

# Report of the auditor-general to North West Provincial Legislature and the council on Ngaka Modiri Molema District Municipality

## Report on the audit of the financial statements

### Qualified opinion

1. I have audited the financial statements of the Ngaka Modiri Molema District Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2024, statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget information with actual information for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects and possible effects of the matters described in the basis for qualified opinion section of this auditor's report, the financial statements present fairly, in all material respects, the financial position of the Ngaka Modiri Molema District Municipality as at 30 June 2024, and its financial performance and cash flows for the year then ended in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 5 of 2023 (DoRA).

### Basis for qualified opinion

#### Inventories

3. I was unable to obtain sufficient appropriate audit evidence for VIP toilets due to the status of the accounting records. I was unable to confirm these balances by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to VIP toilets stated at R12 626 133 (2023: R38 853 021) in note 7 of the financial statements.

#### Inventories write downs and reversals of write downs

4. I was unable to obtain sufficient appropriate audit evidence for inventories write downs and reversals of write downs due to status of accounting records. I was unable to confirm these inventories write downs and reversals of write downs by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to inventories write downs and reversals of write downs of R12 013 000 as disclosed in the financial statement.

#### VIP transfers to local communities

5. I was unable to obtain sufficient appropriate audit evidence for VIP transfers to local communities due to status of accounting records. I was unable to confirm these VIP transfers to local communities by alternative means. Consequently, I was unable to determine whether

any adjustment was necessary to VIP transfers to local communities of R176 952 447 (2023: R210 596 136) as disclosed in note 7 of the financial statements.

### Property, plant and equipment

6. The municipality did not have adequate systems in place to record assets in accordance with GRAP 17, *Property plant and equipment*. The municipality incorrectly classified buildings as infrastructure assets. Consequently, infrastructure assets were understated by R12 024 236, and buildings was overstated by R12 024 236. In addition, the municipality's assets that were recorded in the current year could not be located during the asset verification process, consequently, the infrastructure assets were overstated by R19 525 861 (2023: R21 457 781). Furthermore, the municipality did not record all additions for replacement assets and work in progress related to infrastructure assets. I was unable to determine the full extent of the understatement as it was impracticable to do so.
7. The municipality did not accurately account for work in progress included in infrastructure assets in the current year and previous year as the VIP toilets were incorrectly classified as infrastructure assets. Consequently, work in progress included in infrastructure assets was overstated by R314 882 807 (2023: R287 652 923) and VIP toilets included in inventory was understated by R314 882 807 (2023: R287 652 923). In addition, differences were also identified between the invoices and the work in progress register. Consequently, work in progress included in infrastructure assets and trade payables were overstated by R15 451 394.
8. I was unable to obtain sufficient appropriate audit evidence for work in progress additions included in infrastructure assets due to the status of the accounting records. Management did not maintain adequate records for additions. I was unable to confirm these additions by alternative means. Consequently, I was unable to determine whether any further adjustments were necessary to work in progress relating infrastructure assets of R592 463 441 in note 3 to the financial statements. Additionally, differences were identified in the work in progress reconciliation disclosure and the asset register in the current and previous year. Consequently, work in progress reconciliation disclosure was understated by R32 299 113.

### Payables from exchange transactions

9. I was unable to obtain sufficient appropriate audit evidence for trade payables due to material differences between the trade payable listing and the financial statements. I was unable to confirm this trade payables by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to trade payables of R362 029 077 as disclosed in note 5 to the financial statements.

### Loss on disposal of assets

10. I was unable to obtain sufficient appropriate audit evidence for the loss on disposal of infrastructure assets due to the status of accounting records. I was unable to confirm these disposals by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to disposals stated at R51 368 828 (2023: R12 509 928) in note 3 to the financial statement.

### Irregular expenditure

11. I was unable to obtain sufficient appropriate audit evidence for irregular expenditure due to material differences between the balance and the irregular expenditure register. I was unable to confirm this irregular expenditure by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to irregular expenditure of R4 779 958 708 (2023: R4 660 729 056) as disclosed in note 44 to the financial statements.

### Unauthorised expenditure

12. I was unable to obtain sufficient appropriate audit evidence for the restated opening balance of unauthorised expenditure as the municipality did not have adequate control measures in place to maintain records. I was unable to confirm this unauthorised expenditure by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to unauthorised expenditure of R10 624 068 060 (2023: R10 114 211 095) as disclosed in note 42 to the financial statements.

### Contingencies

13. The municipality did not disclose all the claims in accordance with GRAP 19, *Provisions, contingent liabilities and contingent assets*, as litigations that met the definition of a contingent liability were not disclosed. Consequently, contingent liabilities were understated by R41 644 855.

