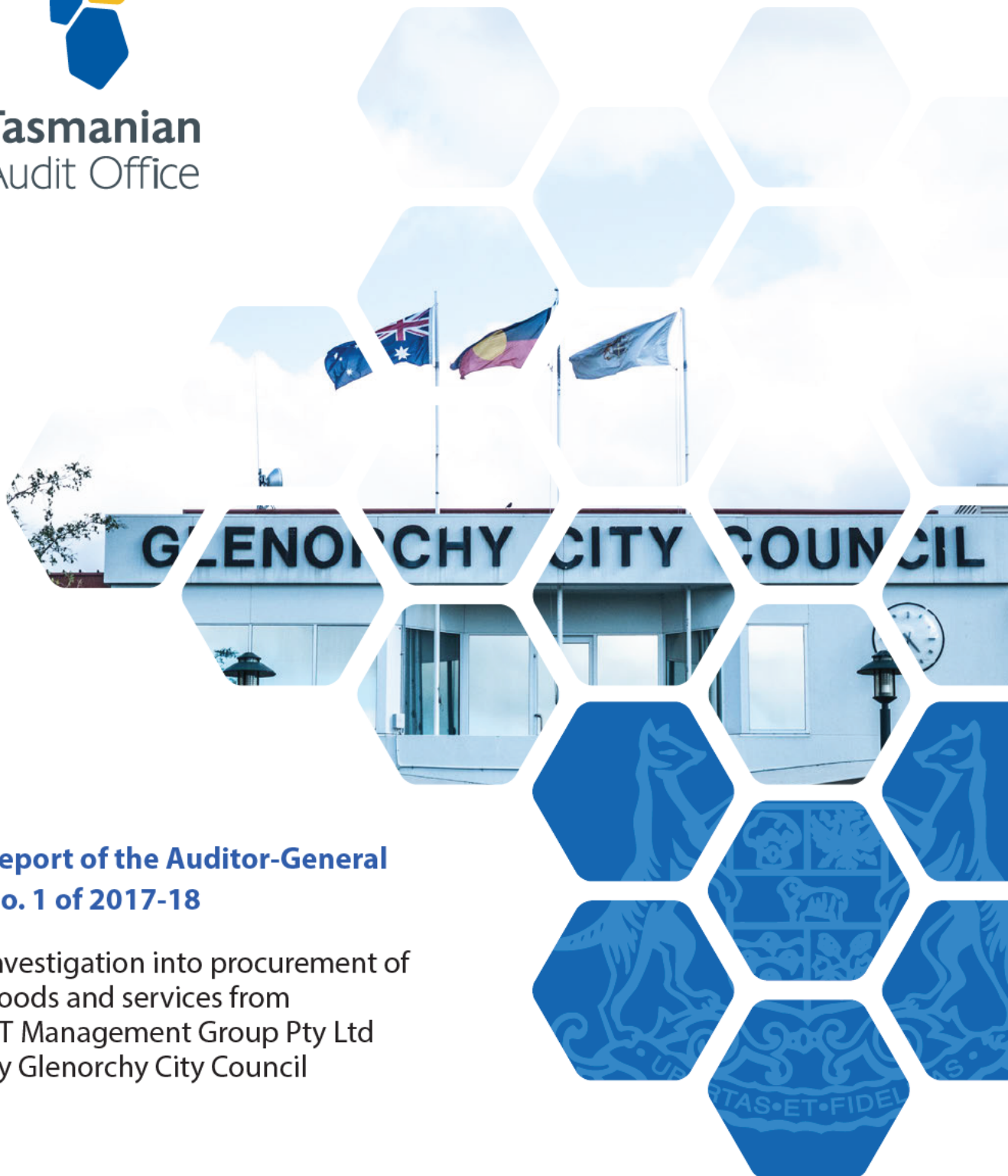




Tasmanian
Audit Office



**Report of the Auditor-General
No. 1 of 2017-18**

Investigation into procurement of
goods and services from
CT Management Group Pty Ltd
by Glenorchy City Council

October 2017

THE ROLE OF THE AUDITOR-GENERAL

The Auditor-General's roles and responsibilities, and therefore of the Tasmanian Audit Office, are set out in the *Audit Act 2008 (Audit Act)*.

Our primary responsibility is to conduct financial or 'attest' audits of the annual financial reports of State entities. State entities are defined in the Interpretation section of the Audit Act. We also audit those elements of the Treasurer's Annual Financial Report reporting on financial transactions in the Public Account, the General Government Sector and the Total State Sector.

Audits of financial reports are designed to add credibility to assertions made by accountable authorities in preparing their financial reports, enhancing their value to end users.

Following financial audits, we issue a variety of reports to State entities and we report periodically to the Parliament.

We also conduct performance audits and compliance audits. Performance audits examine whether a State entity is carrying out its activities effectively and doing so economically and efficiently. Audits may cover all or part of a State entity's operations, or consider particular issues across a number of State entities.

Compliance audits are aimed at ensuring compliance by State entities with directives, regulations and appropriate internal control procedures. Audits focus on selected systems (including information technology systems), account balances or projects.

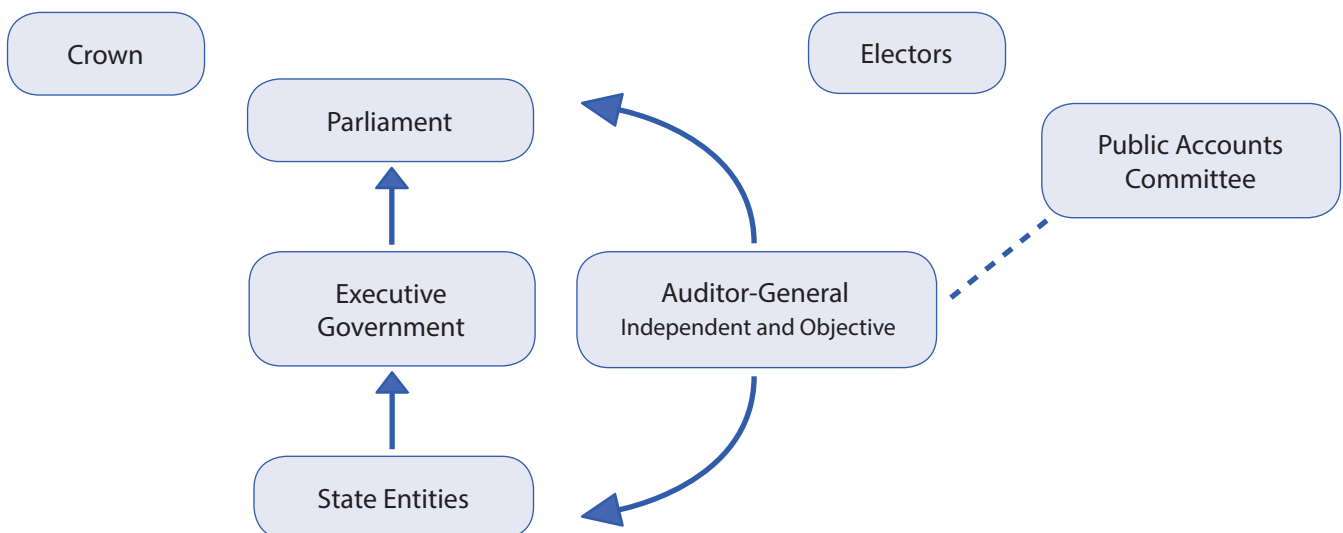
We can also carry out investigations but only relating to public money or to public property. In addition, the Auditor-General is now responsible for state service employer investigations.

Performance and compliance audits are reported separately and at different times of the year, whereas outcomes from financial statement audits are included in one of the regular volumes of the Auditor-General's reports to the Parliament normally tabled in May and November each year.

Where relevant, the Treasurer, a Minister or Ministers, other interested parties and accountable authorities are provided with opportunity to comment on any matters reported. Where they choose to do so, their responses, or summaries thereof, are detailed within the reports.

The Auditor-General's Relationship with the Parliament and State Entities

The Auditor-General's role as Parliament's auditor is unique.





TASMANIA

**2017
PARLIAMENT OF TASMANIA**

**Report of the Auditor-General
No. 1 of 2017-18**

**Investigation into procurement of goods and services from
CT Management Group Pty Ltd by Glenorchy City Council**

October 2017

Presented to both Houses of Parliament in accordance with the requirements of Section 30 of the
Audit Act 2008

© Crown in Right of the State of Tasmania October 2017

Auditor-General's reports and other reports published by the Office can be accessed via the Office's [website](#). For further information please contact:

Tasmanian Audit Office

GPO Box 851

Hobart

TASMANIA 7001

Phone: (03) 6173 0900, Fax (03) 6173 0999

Email: admin@audit.tas.gov.au

Website: www.audit.tas.gov.au

ISBN: 978-0-9954292-2-2

This report is printed on FSC Mix Paper from responsible sources.



Tasmanian Audit Office

Level 8, 144 Macquarie Street, Hobart, Tasmania, 7000
Postal Address GPO Box 851, Hobart, Tasmania, 7001
Phone: 03 6173 0900 | Fax: 03 6173 0999
Email: admin@audit.tas.gov.au
Web: www.audit.tas.gov.au

17 October 2017

President
Legislative Council
HOBART

Speaker
House of Assembly
HOBART

Dear Mr President
Dear Madam Speaker

REPORT OF THE AUDITOR-GENERAL

No. 1 of 2017–18: Investigation into procurement of goods and services from CT Management Group Pty Ltd by Glenorchy City Council

This report has been prepared consequent to an investigation conducted under section 23 of the *Audit Act 2008*.

