It also revisits a part of Special Report 70, tabled in November 2007, which examined the replacement of police vessel *Freycinet*. Details of the reports are listed below:

- Special Report No. 62, a performance audit examining:
 - Training and development
- Special Report No. 63, a compliance audit examining:
 - Environmental management and pollution control by local government

- Special Report No. 64, a compliance audit examining:
 - Implementation of aspects of the *Building Act 2000*⁵
- Special report No. 65, contained two compliance audits:
 - Management of an award breach⁶
 - Selected allowances and nurses' overtime
- Special Report No. 70, contained two compliance audits:
 - Procurement in government departments (only the replacement of police vessel *Freycinet* is included in this follow-up audit, with other matters to be included in a subsequent follow-up audit)
 - Payment of accounts by government departments (to be included in a subsequent follow-up audit).

Audit approach

Findings in this audit are based on evidence collected from state entities through survey questionnaires that gauged the extent to which recommendations had been implemented. Those surveys were supplemented by supporting data and documentation. As necessary, we held discussions with entity staff. In some instances, we revisited analyses that had been undertaken in the original audits using updated data and in the case of the *PV Freycinet* follow up we extended our work as outlined in Chapter 4.

About this report

The following chapters, summarised from the original audits, reflect the findings and recommendations that we made. Where we made no findings, there was nothing to follow up. For that reason, our section headings and paragraph numbering will not always align with those used in the original reports. Management responses to the audits may be found in the original reports published in 2006–07.

The 2006–07 audits were conducted under the *Financial Management and Audit Act 1990* the auditing provisions of which

⁵ During the audit, the Department of Justice (DoJ) advised us that recommendations contained within Special Report 64, *Implementation of aspects of the Building Act 2000*, were not acted upon because the functions previously exercised by the Tasmanian Compliance Corporation Pty Ltd, had now been absorbed by the department. We therefore felt it was unnecessary for us to revisit Special Report 64, because its findings and recommendations related to an outsourcing of building regulation responsibilities to an external party.

⁶ Not revisited by this report

were replaced and amended by the *Audit Act 2008*. The new Act defines a collective term — state entities — to cover all state sector organisations including, government departments, local government councils, government business enterprises, state-owned companies, statutory authorities and other public bodies. Where necessary the term *agency* has been replaced with *state entity*.

Timing

Planning for this follow-up performance audit began in October 2009. Questionnaires were sent to clients in December 2009 with the fieldwork completed in April 2010. The report was finalised in September 2010.

Acknowledgement

We acknowledge the assistance given by all the state entities involved with this follow up.

Resources

The total cost of the audit excluding report production costs was approximately \$127 000.

1 Training and development

1 Training and Development

The 2006 report

Training and Development (T&D) plays a significant role in the management and protection of the collective knowledge and skills of the Tasmanian Public Service.

Training is targeted at improving or updating the skills and knowledge that employees need to meet their current job responsibilities. Development, on the other hand, prepares employees for their future job responsibilities.

In this audit we examined T&D to ascertain whether it was effectively managed.

The objectives of the original report were to:

- examine the efficiency and effectiveness of the management of T&D
- determine whether management had set appropriate objectives, strategies, standards, and performance indicators
- assess the adequacy of measurement and reporting systems.

The audit reviewed five government departments, namely:

- Treasury and Finance (Treasury)
- Infrastructure, Energy and Resources (DIER)
- Premier and Cabinet (DPAC)
- Primary Industries, Parks, Water and Environment (DPIPWE) formerly Primary Industries and Water (DPIW)
- Tourism, Arts and the Environment (DTAE). This department, which later became the Department of Environment, Parks, Heritage and the Arts (DEPHA) ceased to exist from 1 July 2009, and has not been specifically followed up by this audit⁷.

The scope of the audit was limited to a:

⁷ The former operating divisions of DEPHA: Parks and Wildlife Service, Aboriginal Heritage Office, Heritage Tasmania and Environment have been transferred to DPIPWE, whilst Arts Tasmania and Tasmanian Museum and Art Gallery have been transferred to the Department of Economic Development, Tourism and the Arts.

- survey of employees at the selected departments — not revisited
- review of the procedures in place at each department.

We applied the following audit criteria:

- determination of T&D needs
- implementation of effective and efficient T&D
- management of T&D.

The next sections of this chapter outline the original report together with audit findings and recommendations made at that time.

1.1 *Determination of T&D needs*

1.1.1 *Identification of required skills, knowledge and ability*

Determining the best strategy for managing T&D requires identification of the knowledge, skills and abilities needed to achieve the objectives of the department. Ideally, this should be done at an individual employee and department level. By comparing existing competencies with necessary competencies, skill gaps will be identified.

The skill gaps should then be analysed to determine if T&D can effectively address the identified needs, how much T&D is required and where it should be targeted.

We found that all departments had a mechanism that defined required skills. Treasury had developed a core competency framework, which was supplemented by an annual analysis of the needs of individual branches. DIER, DPAC and DPIW used statements of duties to assess required knowledge and skills, but also incorporated an assessment of skills required for new major projects.

However, DIER, DPAC and DPIW tended to be focused on tasks rather than competencies. That approach is likely to increase an individual's capacity to undertake current tasks as currently defined but may provide less support for future challenges or new practices. We also noted at DIER and DPAC that:

- There was no formal framework for linking individual T&D needs to department goals and objectives.
- In most cases, statements of duties were not sufficiently detailed and comprehensive to identify all required skills.

Recommendation 1 (DIER, DPAC and DPIW)

Frameworks should be developed or enhanced to identify the current and future knowledge and skills requirements at a department, division, branch and individual level. The frameworks should link directly with mechanisms to identify and appropriately address knowledge and skill gaps.

1.1.2 Identification of employee T&D needs

Having identified required needs, departments should also assess each employee's current levels of knowledge, skills and abilities. Performance Management Reviews (PMRs) are an effective mechanism to identify T&D needs. Ideally, the process should:

- determine whether previously identified training needs have been met
- identify future T&D activities to meet identified skill and knowledge needs by review undertaken by suitably trained personnel.

At Treasury, we found that all PMRs were completed six-monthly, and were subject to centralised monitoring and reporting.

At DIER, DPAC and DPIW, systems were at various stages of development and implementation. At all three departments, the focus was on implementation at a branch level rather than organisational level and accordingly there were substantial variations in the approach and extent of implementation at different branches. The rates of PMR completion in DIER, DPAC and DPIW were all less than 50 per cent in 2004–05.

We also noted DPIW had not implemented any level of centralised monitoring.

Recommendation 2 (DIER, DPAC and DPIW)

The PMR process should be fully implemented across departments with implementation and completion centrally monitored. In conjunction with Recommendation 1, PMRs should be further extended by developing frameworks that identify current and future knowledge and skills requirements at a department, branch and individual level.

1.1.3 Timing of T&D identification

To maximise the effectiveness of the identification of T&D through the PMR process, PMRs should be aligned with the department annual planning period that incorporates knowledge and skill needs

assessment. To ensure T&D needs identified remain relevant, periodic progress reviews should be performed during the year. Progress reviews also ensure that T&D plans are being effectively implemented.

The performance of PMRs at the same time each year may also lead to efficiencies where common T&D needs are identified, programs are developed and implemented simultaneously.

We noted that Treasury performed PMRs every six months for the periods ending 30 June and 31 December. The branch development needs analysis was aligned with the annual planning process. DIER performed PMRs annually on the anniversary date of each employee's commencement, whilst at DPAC and DPIW branches were encouraged but not required to perform PMRs during annual planning activities.

Recommendation 3 (DIER, DPAC and DPIW)

The performance of PMRs should be aligned with the annual planning process. Periodic follow-up reviews should be performed to ensure T&D needs identified remain current and are implemented accordingly.

1.1.4 Approval of T&D

Ideally, all T&D undertaken should be of genuine value to the department. To support that objective, mechanisms should be established to make sure that all T&D is assessed and approved by accountable officers.

To guarantee that accountable officers do appropriately assess T&D, evidence of their approval should identify the T&D as being either:

- planned through the department's formal needs identification process
- meeting some other formally identified organisational need
- not previously identified, but valuable nonetheless.

We found that supervisors and branch managers at Treasury, and branch managers at DIER, DPAC and DPIW must approve all T&D.

However, at DIER and DPAC, forms were generally not used or were used inconsistently, and at DPIW, there was no standardised department approval form. We further noted at DIER that although the T&D application form required the purpose of attending the course to be recorded, there was no requirement to identify whether

or not it was intended to address a need previously identified by formal processes.

Recommendation 4 (DIER DPIW)

A formal training approval process should be implemented that is capable of identifying whether the training is in response to a previously identified need or ad hoc.

Recommendation 5 (DIER, DPAC and DPIW)

Procedures should be introduced to ensure the T&D approval processes are followed with documentation.

1.1.5 Ad hoc T&D analysis

Ad hoc identification and implementation of T&D increases the risk that training will focus on the individual requests from employees rather than being used as a tool for increasing department performance. In our view, it is undesirable that substantial ad hoc training should occur where sophisticated systems exist to identify systemic training needs.

At Treasury we noted a higher than expected percentage (56 per cent) of T&D that had not been based on the formal needs assessment system.

Recommendation 6 (Treasury)

Treasury should look to reduce the quantity of ad hoc training being implemented.

1.2 Implementation of effective and efficient T&D

This section of the Report examined the effectiveness and efficiency of the implementation of T&D within the selected departments of the Tasmanian State Sector.

1.2.1 Implementation of T&D

Departments should have mechanisms to ensure that the identified T&D needs of employees are met.

Treasury had a centralised system for tracking T&D requirements and course attendance. A sample of employees tested indicated that the majority of T&D undertaken was not identified as a result of PMRs. Our sample indicated that although 100 per cent of PMRs completed did identify T&D, only 23 per cent of that T&D had been undertaken at the time of our review.

DPAC had a centralised system for tracking T&D requirements and course attendance. Our sample indicated that only 24 per cent of T&D identified in PMRs had been undertaken at the time of our review.

We were unable to assess at DIER and DPIW whether T&D needs were being effectively implemented as the PMR process was in the early stages of implementation.