### Prior year adjustments

14. The correction of a prior period error relating to property, plant and equipment was not correctly classified in the note 38 to the financial statements, as required by GRAP 3, *Accounting policies, estimates and errors*. The municipality incorrectly classified VIP toilets inventory as infrastructure assets in the restatement.
15. In addition, I was unable to obtain sufficient appropriate audit evidence for the prior period errors relating to inventories and VIP transfers to local communities disclosed in note 38 to the financial statements, as the supporting information was not provided. I was unable to confirm these disclosures by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to the prior period errors disclosed in the financial statements

### Net cash flows from operating activities

16. In 2023, net cash flows from operating activities were not correctly prepared and disclosed as required Standards of GRAP 2, *Cash flow statements*. This was due to multiple errors in determining cash flows from operating activities. I was not able to determine the full extent of the errors in the net cash flows from operating activities, as it was impracticable to do so. My opinion on the current year financial statements was also modified because of the possible effect of this matter on the comparability of the net cash flow from operating activities for the current period.

## Contracted services

17. During 2023, the municipality did not account for contracted services in accordance with, GRAP 1, *Presentation of financial statements* as the municipality did not have adequate systems to correctly record and classify expenditure. Consequently, repairs and maintenance of buildings and facilities included in contracted services was overstated by R119 181 298 and property plant and equipment were understated by R119 181 298. Additionally, there was a resultant impact on the surplus for the period and the accumulated surplus. My opinion on the current year financial statements was also modified because of the possible effect of this matter on the comparability of the contracted services for the current period.

## Depreciation and amortisation

18. During 2023, the municipality did not have adequate systems in place to record the depreciation in accordance with GRAP 17, *Property plant and equipment*. Material differences were identified between the depreciation disclosed in the statement of financial performance and register resulting in the overstatement of depreciation in the statement of financial performance by R13 784 031. Additionally, there was an impact on the surplus for the period and on the accumulated surplus. My opinion on the current year financial statements was also modified because of the possible effect of this matter on the comparability of the depreciation and amortisation for the current period.

## Context for opinion

19. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the responsibilities of the auditor-general for the audit of the financial statements section of my report.
20. I am independent of the municipality in accordance with the International Ethics Standards Board for Accountants' International code of ethics for professional accountants (including International Independence Standards) (IESBA code) as well as other ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
21. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

## Other matters

22. I draw attention to the matters below. My opinion is not modified in respect of this matter.

## Unaudited disclosure notes

23. In terms of section 125(2)(e) of the MFMA, the municipality is required to disclose particulars of non-compliance with the MFMA in the financial statements. This disclosure requirement did not form part of the audit of the financial statements and, accordingly, I do not express an opinion on it.

## Responsibilities of the accounting officer for the financial statements

24. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the Generally Recognised Accounting Principles and the requirements of the Municipal Finance Management Act; and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
25. In preparing the financial statements, the accounting officer is responsible for assessing the municipality's ability to continue as a going concern; disclosing, as applicable, matters relating to going concern; and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the municipality or to cease operations, or has no realistic alternative but to do so.

## Responsibilities of the auditor-general for the audit of the financial statements

26. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
27. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report. This description, which is located at page xx-xx, forms part of our auditor's report.

## Report on the audit of the annual performance report

28. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for the selected key performance area presented in the annual performance report. The municipality is responsible for the preparation of the annual performance report.
29. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2024 for auditing. I selected key performance areas that measure the municipality's performance on its primary mandated functions and that are of significant national, community or public interest.

Development priority	Page numbers	Purpose
<b>KPA 2: Basic service delivery and infrastructure development</b>	[xx]	To improve access to basic services
<b>KPA 4: Local economic develop</b>	[xx]	To promote local economic development

30. I evaluated the reported performance information for the selected key performance areas against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the municipality's planning and delivery on its mandate and objectives.
31. I performed procedures to test whether:
- the indicators used for planning and reporting on performance can be linked directly to the municipality's mandate and the achievement of its planned objectives
  - all the indicators relevant for measuring the municipality's performance against its primary mandated and prioritised functions and planned objectives are included
  - the indicators are well defined to ensure that they are easy to understand and can be applied consistently, as well as verifiable so that I can confirm the methods and processes to be used for measuring achievements
  - the targets can be linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated
  - the indicators and targets reported on in the annual performance report are the same as those committed to in the approved initial or revised planning documents
  - the reported performance information is presented in the annual performance report in the prescribed manner and is comparable and understandable.
  - there is adequate supporting evidence for the achievements reported and for the measures taken to improve performance
32. I performed the procedures for the purpose of reporting material findings only; and not to express an assurance opinion or conclusion.
33. The material findings on the reported performance information for the selected key performance areas are as follows:

## **KPA 2: Basic service delivery and infrastructure development**

### **Missing indicators**

34. The Municipal Systems Act (MSA) defines the legislative mandate of the municipality. Section 43 of the MSA read in conjunction with section 10 of the Local Government: Municipal planning and performance management regulations, outlines the prescribed indicators for local government. However, as per the table below, various indicators to measure performance on the mandate were omitted from the approved planning documents. Consequently, achievement against the mandate was not planned or accounted for, which is likely to result in it not being delivered and undermines transparency and accountability for delivery on the mandated responsibilities.

<b>Mandated responsibility</b>	<b>Reason provided by municipality for non-inclusion</b>
Quantity of water delivered through water tinkering.	Municipality is no longer outsourcing the tankering services. The municipality is delivering the service in-house.
The percentage of households with access to basic level of water and sanitation.	Municipality has not considered reporting on such indicator. On the MFMA Circular 88 the indicators, the function falls under the Local Municipality.