The objective of the investigation was to determine whether the procurement of goods and services from CT Management Group Pty Ltd by Glenorchy City Council was undertaken in accordance with:

- the *Local Government Act 1993*
- the *Local Government (General) Regulations 2005 and 2015*
- Council's Code for Tenders and Contracts 2009 and 2016
- Council's internal policies, procedures and manuals.

Yours sincerely



Rod Whitehead
Auditor-General

Page left intentionally blank.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
Introduction	1
Purpose of the investigation	1
Investigation approach	2
Procurement from CT Management	2
Summary of findings	4
Conclusion	7
Recommendations	7
Submissions and comments received	7
RELEVANT LEGISLATION, POLICIES AND PROCEDURES	8
Legislative framework	8
Council policies and procedures	8
PROCUREMENT FROM CT MANAGEMENT	10
Project 1 - Initial review	10
Project 2 - Improvement plan project manager	10
Project 3 - Information, communication and technology (ICT) review	11
Project 4 - Service review - Operations & Maintenance	11
Project 5 - Roles, relationships and responsibilities programme	11
Project 6 - Update of the strategic and operational review	12
Project 7 - Management restructure	12
Project 8 - Service review - Works & Services	12
Project 9 - Service review scoping - Finance, Governance and Operations	12
Project 10 - Service review - Operations	13
Project 11 - Service review - Finance	13
Project 12 - Service review - Governance	13
Project 13 - Organisation structure and cultural change support	13
HR Project Officer	14
Asset and financial management review	15
Long term financial plan software package	15
Professional placements and other support	15
Unallocated	15
DETAILED FINDINGS	18
ACRONYMS AND ABBREVIATIONS	24
APPENDIX ONE: ANNUAL REPORTING REQUIREMENTS IN RELATION TO TENDERS AND CONTRACTS	25
<i>Local Government (General) Regulations 2005</i>	25
<i>Local Government (General) Regulations 2015</i>	25
APPENDIX TWO: SUBMISSIONS AND RESPONSES RECEIVED	26

Page left intentionally blank.

EXECUTIVE SUMMARY

INTRODUCTION

A referral was received by the Tasmanian Audit Office relating to Glenorchy City Council's (Council) procurement of goods and services from CT Management Group Pty Ltd (CT Management).

Following an initial review, the referral was accepted for assessment by the Auditor-General and an assessor appointed on 7 December 2016. The assessment was conducted between 7 December 2016 and 30 June 2017.

The assessment did not identify any material to warrant dismissal of the matters raised in the referral, and the assessor noted that further investigation was necessary in order to fully examine the matters raised. On that basis the assessor recommended that the referral be investigated in accordance with section 23(d) of the *Audit Act 2008*.

The Auditor-General decided to conduct an investigation, pursuant to section 23(d) of the *Audit Act 2008*, into the procurement of goods and services from CT Management by Council.

All amounts referred to in this report are GST inclusive unless otherwise stated.

PURPOSE OF THE INVESTIGATION

The purpose of the investigation was to determine whether procurement of goods and services from CT Management was undertaken in accordance with the:

- *Local Government Act 1993* (the Act)
- *Local Government (General) Regulations 2005 and 2015*¹
- Council's Code for Tenders and Contracts 2009 and 2016 (the 2009 Code and 2016 Code respectively, and collectively referred to as the procurement Codes)
- Council's internal policies, procedures and manuals.

Specifically, the investigation assessed whether:

1. Council complied with the procurement methods detailed in section 5 of the 2009 Code and section 6 of the 2016 Code.
2. Council had intentionally split procurement from a single procurement activity into two or more separate contracts/projects for the primary purpose of avoiding the requirement to seek three written quotations (in accordance with applicable threshold) or publicly invite tenders (in accordance with applicable threshold).
3. Council had erroneously interpreted a single procurement activity as being separate contracts/projects.
4. Any of the procurements from CT Management met the exemptions from the tender or quotation process identified in Regulation 27 of the *Local Government (General) Regulations 2005 and 2015* or section 6 of 2009 Code and section 10.2 of 2016 Code.
5. Council had, pursuant to Regulation 28(j) of the *Local Government (General) Regulations 2005 and 2015*, established and maintained procedures for reporting by the General Manager to the Council in relation to the purchase of goods or services in circumstances where a public tender or quotation process is not used.
6. Council had complied with the annual reporting requirements in relation to tenders and contracts specified in:
 - a. Regulation 23(5) of the *Local Government (General) Regulations 2005*
 - b. Regulation 29 of the *Local Government (General) Regulations 2015*.

¹ The regulations were amended in June 2015 to increase the prescribed amount from \$100 000 (excluding GST) to \$250 000 (excluding GST) and expand annual reporting requirements in relation to tenders and contracts (refer Appendix One).

7. Council had complied with the Procurement Principles outlined in the procurement Codes, and specifically whether Council:
 - a. adequately tested the market through seeking quotations or via tender as appropriate (Open and effective competition)
 - b. where local capacity existed to provide the services, engaged the local market and encouraged participation in tender and quotation processes (Enhancement of the capabilities of local business and industry).
8. Council had appropriately documented the decisions to engage CT Management to enable those decisions to be reviewed to ensure compliance with the *Local Government (General) Regulations 2005 and 2015*, Regulations 23 – 29 inclusive, and the procurement Codes.

INVESTIGATION APPROACH

Our approach to the investigation included:

- examination of documents pertaining to the procurement of goods and services from CT Management, including Council minutes
- interviews with Council management (management) into the procurement and delivery of goods and services from CT Management
- addressing matters specifically identified as detailed in the purpose of the investigation.

PROCUREMENT FROM CT MANAGEMENT

CT Management, based in Geelong Victoria,² describes itself as one of Australia's most trusted providers of Local Government professional services. They:

- provide consultancy services and technology-driven products
- provide asset management, service planning, organisation development, contract and project management, and financial management services
- provide experts (associates) with diverse skills and senior management experience
- deliver sector-wide programs for local government associations, including the Municipal Association of Victoria and Local Government Association of Queensland.

Between 24 October 2012 and 30 April 2017, Council received 105 invoices from CT Management totalling \$1 051 909. Expenditure totalling \$942 117 was incurred under 25 separate purchase orders, with the remaining \$109 792 not similarly supported in their records system. The expenditure also included \$142 139 in travel costs, reimbursements and administration fees. A summary of goods and services procured from CT Management is provided on the following page. The description and numbering of Stages One to Three and Projects 1 to 8 are as presented by the General Manager to Council on 3 August 2015. Similar numbering was adopted for subsequent Projects 9 to 13.

² CT Management website. <http://www.ctman.com.au/about-us/>

Table 1: Summary of goods and services procured from CT Management between 24 October 2012 and 30 April 2017

Project	GST Inclusive \$	GST Exclusive \$
Stage One		
Project 1 - Initial review	67 262	61 148
Project 3 - Information, communication and technology (ICT) review	22 381	20 346
Project 2 - Improvement plan project manager	76 240	69 309
Project 4 - Service review - Operations & Maintenance	5 583	5 075
Stage One total	171 466	155 878
Stage Two		
Project 5 - Roles, relationships and responsibilities programme	89 699	81 544
Stage Two total	89 699	81 544
Stage Three		
Project 6 - Update of the strategic and operational review	89 270	81 154
Project 7 - Management restructure	23 464	21 331
Project 8 – Service review - Works & Services	115 670	105 154
Project 9 - Service review scoping - Finance, Governance and Operations	6 932	6 301
Project 10 – Service review - Operations	75 854	68 958
Project 11 – Service review - Finance	47 677	43 343
Project 12 – Service review - Governance	59 653	54 230
Project 13 - Organisation structure and cultural change support	110 985	100 897
Stage Three total	529 505	481 368
Human Resources (HR) project officer	113 606	103 277
Asset and financial management review	12 944	11 767
Long-term financial plan software package		
Product purchase	14 850	13 500
Annual upgrade program	4 400	4 000
Long -term financial plan software package total	19 250	17 500
Professional placements and other support		
Operations	36 228	32 934
Finance support consultant	57 082	51 892
HR support	7 734	7 031
Technical support	10 748	9 771
Professional placements and other support total	111 792	101 628
Unallocated	3 647	3 317
Total procurement	1 051 909	956 281

We understand that in respect of each proposal received from CT Management and purchase order issued:

- Council did not go to public tender
- Council did not seek quotations from other providers
- No exemptions (under regulation 27 of the *Local Government (General) Regulations 2005 and 2015*) were resolved by Council to apply to the public tender process under the Act, or the 2009 Code, or 2016 Code, to any one or more engagements of CT Management.

SUMMARY OF FINDINGS

The scope of our investigation was to assess whether:

1. Council complied with the procurement methods detailed in section 5 of the 2009 Code and section 6 of the 2016 Code

Total expenditure for Projects 1 to 4 comprising Stage One (as defined by Council) totalled \$171 466. No documentation was evident to indicate why the expenditure was not subject to public tender, although in total it exceeded Council's tender procurement threshold of \$110 000 at that time.