Recommendation 7 (all departments)

Departments should use the PMR process effectively to make certain that identified training needs from previous PMR processes have been implemented.

A system should be implemented to assess the effectiveness of the PMR process as it relates to T&D.

1.2.2 Internally provided T&D

In this category we included:

- internally developed training programs
- external T&D programs delivered in-house
- Tasmanian Training Consortium (TTC) T&D programs.

T&D programs should be developed and the availability of T&D activities should be made known to all employees within departments. T&D programs should be assessed periodically to ensure the programs remain relevant.

Treasury developed six-monthly corporate T&D programs that reflected T&D priorities identified through PMRs.

Limited T&D programs were centrally co-ordinated at DIER, DPAC and DPIW. Branches were primarily responsible for the implementation of all T&D. There were no other mechanisms to continually identify common training needs within these departments.

Recommendation 8 (DIER, DPAC and DPIW)

Periodically, common T&D needs of the department should be identified. T&D programs addressing common needs should be developed and endorsed by the respective management group.

The success of the programs should be centrally monitored and reported.

1.2.3 *State Service Act and The Training Consortium (TTC)*

TTC is a unit within DPAC that provides training for the Tasmanian State Sector. On the one hand, it is just another training coordinator in a competitive market and we have given little attention to this aspect of its operations. On the other hand, we believe the TTC has an important role in ensuring that the principles of the *State Service Act 2000* (SSA) are effectively promulgated. We were interested to see whether departmental processes were effective to ensure that employees receive this training.

There was no consistent or widespread strategy within departments to ensure all employees received sufficient T&D on the SSA code and principles. However, Treasury included the requirement to uphold SSA principles in its core competency frameworks. Treasury's induction program included new employees discussing and formally confirming their understanding of the SSA principles and code. Furthermore, Treasury also required employees to read and affirm their commitment to the SSA principles and code of conduct at each six-monthly PMR.

Recommendation 9 (DIER, DPIW and DPAC)

Departments should implement mechanisms to ensure that all employees' knowledge, skills and abilities include the requirements of the SSA code and principles.

1.2.4 *T&D funding*

An indicator of a department's commitment to T&D is the level of investment it makes in training and developing its employees. T&D, however, can be viewed not only as an investment but also as a cost that can be increased or decreased in response to budget decisions.

To ensure resources are effectively used, budgets should be developed and clearly aligned against the T&D needs and priorities. Budgets and T&D activities should be regularly monitored to ensure priorities are effectively and efficiently met.

Table 1 shows the T&D spending in the financial years 2004–05 and 2008–09. The 2008–09 figures were provided as part of the follow up process.

Table 1: T&D investment and participation:

Department	Average cost per employee 2004–05	Average cost per employee 2008–09
DIER	\$900	\$960
DPAC	NA	\$728
DPIW/DPIPWE	NA ⁸	\$800
Treasury	\$863	\$1044

At Treasury two groups developed and monitored the Corporate T&D budget. The budget was based on T&D identified through PMRs and the annual branch development needs assessment. The mechanism for the development and monitoring of other T&D budgets outside of the corporate budget was the responsibility of individual branches.

At DIER, DPAC and DPIW we found there was no requirement to directly link T&D identified by PMRs and other mechanisms to the budget established.

Recommendation 10 (DIER, DPAC, DPIW)

Departments should monitor the expenditure on T&D as one element of determining whether the level of T&D is appropriate.

Recommendation 11 (DIER, DPAC, DPIW)

Departments should make an annual assessment of the effectiveness of the training budget.

1.2.5 Evaluation of cost-effectiveness

Departments should obtain feedback on their T&D investment and report on how T&D has affected performance. Furthermore, the results should also be used to assist in improving the cost-effectiveness of future T&D.

It is difficult to evaluate the effectiveness of T&D because of the inability to isolate its contribution to both organisational outcomes

⁸ T&D expenditure was not separately tracked within the financial management information system

and employee development, although models have been developed that purportedly can assist with such evaluations⁹.

All Treasury employees attending in-house or externally provided T&D were requested to provide feedback. In addition, employees and their supervisors completed T&D action plans for all courses longer than one day. HR collated the results from this information and provided reports to the Learning and Development Committee.

However, there was no structure or process within Treasury to evaluate the effect T&D had on departmental performance. Assessments did not involve the extraction and collation of information on the extent to which PMR-identified skill deficiencies had been rectified by training undertaken between successive PMRs.

We noted that all Treasury employees attending in-house or externally provided T&D were requested to provide feedback. However, none of Treasury, DIER, DPAC and DPIW had mechanisms to evaluate the effectiveness and efficiency of T&D processes and activities and the overall effect T&D had on department performance.

Recommendation 12 (all departments)

There should be a mechanism to ensure that, where applicable, T&D leads to information sharing with other employees.

Recommendation 13 (DIER, DPAC, DPIW)

Departments should implement effective feedback mechanisms to assist in evaluation of T&D activities.

Recommendation 14 (all departments)

Departments should attempt to evaluate the improvement in organisational performance from T&D activities.

1.2.6 Promoting cost-effectiveness

Previously, we looked at whether departments were considering cost-effectiveness of training provision. We found that Treasury maintained a matrix of preferred training providers and courses that

⁹ Australian Public Service Commission, 2005, *Evaluating Learning and Development: A Framework for Judging Success*, 2005.

was updated every six months. The remaining departments did not maintain a centralised listing of preferred T&D providers and courses, but all departments provided a link to the TTC. There were no mechanisms to assess the cost-effectiveness of courses.

Recommendation 15 (DPAC, DPIW)

Departments should develop a listing of preferred training providers including available courses to meet their core competency requirements. Cost-effectiveness of preferred training providers should be regularly reassessed.

1.3 *Management of T&D*

This section of the report examined some T&D management processes, including:

- T&D policies and procedures
- management records
- monitoring and reporting
- structure.

1.3.1 *T&D policies and procedures*

Departments need to have clear T&D strategies in order to ensure an increase in departmental performance rather than just addressing the individual requests of employees or mandatory training. The strategy needs to be effectively communicated and promulgated via policies and procedures.

We found that at Treasury there were policies and procedures to support T&D. The policies adequately reflected current processes and were continually assessed and updated.

There were several policies and procedures to support T&D within DIER. However, the policies did not reflect current processes and were not widely used by employees.

Both DPAC and DPIW had extensive performance management policies but there were no specific T&D policies and procedures.

Recommendation 16 (DIER, DPAC and DPIW)

Policies and procedures for the management of T&D should be re-developed and cover all aspects of the management of T&D, including:

- **identification of training needs**
- **link between T&D and department objectives**
- **approval and documentation processes**
- **roles and responsibilities**
- **T&D budget.**

Recommendation 17 (DIER)

DIER should ensure that its T&D policy is current and that current practices are in accordance with the policy.

1.3.2 Management records

Complete and accurate T&D records are an essential tool for maximising the effective and efficient identification and implementation of T&D. Also, T&D records are required to evaluate the effectiveness of T&D and the appropriateness of the supporting processes and procedures.

Treasury maintained comprehensive records in two separate databases updated manually by HR, but there was no electronic link between courses attended and needs identified through PMRs.

Both DIER and DPAC maintained information, updated manually by HR. DPAC used two separate databases, whilst DIER's was more limited. DPIW did not have any centrally maintained records, although individual branches maintained varying levels of information about training courses completed.

Recommendation 18 (all departments)

Departments should upgrade their records of T&D identified and attended to improve management decision-making.

1.3.3 Monitoring and reporting

Departments need monitoring and reporting processes to enable management to determine whether:

- knowledge and skill needs are being addressed

- the level of T&D is excessive
- T&D is equitable between employees and branches
- T&D being provided is at a reasonable cost
- T&D is effective.

Treasury and DPAC had mechanisms in place to assess and continually improve T&D processes, but no reporting mechanisms to specifically assess whether training was effective. However, both DIER and DPIW did not routinely report any information regarding the management of T&D to their departmental management groups.

Recommendation 19 (DIER, DPAC, DPIW)

Performance information on all T&D activities and processes should be reported periodically to the management group.

Recommendation 20 (all departments)

Reporting should include an evaluation of the efficiency and effectiveness of the extent to which T&D needs had been met and T&D had been effective.

1.3.4 Structure

Departments need to have clearly defined roles and responsibilities for managing T&D. Treasury had a more centralised model. DIER, DPAC and DPIW had largely devolved implementation and management of T&D to divisions and branches.

Recommendation 21 (DIER, DPAC, DPIW)

Departments that currently use a devolved T&D model should consider adopting whole of department approaches to some T&D management functions, for example policy development and reporting.

1.4 Status of recommendations

The 21 recommendations reviewed in this Report are listed in abbreviated format in Table 2 below. It indicates the degree to which department have implemented our recommendations.