### Various indicators

35. I could not determine if the reported achievements were correct, as adequate supporting evidence was not provided for auditing. Consequently, the achievements might be more or less than reported and was not reliable for determining if the target has been achieved.

<b>Indicator number</b>	<b>Indicator</b>	<b>Planned target</b>	<b>Reported achievement</b>
KPI 13	Kilometres of aging leaking bulk pipelines replaced by 30 June 2024	3,75km of aging leaking bulk pipeline replaced	5,29 km of aging leaking bulk pipeline replaced
KPI 17	Number of waste water treatment plants maintained by 30 June 2024	13 Wastewater treatment Works maintained	13 Wastewater Treatment Works maintained

### Various indicators

36. Measures taken to improve performance against underachieved targets were not reported in the annual performance report. Information was thus not provided to help with understanding the actions taken by the accounting officer to address performance gaps and for assessing the effectiveness of strategies to improve future performance against targets.

<b>Indicator number</b>	<b>Indicator</b>	<b>Target</b>
KPI 11	Number of fire stations on phase 1 and 2 completed at Ratlou and Tswaing Fire Stations by 30 June 2024	Two fire stations on Phase 1 and 2 completed by 30 June 2024 (Ratlou and Tswaing Fire Stations) (Phase 1- Compacting; Guard Houses; Water Reticulation; Site Paving and Electrification. Phase 2 - 50% Construction completed)
KPI 18	Kilometres of gravel roads constructed and maintained by 30 June 2024	22,3 KMs of Gravel roads constructed and 3,3km maintained by 30 June 2024
KPI 20	Number of Water Projects to be completed by 30 June 2024	2 Water projects completed by 30 June 2024

#### KPI 22 - Number of VIP toilets constructed and completed by 30 June 2024

37. An achievement of 2320 VIP toilets was reported against a target of 3200 VIP toilets. However, some supporting evidence was not provided for auditing; or, where it was, I identified material differences between the actual and reported achievements. Consequently, the achievement might be more or less than reported and was not reliable for determining if the target had been achieved.

#### KPI 14 - Number of monitoring reports of the Water Service Providers submitted to the Municipal Manager by 30 June 2024

38. An achievement of 2 monitoring reports of the water service providers submitted to the municipal manager by 30 June 2024 was reported against a target of 2 monitoring reports of the water service providers submitted to the municipal manager by 30 June 2024. I could not determine whether the reported achievement was correct, as the indicator was not well defined and adequate supporting evidence to clarify the methods and processes for measuring achievement were not provided. Consequently, the reported achievement might be more or less than reported and was not reliable for determining if the target has been achieved.

#### KPA 4: Local economic development

##### KPI 35 – Number of extended contracts through EPWP by 30 June 2024

39. An achievement of 218 contracts extended through EPWP was reported against a target of 216 contracts extended through EPWP. However, the audit evidence did not support this achievement. I could not determine the actual achievement, but I estimated it to be materially less than reported. Consequently, it is likely that the target was not achieved.

#### Other matters

40. I draw attention to the matters below.

#### Achievement of planned targets

41. The annual performance report includes information on reported achievements against planned targets and provides explanations for over or under achievements and measures taken to improve performance. This information should be considered in the context of the material findings on the reported performance information.
42. The tables that follow provide information on the achievement of planned targets and list the key service delivery indicators that were not achieved as reported in the annual performance report. The reasons for any underachievement of targets and measures taken to improve performance are included in the annual performance report.

## KPA 2: Basic service delivery and infrastructure development

<i>Targets achieved: 56%</i> <i>Budget spent: 86%</i>		
Key service delivery indicator not achieved	Planned target	Reported achievement
KPI 11: Number of fire stations on phase 1 and 2 completed at Ratlou and Tswaing Fire Stations by 30 June 2024	Two fire stations on Phase 1 and 2 completed by 30 June 2024  (Ratlou and Tswaing Fire Stations) (Phase 1- Compacting; Guard Houses; Water Reticulation; Site Paving and Electrification. Phase 2 - 50% Construction completed	Ratlou (Setlagole) Fire Station: Phase 1 Site hand-over took place on 01-Mar-24. 51%  Phase 2 not catered for in this financial year  Tswaing (Delareyville) Fire Station: Phase 1 final completion certificate signed dated 28 June 2024.
KPI 12: Number of boreholes drilled, equipped and refurbished by 30 June 2024	73 boreholes drilled and equipped, and 07 boreholes refurbished by 30 June 2024	23 boreholes drilled, equipped and 4 boreholes refurbished by 30 June 2024.
KPI 18: Kilometres of gravel roads constructed and maintained by 30 June 2024	22,3 KMs of Gravel roads constructed and 3,3km maintained by 30 June 2024	7,3KMs of Gravel roads constructed and 3,3km maintained by 30 June 20
KPI 20: Number of Water Projects to be completed by 30 June 2024	2 Water projects completed by 30 June 2024	1 Water project was completed
KPI 21: Number of sanitation projects constructed and completed by 30 June 2024	1 sanitation project constructed and completed by 30 June 2024	The construction of Zeerust WWTW was not completed
KPI 22: Number of VIP toilets constructed and completed by 30 June 2024	3200 VIP toilets constructed and completed by 30 June 2024	2320 VIP toilets constructed and completed by 30 June 2024