A Deviation from Purchasing Policy form was completed to acknowledge the first invoice received for Project 1 did not comply with the ordering of goods and services policy. The explanation provided was that three quotations were not attached as the invoice was "*Approved to exempt requirement for 3 quote – specialised work*". There was no explanation expanding on the nature of the specialised works or documentation to support management's assessment that no other supplier could have undertaken the engagement. While it is acknowledged that CT Management work predominately in the local government sector, they are not the only service provider that does so. The very nature of the work described suggests other management consulting entities could have also provided the required services.

Total expenditure for Project 5 was \$89 699. No other supporting documentation was found to explain why this project was not subject to three quotations.

In examining Council's purchase orders issued to CT Management for Projects 1 to 5 encompassing Stages One and Two, and invoices raised under those purchase orders as recorded in Council's financial management system, we identified a high level of connectedness, for which expenditure totalled \$261 165. Our assessment of these stages and projects is that they should have been subject to a public tender.

In October 2014, Council engaged CT Management to update the strategic and operational review project in the context of ongoing financial sustainability (Project 6). Council subsequently engaged CT Management to provide management restructure services (Project 7) in February 2015. In assessing Projects 6 and 7, which we considered components of the Strategic and Operational Review being conducted by CT Management, we conclude the individual engagements could have been classified as a single project. Expenditure for these projects totalled \$112 734 and should have, in our assessment, been subject to a public tender.

Total expenditure for Project 8 was \$115 670. Given CT Management's reference to the two components of this project (the Works and Services – Service Review and professional placement for an Acting Manager Operations) as being a "combined proposal", and the classification of these components as one single project by management (Project 8), this project should have, in our assessment, been subject to a public tender.

Expenditure for Projects 9 to 12 totalled \$190 116 and related to service reviews covering the areas of Operations, Finance and Governance. Our assessment of these projects is that they related to the service level reviews, were a single project and the procurement of the services should have been subject to a public tender.

Expenditure for Project 13 totalled \$110 985. Our assessment of this project is that the procurement should have been subject to the quotation process, or possibly, public tender.

Our investigation found Council expended a total of \$111 792 on professional placements and other support and \$113 606 for a HR project officer. These projects were undertaken following proposals provided by CT Management, but the fee proposals were based on hourly/daily rates plus disbursements. No fixed fee was supplied. The proposals did not specify a specific time period, but noted attendance based on a period of days per week for an estimated number of months. We consider the professional placement for Operations and Finance and the HR project officer should have been subject to Council's quotation process.

Having investigated the expenditure incurred with CT Management, we have concluded Council failed to comply with the relevant sections of the procurement Codes.

At a minimum, Council should have obtained three quotations for each engagement greater than \$10 000 and documented its assessment. However, as noted above, there were instances where the nature of the individual projects suggested they were components of a larger project, which based on the expenditure incurred, should have gone to public tender.

Council also breached the 2016 Code in that there were instances where purchase orders were not evidenced for services provided.

2. Council had intentionally split procurement from a single procurement activity into two or more separate contracts/projects for the primary purpose of avoiding the requirement to seek three written quotations (in accordance with applicable threshold) or publicly invite tenders (in accordance with applicable threshold).

Our review found that expenditure for Projects 9 to 12 totalled \$190 116. Our assessment of these projects is that they were a single project and should have been open to public tender. It would appear the procurements were intentionally split across three separate purchase orders to avoid the requirement to undertake a public tender.

We also express concern over management's approval of individual proposals and projects and its interpretation of the requirements of the procurement Codes. From a governance perspective, we are concerned by the absence of detailed information supporting decisions to engage CT Management. Purchase orders only contained brief descriptions of the proposed tasks and not all engagements were supported by a proposal.

3. Council had erroneously interpreted a single procurement activity as being separate contracts/projects?

Based on review of the expenditure incurred with CT Management, we consider Council's interpretation that each project was independent of any other project was incorrect. We consider there were a series of procurement activities that were erroneously interpreted by Council as being composed of a greater number of smaller separate contracts/projects.

4. Any of the procurements from CT Management met the exemptions from the tender or quotation process identified in Regulation 27 of the *Local Government (General) Regulations 2005 and 2015* or section 6 of 2009 Code and section 10.2 of 2016 Code?

From our review of documentation and discussions with management, it is apparent that the decision not to comply with Council's quotation process (for Project 1 – Initial review) was based on the perceived absence of competitive or reliable tenderers. The only reason documented for the deviation was 'Approved to exempt requirement for 3 quotes – specialised work'. No other documented explanation was observed that expanded on the nature of the specialised works or management's assessment as to why no other supplier could have undertaken such work.

As noted previously, we acknowledge CT Management work predominately in local government, but the nature of the work indicates other entities working in management consulting, HR and finance could have provided similar services. We disagree with management's assertion, as documented in the Deviation from Purchasing Policy form, that the work was so specialised that only CT Management could undertake the engagement.

5. Council had, pursuant to Regulation 28(j) of the *Local Government (General) Regulations 2005 and 2015*, established and maintained procedures for reporting by the General Manager to the Council in relation to the purchase of goods or services in circumstances where a public tender or quotation process is not used.

In discussions with management, it was found there was no formal documented procedure for reporting by the General Manager to the Council in relation to the purchase of goods or services in circumstances where a public tender or quotation process was not used.

6. Council had complied with the annual reporting requirements in relation to tenders and contracts specified in:
 - a. Regulation 23(5) of the *Local Government (General) Regulations 2005*
 - b. Regulation 29 of the *Local Government (General) Regulations 2015*

(Details of the requirements are included in Appendix One)

We reviewed Council's annual reports for the 2012-13, 2013-14, 2014-15 and 2015-16 financial years. We did not find any mention of CT Management in disclosure related to tenders and contracts.

However, the 2012-13 annual report did include the following comment in the General Manager's Report section: "We have contracted business improvement consultants CT Management to identify areas of process improvement, cultural change and improvements in customer focus within the organisation. From this initial review, we have an improvement plan which contains a list of 79 projects and reviews for the organisation to undertake over the next three years."

Based on our review of the expenditure, we considered some individual projects were components of a larger project, which based on the expenditure incurred, should have gone to public tender. Even under management's individual project basis, a number of engagements exceeded the \$110 000 threshold and would have needed to be disclosed in the annual reports for 2012-13, 2013-14 and 2014-15.

As a consequence, in relation to Regulation 23(5) of the *Local Government (General) Regulations 2005*, tenders should have been called and appropriate disclosures made.

For 2015-16 Council was required to report in its annual report information on contracts for the provision of goods or services valued at or exceeding \$100 000 (excluding GST) entered into, or extended. In addition, if Council had properly addressed the exemptions available to not seek tenders we would have expected appropriate disclosure in the 2015-16 annual report as required by Regulation 29(2) of the *Local Government (General) Regulations 2015*.

In relation to Regulation 29 of the *Local Government (General) Regulations 2015*, there were engagements that should have been disclosed. The HR project officer project is an example of a totally separate engagement where disclosure should have been evident.

7. Council had complied with the Procurement Principles outlined in the procurement Codes, and specifically whether Council:
 - a. adequately tested the market through seeking quotations or via tender as appropriate (Open and Effective Competition)
 - b. where local capacity existed to provide the services, engaged the local market and encouraged participation in tender and quotation processes (Enhancement of the capabilities of local business and industry).

We were unable to find any evidence that Council obtained quotes from other suppliers to provide the services ultimately provided by CT Management. There was inadequate documentation relating to the initial appointment of CT Management.

Consequently, we consider Council did not comply with its procurement principles and did not:

- adequately test the market through seeking quotations or tender
- engage the local market and encourage participation in a tender and quotation process.

8. Council had appropriately documented the decisions to engage CT Management to enable those decisions to be reviewed to ensure compliance with the *Local Government (General) Regulations 2005 and 2015, Regulations 23 – 29 inclusive, and the procurement Codes*

We consider, based on our investigation, Council did not appropriately document its decision to engage CT Management.

RECOMMENDATIONS

We recommend Council:

- review its internal processes and procedures to ensure future compliance with:
 - the Act
 - the *Local Government (General) Regulations and 2015*
 - the 2016 Code
 - Council's internal policies, procedures and manuals.
- ensure appropriate documentation is maintained to evidence procurement decisions and compliance with relevant requirements.

CONCLUSION

Based on the evidence obtained during the course of our investigation, we concluded:

- Council incorrectly treated each project with CT Management as a separate and individual project. This resulted in commitments to expend Council monies in excess of quotation and tendering thresholds. As a result, Council failed to comply with the Act and its own procurement Codes.
- In failing to comply with the Act and its own procurement Codes, Council did not adequately test the market. Council failed to meet its procurement principles of open and effective competition, value for money and enhancement of the capabilities of local business and industry.
- There was evidence to indicate an intentional splitting of procurement from a single procurement activity into two or more separate contracts/projects for the purpose of avoiding the requirement to publicly invite tenders.
- Council failed to adequately document its assessment and decision not to follow its quotation process or seek tenders. Both the Act and the procurement Codes provide specific and detailed requirements in the application of exemptions. The completion of a Deviation from Purchasing Policy form with an explanation of 'Approved to exempt requirement for 3 quote – specialised work', is considered inadequate and indicates a management override of purchasing controls and breakdown in governance practice.
- Council also breached the 2016 Code in that there were instances where purchase orders were not evidenced for services provided.
- Overall the process adopted in expending \$1 051 909 lacked transparency, independent review, reporting and good governance.