Table 2: Training and Development — Degree of implementation of recommendations by departments

No	Recommendations (abbreviated)	DIER	DPAC	DPIPWE	Treasury	All
1	DIER, DPAC and DPIPWE Frameworks should be developed or enhanced.	25%	50%	100%	n/a	58%
2	DIER, DPAC, DPIPWE The PMR fully implemented across departments.	100%	75%	100%	n/a	92%
3	DIER, DPAC and DPIPWE PMRs should be aligned with the annual planning process.	100%	100%	100%	n/a	100%
4	DIER, DPIPWE A formal training approval process should be implemented	50%	n/a	100%	n/a	75%
5	DIER, DPAC, DPIPWE Procedures for T&D approval documentation.	25%	75%	75%	n/a	58%
6	Treasury Reduction in ad hoc training.	n/a	n/a	n/a	100%	100%
7	All departments PMRs used to ensure training needs from previous PMRs have been implemented.	75%	100%	75%	75%	81%
8	DIER, DPAC, DPIPWE T&D programs addressing common needs developed, monitored and reported.	50%	75%	50%	n/a	58%
9	DIER, DPIPWE, DPAC Ensure employees' knowledge includes requirements of the State Service Act's code and principles.	75%	50%	100%	n/a	75%
10	DIER, DPAC, DPIPWE Monitor expenditure on T&D.	25%	0%	100%	n/a	42%

11	DIER, DPAC, DPIPWE An annual assessment of effectiveness of training budget.	0%	0%	50%	n/a	17%
12	All departments ...ensure that, where applicable, T&D leads to information sharing with other employees.	0%	50%	50%	75%	44%
13	DIER, DPAC, DPIW ...implement effective feedback mechanisms to assist in evaluation of T&D activities.	75%	75%	75%	n/a	75%
14	All departments ...evaluate the improvement in organisational performance from T&D activities.	25%	75%	50%	50%	50%
15	DPAC, DPIPWE Develop listing of preferred training providers.	n/a	50%	100	n/a	75%
16	DIER, DPAC and DPIPWE Policies and procedures re-developed to cover all aspects of the management of T&D.	25%	0%	25%	n/a	17%
17	DIER Ensure that its T&D policy is current.	0%	n/a	n/a	n/a	0%
18	All departments Upgrade records of T&D identified and attended.	25%	0%	50%	75%	38%
19	DIER, DPAC, DPIPWE Report performance information on all T&D activities and processes.	0%	0%	25%	n/a	8%
20	All departments Reporting should include the effectiveness of T&D.	0%	0%	25%	75%	25%

21	DIER, DPAC, DPIPWE Departments using a devolved T&D model should consider a whole of department approach.	0%	50%	50%	n/a	33%
	Number of recommendations	19	18	19	6	
	Average degree of implementation	DIER 36%	DPAC 43%	DPIPWE 66%	Treasury 75%	All 55%

We acknowledge that DPIPWE encountered difficulties in implementing our recommendations due to the integration of many of the functions previously performed by the now disbanded DEPHA¹⁰. Some corporate planning was suspended in 2009 due to the merger, but DPIPWE's executive has now endorsed a new corporate planning model. Previously planned, but delayed, T&D initiatives can now be implemented. DIER emphasised that whilst it disagreed with the specific intent of some of our recommendations, it would address the relevant findings by alternate means.

PMRs were being implemented across all departments, although due to the integration of parts of DEPHA by DPIW, DPIPWE's ability to align its PMRs with the annual planning process was affected. We also found that departments were generally using PMRs to ensure that certain identified training needs from previous PMRs were implemented.

Recommendations 10 to 14, which dealt with monitoring, evaluation and assessment of T&D activities, showed an overall implementation rate of only 46 per cent. Departments largely failed to implement an annual assessment of the effectiveness of the training budget (Recommendation 11). Both DIER and DPAC indicated they intend to implement or consider this recommendation in the near future, despite our report now being almost four years old.

Recommendations 15 to 21 focused on policy development, record keeping and reporting. In total, the degree of implementation for these recommendations was very low (28 per cent). Implementation of a new learning and development policy (T&D policy) at DIER will be developed as part of its new learning and development framework, which is currently being developed.

¹⁰At the time of the original 2006 audit DEPHA was called the Department of Tourism, Arts and the Environment (DTAE). The former operating divisions of DEPHA: Parks and Wildlife Service, Aboriginal Heritage Office, Heritage Tasmania and Environment have been transferred to DPIPWE, whilst Arts Tasmania and Tasmanian Museum and Art Gallery have been transferred to the Department of Economic Development, Tourism and the Arts.

1.5 Conclusion

The rate of implementation of our recommendations for the 2006 report was modest, with few recommendations fully implemented. The merger of DEPHA and DPIW seriously disrupted DPIPWE's ability to implement many of our recommendations. However, whilst Treasury implemented many of our recommendations, DIER and DPAC seem to either be slow in implementing many of our recommendations or will address them by alternate means.

1.6 Submissions and comments received

Department of Infrastructure Energy and Resources

This Agency places a lot of importance on the development of our people and whilst a number of recommendations have yet to be implemented, the Agency has focussed its priorities over the last two to three years on leadership development and performance management supporting a more structured approach to learning and development activities.

The Agency is intending to develop a Learning and Development Framework over the coming 12 months which will address a number of the recommendations in the audit report. The development of this framework will take into account a number of the recommendations made in the report, in particular, Recommendations 8, 10, 11, 14, 16, 17 and 21. This framework will determine the most appropriate approach to learning and development for the Agency. It will ensure that learning is aligned with the needs of the business; integrate learning with other HR and business processes; identify a broad range of appropriate learning options; assist in managing learning effectively in the Agency; and provide mechanisms to evaluate the effectiveness of learning and development.

It should be noted in relation to Recommendations 4 and 5 that this Agency has in place a performance management system that identifies learning and development needs. Participation in development activities is negotiated between the individual and their manager, based on business needs and the individual's development plan. Whilst this Agency does not have in place a central process for approval of training documentation, each division within the Agency has in place a process for approval of training activities.

Whilst Recommendation 18, regarding the upgrade of records of training and development identified and attended, will be considered in the development of the abovementioned learning and development framework, it should be noted that due to potential high costs and resources the full implementation of this

recommendation may not be possible. The Agency's performance management system includes a learning and development plan which records the development needs for individuals for the coming 12 months.

The Agency is expecting to engage in workforce planning in 2010 and 2011 which will also inform our learning and development priorities and activities at a business unit level. A recent review of the Agency's performance management system has highlighted possible changes, including the introduction of capabilities to help in identifying learning and development needs for employees and career development processes.

Department of Primary Industries, Parks, Water and Environment

The formation of DPIPWE has presented challenges to implementing the full list of recommendations arising from the original audit. DPIPWE is continuing to develop its policies, systems and processes to support the new Agency, particularly those that support organisational development.

T&D in DPIPWE is intricately linked to the Performance Management system where T&D needs are established, planned and reviewed. To this end a new Performance Management system to replace the two systems inherited from the former Agencies of DPIW and DEPHA is being developed. The new system will drive the annual cycle of employee performance management reviews and be linked to Agency business planning and salary movement processes. An intended outcome of this will be training and development aligned to business needs and catering to individual development needs.

A record management database previously developed by DEPHA is also being implemented Agency-wide. The database enables tracking of performance management activities and T&D to be recorded on-line.

DPIPWE is largely decentralised in its approach to T&D due to the diverse range of activities it undertakes. Additional policy and procedures for T&D outside the Performance Management system is not seen as critical. Whole of Agency T&D programs will only be developed from the organisational development directions set by the senior management team (Executive), such as on leadership development, management training and health and safety.

It is not the Agency's intention to develop core competencies at an Agency level, therefore the requirement to identify gaps in T&D in this respect and report to a central point is not being pursued. There are, however, procedures in place formalising the application

process to register for established programs such as DPIPWE Essentials.

The reporting capability of the Agency is presently being developed, however at this stage due to the diverse nature of the Agency there are no plans to develop centralised processes to report on whether T&D is excessive, equitable between employees or provided at reasonable cost.

For similar reasons, no steps are being taken to centrally monitor the overall effectiveness of T&D expenditure, except for T&D programs developed and managed centrally, which will continue to be monitored by the Executive.

Department of Premier and Cabinet

As a general comment, DPAC has progressed the recommendations that are of most benefit to the Department and has implemented the following training and development initiatives that are consistent with the Department's strategic goals and objectives:

- annual reviews of the Performance Management Development process
- a robust Advance Assessment point process that relies on and promotes skill and knowledge enhancement to stretch employees capabilities beyond the basic requirements for their positions
- a comprehensive leadership program for supervisors and managers.

DPAC has made considerable progress in implementing the recommendations and is committed to ongoing improvement.

The training and development framework within DPAC is an integral component of our Performance Management Development (PMD) process, which has had significant improvements each year since 2006 and is subject to an annual review process following the completion of the cycle.

DPAC's new PMD process now better aligns with:

- the Department's planning process by allowing divisions to align divisional plans with staff work plans
- Salary Progression and Advanced Assessment requirements within the Tasmanian State Service Award 2009.

DPAC believes that this realignment of the PMD process assists in meeting all of the recommendations made in the report.

In relation to Recommendations 5, 8 and 9, the following comments are made:

Recommendation 5 — When enrolling for training, a provider will generally require a form to be completed. DPAC has taken the view that this form is sufficient for our approval process, which is required to be approved by a supervisor with a financial delegation.

Recommendation 8 — DPAC is considering strengthening the PMD process to include more centrally co-ordinated training. However it should be noted that DPAC implemented a comprehensive leadership program in 2009.

Recommendation 9 — The State Service code and principles are referred to in Statements of Duty. Annual Performance Management Review meetings with staff include a review of their Statements of Duty, which reinforces the State Service code and principles with staff.

Department of Treasury and Finance

I do not have any comment to make for publication.

2 Environmental management and pollution control by local government

2 Environmental management and pollution control by local government

The 2006 report

The *Environmental Management and Pollution Control Act 1994* (EMPCA or the Act) is part of a suite of legislation enacted to underpin resource management and planning in Tasmania.

EMPCA's objectives include:

- protection and enhancement of the environment
- prevention of degradation and adverse risks to human and ecosystem health
- regulation, reduction or elimination of the discharge of pollutants and hazardous substances to air, land or water.

Activities with the potential to produce environmental harm are classified under the legislation as Levels 1, 2 or 3. Level 3 activities are projects of state significance and are assessed by a separate statutory body. Level 2 activities generally involve medium- to large-scale industrial projects with the potential to cause material or serious environmental harm. These activities are now assessed by the Environmental Protection Authority Board, and subsequently regulated by the director under the Environmental Protection Authority Division, DPIPWE¹¹. The 2006 audit did not examine Level 2 or 3 activities.

Level 1 activities are viewed as small-scale or low-impact with limited potential to cause environmental harm. Local government is responsible for assessing and monitoring Level 1 activities. While Level 1 activities are smaller than large-scale Level 2 industries, they are more plentiful and cumulatively could pose an environmental risk.

For Level 1 activities, each council is responsible for developing its own processes, systems and documentation. The assessment and decision-making procedure for Level 1s is mainly the responsibility of the Planning Authority (i.e. local government when it is undertaking that statutory role).

The objective of the original audit was to review management practices by councils to determine whether the requirements of the

¹¹ At the time that the original report was written Level 2 activities were monitored by the Environment Division within the then Department of Tourism, Arts, and the Environment.

Environmental Management and Pollution Control Act 1994 were being complied with in respect of Level 1 activities.