## KPA 4: Local economic development

<i>Targets achieved: 50%</i> <i>Budget spent: 101%</i>		
Key indicator not achieved	Planned target	Reported achievement
KPI 31: Approval of the draft Environmental Management Framework by Council by June 2024	Approval of Draft Environmental Management Framework (EMF) by Council 30 June 2024	The Draft Environmental Management Framework was not approved by Council

KPI 32: Number of convertible retail containers installed at Delareville (Tswaing) by 30 June 2024	10 convertible retail containers installed at Delareville (Tswaing) by 30 June 2024	Convertible retail containers were not installed at Delareville
KPI 34: Number of Goats procured and supplied to beneficiaries by 30 June 2024	500 Goats procured and supplied to beneficiaries by 30 June 2024	Goats were not procured and supplied to beneficiaries

### Material misstatements

43. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for key performance area, management did not correct all of the misstatements and I reported material findings in this regard.

### Report on compliance with legislation

44. In accordance with the PAA and the general notice issued in terms thereof, I must audit and report on compliance with applicable legislation relating to financial matters, financial management and other related matters. The accounting officer is responsible for the municipality's compliance with legislation.
45. I performed procedures to test compliance with selected requirements in key legislation in accordance with the findings engagement methodology of the Auditor-General of South Africa (AGSA). This engagement is not an assurance engagement. Accordingly, I do not express an assurance opinion or conclusion.
46. Through an established AGSA process, I selected requirements in key legislation for compliance testing that are relevant to the financial and performance management of the municipality, clear to allow consistent measurement and evaluation, while also sufficiently detailed and readily available to report in an understandable manner. The selected legislative requirements are included in the annexure to this auditor's report.
47. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

### Annual financial statements

48. The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 122(1) of the MFMA. Material misstatements of non-current assets and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided subsequently, but the uncorrected material misstatements and supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.

## Expenditure management

49. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
50. Reasonable steps were not taken to prevent irregular expenditure, as required by section 62(1)(d) of the MFMA. The full extent of the irregular expenditure could not be quantified as indicated in the basis for qualification paragraph. The majority of the disclosed irregular expenditure was caused by non-compliance with quotation and competitive bidding procurement processes.
51. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R477 724, as disclosed in note 43 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the disclosed fruitless and wasteful expenditure was caused by interest and penalties on late payments.
52. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R 506 856 965, as disclosed in note 42 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the unauthorised expenditure was caused by overspending on the allocated budget.

## Procurement and contract management

53. Some of the goods and services within the prescribed transaction values for formal written price quotations were procured without obtaining the required price quotations, in contravention of by SCM Regulation 17(1)(a) and (c). Similar non-compliance was also reported in the prior year.
54. Goods and services within the prescribed transaction value for competitive bids were procured without inviting competitive bids, as required by SCM Regulation 19(a). Deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM Regulation 36(1). Similar non-compliance was also reported in the prior year.
55. Some of the contracts were awarded to bidders that did not score the highest points in the evaluation process, as required by section 2(1)(f) of Preferential Procurement Policy Framework Act and 2022 Preferential Procurement Regulation 4(4) and 5(4).

## Strategic planning and performance management

56. No KPIs were set in respect of the provision of basic water and sanitation services, as required by section 43(2) of the MSA and municipal planning and performance management regulation 10(a).
57. The performance management system and related controls were not adequately maintained as they did not describe how the performance measurement, reviewing and reporting processes should be managed, as required by municipal planning and performance management regulation 7(1). This is evident from the findings identified during the assessment of the reported pre-determined objectives.

## Consequence management

58. Unauthorised expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(a) of the MFMA.
59. Irregular expenditure and fruitless and wasteful expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

## Asset management

60. An effective system of internal control for assets was not in place, as required by section 63(2)(c) of the MFMA.

## Other information in the annual report

61. The accounting officer is responsible for the other information included in the annual report which includes the audit committee's report. The other information referred to does not include the financial statements, the auditor's report and those selected key performance areas presented in the annual performance report that have been specifically reported on in this auditor's report.
62. My opinion on the financial statements, the report on the audit of the annual performance report and the report on compliance with legislation do not cover the other information included in the annual report and I do not express an audit opinion or any form of assurance conclusion on it.
63. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the financial statements and the selected key performance areas presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
64. I did not receive the other information prior to the date of this auditor's report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected this will not be necessary.

## Internal control deficiencies

65. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
66. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion, the material findings on the annual performance report and the material findings on compliance with legislation included in this report.