SUBMISSIONS AND COMMENTS RECEIVED

In accordance with section 30(2) of the *Audit Act 2008*, a summary of findings was provided to the Treasurer, Council Commissioner, and other persons who, in the opinion of the Auditor-General, had a special interest in the report, with a request for submissions or comments. Responses, or a fair summary of them, are included in Appendix Two.

RELEVANT LEGISLATION, POLICIES AND PROCEDURES

LEGISLATIVE FRAMEWORK

In accordance with Part 16, Division 2A, section 333A and 333B of the Act, Council must comply with its 2016 Code when acquiring goods and services.

The requirements of the 2016 Code (and former 2009 Code) are to be consistent with the requirements of the:

- *Local Government (General) Regulations 2005*, Regulations 23 – 28 inclusive (period 22 June 2005 to 28 June 2015)
- *Local Government (General) Regulations 2015*, Regulations 23 – 29 inclusive (period from 29 June 2015).

Generally, the requirements of the 2005 and 2015 regulations are consistent, with the major differences relating to the threshold requirement for the seeking of tenders increasing from \$100 000 to \$250 000 (excluding GST) and additional reporting requirements in annual reports required from 29 June 2015.

These reporting requirements are included in Appendix One.

COUNCIL POLICIES AND PROCEDURES

Council's 2016 Code provides a high level overview of procurement requirements as they apply to Council. Although some procedural information associated with Council's purchasing, tender and contract management systems and processes is included in this document, additional detailed information is contained in Council's procurement policies and procedures.

Council's procurement policies and procedures over the period of review included:

- Code for Tenders and Contracts (2009 Code) (7 December 2009 to 12 April 2016)
- Code for Tenders and Contracts (2016 Code) Policy No: 34-1 (from 13 April 2016)
- Internal policy 20-2 Ordering Goods and Services (28 March 2009 to 24 October 2016).

Council's procurement policies and procedures, (section 5 of 2009 Code and section 6 of 2016 Code) are fairly consistent and require purchases:

- under \$3 000 - single source without bids, require purchase order if over \$600
- between \$3 000 to \$9 999 – at least one written quote, purchase order required
- between \$10 000 to \$109 999 – at least three written quotes with one from a local business. Where there are less than three suitable service providers available, records outlining this are to be kept. Purchase order required
- greater than \$110 000 - tender required.

(all totals are inclusive GST).

In preparing Council's 2016 Code, a decision was made not to adopt the increased tender threshold arising from the *Local Government (General) Regulations 2015*. Both procurement Codes provided an exemption from the requirement for tender or the use of the quotation process (section 6 of 2009 Code and section 10 of 2016 Code). The exemption is similar to the tender exemption for prescribed situations or prescribed contracts under section 333A (3) of the Act, as prescribed in Regulation 27 of the *Local Government (General) Regulations 2005 and 2015*. However, Council extended the exemption provided under Regulation 27 in the 2009 Code and 2016 Code to also include an exemption from obtaining quotations in certain circumstances as detailed below:

2009 Code

6. Exemptions

...

As per the Regulation, our Council is permitted to not issue a tender *or use a quotation process* [italicised emphasis added] where the goods and services sought relate to:

- (a) an emergency if, in the opinion of the general manager, there is insufficient time to invite tenders for the goods or services required in that emergency;

...

- (h) a contract for goods or services if the council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of –
 - (i) extenuating circumstances; or
 - (ii) the remoteness of the locality; or
 - (iii) the unavailability of competitive or reliable tenderers;
- (i) a contract of employment with a person as an employee of the council.

2016 Code

10. Exemptions

10.1 Exemption by Regulation from the tender *or quotation process* [italicised emphasis added]

The Regulations identify certain circumstances where Council is not required to issue a public tender process.

The exemption circumstances identified in Regulation 27 are:

- (a) an emergency if, in the opinion of the General Manager, there is insufficient time to invite tenders *or quotations* [italicised emphasis added] for the goods or services required in that emergency;

...

- (i) a contract for goods or services if the council resolves by absolute majority and states the reasons for the decision, that a satisfactory result would not be achieved by inviting tenders because of: –
 - (iv) extenuating circumstances; or
 - (v) the remoteness of the locality; or
 - (vi) the unavailability of competitive or reliable tenderers;
- (j) a contract of employment with a person as an employee of the council.

PROCUREMENT FROM CT MANAGEMENT

In early October 2012, CT Management submitted an Organisation Review Proposal (dated 3 October 2012), to provide consultancy services with an estimated cost of \$62 810. The objective of the review was to identify where the Council could improve its performance and sustainability through:

- increased operating efficiency in service delivery
- increased ownership and alignment to the new Council Strategic Planning Framework
- improving Council's customer focus, communication processes and relationships
- informing the Service Planning process
- efficient deployment and ownership of assets.

Review outcomes to be provided by CT Management were:

- to detail areas where Council could gain efficiencies in service delivery
- to identify assets surplus to Council's requirements
- to determine whether there was corporate capability to implement potential improvements or what support was required to deliver
- to identify where there were policy gaps inhibiting efficiency
- to recommend an appropriate organisation structure and changes in operations, systems and processes to improve the performance of the Council.

Following the initial review, a number of additional strategic and operational reviews and other services were subsequently provided by CT Management.

Between 24 October 2012 and 30 April 2017, Council received 105 invoices from CT Management totalling \$1 051 909. Expenditure totalling \$942 117 was incurred under 25 separate purchase orders, with the remaining \$109 792 not similarly supported in their records system. The expenditure also included \$142 139 in travel costs, reimbursements and administration fees. A summary of goods and services procured from CT Management is provided in Table 1 of this report (page 3).

PROJECT 1 – INITIAL REVIEW

This project was the initial review as described above. The project started in October 2012 and concluded in May 2013.

Outcomes from the initial review included:

- cultural assessment
- functional span mapping
- savings and efficiencies assessment - interviews and analysis
- services and functions assessment through the functional span mapping process
- opportunities identified for savings and efficiency gains
- review of Council's Long-Term Financial Plan, asset management and capital works processes and plans.

PROJECT 2 – IMPROVEMENT PLAN PROJECT MANAGER

This project was for the provision of a project manager to provide support to management who had been given responsibility for implementing improvement projects and to implement a reporting process with reports to the Council executive leadership team on a monthly basis.

This placement was for a minimum period of up to five months, commencing at five days per week for the first two weeks, then at three days per week, recognising the flexibility required to meet the needs of Council. The project started in May 2013 and concluded in December 2013.

PROJECT 3 – INFORMATION, COMMUNICATION AND TECHNOLOGY (ICT) REVIEW

This project involved an assessment of Council's ICT performance and the development of an ICT strategy. Project objectives included:

- the review of the ICT business of Council to identify the key issues that needed to be considered in the development of an ICT Strategy ensuring that the delivered document was specific to the local conditions, and focused on the issues relevant for Council
- obtaining a thorough understanding of the current attitude to ICT in Council and the skills of the individuals responsible for providing ICT services internally
- a review of current ICT skills and ICT business unit structure, current ICT systems (including the corporate culture around their use)
- a multi-phase approach to the review - with key consultative activities undertaken in key phases ensuring ownership of the strategy across Council, monitoring progress as well as ensuring key project activities were delivered in a timely manner
- integrating the ICT strategy with existing planning strategies and formats as a prime requirement
- high-level benchmarking of ICT services against other similar local government organisations
- a report which would consider the key issues surrounding all aspects of ICT systems and service delivery which could feed into the development of an ICT Strategy for Council.

The project started in May 2013 and concluded in August 2013.

PROJECT 4 – SERVICE REVIEW - OPERATIONS & MAINTENANCE

The objective of this project was to undertake a thorough and methodical review of the service levels for Operations & Maintenance functions in Roads, Stormwater, Parks & Recreation and Buildings. This project was to evaluate and assess the standard of service levels in place and map a strategic operational direction to achieve the most cost effective and appropriate level of service required to meet both Council and community expectations.

This project was commenced by CT Management, but subsequently ceased so that management could collect data and information.

PROJECT 5 – ROLES, RELATIONSHIPS AND RESPONSIBILITIES PROGRAMME

The objective of this project was to provide a team development and individual coaching programme to Council covering the following topics:

- developing corporate/organisational strategies and direction
- understanding and knowledge of:
 - leadership characteristics
 - transitioning from a manager to a leader
 - leadership challenges
 - leadership styles
 - relevant references on leadership
- identifying corporate, departmental and individual issues to be dealt with at executive, managerial and supervisory levels
- executive leadership, staff development, increasing productivity, monitoring business goals, progressing personal goals
- career progression and personal development.

The project started May 2013 and concluded in November 2013.

PROJECT 6 - UPDATE OF THE STRATEGIC AND OPERATIONAL REVIEW

On 13 October 2014 the Council resolved to achieve a break-even position by 2016-17 and in addition adopted new key performance indicators for the General Manager. The objective of this project was to update the strategic and operational review and provide a strategy to enable the General Manager to demonstrate how Council could achieve a financial break-even position by 30 June 2017.