In the 2006 audit, to gain a statewide perspective, we examined six councils from around the state to assess their compliance with EMPCA, namely:

- Central Coast
- Glamorgan Spring Bay
- Glenorchy City
- Hobart City
- Kingborough
- West Coast.

To achieve the 2006 audit objective, we developed the following audit criteria:

Criterion	Requirement considered
How councils recognise their EMPCA obligations	Completeness: are all development applications assessed for EMPCA purposes?
	Guidelines: do clear assessment guidelines exist?
	Recording: is assessment documentation kept and maintained?
Councils' monitoring obligations for Level 1 activities	Environmental audits: are councils undertaking environmental audits?
	Trade wastes: do councils have a trade waste policy which requires discharge of trade wastes to be subject to permits and agreements?
	Complaint handling: do councils have effective processes to respond to complaints from the community, industry or ratepayers?
	Up-scaling: do councils have procedures to monitor growth in the size of businesses that could require referral for Level 2 assessment?
	Level 2 permits: do councils include unamended Board-imposed permit conditions in council planning permits?
	Environmental monitoring: do councils require environmental monitoring for Level 1 activities?

The next sections of this chapter outline the original report together with audit findings and recommendations made at that time.

2.1 *How councils recognise their EMPCA obligations*

2.1.1 *Recognition — Audit interpretation of Act*

In order to achieve the requirements of the Act, we considered that councils have to provide the following functionality for development applications:

- ensure that all are assessed for EMPCA purposes (completeness)
- are assessed with clear guidelines (guidelines)
- assessment information is recorded and maintained (recording).

2.1.3 *Completeness*

In line with our interpretation of councils' obligations, we reviewed the ways that councils handled new development applications and exercised their powers to refuse or grant them either unconditionally or subject to conditions.

Based on the samples that we reviewed during the audit, no development applications had bypassed the need for assessment for EMPCA purposes and our criterion of completeness was satisfied.

2.1.4 *Guidelines*

Advice as to what Level 1 activities could be, and how they should be managed, was available from the *Environmental Assessment Manual* issued by the former Department of Environment and Land Management in January 1996. However, we noted that the *Environmental Assessment Manual* was incomplete and somewhat out of date in respect to assessing activities and the setting of appropriate permit or Environment Protection Notice (EPN) conditions.

Recommendation 1

Environment Division should consider updating and completing the 1996 *Environmental Assessment Manual* to provide guidance to councils for assessing activities and setting appropriate permit or EPN conditions.

The addition of standard permit/EPN conditions (similar to those used by the Environment Division for Level 2 activities) should be included to ensure legal and technical rigour.

Amongst the councils that we audited, Glenorchy and Central Coast had comprehensive environmental policies and guidelines. At the remaining councils, management of new Level 1 proposals relied on the expertise and experience of council officers in dealing with provisions of EMPCA (and its subordinate legislation)¹². Amongst the councils that we audited, scrutiny of development applications from an environment standpoint occurred in one of two ways.

- The Environmental Health Officer (EHO) was directly involved as a member of the assessment team.
- Planning officers initially assessed development applications without the involvement of the EHO, but passed on applications that they considered to have environmental considerations to the EHO.

We were concerned that there could be omissions where planning officers make initial decisions without the direct input from EHOs.

Recommendation 2

To ensure that all development applications are vetted for environmental implications, councils should include EHOs directly in the initial assessment process.

For Level 1 development applications the role of the EHO, or Environmental Health Section in the case of larger councils, was to determine and apply appropriate permit conditions for the proposed activity approval using either the Environmental Assessment Manual or industry codes of practice published by the Environment Division.

At Glenorchy City we observed the use of 'advisory' conditions that were attached to, but not part of the planning permit: a planning document indicated: 'This advice does not form part of the permit but is provided for the information of the applicant.' In another planning permit with advisory conditions that we reviewed, there was no such advice. In the former instance, one of the advisory points put the onus on the applicant for a Level 1 activity to take specific action in the event of environmental nuisance or serious or material environmental harm being caused. As this was a specific legislative requirement, we consider that this should be a condition under which the planning permit is issued.

¹² Subordinate legislation includes *Environmental Management and Pollution Control (Waste Management) Amendment Regulations 2005*, *Environmental Management and Pollution Control (Miscellaneous Noise) Regulations 2004*.

Recommendation 3

Planning permits should contain environmental conditions that are capable of being enforced.

2.1.5 Recording

We considered that it was necessary for assessment decisions to be recorded and maintained in order to demonstrate compliance with the Act.

In the main, councils did not have records for Level 1 activities separately available. Therefore, we were unable to examine development applications for those activities and drew our testing samples from across the board.

Although councils had systems that ensured there was oversight of development applications, we noted some instances at the larger councils where recording of information was incomplete.

Recommendation 4

Evidence of environmental assessment of planning documents should be noted in council records.

We noted in the 2006 report that there was no statutory requirement for councils to register or licence Level 1 activities. Nevertheless, without records there is no easy way for councils to pinpoint the location, number and type of Level 1 activities that could be operating within the municipal boundaries — particularly where these activities may be of long standing or intermittent. In our 2006 report we found that the only council with a register of Level 1 activities was Central Coast.

Recommendation 5

Registers of Level 1 activities should be compiled beginning with relevant new development applications. From that starting point, existing activities (that would be classified as Level 1 if submitted now) should be added to councils' registers to facilitate targeted reviews.

2.2 Councils' monitoring obligations for Level 1 activities

2.2.1 Monitoring — Audit interpretation of the Act

To achieve the requirements of the Act in relation to monitoring, we considered that there are actions that councils need to take.

Accordingly, in this part of the audit we examined the following aspects:

- environmental audits
- trade waste agreements
- complaint handling
- potential up-scaling of Level 1 activities
- treatment of permit conditions for Level 2 industries
- background monitoring of environmental conditions.

2.2.2 Environmental audits

With a range of smaller scale commercial and industrial activities occurring in their municipalities, we tested to determine whether councils undertook environmental audits of Level 1 activities. The results are shown in Table 3.

Table 3: Environmental audits of Level 1 activities

Council	Audits conducted
Hobart City	No environmental audit program for Level 1s. However, consultants had been engaged to perform a one-off environmental audit in May 2006.
Glenorchy City	The first audits were conducted in 2002, with only two of the nine businesses audited found to be satisfactory. Other industries were included in a proposed environmental audit program, but audits had not commenced due to resource constraints.
Kingborough	No environmental audit program for Level 1s.
Central Coast	A full programme of annual audits that were either performed against environmental conditions imposed during planning assessment or, in the case of activities that were already established, set out in an Environmental Protection Notice. Level 1-type activities were audited against industry standards and codes of practice.
West Coast	No environmental audit program for Level 1s.
Glamorgan Spring Bay	No environmental audit program for Level 1s.

Recommendation 6

Councils should conduct environmental audits of Level 1 activities at regular time intervals to establish compliance by operators with permit conditions. As well as advising business operators of industry standards of best practice, audits would enable EMPCA enforcement action to be initiated as necessary.

2.2.3 Trade Waste Agreements

Under EMPCA, councils have to meet all environmental requirements relating to the collection, disposal or re-use of effluent and sludges from their sewerage systems. Trade wastes are classified according to the nature of effluents discharged. Generally, smaller volume discharges (and those having lower concentrations of suspended solids) are subject to permits while discharges with higher levels of suspended solids or containing pollutants that could adversely affect wastewater treatment plants are subject to agreements.

Recommendation 7

Where future developments at smaller councils will lead to substantial generation of trade wastes, councils should prepare a trade waste policy framework to manage agreements or permits.

Since July 2009, oversight of trade wastes passed from councils to the three new regional water and sewerage companies. Therefore, this recommendation has not been followed up for implementation. However, it may be followed up in any possible future audit of the regional water and sewerage companies.

2.2.4 Complaints

Complaints made to councils may be the first sign that there is likely risk of environmental harm or that a pollution incident has occurred. For that reason, councils need processes in place to handle complaints from the community, industry or ratepayers.

Overall, we found a very low level of environmental complaints related to Level 1 activities.

2.2.5 Potential up-scaling of Level 1 activities

Schedule 2 of EMPCA defines Level 2 industries: some are so classified regardless of their capacity or production volume. For

others there are thresholds that determine whether the activity is Level 1 or 2.

Local government regulates businesses that operate below the thresholds in Schedule 2. However, where expanded operations lead to those limits being exceeded, these activities should then be referred to the Board for Level 2 assessment. In our testing, we wanted to confirm whether councils had procedures to monitor growth 'creep' in those activities where it could be an issue.

At each of the six councils, staff confirmed that where approval had been given for a development application (that was clearly not a Level 2) there were no procedures in place to subsequently monitor the extent of its business operations that could indicate an escalation to Level 2. Similarly, there was no requirement under EMPCA for businesses undertaking Level 1 activities to report their annual production to councils.

Recommendation 8

Councils should consider annual returns of production levels for those Level 1 activities where there is a possibility that they could exceed the Level 2 threshold if their business operations expand.

2.2.6 Treatment of permit conditions for Level 2 industries

As planning authorities, councils are required by EMPCA to refer applications for Level 2 industries to the Board¹³. Environmental conditions imposed by the Board then are included in the councils' planning permit that will often contain other kinds of permit conditions.

In the planning phase of our audit, Environment Division advised us of instances where councils re-drafted or in other ways amended the original environmental conditions. That situation had created gratuitous difficulties later for staff in their dealings with owners and operators of industrial facilities.

Accordingly, we reviewed a sample of council planning documentation for Level 2 industries to ascertain whether Board environmental conditions were unamended. Permit conditions from Environment Division in respect of Level 2 industries had been

¹³ *Environmental Management and Pollution Control Act 1994* section 25

incorporated in council planning permits without amendment and in their entirety.

2.2.7 Environmental background monitoring

Environmental management is supported by monitoring of background conditions such as air and water quality in rivers or streams. For example, the *Public Health Act 1997* requires councils to monitor water quality to ensure that there is no danger to public health and to report to the Director of Public Health regularly.

We sought to ascertain whether councils routinely required Level 1 activities to undertake any monitoring of background conditions. With very few exceptions, councils did not require Level 1 activities to undertake any such monitoring. Nevertheless, most councils were involved in some form of background monitoring, including air, water and landfill sites.