67. The accounting officer did not effectively provide oversight of financial and performance reporting or to ensure compliance with legislation. Furthermore, the municipality did not have sufficient monitoring and review controls to ensure the accuracy and completeness of financial and performance reports submitted for audit, and action plans were neither adequately nor promptly implemented.
68. Slow response by management in monitoring and implementation of action plans to addressing significant control deficiencies to prevent recurring misstatements in the financial statements and performance report and non-compliance with applicable laws and regulations. Inadequate implementation of controls over daily and monthly processing and reconciling of transactions
69. There is a significant lack of implementation of proper record keeping to ensure that information is submitted for audit in a timely manner to ensure that complete, relevant and accurate information is accessible and available to support financial reporting and performance information. This is due to ineffective human resource management to ensure adequate and sufficiently skilled resources are in place and performance is monitored.
70. The lack of sustainable systems and processes for recording, reconciling, and reporting financial information, combined with an overreliance on consultants to perform these tasks after year-end, contributed to material misstatement, omissions, and instances of non-compliance identified during the audit process.

## **Material irregularities**

71. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit and on the status of material irregularities as previously reported in the auditor's report.

### **Material irregularities in progress**

72. I identified material irregularities during the audit and notified the accounting officer of these, as required by material irregularity regulation 3(2). By the date of this auditor's report, the response of the accounting officer was not yet due. These material irregularities will be included in next year's auditor's report.

### **Status of previously reported material irregularities**

#### **A contract for the extension of the municipal office building and the construction of a new gate house was not monitored**

73. The municipality appointed a supplier in 2012-13 for the extension of the existing office building and a new gate house for a contract amount of R40 096 937. Variation orders of R8 558 425 were also approved. The municipality failed to monitor the contract on a monthly basis as required by section 116(2)(b) of the MFMA.
74. On 27 March 2019, the municipality signed an addendum for an extension to the original contract with the supplier for an additional R17 977 240. A comparison of the original bill of

quantities and the new bill of quantities for the additional contract amount indicated that there were items in the new bill of quantities that had already been signed off and paid for in the original contract, resulting in avoidable costs had the contract been monitored as required. This non-compliance is therefore likely to result in a material financial loss if the municipality pays these avoidable costs.

75. The accounting officer was notified of this material irregularity (MI) on 14 November 2019. The accounting officer responded with planned actions in a written response but failed to implement the planned actions. I recommended that the accounting officer take the following actions to address the MI by 1 October 2021:
- The financial loss should be quantified.
  - Any person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss.
  - The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
  - Disciplinary or, when appropriate, criminal proceeding should begin against any official alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and Criminal Proceedings.
  - If it appears that the municipality suffered the financial loss through fraud, this should be reported to the South African Police Service, as required by section 32(6) (b) of the MFMA.
76. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 1 October 2021 and 1 November 2021. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.
77. On 10 December 2021, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A(3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 10 March 2022.
- In addition, I notified the accounting officer of the following remedial actions to address the MI, which had to be implemented by the same date.
  - The investigation into the non-compliance must be completed.
  - The investigation must identify any person(s) that must be held liable for the losses suffered and any official(s) that might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
  - Disciplinary or, when appropriate, criminal proceedings must begin against any official alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and Criminal Proceedings.
  - If it appears that the municipality suffered the financial loss through fraud, such must be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.
78. The written response on the implementation on the remedial action and execution of the directive was not received. The AO requested an extension for the implementation, which was

granted up to 1 August 2022. An incomplete response was received. I then proceeded to issue a notice of intention to issue a certificate of debt and invited the accounting officer to make a written representation on the matter.

79. The due date for the written representation from the accounting officer was 31 October 2022 but was received on 1 November 2022. The representation lacked substance on how the MI was addressed and why I should not proceed with the COD. A letter was issued to the AO on 16 November 2022 about the incomplete response, but the AO left the municipality the same month because his term came to an end. He did not respond before leaving the municipality. The letter was reissued on 30 November 2022 with a due date for a response by 15 December 2022. However, no response was received.
80. In January 2023, the AO was reappointed as the new AO and he committed to address the matter. No response was received.
81. After a follow-up letter on 29 January 2023, a supplementary representation was received in February 2023. After considering this response and the substantiating documentation provided, there were no changes in my assessment, and I concluded that the AO did not take appropriate action to implement the remedial action. The AO was notified of this on 26 June 2023 and was invited to make oral representation in line with the MI regulations to the MI advisory committee. The AO communicated his intention to make oral representation on 4 July 2023.
82. The hearing on oral representation before the MI advisory committee was held on 22 August 2023 and continued 19 October 2023. The hearing was thereafter postponed for further representation before the MI advisory committee to 20 and 21 November 2023. The MI advisory committee has requested further documentation from the AO prior to concluding on the matter in line with the MI regulations. The accounting officer did not submit the additional documentation requested.
83. The oral representation process was completed in March 2024 and the MI advisory committee presented their recommendations to me in April 2024.
84. After due consideration of their recommendations and consultation, I decided not to issue a certificate of debt. This decision was mainly informed by the challenges in recovering the financial loss as raised by the AO during the oral representation.
85. In response to the remedial action on disciplinary proceedings a manager was subjected to disciplinary proceedings. The other officials who were found to be responsible for the implementation of the first phase of the project are no longer in the employ of the municipality. No elements of any criminality which would require a criminal case to be opened with the South African Police Service were identified. I will therefore not pursue this matter any further in terms of the material irregularity process.