The major objectives of the project were to:

- detail where Council was at in terms of the implementation of the Improvement Plan 2013-2016 (particularly in relation to financial sustainability)
- validate the current Long-Term Financial Plan and the cost reduction target of \$5 100 000 for 2016-17
- determine whether there was corporate capability to implement potential improvements or identify what changes were needed to achieve the required outcomes to be delivered
- confirm the desktop assessment of financial estimates of deficit, savings and efficiency
- assess how Council was tracking towards the 'break-even' point which had been targeted to be achieved in 2016-17 and, if after this review the scope of efficiencies did not result in a break-even target in 2016-17, recommend changes to organisation structure, operations, systems and processes to improve the performance of Council based on a review of the previously developed functional span maps.

The project started October 2014 and concluded in February 2015.

PROJECT 7 – MANAGEMENT RESTRUCTURE

Following and during the development of the CT Management Strategic and Operational Review Report there was a requirement for updated position descriptions, roles, functions and responsibilities, etc. to reflect updated management and leadership requirements.

The project was undertaken during February 2015 and March 2015.

PROJECT 8 - SERVICE REVIEW – WORKS & SERVICES

The Strategic and Operational Review Report recommended that a review of the Works & Services Department be undertaken to achieve savings and efficiencies identified in the Report.

The objective of this project was to:

- build on the work undertaken in completing the Strategic and Operational review
- build on the project that had previously been identified to undertake a benchmarking exercise to examine unit delivery costs for principal service areas such as re-sheeting, kerb and channel, etc.
- identify savings in operations based on the delivery of current services.

The project covered the period from March 2015 to end of October 2015.

PROJECT 9 – SERVICE REVIEW SCOPING – FINANCE, GOVERNANCE AND OPERATIONS

This project was undertaken to assist with the scoping of future service reviews covering the Finance, Governance and Operations departments of Council. No separate proposal was received from CT Management for this work. The invoice detailed total consulting time of 27 hours for these services. This work was completed in January 2016.

PROJECT 10 – SERVICE REVIEW - OPERATIONS

The Strategic and Operational Review Report recommended that a review of the Operations department, including Fleet and Plant, be undertaken to achieve savings and efficiencies identified in the report.

The objective of this project was to:

- build on the work undertaken in completing the Strategic and Operational review
- report on the results of a benchmarking exercise
- provide recommendations, including proposed changes to department structure.

The project covered the period from March 2016 to September 2016.

PROJECT 11 – SERVICE REVIEW – FINANCE

Council requested a service review of the Business and Finance Department following a loss of key resources.

The objective of this project was to:

- identify key issues in the Business and Finance Department
- report on the results of a benchmarking exercise
- provide recommendations, including proposed changes to department structure.

The project covered the period from March 2016 to September 2016.

PROJECT 12 – SERVICE REVIEW – GOVERNANCE

Following the organisational review in 2013, a new section was established in the General Manager's Unit that embraced both Corporate Governance and Local Laws Compliance. The review indicated that the operational nature of the compliance work had significantly impacted on the ability of the General Manager to pursue priorities in the Governance area.

The objective of this project was to:

- identify key issues in the Corporate Governance and Local Laws Compliance area
- report on the results of a benchmarking exercise
- provide recommendations, including proposed changes to the structure.

The project covered the period from March 2016 to September 2016.

PROJECT 13 - ORGANISATION STRUCTURE AND CULTURAL CHANGE SUPPORT

The outcomes of the Operations, Finance and Governance service reviews identified actions to be implemented to achieve the service delivery model and levels of service. These actions were to involve organisational structure and cultural change. The objective of this project was to provide strategic and workplace relations advice related to the change.

The project covered the period from August 2016 to April 2017.

HR PROJECT OFFICER

Council sought support from CT Management in the form of a skilled professional with HR experience as well as project management skills and expertise. Council identified the following projects that the skilled professional was to support, guide, and complete:

- People & Safety group structure – provision of advice relating to structure, provision of assistance to the Manager People & Safety to recruit appropriate persons, development of position descriptions for new roles with the structure and amending position descriptions for existing roles
- HR strategy – provide support and input into the development of an HR strategy for Council
- Workplace Health & Safety Plan – support to develop and update the existing plan and facilitate the provision of other expert assistance where required, identify key risk areas, review the systems and documentation applied to manage risks, assess employee and contractor training needs and review and update the WH&S intranet site
- Induction program – develop and update the existing induction program for employees and contractors, including updating the employee handbook, distribution of delegations, preparing a pack of relevant Council information including site access, form declarations, Council policies and procedures, acknowledgement forms, taxation information and declarations for provision to new employees
- Council directives and guidelines – audit current documentation, identify gaps and updates required and amend documentation or create new documentation to ensure Council is compliance with requirements, facilitate a training program for all employees and contractors
- HR intranet site – audit the site to determine the improvements required, support and guide the process to upload relevant material, ensuring that employees and contracts are kept up to date with improvements
- Employee benefits – assess current Council benefits, review, introduce or make appropriate amendments to Council directives and guidelines in support, identify benefits other than salary and wages available to Council employees, assist the People & Safety department to gather information and create a register of information in relation to the positions and persons entitled to specific benefits, and identify the instruments or contacts pursuant to which the benefit has arisen, update the HR intranet site with relevant information regarding benefits
- Communications program – assist the Manager People & Safety to develop and roll out communications to all employees and contractors so they are kept up to date with developments, have the opportunity to provide input where appropriate and ask questions where clarification is required.

The project covered the period from September 2015 to March 2016.

ASSET AND FINANCIAL MANAGEMENT REVIEW

The objectives of this project were to:

- review the Council's asset management practices and plan and provide advice with respect to:
 - renewal demand per asset category – check assumptions, intervention levels, valuations, etc.
 - unit rate applied per asset category from Victorian councils
 - assess useful lives per asset category
 - undertake resultant calculations of depreciation charges
 - identify any key risk management issues arising from the review
- review Council's long-term financial plan and provide advice with respect to:
 - escalation assumptions applied to major cost and revenue centres
 - ensure renewal demand per asset category aligns with the asset categories in the long term financial plan
 - check indexation applying to the renewal demand figures in the long term financial plan
 - ensure unit rates and useful lives reflect the asset management departments valuations/assessments per asset category
 - review capital works program and ensure it flows into the long term financial plan
 - review financial ratio outcomes
 - review financial key performance indicators.

The project covered the period from October 2015 to December 2015.

LONG TERM FINANCIAL PLAN SOFTWARE PACKAGE

The Council purchased a long-term financial plan software package from CT Management in November 2015 and paid an annual upgrade for the package in February 2017.

PROFESSIONAL PLACEMENTS AND OTHER SUPPORT

Council entered into a number of professional placement and other support arrangements with CT Management to provide professional support. Terms of the placements are summarised below:

- Finance support – three days per week for six months from 15 March 2016 (with travel and accommodation, estimated to be \$900 per week, charged at cost plus 5%)
- Operations support - three days per week for three months from 13 February 2017 (with travel and accommodation, estimated to be \$600 per week, charged at cost)
- HR support – provided in February 2017 and March 2017
- Technical support – provided in April 2017.

UNALLOCATED

There were two invoices from CT Management that were not allocated to any specific projects:

- an invoice dated 31 December 2013 for a meeting with the Chief Executive Officer of CT Management on 9 December 2013, \$490
- an invoice dated 28 February 2014 for consultancy costs relating to Council management team and service planning project, \$3 157.

DETAILED FINDINGS

The scope of our investigation was to assess whether:

1. Council complied with the procurement methods detailed in section 5 of the 2009 Code and section 6 of the 2016 Code

The purchase order to procure consultancy services from CT Management for the initial review was raised on 24 October 2012. An initial progress claim invoice was submitted by CT Management dated 30 November 2012. On the same date, a Deviation from Purchasing Policy form was completed to acknowledge the invoice did not comply with the ordering of goods and services policy. The explanation provided was that three quotations were not attached as the invoice was "Approved to exempt requirement for 3 quote – specialised work". The Deviation from Purchasing Policy form was signed by an appropriate Council officer on 20 December 2012.

There was no explanation expanding on the nature of the specialised works or documentation to support management's assessment that no other supplier could have undertaken the engagement. While it is acknowledged that CT Management work predominately in the local government sector, they are not the only service provider that does so. The very nature of the work described suggests other management consulting entities could have also provided the required services.

Total expenditure for Projects 1 to 4 comprising Stage One (as defined by Council) totalled \$171 466. No documentation was evident to indicate why the expenditure was not subject to public tender, although in total it exceeded Council's tender procurement threshold of \$110 000 at that time.

Total expenditure for Project 5 was \$89 699. No other supporting documentation was found to explain why this project was not subject to three quotations.