In Tasmania, an administrative difficulty arises in this area in that forestry specifically falls outside of the Tasmania's Resource Management and Planning System. As the situation currently exists, if landowners have their property classed as a private timber reserve by the Forest Practices Authority, future operations on that land (whether establishing or harvesting tree plantations) are covered by a separate statewide planning system that falls outside the scope of council control.

Recommendation 9

Where forestry operations on private timber reserves may have negative consequences for local communities and industries, councils should actively explore mechanisms through existing consultative bodies, including the Local Government Forestry Consultative Committee and Forest Practices Advisory Council to mitigate adverse effects.

2.3 Status of recommendations

The following table reproduces the recommendations contained in the Executive summary of Special Report No. 63.

**Table 4: Environmental management and pollution control
by local government — Degree of implementation**

No	Recommendations (abbreviated)							Total
	EPA Division (now part of DPIPWE)							
1	EPA Division should consider updating and completing the 1996 Environmental Assessment Manual to provide guidance to councils for assessing activities and setting appropriate permit or EPN conditions.							25%
	Local Councils	HCC	GCC	KCC	CCC	WCC	GSBC	
2	All development applications are vetted for environmental implications.	100%	100%	100%	100%	100%	100%	100%
3	Planning permits should contain conditions that are capable of being enforced.	100%	100%	100%	100%	50%	100%	92%
4	Evidence of environmental assessment in records	100%	100%	100%	100%	50%	100%	92%
5	Registers of Level 1 activities should be compiled.	25%	100%	50%	100%	50%	100%	71%
6	Councils should conduct environmental audits of Level 1 activities.	25%	0%	0%	50%	n/a	0%	15%
7	Councils should prepare a trade waste policy framework.	n/a	n/a	n/a	n/a	n/a	n/a	n/a
8	Councils should consider annual returns of production for certain Level 1 activities.	25%	0%	0%	0%	n/a	0%	5%

9	Where forestry operations on private timber reserves may have negative consequences, councils should actively explore mechanisms through existing consultative bodies.	75%	100%	100%	75%	n/a	75%	85%
		HCC	GCC	KCC	CCC	WCC	GSBC	Total
	Overall % implementation per council	64%	71%	64%	75%	63%	68%	68%*

* Excludes rating for Recommendation 1, which only applied to Environment Division.

Recommendation 1 only applied to DTAE (now DPIPWE), but had received strong support from councils. Despite the report being tabled in November 2006, the task of updating and completing the 1996 *Environmental Assessment Manual* had not been completed due to lack of resources and other priorities. This means that guidance to councils for assessing activities and setting appropriate permit or EPN conditions remains outstanding. However, reviews of some information that could assist local government with dealing with Level 1 activities have been undertaken by DPIPWE.

We found a high level of implementation for those recommendations that were largely procedural in nature (Recommendations 2 to 4), with only West Coast experiencing difficulties in fully implementing Recommendations 3 and 4. Whilst Recommendation 5 was fully implemented by three councils, it was only partially implemented by the other three councils. Even though Glenorchy City had fully implemented a register of Level 1 activities it argued that until there was a clear definition of what a Level 1 activity was it was not feasible to maintain a comprehensive register.

Only Hobart City and Central Coast had partially implemented our recommendation for councils to conduct environmental audits of Level 1 activities (Recommendation 6). Surprisingly, Central Coast, which in the past had conducted an environmental auditing program, was now holding its program in abeyance due to staff shortages. Other councils also used lack of resources as a reason for non-implementation of this recommendation.

Since the creation of the water and sewerage bodies last July, councils are no longer responsible for developing trade waste

policies. Therefore, Recommendation 7 is no longer applicable to councils.

Only Hobart City had attempted to implement Recommendation 8 by monitoring some Level 1 activities through the development application assessment process, but conceded it was still a work-in-progress. Other councils dealt with increased production levels on an ad hoc basis. Whilst Glenorchy City supported the recommendation, it had not implemented it. West Coast considered that it was unlikely that any of its Level 1 activities would ever approach upper threshold levels.

We found that those councils with private forests within their boundaries had either substantially or fully implemented Recommendation 9. West Coast indicated that it did not have any private forests.

2.4 Conclusion

Overall, councils had implemented 68 per cent of the original recommendation from the 2006 report. DPIPWE had only implemented 25 per cent of the only recommendation applicable to it. We noted that some of the smaller councils have resourcing issues. Monitoring and checking for compliance of Level 1 activities seemed to be areas where councils were either reluctant to act, or lacked the resources to act. Regardless of the reasons, it indicated that oversight by councils of Level 1 activities may be lacking in these areas, allowing non-compliant businesses to remain undetected.

2.5 Submissions and comments received

Department of Primary Industries, Parks, Water and Environment

Following the recent audit findings, the Environment Protection Authority (EPA) Division has initiated a joint project with the Local Government Association of Tasmania (LGAT) to review and update the 1996 Environmental Assessment Manual.

The 2006 audit report Recommendation 1 was first suggested by the then Environment Division and later adopted by the Tasmanian Audit Office. It was not progressed by the Environment Division because of competing priorities and that there were no requests or initiatives from local government authorities to progress the project. It would have been appropriate for the 2006 report to recognise that the project needs to be a joint initiative with local government.

Over recent years EPA Division has updated several documents dealing with environmental assessments, including:

- Development Proposal and Environmental Management Plan Guidelines
- Notice of Intent Guidelines
- Assessment Procedures.

These are all available online and the principles evident in them can easily be used by a proponent or council in preparing or considering a Level 1 application (particularly the Environmental Effects Report proforma).

The EPA Board's assessments of Level 2 applications are also available online. These are useful for assessing similar but less environmentally sensitive Level 1 activities. Resultant Board-imposed conditions can also be easily adapted to suit such developments.

Since 2006, the Division has proactively conducted workshops with local government on noise management and measurement to assist council officers in assessing and regulating Level 1 activities. This has resulted in the development of a training manual and a strategic framework for noise management in the State entitled Environment Protection Policy (Noise) 2009. Together with noise regulations this policy harmonises the regulation of noise across Level 1 and Level 2 activities.

Central Coast Council

The Council is in general agreement with the report. This said however, the Council does not believe that it is accurate to assert that councils are reluctant to act in the monitoring and checking of Level 1 activities. While many councils do not have the resources to implement systematic Level 1 Activity monitoring programs (i.e. an environmental auditing program), they do actively investigate the operations of Level 1 activities when issues are raised through means such as complaints, development applications, officer observation (etc).

Glamorgan Spring Bay Council

Council has reviewed your report and concur with its findings. Council will endeavour to comply with the recommendations that it is not fulfilling fully, subject to resources being available.

Glenorchy City Council

In general, the findings of the audit accurately reflect the information that was submitted by Council. Council would, however, like to again highlight the difficulties we have with the definition of a Level 1 activity, and in particular how this impacts on your Recommendations 5 and 6. The definition of a Level 1 activity

includes anything which may cause environmental harm (including an environmental nuisance) and requires a planning permit and which is not a Level 2 or 3 activity. This definition is very broad and requires further clarification. There are many instances where an activity might meet the definition of a Level 1 activity under EMPCA but which would not be required to be systematically audited. Until such time as there is a definitive list of Level 1 activities, Recommendations 5 and 6 will not be able to be practically implemented by Councils.

Hobart City Council

Council officers have considered the Report and provide the following comments:

Status of Recommendations — Degree of Implementation

Recommendation 2

Agree, however there needs to be a standardised list of Level 1 activities and uses (by clearer definition) other than ‘an activity that impacts on, or is likely to impact on, the environment other than a Level 2 activity’. The Southern councils have established a regional working group, with the Environment Protection Authority and Tasmanian Audit Office, to enable this issue to be progressed in a consistent manner by all councils.

Recommendation 3

Agree, however it unlikely that every permit condition issued on every permit issued is enforceable. Legal challenges via the tribunal usually test the validity of conditions. Nevertheless if permit conditions are issued within the legislative framework then they should be legally enforceable.

Recommendation 4

Agree although a standard template for recording/reporting environmental assessments would improve the current ad hoc recording method of this data by councils.

Recommendation 5

Disagree, however a figure of 25% probably more accurately reflects the degree of implementation. Council has compiled a register of level 1 activities however the extent of Level 1 activities that should be incorporated into the register links back to comments made for Rec 2. It is difficult to determine the completeness of the register whilst being uncertain of the type of activities that should be included.

Recommendation 6

Disagree, however a figure of 25% could possibly be justified if food businesses with trade waste permits were included as well as those investigations undertaken in response to complaints of nuisance emissions from Level 1 activities. A proportionate score is warranted. Nevertheless there are no routine audits undertaken of all Level 1 activities.

Recommendation 8

Agree, as 25% could be considered realistic in terms of Council considering annual production returns for new Level 1 activities.

Recommendation 9

There is one private timber reserve identified in the municipal area. Council's concerns are focussed on environmental impacts (biodiversity, residential amenity).

General Comments

In addition to the regional council working group that has been established a Council internal steering committee has also been established to define the management of Level 1 activities within the municipal area and to commence addressing these issues in conjunction with the regional working group. The Council recognises that maintaining a register of Level 1 activities and implementing a performance monitoring regime, combined with an education and awareness program, are proactive ways by which the Council can progress its environmental management responsibilities.

Many of the shortcomings identified in the comments above result from the lack of a clear definition of Level 1 activities and the number in each municipal area may be greater than anticipated. For example, the Environmental Assessment Manual suggest that clearing native vegetation from any land for any purpose (development, fire hazard reduction) may be a Level 1 activity. The roles within each council also need to be clarified to ensure that all likely Level 1 activities are being identified so that each council can then endeavour to meet its responsibilities.

Kingborough Council

In Section 2.3 of the draft report it is acknowledged that Kingborough Council's implementation percentages for Recommendations 5, 6 and 8 require attention.