#### **Lack of system of internal control to safeguard assets (2018-19)**

86. The municipality wrote off assets during the year that could not be located during the 2018-19 asset verification and were presumed to be stolen. The municipality only became aware that these assets were missing at year-end when the asset verification process was done. The municipality therefore did not have a proper system of internal control to safeguard assets as required by section 63(2)(c) of the MFMA. The write-off of R2 421 897 as disclosed in note 3 to the 2018-19 financial statements, therefore, resulted in a likely material financial loss.

87. The accounting officer was notified of this MI on 9 December 2019. The accounting officer responded with planned actions in a written response but failed to implement the planned actions. I recommended that the accounting officer take the following actions to address the MI by 1 October 2021.
- The asset verification and investigation process should be completed, and the financial loss quantified.
  - Any person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss.
  - Reasonable steps should be taken to safeguard these assets of the municipality from any further losses as required by section 63(1)(a) of the MFMA.
  - The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
  - Disciplinary or, when appropriate, criminal proceeding should begin against any official alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and Criminal Proceedings.
  - If it appears that the municipality suffered the financial loss through theft, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.
88. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 1 October 2021 and 1 November 2021 respectively. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.
89. On 10 December 2021, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A (3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 10 March 2022.
90. In addition, I notified the accounting officer of the following remedial actions to address the MI, which should be implemented by the same date.
- The asset verification and investigation into the non-compliance must be completed.
  - The investigation must identify any person(s) that must be held liable for the losses suffered and any official(s) that might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.
  - Reasonable steps must be taken to safeguard the assets of the municipality from any further losses as required by section 63(1) (a) of the MFMA and evidence of such provided.
  - Disciplinary or, when appropriate, criminal proceedings must begin against any official alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations of Financial misconduct procedures and Criminal Proceedings.
  - If it appears that the municipality suffered the financial loss through theft, such must be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.

91. The written response on the implementation of the remedial action and execution of the directive was not received. The accounting officer requested an extension for the implementation, which was granted up to 1 August 2022. An incomplete response was received. I then proceeded to issue a notice of intention to issue a certificate of debt and invited the AO to make a written representation on matter.
92. The due date for the written representation from the accounting officer was 31 October 2022 but was received on 1 November 2022. The representation lacked substance on how the MI was addressed and why I should not proceed with the COD. A letter was issued to the accounting officer on 16 November 2022 about the incomplete response, but the accounting officer left the municipality the same month because his term came to an end. He did not respond before leaving the municipality. The letter was reissued on 30 November 2022 with a due date for a response by 15 December 2022. However, no response was received.
93. In January 2023, the accounting officer was reappointed as the new accounting officer and he committed to address the matter. No response was received.
94. After a follow-up letter on 29 January 2023, a supplementary representation was received in February 2023. I considered the written representation and substantiating documents provided by the accounting officer in February 2023, and I decided not proceed with the COD at this point in time. I granted the accounting officer an additional six months to complete the actions in progress to address the MI. The accounting officer was notified of this on 20 July 2023 and requested to submit a supplementary written representation with substantiating documentation by 22 January 2024.
95. The supplementary written representation and substantiating documents was not received on 22 January 2024 and the non-responsiveness of the accounting officer was escalated to the municipal TROIKA. Subsequently, the accounting officer provided a supplementary response with substantiating documentation on 6 March 2024, which was incomplete, and I continued to engage the accounting officer on the incomplete response.
96. After various follow-up and engagements, the accounting officer submitted a revised written representation and substantiating documents on 18 September 2024. The written responses indicated that the accounting officer appointed the Council for Scientific and Industrial Research, to assist with the implementation of a Smart Assets Management Systems (SAMS) for the period of 36 months to prepare a GRAP compliant asset register. The accounting officer took appropriate actions to commence in capacitating the asset management unit.
97. Officials were identified that did not implement the asset management policy and complied with internal controls over the movement of assets, which led to the assets either being lost or not accounted for during the asset verification process. However, the accounting officer did not take disciplinary action against these officials, as the accounting officer is of a view that the issues that led to the breakdown in internal controls over asset management are historical and systematic, and culpability cannot be imputed to the identified officials only. The accounting officer has since subjected all employees in the asset management unit to training on the asset management policy to capacitate the unit and to enhance internal controls over assets and using the SAMS for the recording of assets.
98. After due consideration and consultation, I decided not to peruse the matter any further in terms of the material irregularity process. This decision was mainly informed by the considerations raised by the accounting officer during the written representation process,

which included that the financial loss as it relates to assets that were reported as lost in the previous financial years and not accounted for, cannot be quantified due to impracticability.

99. The controls and the processes that the accounting officer have implemented and that are still in process to account for movable assets accurately and to prepare a GRAP compliant asset register was assessed as part of the 2023-24 audit. I determined that these controls and processes are not achieving the desired impact in accounting accurately for infrastructure assets. In response, I have raised a new material irregularity in the 2023-24 financial year, refer to paragraph 73 under the heading material irregularities in progress.