In examining Council's purchase orders issued to CT Management for Projects 1 to 5 encompassing Stages One and Two, and invoices raised under those purchase orders as recorded in Council's financial management system, we identified a number of projects were undertaken under each individual purchase order as illustrated below:

Purchase order/Project/Invoice	Allocated Invoice Amount \$
GMGR000102 Roles, Relationships and Responsibilities Program	
Project 1 - Initial review	
Invoice 00003292	4 452
Project 2 - Improvement plan project manager	
Invoice 00003311	8 052
Invoice 00003387	15 421
Project 3 - ICT review	
Invoice 00003270	2 569
Invoice 00003401	1 540
Project 5 - Roles, relationships and responsibilities programme	
Invoice 00003288	12 407
Invoice 00003413	9 716
Total invoices raised under Purchase Order GMGR000102	54 157

Purchase order/Project/Invoice	Allocated Invoice Amount \$
GMGR000105 IT Strategy and Turnaround Management	
Project 2 - Improvement plan project manager	
Invoice 00003451	16 411
Invoice 00003494	6 583
Invoice 00003762	12 647
Invoice 00003840	9 426
Invoice 00003904	7 456
Project 3 - ICT review	
Invoice 00003459	14 807
Invoice 00003536	3 465
Project 5 - Roles, relationships and responsibilities programme	
Invoice 00003490	2 037
Invoice 00003561	8 659
Invoice 00003663	7 837
Invoice 00003767	12 059
Total invoices raised under Purchase Order GMGR000105	101 387

This shows the connectedness of Stages One and Two and Projects 1 to 5, expenditure on which totalled \$261 165. Our assessment of these stages and projects is that they should have been subject to a public tender.

Further, no purchase order was evident for Project 4 in the records provided.

In October 2014, Council engaged CT Management to update the strategic and operational review project in the context of ongoing financial sustainability (Project 6). Council subsequently engaged CT Management to provide management restructure services (Project 7) in February 2015. In assessing Projects 6 and 7, which we considered to be components of the Strategic and Operational Review being conducted by CT Management, we concluded the individual engagements could have been classified as a single project. Expenditure for these projects totalled \$112 734 and should have, in our assessment, been subject to a public tender.

On 5 February 2015, CT Management and the General Manager made a presentation to Councillors during a Special Council Meeting on the Strategic and Operational Review. The presentation included the following recommendations:

- the adoption of a new organisational structure with three key units: Community, Economic Development and Business (including Finance); City Services and Infrastructure (Operations) and Governance
- confirm the most appropriate operating and financial strategy going forward
- that certain key areas of the organisation be supported to meet the required targets in the Improvement Plan
- the Improvement Plan be completed by June 2016
- that a review of the Operations department including fleet and plant be undertaken to achieve the nominated savings and efficiencies in the report.

The presentation also made reference to a Service Planning project being completed (commencing in April 2015) to provide the capability for Council to make comparative choices with respect to service levels and to:

- review priorities following new Strategic Planning Framework and GCC Strategic Plan 2015-2025
- enable Council to settle the range and levels of services provided, level of operating costs
- determine the priority of services currently delivered and to be delivered into the future.

Immediately following the presentation, the Special Council Meeting was adjourned by the Mayor prior to any decisions being made in relation to the Strategic and Operational Review. Notwithstanding this, the remaining councillors continued the meeting and resolved to:

- i. accept the presentation of the Strategic and Operational Review from CT Management
- ii. approve the recommendations made by CT Management and the General Manager in the presentation
- iii. request the General Manager to implement the recommendations.

Following an inquiry undertaken by the Director of Local Government into the adjournment and continuation of the Special Council Meeting on 5 February 2015, at the Council meeting on 16 March 2015 Council was required to make a new resolution in relation to the Strategic and Operational Review, and subsequently resolved to:

- i. accept the presentation of the Strategic and Operational Review from CT Management made on 5 February 2015
- ii. approve the recommendations made by CT Management and the General Manager in the presentation of 5 February 2015.

Following the Special Council Meeting, but before eventual ratification of the recommendations by Council, CT Management submitted two proposals:

- a proposal to undertake a Works and Services – Service Review (classified by management as Project 8) dated 27 February 2015
- a proposal for a professional placement for an Acting Manager Operations (also classified by management as Project 8) dated 6 March 2015. The CT Management reference was “3229: *combined proposal*”, indicating it was connected to the Works and Services – Service Review proposal.

No total project cost was included in the Works and Services – Service Review proposal, although the number of days estimated to complete the project and the hourly charge rates proposed indicated the total project cost would have been approximately \$52 470. The purchase order issued for this work (purchase order GMGR000157) estimated a project cost of \$45 000.

No total project cost was included in the Acting Manager Operations proposal, although the number of days estimated to undertake the professional placement (64 days) and the daily charge rate proposed (\$1 120 excluding GST) indicated the total project cost would have been approximately \$63 078. The purchase order issued for this work (purchase order GMGR000140) estimated a project cost of \$50 000.

Total expenditure for Project 8 was \$115 670. Given CT Management’s reference to the two components of this project (the Works and Services – Service Review and professional placement for an Acting Manager Operations) as being a “combined proposal”, and the classification of these components as one single project by management (Project 8), this project should have, in our assessment, been subject to a public tender.

In February 2016, Council received three separate proposals for service reviews covering the areas of Operations, Finance and Governance. From our investigation, it was noted;

- all the proposals were dated 19 February 2016
- the project scope in each proposal has a high degree of similarity
- each proposal had similar personnel from CT Management undertaking the work (✓ indicates identical nominated personnel):

Purchase order	Proposed CT Management personnel				
	Project Director	Project Manager	Associate One	Associate Two	Associate Three
GMGR00167 Operations	✓	✓	✓	✓	-
GMGR00168 Finance	✓	✓	-	✓	✓
GMGR00169 Governance	✓	✓	✓	✓	-

- internal e-mails to staff referred to 'a review in three departments'
- a purchase order (number GMGR00167) was issued for the Operations service review on 9 February 2016 with purchase orders issued for the Finance and Governance service reviews on 25 February 2016 (numbers GMGR00168 and GMGR00169). It could be argued that the purchase orders issued on the same day could constitute one contract for those services
- totals for invoices raised under each of those purchase orders, as recorded in Council's financial management system

Purchase order	Allocated Invoice Amount \$			
	Scoping	Operations	Finance	Governance
GMGR00167 Operations	6 932	64 938	-	-
GMGR00168 Finance	-	8 584	47 677	-
GMGR00169 Governance	-	-	-	57 321

The allocation of invoices to the respective purchase orders illustrates the level of connectedness between the projects

- a single report was produced, which referred to 'A Service Review has been undertaken for the following three Council areas: Works within City Services & Infrastructure; Finance within the Community Economic Development and Business Department; and Compliance and Local Laws Unit within the Governance and Risk Department. This Review activity has resulted in the identification of a range of issues and recommendations.'

Expenditure for Projects 9 to 12 totalled \$190 116. Our assessment of these projects is that they related to the service level reviews, were a single project and the procurement of the services should have been open to public tender.

Expenditure for Project 13 totalled \$110 985. Our assessment of this project is that the procurement should have been subject to the quotation process, or possibly, public tender.

Our examination found projects that did not relate to the recommendations approved in the 16 March 2015 Council meeting. The projects related to:

- Professional placements and other support – provision of professional support in the area of finance, operations, HR and technical
- HR project officer to assist with a number of projects required to be completed in the People & Safety Department.

Council expended a total of \$111 792 on professional placements and other support and \$113 606 on the HR project officer. These projects were undertaken following proposals provided by CT Management, but the fee proposals were based on hourly/daily rates plus disbursements. No fixed fee was supplied. The proposals did not specify a specific time period, but noted attendance based on a period of days per week for an estimated number of months.

The total expenditure incurred in engaging the HR project officer indicates a quotation process would have been appropriate. Our examination of the purchase orders found Council estimated \$67 869 in costs. Our assessment, after discussion with management, is that it was not anticipated the actual costs would exceed the Council's tender threshold.

We consider the professional placement for Operations and Finance and HR project officer should have been subject to Council's quotation process (three separate quotes for greater than \$10 000, with one from a local business).

In the course of our investigation, Council provided us with a Memorandum of Advice from a barrister dated 19 January 2017, which provided an opinion on whether the Council's engagements of CT Management during the 2015-16 financial year were compliant with public tender requirements under the Act, *Local Government (General) Regulations 2015* and the Council's 2016 Code. The conclusions expressed in the Memorandum of Advice were:

- i. the Council's engagements of CT Management during the 2015-16 financial year were compliant with public tender requirements under the Act and the Regulations and the Code
- ii. there was no requirement to undertake a public tender process because the contracts were for services below the prescribed amounts of \$250 000 excluding GST (the Act) and \$100 000 including GST (the 2016 Code). In respect to the 2016 Code it was estimated by the Council that none of the proposals in respect to each program agreed would cost more than \$100 000 including GST by way of services
- iii. the 2016 Code provided the Council with an absolute discretion to determine the appropriate method to procure services. On 16 March 2015 the Council resolved to accept the programs proposed by CT Management even though the fees for those programs had not yet been proposed and agreed. The Council having done so, it would not have been reasonable for management to then embark on the process of obtaining quotations from other potential suppliers as per the "current methods employed by the Council to procure" referred to in the 2016 Code. The General Manager could not accept a quote from another supplier because the Council had resolved to use CT Management for the programs.