The Council's Environmental Health staff indicated that:

- They are still concerned that the development and ongoing implementation of Level 1 activity registers, audits and annual

production returns monitoring will potentially prove problematical due to the lack of a clear definition of the limitations on what a Level 1 activity may be. It still seems that any activity that may have some environmental impact, that is not a Level 2 activity, could be a Level 1 activity. This suggests that any register and monitoring program could prove to be a very significant logistical undertaking for limited gains in environmental outcomes.

- However, it is acknowledged that Level 1 activities that have the potential to cause significant environmental impacts should be adequately managed and monitored. To this end Council has initiated a Working Group for Level 1 activities within the Southern region. The Working Group has been formulated in response to the Tasmanian Audit Office's follow up to Special Report No. 63, *Environmental Management and Pollution Control by Local Government*. A meeting was held in July with Environmental Health officer representatives from most Southern councils, the Environment Protection Authority and the Tasmanian Audit Office to discuss how and what Level 1 activities should be prioritised, how these could be inspected and the overall approach to their management. From this it is anticipated that councils will be creating a register of key Level 1 activities operating in each municipality and then exploring the resource implications for risk assessment and/or inspections. This project is still in its infancy however Kingborough is committed to actively progressing the issue.

West Coast Council

The West Coast Council's exposure to Level 1 activities has generally been less than an average of one application per year. This limited exposure has generally been limited to the aquaculture industry in areas licenced by the EPA. Any planning conditions we have are capable of being enforced, however an additional step had recently been implemented to include the EHO in any future Level 1 application even when other state authorities are involved.

3 Selected allowances and nurses' overtime

3 Selected allowances and nurses' overtime

The 2007 report

The 2007 audit focused on selected allowances paid to certain State Service employees and overtime worked by nurses employed at the Royal Hobart Hospital (RHH). Findings of the original report were positive and no recommendations were made. This follow-up audit only reviews the nurses' overtime part of the original audit.

Hospitals use rostering systems to ensure there are sufficient nurses on duty twenty-four hours a day, seven days a week. Increasing workloads and the inability to recruit appropriately trained staff can have an impact on the level of overtime worked by nurses. Occasionally, staff shortages lead to situations where overtime is necessary to maintain appropriate levels of clinical care.

The audit objectives were to:

- review overtime levels worked by nurses
- determine whether there has been any significant increase in overtime over three years
- determine whether there was any correlation between overtime hours worked and staff separations.

The scope of the audit was to review nurses' overtime levels at the RHH for the three-year period 2004–06.

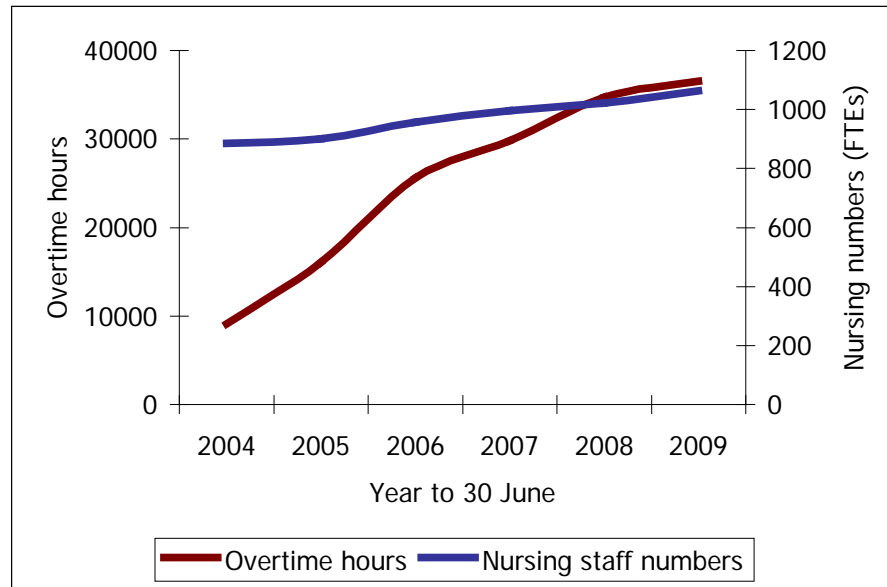
The criterion for this part of the audit was to conduct a review of overtime worked over the test period and to review any emerging trends.

3.1 *Nurses' overtime*

Rostering is an inescapable part of running a hospital to ensure adequate staff are on duty. Constraints included the Nurses (Tasmanian Public Sector) Award 2003, which contained various checks and balances relating to overtime and penalties. In addition, the Nurses (Tasmanian Public Sector) Enterprise Agreement 2004 provides for development and implementation of a benchmarking tool to help define staffing requirements.

3.1.1 Review of overtime worked

We updated the 2007 overtime data. This time, we extended the comparison of total overtime hours worked in each year from three years to six. The results are shown in Figure 1.

Figure 1: Overtime hours and nurse numbers 2004–09

There was a substantial upward trend in overtime hours worked, during a period of slow growth in nurse numbers. Nonetheless, overtime worked between 2007 and 2009 was less than two per cent of total hours worked. This equates to 39 minutes of overtime per FTE per week and indicated that the level of overtime worked had remained low.

In the 2007 report, we were advised that, notwithstanding the overall low level of overtime, there were specific areas where overtime was excessive. We were further advised that increased specialisation within the profession has meant that it is no longer possible to readily move nurses between areas in order to plug roster gaps.

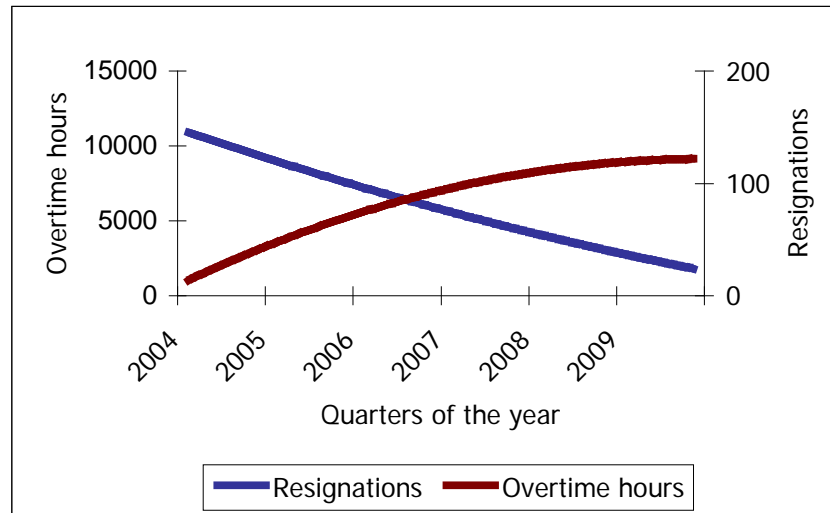
Accordingly, we examined nurses' overtime for separate cost centres. However, we found that overtime only exceeded three per cent of total nurse-hours worked at the neo-natal unit (3.9 per cent) and the children's ward (3.1 per cent). Again, we were not persuaded that overtime usage was excessive, even at cost centre level.

3.1.3 Resignations compared to overtime worked

In 2007, we also considered that there might have been a relationship between overtime worked by nurses of the RHH (specifically within the high dependency and critical care units) and resignations for the period under review. Accordingly, in the original audit we conducted testing to determine whether that was the case.

A comparison of the resignations compared to the overtime worked for 2004–09 is shown by year and by quarter in Figure 2.

Figure 2: Nurse resignations and overtime hours 2004–09



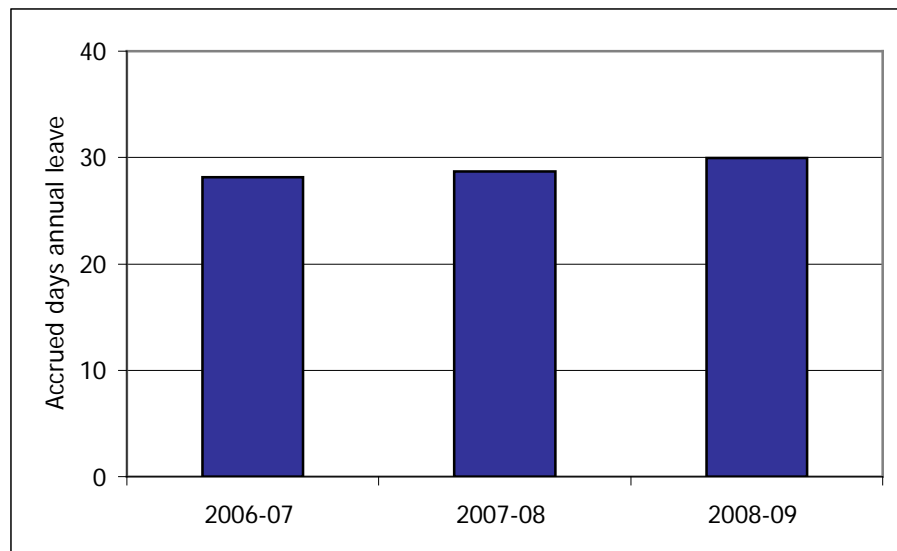
Our original review revealed that there was no correlation, pattern or relationship between overtime worked and staff resignations. The inclusion of updated data affirms our original finding that an increase in overtime does not result in an increase in resignations. The lack of any relationship may reflect the relatively low level of increased overtime discussed in Section 3.1.1.

3.2 *Accrued annual leave*

As part of this audit, we considered whether nurses were accruing increased levels of annual leave due to increased workloads. The 2007 audit had not examined accrued annual leave levels.

To determine whether annual leave balances of nursing staff had risen, we examined average balances per FTE nurse for the 2007–09 period.

Figure 3: Accrued annual leave per FTE 2007–09



Annual leave per FTE increased by 6.4 per cent over two years. This could indicate that nurses are deferring leave because of work pressures. However, it could also indicate nurses were taking less leave for reasons other than workload. We found leave balances to be an inconclusive indicator of whether nurses are being subjected to increased workloads.

We then examined increases in accrued leave per FTE for individual cost centres. On the whole, we found that individual cost centres did not have excessive leave balances over the 2007-09 period. One cost centre did have staff with accrued annual leave in excess of 100 days, but it seemed to be limited to only one or two individuals. No other cost centres had average leave balances substantially greater than the hospital average. Also, we were advised that nurses working shifts could be entitled to up to 25 days annual leave.