### **Overpayment on water tankering services to communities**

100. The municipality appointed a supplier in June 2018 to provide water tankering services to communities within the district. An effective system of expenditure control was not in place to ensure that the claims paid were based on the actual kilometres travelled and that the services were actually rendered as required by section 65(2)(a) of the MFMA, resulting in overpayments to the supplier. The municipality paid R14 228 533 and R23 992 033 in the comparative year for the water tankering services. This was determined to likely result in a material financial loss if the overpayments are not recovered.
101. The accounting officer was notified of this MI on 28 November 2019. The accounting officer indicated that an independent person should investigate the claims and quantify the financial loss. It is planned that this process will start in February 2020 and a report will be available by 31 May 2020. The accounting officer planned to take appropriate steps based on the outcome of this investigation.
102. The accounting officer failed to implement the planned actions as committed and consequently, I recommended that the accounting officer take the following actions to address the MI by 18 November 2021:
- The financial loss in the form of overpayments should be quantified and appropriate action should commence to recover the loss from the supplier.
  - Implement a system of expenditure control, as required by section 65(2)(a) of the MFMA, for the provision of water tankering services, to prevent over invoicing for kilometres and hours.
  - The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
  - Disciplinary or, when appropriate, criminal proceeding should begin against any official alleged to have committed an act of financial misconduct or an offence as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and criminal proceedings.
  - If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.
103. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 1 October 2021 and 1 November 2021 respectively. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.

104. On 10 December 2021, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A (3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 11 April 2022.
105. In addition, I notified the accounting officer of the following remedial actions to address the MI, which had to be implemented by the same date:
- The investigation into the non-compliance should be completed.
  - The investigation must identify any person(s) that must be held liable for the losses suffered and any official(s) that might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.
  - Evidence must be provided on the reasonable steps taken to implement a system of expenditure control, as required by section 65(2)(a) of the MFMA, to prevent further losses through over invoicing for the provision of water tankering services.
  - Disciplinary or, when appropriate, criminal proceedings must begin against any official alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and Criminal Proceedings.
  - If it appears that the municipality suffered the financial loss through fraud, such must be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.
106. The accounting officer failed to respond by the stipulated due date (11 April 2022) with a written response and substantiating documentation on the implementation of the remedial action and the execution of the directive. The failure to respond was escalated to the executive mayor to intervene but no response was forthcoming. On 5 May 2022, I received a request from the accounting officer for an extension of time to 1 August 2022 for the implementation of the remedial action. On 25 May 2022 the request was considered and approved with certain conditions. On 30 May 2022, the accounting officer was notified of the extension up to 1 August 2022.
107. On 1 August 2022, the accounting officer's written response on the implementation of the remedial action with substantiating documentation was received. The response and substantiating documentation were assessed to determine whether the accounting officer adequately implemented or made satisfactory progress with the implementation of the remedial actions and the execution of the directive.
108. It was noted that the accounting officer had made progress with addressing the MI as far as it relates to the following remedial action:
- Completing the investigation into the MI.
  - Quantifying the financial loss.
  - Steps taken to recover the financial loss from the service provider.
109. The recovery process by the accounting officer was to be monitored through progress reports which the accounting officer was to submit every three months. Follow-up on implementation of the remedial action was done on 1 September 2023 but the municipality did not provide the progress report with substantiating documentation. Follow up on implementation of the remedial action was done on 1 September 2024 but the municipality did not provide the progress report and substantiating documentation.

110. On 06 September 2024, the accounting officer was requested to provide a progress report on the implementation of the remaining remedial action by 16 September 2024. A follow up was sent to the accounting officer on 16 October 2024 requesting the accounting officer to submit the requested information by no later than 17 October 2024, no response was received by the due date. However, he submitted the report on 11 November 2024 and we are still assessing the response to determine the most suitable action to take.

#### **No system of internal control to safeguard assets (2019-20)**

111. The municipality wrote off infrastructure assets during the 2019-20 financial year that could not be located during the asset verification and were presumed to be stolen or vandalised. The municipality only became aware that most of these assets were missing at year-end when the asset verification process was done. The municipality therefore did not have a proper system of internal control to safeguard assets as required by section 63(2)(c) of the MFMA. The write-off of R35 216 308 disclosed in note 9 to the 2019-20 financial statements resulted in a material financial loss.

112. The accounting officer was notified of this MI on 14 December 2020 and invited to make a written submission on the actions taken, or to be taken, to address the matter. The accounting officer indicated that as the MI was not as a result of theft, loss or vandalism by a person within the municipality, thus he is of the view that the possibility of recovering any financial losses are slim or non-existent. The accounting officer further indicated that in reality, these losses will continue due to their nature and the fact that those responsible are within the community the municipality serves. The municipality and management is limited to what it can do to prevent and recover such losses. The accounting officer also said that he contacted the contractors to enquire about the location of the replaced assets. The municipality was awaiting feedback in this regard. Further, a forensic investigator was to be appointed through internal audit to assist the municipality to identify the perpetrators. This would commence once the terms of reference had been developed to appoint the investigator, which was estimated to be around July 2021.