In considering the advice provide by Council's barrister we noted:

- the advice only covered procurements made during the 2015-16 financial year and not all procurements from CT Management
- the advice only expressed an opinion on compliance with public tender requirements under the Act, the *Local Government (General) Regulations 2015* and the 2016 Code, and it would appear the advice sought did not seek to clarify the position with respect to compliance with the requirement for quotations
- that notwithstanding Council's acceptance of the presentation of the Strategic and Operational Review by CT Management Group Pty Ltd delivered on 5 February 2015 and the approval of the recommendations made by CT Management Group Pty Ltd and the General Manager in the presentation, this did not automatically exempt management from complying with the procurement obligations of the Act, the *Local Government (General) Regulations 2015* and 2016 Code
- that Council, nor an approved delegate, approved an exemption to the requirement to obtain three written quotes for procurement or issue a public tender under Part 10 of the 2016 Code
- the statement that "the Council resolved to accept the programs proposed by CT Management even though the fees for those programs had not yet been proposed and agreed" is not factually correct. The resolution passed by Council on 16 March 2015 was after management had received proposals for CT Management to undertake the Works and Services – Service Review and professional placement for an Acting Manager Operations (jointly classified by management as Project 8) at a total estimated cost of \$115 548.
- that, for the reasons outlined earlier, Projects 9 to 12, were a single project and should have been subject to public tender.

Therefore, we do not concur with the barrister's opinion that "it would not have been reasonable for management to then embark on the process of obtaining quotations from other potential suppliers", nor do we concur with the statement that the Council's engagements with CT Management during the 2015-16 financial year were compliant with public tender requirements under the Act, the *Local Government (General) Regulations 2015* and 2016 Code.

Having investigated the expenditure incurred with CT Management, we have concluded Council failed to comply with the relevant sections of the procurement Codes.

At a minimum, Council should have obtained three quotations for each engagement greater than \$10 000 and documented its assessment. However, as noted above, there were instances where the nature of the individual projects suggested they were components of a larger project, which based on the expenditure incurred, the procurement should have gone to public tender.

Council also breached the 2016 Code in that there were instances where purchase orders were not evidenced for services provided.

2. Council had intentionally split procurement from a single procurement activity into two or more separate contracts/projects for the primary purpose of avoiding the requirement to seek three written quotations (in accordance with applicable threshold) or publicly invite tenders (in accordance with applicable threshold)

Our review found that expenditure for Projects 9 to 12 totalled \$190 116. Our assessment of these projects is that they were a single project and should have been open to public tender. It would appear the procurements were intentionally split across three separate purchase orders to avoid the requirement to undertake a public tender.

We also express concern over management's approval of individual proposals and projects and its interpretation of the requirements of the procurement Codes. From a governance perspective, we are concerned by the absence of detailed information supporting decisions to engage CT Management. Purchase orders only contained brief descriptions of the proposed tasks and not all engagements were supported by a proposal.

3. Council had erroneously interpreted a single procurement activity as being separate contracts/projects?

Based on review of the expenditure incurred with CT Management, we consider Council's interpretation that each project was independent of any other project was incorrect. We consider there were a series of procurement activities that were erroneously interpreted by Council as being composed of a greater number of smaller separate contracts/projects.

4. Any of the procurements from CT Management met the exemptions from the tender or quotation process identified in Regulation 27 of the *Local Government (General) Regulations 2005 and 2015* or section 6 of 2009 Code and section 10.2 of 2016 Code

From our review of documentation and discussions with management, it is apparent that the decision not to comply with Council's quotation process (for Project 1 – Initial review) was based on the perceived absence of competitive or reliable tenderers. The only reason documented for the deviation was 'Approved to exempt requirement for 3 quotes – specialised work'. No other documented explanation was observed that expanded on the nature of the specialised works or management's assessment as to why no other supplier could have undertaken such work.

As noted previously, we acknowledge CT Management work predominately in local government, but the nature of the work indicates other entities working in management consulting, HR and finance could have provided similar services. We disagree with management's assertion, as documented in the Deviation from Purchasing Policy form, that the work was so specialised that only CT Management could undertake the engagement.

5. Council had, pursuant to Regulation 28(j) of the *Local Government (General) Regulations 2005 and 2015*, established and maintained procedures for reporting by the General Manager to the Council in relation to the purchase of goods or services in circumstances where a public tender or quotation process is not used

In discussions with management, it was found there was no formal documented procedure for reporting by the General Manager to the Council in relation to the purchase of goods or services in circumstances where a public tender or quotation process was not used.

6. Council had complied with the annual reporting requirements in relation to tenders and contracts specified in:
 - Regulation 23(5) of the *Local Government (General) Regulations 2005*
 - Regulation 29 of the *Local Government (General) Regulations 2015*

(Details of the requirements are included in Appendix One)

We reviewed Council's annual reports for the 2012-13, 2013-14, 2014-15 and 2015-16 financial years. We did not find any mention of CT Management in disclosure related to tenders and contracts.

However, the 2012-13 annual report did include the following comment in the General Manager's Report section: *"We have contracted business improvement consultants CT Management to identify areas of process improvement, cultural change and improvements in customer focus within the organisation. From this initial review, we have an improvement plan which contains a list of 79 projects and reviews for the organisation to undertake over the next three years."*

Based on our review of the expenditure, we considered some individual projects were components of a larger project, which based on the expenditure incurred, for which should have been procured via a public tender. Even under management's individual project basis, a number of engagements exceeded the \$110 000 threshold and would have needed to be disclosed in the annual reports for 2012-13, 2013-14 and 2014-15.

As a consequence, in relation to Regulation 23(5) of the *Local Government (General) Regulations 2005*, tenders should have been called and appropriate disclosures made.

For 2015-16 Council was required to report in its annual report information on contracts for the provision of goods or services valued at or exceeding \$100 000 (excluding GST) entered into, or extended. In addition, if Council had properly addressed the exemptions available to not seek tenders we would have expected appropriate disclosure in the 2015-16 annual report as required by Regulation 29(2) of the *Local Government (General) Regulations 2015*.

In relation to Regulation 29 of the *Local Government (General) Regulations 2015*, there were engagements that should have been disclosed. The HR project officer project is an example of a totally separate engagement where disclosure should have been evident.

7. Council had complied with the Procurement Principles outlined in the procurement Codes, and specifically whether Council:
 - (a) adequately tested the market through seeking quotations or via tender as appropriate (Open and Effective Competition)
 - (b) where local capacity existed to provide the services, engaged the local market and encouraged participation in tender and quotation processes (Enhancement of the capabilities of local business and industry)

We were unable to find any evidence that Council considered any other supplier to provide the services ultimately provided by CT Management. There was inadequate documentation relating to the initial appointment of CT Management.

Consequently, we consider Council did not comply with its procurement principles and did not:

- adequately test the market through seeking quotations or tender
- engage the local market and encourage participation in a tender and quotation process.

8. Council had appropriately documented the decisions to engage CT Management to enable those decisions to be reviewed to ensure compliance with the *Local Government (General) Regulations 2005 and 2015, Regulations 23 – 29 inclusive*, and the procurement Codes

We consider, based on our investigation, Council did not appropriately document its decision to engage CT Management.

ACRONYMS AND ABBREVIATIONS

2009 Code	Council's Code for Tenders and Contracts 2009
2016 Code	Council's Code for Tenders and Contracts 2016
Council	Glenorchy City Council
CT Management	CT Management Group Pty Ltd
HR	Human Resources
ICT management	Information, communication and technology management of Glenorchy City Council
procurement Codes the Act	Council's Code for Tenders and Contracts 2009 and 2016 <i>Local Government Act 1993</i>

APPENDIX ONE: ANNUAL REPORTING REQUIREMENTS IN RELATION TO TENDERS AND CONTRACTS

LOCAL GOVERNMENT (GENERAL) REGULATIONS 2005

Section 23 (5):

A council is to report the following in its annual report in relation to any contract for the supply or provision of goods or services valued at or exceeding the amount prescribed under sub regulation 1, entered into or extended under sub regulation (4) (b) in the financial year:

- a. a description of the contract;
- b. the period of the contract;
- c. the periods of any options for extending the contract;
- d. the value of any tender awarded or, if a tender is not required, the value of the contract excluding GST;
- e. the business name of the successful contractor;
- f. the business address of the successful contractor.

LOCAL GOVERNMENT (GENERAL) REGULATIONS 2015

Section 29:

1. For the purposes of section 72(1) (e) of the Act, a council is to report the following in its annual report in relation to any contract, for the supply or provision of goods or services valued at or exceeding \$250 000 (excluding GST), that is entered into, or extended under regulation 23(5) (b), in the financial year to which the annual report relates:
 - a. a description of the contract;
 - b. the period of the contract;
 - c. the periods of any options for extending the contract;
 - d. the value of any tender awarded or, if a tender was not required, the value of the contract (excluding GST);
 - e. the business name of the successful contractor;
 - f. the business address of the successful contractor.
2. For the purposes of section 72(1) (e) of the Act, a council is to report in its annual report all instances where regulation 27(a) and (i) have been applied, with the following details:
 - a. a brief description of the reason for not inviting public tenders;
 - b. a description of the goods or services acquired;
 - c. the value of the goods or services acquired;
 - d. the name of the supplier.
3. For the purposes of section 72(1) (e) of the Act, a council is to report the following in its annual report in relation to any contract, for the supply or provision of goods or services valued at or exceeding \$100 000 (excluding GST) but less than \$250 000, that is entered into, or extended, in the financial year to which the annual report relates:
 - a. a description of the contract;
 - b. the period of the contract;
 - c. the periods of any options for extending the contract;
 - d. the value of the contract (excluding GST);
 - e. the business name of the successful contractor;
 - f. the business address of the successful contractor.