3.3 *Conclusion*

In 2007 we were satisfied that overtime hours worked by nursing staff at RHH were not excessive. That situation was unchanged in 2008–09, even at cost centre level.

3.4 *Submissions and comments received*

Department of Health and Human Services

The department advised that it had no formal comment to make in relation to this audit.

4 Procurement in government departments — PV Freycinet

4 Procurement in government departments — PV Freycinet

The 2007 report

Originally, the 2007 report broadly examined those Treasurer's Instructions (TIs) used for procuring goods and services. TI's outline the guiding principles that departments are obliged to follow: value for money; open and effective competition; compliance with ethical standards; and enhancing opportunities for local business.

The objective of the audit was to establish that procurements valued at more than \$10 000 by government departments were in accordance with applicable TIs. The audit also focused on two particular procurements undertaken by the Department of Police and Emergency Management (DPEM). The more general part of the 2007 report is not covered here, but is likely to be revisited in a subsequent report.

The scope of the original audit was increased to incorporate the procurement process used to arrange construction of a new police vessel, to replace the ageing *PV Freycinet*, and acquire new outboard motors — also not covered in this report.

The audit criteria applied to the replacement of the *PV Freycinet* came from TIs:

- 1107 Procurements over \$100 000
- 1114 Exemptions from seeking written quotations and calling tenders.

The decision to approve an exemption is not entered into lightly and the delegation to approve exemptions is restricted to the Secretary of Treasury or an authorised delegate. Departments must provide a soundly constructed business case that clearly identifies the relevant circumstances and allows the delegate to exercise his or her authority in possession of all necessary information.

4.1 *Background to the replacement of the PV Freycinet*

At the time of conducting the original audit in 2007, the *PV Freycinet* was one of only two ocean-going vessels owned and operated by Tasmania Police. It could operate up to 200 nautical miles (370 km) offshore and gave the Tasmania Police fleet the ability to enforce both state and Commonwealth legislation. However, its ability to provide a safe and reliable year round capability was compromised by the vessel's age — over 27 years

old by 2007 — and increasingly heavy demands on maintenance that were costly and necessitated more and more downtime.

The need to replace the *PV Freycinet* was identified by DPEM in 2000, and that a replacement vessel should be sought by 2006. With an estimated cost of around \$1m, such a procurement (i.e. over the \$100 000 threshold) would normally require adherence to TI 1107 that entails tendering in an open market process.

In 2006, the Australian Volunteer Coast Guard (AVCG) in Victoria engaged, after a tendering process, Tasmanian ship builders Sabre Marine & General Engineers Pty Ltd (Sabre Marine) to construct two vessels. DPEM saw an opportunity to ‘piggyback’ off this arrangement with Sabre Marine and DPEM engaged two separate naval architects to independently decide the issue of similarity between the proposed DPEM vessel and the AVCG ones. Advice from the architects was that DPEM’s proposed vessel was sufficiently similar so as to fall within the terms of the AVCG contract. The way was now clear for DPEM to ‘piggyback’ off the AVCG contract, but this necessitated seeking an exemption under TI 1114 from usual tendering requirements.

In March 2007, DPEM wrote to Treasury seeking an exemption in line with TI 1114. After Treasury requested more information it granted an exemption on the basis of operational urgency.

Whilst we accepted that operational urgency was a valid reason for an exemption to be granted, we also noted that the need for a replacement for the *PV Freycinet* had been identified in 2000. We concluded that the system put in place by TI 1107 had not worked as intended because operational urgency had not arisen from unforeseen circumstances.

Original recommendation

We recommend that exemptions sought on the grounds of operational urgency should be appropriately justified with particular emphasis on why the events leading to the urgency were unforeseen.

DPEM’s management response to the 2007 report did not accept that operational urgency was not a valid ground for exemption. It argued that, notwithstanding identification of need in 2000, the funding had not been available until 2007, at which stage, newly identified problems meant that replacement of the *PV Freycinet* could no longer be postponed. DPEM further stressed that it had been prepared to reassess the procurements if it received advice not to proceed from any of its due-diligence processes, including value-for-money assessments from naval architects.

Treasury's management response similarly argued that while DPEM may have known since 2000 that the vessel was approaching replacement, it does not follow that it necessarily had sufficient time to run an open tender process from the time the actual replacement became absolutely necessary.

Construction and delivery delays

During the follow up audit, we noted that despite the expressed urgency for a replacement vessel, tight timeframes were not achieved. Instead:

- The start of construction was delayed until November 2007 because Sabre Marine had to build a new shed to house the vessel.
- The *PV Fortescue* was not launched until October 2008.
- Since the launch, regular concerns have been raised as to whether *PV Fortescue* was fit for purpose and numerous repairs and modifications have been undertaken.
- In response to the above delays and problems, the operation of the *PV Freycinet* was extended until September 2009.

Further details of the current operational status of the *PV Fortescue* are included in Section 4.3.2.

4.2 Status of 2007 recommendation

Since the 2007 audit, DPEM has established a Procurement Committee to oversight the procurement of all goods and services with a value in excess of \$5000. It meets fortnightly and is chaired by the Director, Corporate Services. All future applications seeking an exemption from TIs must first seek approval from this Committee.

The Department's intranet has been updated to include information in relation to the role of the Procurement Committee, links to relevant TIs, procurement advice and associated forms. DPEM advised that since the audit, there have been no instances where exemptions have been sought due to operational urgency.

4.3 Additional work

In April 2009, DPEM's Principal Legal Officer wrote to the Auditor-General expressing concern that we were misled about a number of matters during the original investigation. In addition, there has been public discussion concerning the cost, delays, and suitability of the replacement vessel, *PV Fortescue*.

In response, the Auditor-General agreed to bring forward the normal follow-up process to include the replacement of the *PV Freycinet* as part of this audit. The scope has been broadened beyond only reviewing the degree of implementation of Recommendation 8 in the original audit to also determine whether we had been misled. Also, in respect to the replacement vessel, the audit considered:

- the warranty arrangements
- its serviceability
- the final cost.

4.3.1 Were we misled?

The letter from DPEM's Principal Legal Officer, and subsequent discussions, raised issues around:

- the independence of one of the naval architects, Mr Michael Hunn
- warranty obligations
- construction costs
- the extent of the similarity between the proposed vessel and two vessels previously constructed by Sabre Marine for AVCG.

Our first observation is that in the original audit we sought no information with respect to warranty obligations or construction costs and, therefore we are not aware of any false representations being made to us on those matters.

Secondly, the focus of the original audit was very much on whether or not adequate grounds for exemption from standard procurement procedures existed. The exemption approval was made on the basis of operational urgency. The question of similarity only had subsidiary relevance in that the purported similarity was considered by DPEM to provide the opportunity to meet that operational urgency. However, because we queried 'operational urgency' as a ground for an exemption, we gave only peripheral consideration to subsidiary matters such as similarity. Thus, in practice, we were not misled by information provided or withheld in respect to those matters.

The following subsection deals with the independence issue.

Independence of Mr Michael Hunn and warranty obligations

During the original audit, a representation was made to us by the then Deputy Commissioner, Mr Jack Johnston, that to ensure that

there were sufficient similarities DPEM had engaged two separate independent naval architects.

We also note that the DPEM management response from the then Commissioner, Mr Richard McCreadie, to our original audit refers to the seeking of ‘independent advice from naval architects’. As stated, DPEM’s Principal Legal Officer suggested that we were misled about Mr Hunn’s independence. Before discussing this matter further, we would like to make it very clear that there is no suggestion of any impropriety on the part of Mr Hunn. The issue we considered was not about his conduct, but rather about the representations made by Mr McCreadie and Mr Johnston to the Auditor-General about the independence of Mr Hunn and his advice.

The DPEM’s Principal Legal Officer raised two matters with us:

- Mr Hunn had actually designed the vessels under construction for AVCG.
- At the time of the original audit, Mr Hunn had been employed by DPEM to design the *PV Fortescue*.

We confirmed that just one week after the date of his advice, Mr Hunn was employed by DPEM, on the same day the contract with Sabre Marine was signed. This was a strange action given that the contract signed with Sabre Marine was for that firm to design and build the new vessel. Subsequently, Sabre Marine successfully argued for an amendment to that original contract to reflect the reality that an employee of DPEM, Mr Hunn, had designed the boat, not Sabre Marine. The revised contract proved unfortunate for DPEM since it led to remedial costs associated with design faults (warranty obligations) being borne by DPEM rather than the builder.

At the time of the original audit, we were aware Mr Hunn had designed the AVCG vessels and we had concluded that Mr Hunn was not independent. It follows that we were not actually misled on that matter.

As to the question of whether or not there was an intention to mislead, we sought further information from Mr McCreadie and Mr Johnston. We established that:

- Both had been aware that Mr Hunn was the designer of the AVCG vessels, at the time he tendered his advice.
- Neither had realised that the employment of Mr Hunn to design *PV Fortescue* was inconsistent with the design-and-build contract with Sabre Marine.
- Legal advice had not been sought about possible impact on the contract of employing Mr Hunn.

We also wanted to know whether there was an understanding that Mr Hunn would be employed to design *PV Fortescue*, prior to Mr Hunn's tendering of 'independent' advice. Both Mr McCreadie and Mr Johnston indicated that to the best of their recollection there was no such understanding prior to the advice.

Mr McCreadie and Mr Johnston conceded that the process had not been ideal but argued that there had been considerable pressure under the funding arrangements to acquire the vessel quickly. Both had understood that the funds for the vessel were only available provided they could be spent by the end of the financial year. This was disputed by senior Treasury officers who advised that as far as they were concerned the urgency was based on DPEM's operational requirements — as outlined in the request for exemption — and that a mechanism existed for funds to be held over to a later year, where necessary.

Our opinion is that the advice to the Auditor-General describing Mr Hunn's advice as 'independent' was not correct. However, we concede that the assessment process did include genuine independent advice from another naval architect and others. At worst, the incorrect claim marginally exaggerates the independence of the process. Accordingly, we do not believe that the inaccurate claim is evidence of an intention to mislead, since the inference that independent expert advice was obtained is correct.