APPENDIX TWO: SUBMISSIONS AND RESPONSES RECEIVED

Submissions and comments that we receive are not subject to the audit, nor the evidentiary standards required in reaching an audit conclusion. Responsibility for the accuracy, fairness and balance of these comments rests solely with those who provided the response. However, views expressed were considered in reaching the summary of findings.

Section 30(3) of the Act requires that this report include any submissions or comments made under section 30(2) or a fair summary of them. Submissions received are included in full below.

The Treasurer

I note the findings of the Tasmanian Audit Office that the Council did not go to public tender, seek quotations or authorise any exemptions with respect to any of these procurements.

Further, I note the findings of the TAO that the Council failed to comply with the *Local Government Act 1993*, the *Local Government (General) Regulations 2005 and 2015*, Council's procurement Codes and Council's internal policies, procedures and manuals.

I consider that compliance with procurement rules is important to ensure the proper expenditure of public monies. Such expenditure must represent value for money, provide open and effective competition and should also provide opportunities for local business.

Accordingly, I support the Recommendations of the Report that Council review its internal processes and procedures to ensure future compliance with all applicable procurement rules and to ensure documentary evidence is maintained to support ongoing compliance with the *Local Government Act 1993*, the *Local Government (General) Regulations 2005 and 2015*, Council's procurement Codes and Council's internal policies, procedures and manuals.

Once the full report is finalised I understand the Local Government Division will consider it with a view to whether there is sufficient grounds based on the report to issue Council with a non-compliance notice under the *Local Government Act 1993*.

Hon Peter Gutwein MP

Treasurer

The General Manager – Glenorchy City Council

I received a copy of the Auditor General's draft Executive Summary dated 1st August 2017 and provided a response to it on 15th August 2017, my response included documents I could retrieve whilst at home on extended leave from Glenorchy City Council. I met with officers of the Tas Audit Office on 12th September 2017 and provided verbal information to them following their receipt of my initial response.

The first statement I would make is that I am very disappointed that the Glenorchy City Council was sent a full copy of the draft report and asked to check whether the draft report was factually correct. At no time did I receive any contact, correspondence or queries from Glenorchy City Council requesting that I provide them with information or documents. I responded to the Executive Summary with very little information and documents that I had copies of – I had to contact CT Management to get information and copies of information to enable me to respond.

My email and request to Glenorchy City Council for information that lead to the draft findings did not provide much assistance at all.

Upon my appointment, as General Manager at Glenorchy City Council in July 2011 I was tasked with 2 major issues by Council.

a) Look at fixing the financial sustainability of GCC. They had rate increases of 15% and 8% and the then long term financial plan stated that further increases of 8% would be required to reduce the operating deficit.

b) Review the management culture at GCC and to improve communication and management skills.

The Auditor General's statement: "A Deviation from Purchasing Policy form was completed to acknowledge the first invoice received for Project 1 did not comply with the ordering of goods and services policy. The explanation provided was that three quotations were not attached as the invoice was *"Approved to exempt requirement for 3 quotes – specialised work"*

Response - I met with a number of companies and discussed these issues and received their views on how this could be achieved, I asked some to forward proposals – whilst they may not be in Council's records system they were sought and received. I discounted many as I did not consider they had the history or knowledge to assist GCC in what was required. I had not used CT Management prior to my appointment at Glenorchy City Council and their proposal met what I was after – hence the exemption I stated when 1st appointing CT Management in 2012/13.

CT Management having conducted similar reviews at other Councils in Victoria. The ICT Review – Project 3 is separate to the other projects in Stage One – this project was a collaboration between Peter Carr of Peter Carr & Associates in Hobart and Phil Bourke who operated through CT Management again separate proposals were received from each.

The Auditor General's statement: In October 2014, Council engaged CT Management to update the strategic and operational review project in the context of ongoing financial sustainability (Project 6). Council subsequently engaged CT Management to provide management restructure services (Project 7) in February 2015. In assessing Projects 6 and 7, which we considered to be components of the Strategic and Operational Review being conducted by

CT Management, we concluded the individual engagements could have been classified as a single project. Expenditure for these projects totalled \$112 733 and should have, in our assessment, been conducted by a public tender process.

Response - The individual engagements as assisting in management roles took longer than 1st envisaged and it was not considered that the threshold would be exceeded in some cases.

In February 2015 and March 2015 Council approved and adopted the CT management review process – this had come about by my new GM KPI's being adopted in October 2014 – by way of explanation – the previous Improvement Plan and long term financial plan had demonstrated that GCC would "break-even" in 2024. My new KPIs adopted by full Council in October 2014 required me to demonstrate how GCC could break even by 30th June 2017. By Council adopting the report and recommendations I was firmly of the view that full Council approval had been formally given to me to proceed with CT Management. Barrister X³ stated in his advice to Council: *"The Code provided the Council with an absolute discretion to determine the appropriate method to procure services. On 16 March 2015, the Council resolved to accept the programs proposed by CTMG even though the fees for those programs had not yet been proposed and agreed. The Council having done so, it would not have been reasonable for the General Manager or his delegate to then embark on the process of obtaining quotations from other potential suppliers as per the "current methods employed by the Council to procure" referred to in the Code and set out above. The General Manager could not accept a quote from another supplier because the Council had resolved to use CTMG for the programs"*

The Auditor General's statement: Our review found that expenditure for Projects 9 to 12 totalled \$190 115. Our assessment of these projects is that they were a single project and should have been open to public tender. It would appear the procurements were intentionally split across three separate purchase orders to avoid the requirement to undertake a public tender.

3. The name of the Barrister has been removed from the original response

Response - There was certainly no deliberate intention to split the projects to avoid going to public tender, each project had a separate proposal – the requirements for each project were not known and there was no full understanding of what would be required to implement the Council’s March 2015 decision until some of the earlier projects had been completed. As stated above: – In February 2015 and March 2015 Council approved and adopted the CT management review process – this had come about by my new GM KPI’s being adopted in October 2014.

The Auditor General’s statement: We reviewed Council’s annual reports for the 2012-13, 2013-14, 2014-15 and 2015-16 financial years. We did not find any mention of CT Management in disclosure related to tenders and contracts.

However, the 2012-13 annual report did include the following comment in the General Manager’s Report section: *“We have contracted business improvement consultants CT Management to identify areas of process improvement, cultural change and improvements in customer focus within the organisation. From this initial review, we have an improvement plan which contains a list of 79 projects and reviews for the organisation to undertake over the next three years.”*

Based on our review of the expenditure, we considered some individual projects were components of a larger project, which based on the expenditure incurred, should have gone to public tender. Even under management’s individual project basis, a number of engagements exceeded the \$110 000 threshold and would have needed to be disclosed in the annual reports for 2012-13, 2013-14 and 2014-15.

Response – I considered that the projects were not one project and therefore did not exceed the threshold -as detailed above and via attachments I supplied the Tasmanian Audit Office.

Peter Brooks

General Manager

Glenorchy City Council

Auditor-General comment on the General Manager’s response

In relation to the additional documents provided by the General Manager and not held in Council’s record systems, these did not persuade us to change our conclusions. The proposals in attachments received did not align directly with work performed by CT Management and in some instances related to the other additional procurement services for advisor and/or development programs.

AUDIT MANDATE AND STANDARDS APPLIED

Mandate

Section 17(1) of the *Audit Act 2008* states that:

‘An accountable authority other than the Auditor-General, as soon as possible and within 45 days after the end of each financial year, is to prepare and forward to the Auditor-General a copy of the financial statements for that financial year which are complete in all material respects.’

Under the provisions of section 18, the Auditor-General:

‘(1) is to audit the financial statements and any other information submitted by a State entity or an audited subsidiary of a State entity under section 17(1).’

Under the provisions of section 19, the Auditor-General:

‘(1) is to prepare and sign an opinion on an audit carried out under section 18(1) in accordance with requirements determined by the Australian Auditing and Assurance Standards

(2) is to provide the opinion prepared and signed under subsection (1), and any formal communication of audit findings that is required to be prepared in accordance with the Australian Auditing and Assurance Standards, to the State entity’s appropriate Minister and provide a copy to the relevant accountable authority.’

Standards Applied

Section 31 specifies that:

‘The Auditor-General is to perform the audits required by this or any other Act in such a manner as the Auditor-General thinks fit having regard to –

- (a) the character and effectiveness of the internal control and internal audit of the relevant State entity or audited subsidiary of a State entity; and
- (b) the Australian Auditing and Assurance Standards.’

The auditing standards referred to are Australian Auditing Standards as issued by the Australian Auditing and Assurance Standards Board.



Tasmanian Audit Office

Phone (03) 6173 0900
Fax (03) 6173 0999
email admin@audit.tas.gov.au
Web www.audit.tas.gov.au

Launceston Office

Phone (03) 6173 0971

Address Level 8, 144 Macquarie Street,
Hobart

Postal Address GPO Box 851, Hobart 7001

Office Hours 9am to 5pm Monday to Friday

Address 2nd Floor, Henty House
1 Civic Square, Launceston