Recommendation 1

We recommend that Treasury and departments coordinate to ensure that funds are provided in a manner that encourages adherence to tender-based procurement processes.

Recommendation 2

We recommend that regardless of urgency, departments should always undertake due diligence checks with respect to the goods or services being procured and the capacity of the provider to supply goods and services.

Recommendation 3

We recommend that officers responsible for signing a procurement contract should have a basic understanding of the essential elements of the contract rather than predominantly relying on the advice of others.

4.3.2 Suitability of replacement vessel

Prior to the construction of the replacement vessel for the *PV Freycinet*, DPEM documented its requirements including its expectation that the vessel:

- operate as a fisheries and general patrol vessel
- be capable of spending between five and seven continuous days at sea
- carry sufficient fuel for a 500 nautical mile (926 km) journey.

At the time DPEM started sea trialling the *PV Fortescue*, its officers noticed that the vessel did not sit correctly in the water, was extremely noisy, vibrated excessively and generated excessive spray over the entire boat. Despite these faults, DPEM was contractually obliged to take delivery of the vessel.

The builder did rectify, or attempted to rectify, a number of faults. However, because the designer was employed by Police, most of the problems were its responsibility, including the placing of 710 kg of ballast in the stern of the vessel and installing spray rails at the front.

In August 2009, DPEM commissioned another naval architect (Mr Alan Muir) to prepare a report on the vessel's defects¹⁴. In October 2009, he reported that the major defects included:

- excessive engine and gearbox vibration
- unacceptable structural vibration
- excessive cavitation (engine wake) and severe cavitation noise
- placement of a stove in the cabin creating a fire hazard
- fuel capacity insufficient for required range
- excessive engine-generated noise.

Mr Muir concluded that *PV Fortescue* had a reduced and limited capability to perform duties out to 200 nautical miles (370 km).

One of DPEM's police vessel masters also criticised *PV Fortescue's* ability to handle rough sea conditions, lack of storage space, cramped sleeping quarters and reduced engine room access.

Since October 2009, DPEM has undertaken many of Mr Muir's recommended modifications. Many of the defects identified above

¹⁴ Muir, A. *PV Fortescue, Examination and evaluation report*, 2009.

have been corrected or mitigated, but other issues have arisen even during this audit.

DPEM advised that the operational requirements have not changed since the contract for the *PV Fortescue* was signed. However, the current status of the vessel is ‘restricted operational’, which means that it can only be used for emergencies. This status means that DPEM may not be able to effectively enforce both state and Commonwealth legislation.

Recommendation 4

We recommend that DPEM undertake a review to determine whether to replace or repair the *PV Fortescue*. The review should take into consideration DPEM’s state and Commonwealth offshore responsibilities.

4.3.3 Final cost PV Fortescue

The original contracted cost for the construction of the *PV Fortescue* was \$1.179m, plus GST. However, as stated in Section 4.3.2, a number of modifications were necessary to rectify identified serious defects.

By April 2010, repairs and modifications (\$210 000), design and consultancy costs (\$65 000), refit and other costs (\$101 000) had swelled the overall cost to \$1.555m. As previously noted, the vessel was still not operational and further costs were likely.

Invoices in excess of \$100 000 for extra work claimed by Sabre Marine remain in dispute and could increase the total cost to more than \$1.6m (approximately \$500 000 more than the original contract).

4.4 Conclusion

The original decision to seek an exemption from an open tender process was justified by DPEM on the grounds of urgency and escalating maintenance costs for the existing *PV Freycinet*. Subsequent events have shown this course of action may have resulted in both significant time delays and cost overruns. It also remains unclear as to whether the vessel will ever be able to effectively perform its intended operational role. If the contract had been allowed to go to open tender the result may well have been very different.

4.5 Submissions and comments received

Department of Police and Emergency Management

The Department of Police and Emergency Management recognises the procurement of the *PV Fortescue* was problematic.

The implementation of a Procurement Committee will improve the due diligence necessary for procuring goods exceeding \$5000.

DPEM intends to cause a full review of its off-shore vessel marine enforcement and rescue requirements, including the viability of the *PV Fortescue*.

Department of Treasury and Finance

I do not have any comment to make for publication.

Mr Jack Johnston

Thank you for the opportunity to review the draft of Chapter 4 of your intended report headed, *Procurement in government departments — PV Freycinet*'.

At the outset I would like to thank you for the professional manner in which the interview forming part of your processes was conducted.

Whilst I have some minor level of disagreement with the context in which some aspects of the draft are characterised it is, overall, a fair and balanced report. I should note that many of the matters referred to occurred after my involvement in the matter ceased and I am not privy to the information or advices upon which decisions were made by the Department. I am of the view that it would have been prudent for those preparing the advices to have sought my understanding of the facts as to do so may have led to an alternative outcome.

The recommendations advanced seem appropriate and balanced.

Mr Richard McCreadie

No formal comment made.

Mr Michael Hunn

Independence of Michael Hunn

I was retained by Tasmania Police to advise on design of replacement vessel because I was responsible for the design of the AVCG boats being built by Sabre Engineering. In addition to me another naval architect was retained to assist with this process. Tasmania Police were aware that at this time I was working for Sabre Engineering on the design and construction of the AVCG

vessels, which is the reason that they contacted me. If total ‘independence’ was required Tasmania Police were free to contact anyone else.

General design

The proposed police boat had to be a similar specialist vessel in order to ‘piggyback’ on the existing contract between Sabre Engineering and the AVCG. At the request of Tasmania Police the naval architects listed the points of similarity and differences between the AVCG boats and the proposed vessel to determine if this contractual arrangement was permitted. The decision to allow the ‘piggybacking’ was made by Tasmania Police.

Hull design

The hull design was developed from the design of the AVCG vessels. The AVCG hull design was developed from 14 previous boats of various sizes built over a number of years by various builders, all using developments of the same basic hull shape. A totally new design would not have allowed the ‘piggybacking’ on the AVCG contract.

Employment by Tasmania Police

The decision to make me an employee of Tasmania Police was made by Tasmania Police for their own reasons. The contract signed by Sabre was a design and construct, in which case I would have been an employee of Sabre Engineering, as was the case for the AVCG vessels. Removing the design component from the contract was a variation to the contract.

Ballast

Ballast was added at the request of Tasmania Police to improve the ‘look’ of the boat at rest. The design centre of gravity was deliberately kept forward to maintain a smooth transition between displacement, semi-displacement and planing speeds without excessive rise of the bow, leading to slight bow down trim at rest. Tasmania Police’s speed requirements were to operate at around 20 knots, which is in the semi-displacement speed range for this size of vessel, so it was important to minimise the resistance ‘hump’ between displacement and planing speeds. For a semi-displacement or planing vessel operating trim at speed is more important than the static trim at rest.

Engines and drive train

The original drive train was designed in accordance with the engine manufacturer’s requirements, using the engines chosen and purchased by Tasmania Police. The engine choice was made by

Tasmania Police prior to the completion of the naval architect's calculations and recommendations.

The original drive train incorporated flexible engine mounts and flexible couplings between the gearbox and propeller shaft, as recommended by the engine manufacturer. Drawings of the drive train were forwarded to the manufacturer for its approval.

During sea trials the drive train performed well, with minimal vibration. Subsequent to handover of the vessel to Tasmania Police vibration problems developed in the drive train. I was not given any opportunity to examine the vessel at this stage. Tasmania Police commissioned a report on the vessel from Mr Alan Muir, and the engine mountings were subsequently modified to hard mount the engines, that is to bolt the engines directly to the structure of the vessel. This is not common practice with aluminium high speed vessels as it can lead to unacceptable structural vibration and engine generated noise.

Sabre Marine & General Engineers Pty Ltd

There was nothing said in the report about Sabre Marine that was incorrect.

Recent reports

Recent reports

	Tabled	Special Report No.	Title
Oct	2007	69	Public building security
Nov	2007	70	Procurement in government departments Payment of accounts by government departments
Nov	2007	71	Property in police possession Control of assets: Portable and attractive items
Apr	2008	72	Public sector performance information
Jun	2008	73	Timeliness in the Magistrates Court
Jun	2008	74	Follow up of performance audits April–October 2005
Sep	2008	75	Executive termination payments
Nov	2008	76	Complaint handling in local government
Nov	2008	77	Food safety: safe as eggs?
Mar	2009	78	Management of threatened species
May	2009	79	Follow up of performance audits April–August 2006
May	2009	80	Hydro hedges
Jun	2009	81	Contract management
Aug	2009	82	Head of Agency contract renewal
Oct	2009	83	Communications by Government and The <i>Tasmanian Brand</i> project
Oct	2009	84	Funding the Tasmanian Education Foundation
Nov	2009	85	Speed-detection devices
Nov	2009	86	Major works procurement: Nation Building projects, Treasurer's Instructions 1299 and 1214
Jun	2010	87	Employment of staff to support MPs
Jun	2010	88	Public Trustee: management of deceased estates
Jun	2010	89	Post-Year 10 enrolments
Jul	2010	90	Science education in high schools

Current projects

Current projects

Performance and compliance audits that the Auditor-General is currently conducting:

Title	Subject
Profitability, and economic benefits to Tasmania, of Forestry Tasmania	Evaluates Forestry Tasmania's long-term financial and economic performance.
Public service productivity	The audit will express an opinion on productivity in the Tasmanian State Service in relation to the number of employees over a ten-year period. It will examine changes in efficiency of public sector outputs and whether core services have increased in quantity, quality or range.
Fraud control	Assesses the effectiveness of fraud controls in government entities.
Aurora price cap	The special investigation will examine whether the caretaker government knew, or should have known, about Aurora's financial position at the time of the price cap announcement.
Follow up of special reports	Ascertain the extent to which recommendations from Special Reports 69–73 (tabled from October 2007 to June 2008) have been implemented.
Fire management	Examines whether respective government entities have implemented the recommendations from COAG's 2004 report titled <i>National inquiry on bushfire mitigation and management</i> .
Tourism Tasmania — Value for money?	Examines the effectiveness of TT with respect to: promotions and advertisements; websites and implementation of planned strategies and initiatives.
Out-of-home care	Assesses the effectiveness of some aspects of the efficiency of out-of-home care as an element of child protection.