113. The accounting officer failed to implement the above planned actions, consequently, I recommended that the accounting officer should take the following actions to address the MI, which had to be implemented by 23 March 2022:

- The asset verification and investigation process should be completed and the financial loss quantified.
- Any person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss.
- Reasonable steps should be taken to safeguard these assets of the municipality from any further losses as required by section 63(1)(a) of the MFMA read with section 63(2)(c) of the MFMA.
- The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
- Disciplinary or, when appropriate, criminal proceeding should begin against any official alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the

Municipal Regulations on Financial misconduct procedures and Criminal Proceedings.

114. If it is determined that the municipality suffered the financial loss through theft, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.
115. The accounting officer failed to respond by the stipulated due date of 23 March 2022 with a written response and substantiating documentation on the implementation of the recommendations. On 5 May 2022, the accounting officer requested an extension of time to 1 August 2022 for the implementation of the recommendations. The request was considered and on 30 May 2022, the accounting officer was notified that the extension to 1 August 2022 was granted.
116. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 1 August 2022 and 28 August 2022 respectively. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.
117. On 4 October 2022, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A (3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 3 January 2023. On 14 October 2022, I then issued an addendum indicating that the implementation date had been extended to accommodate the recess period over the festive season. The revised date for the implementation of the remedial action and the execution of the directive is now 3 February 2023.
118. In addition, I notified the accounting officer of the following remedial actions to address the MI, which had to be implemented by the same date:
- The asset verification process for infrastructure assets must be completed and the financial loss quantified.
  - All person(s) liable for the losses must be identified and appropriate action must commence to recover the financial loss.
  - Reasonable steps should be taken to safeguard these assets of the municipality from any further losses as required by section 63(1)(a) of the MFMA read with section 63(2)(c) of the MFMA.
  - Disciplinary proceeding must commence against all officials who have allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
  - If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
  - If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this must be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA. The remedial action includes a directive in terms of section 5A (3) of the PAA read with MI regulation 9(2), because a financial loss was suffered as a result of the non-compliance with legislation. The directive must be executed with the implementation of the remedial action.

119. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 6 June 2023. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.
120. I granted accounting officer six months from 20 July 2023 to implement controls and quantify the financial loss, as the financial loss could not be accurately determined and the controls over assets were in a dire state with progress reports to be provided on the implementation of the recommendation every two months.
121. The accounting officer submitted the first progress report on 22 September 2023, and I was satisfied that actions were being implemented, however the second progress report that was due on 20 November 2023 was not submitted.
122. I determined that these controls and processes are not achieving the desired impact in accounting accurately for infrastructure assets. In response, I have raised a new material irregularity in the 2023-24 financial year, refer to paragraph 73 under the heading material irregularities in progress.

#### **No effective system of expenditure control relating to security services**

123. The municipality appointed a security service provider on 1 June 2018 to provide armed and unarmed security services to Ngaka Modiri Molema District Municipality for a period of three years in different areas within the district. An effective system of expenditure control was not in place to ensure that the security services were actually rendered, as required by section 65(2)(a) of the MFMA, resulting in overpayments to the supplier. During 2019-20 financial year, the municipality paid R15 670 660 for the security services. This was determined to likely result in a material financial loss if the overpayments were not recovered.
124. The accounting officer was notified of this MI on 29 March 2021 and invited to make a written submission on the actions taken, or to be taken, to address the matter. The accounting officer disagreed with the MI. The basis for the disagreement, however, was that the accounting officer viewed the timesheets provided by the security service provider as internal documents only. However, in the absence of these timesheets there were no other documents to indicate whether security services were received or to disprove discrepancies in the timesheets.
125. The accounting officer failed to commit to any actions to address the MI and consequently, I recommend that the accounting officer should take the following actions to address the MI, which had to be implemented by 27 April 2022.
- The financial loss in the form of overpayments should be quantified and appropriate action should commence to recover the loss from the supplier.
  - Implement a system of expenditure control, as required by section 65(2)(a) of the MFMA, for the provision of security services, to prevent payment for security services not received.
  - The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
  - Disciplinary or, when appropriate, criminal proceedings should begin against any official alleged to have committed an act of financial misconduct or an offence, as

required by section 62(1)(e) of the MFMA, and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and Criminal Proceedings.

- If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.

126. The accounting officer failed to respond by the stipulated due date of 27 April 2022 with a written response and substantiating documentation on the implementation of the recommendations. On 5 May 2022, the accounting officer requested an extension of time to 1 August 2022 for the implementation of the recommendations. The request was considered and on 30 May 2022, the accounting officer was notified that the extension to 1 August 2022 was granted.

127. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 1 August 2022 and 12 August 2022 respectively. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.

128. On 4 October 2022, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A (3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 3 January 2023. On 14 October 2022, I then issued an addendum informing the accounting officer that the implementation date had been extended to accommodate the recess period over the festive season. The revised date for the implementation of the remedial action and the execution of the directive was 3 February 2023.

129. In addition, I notified the accounting officer of the following remedial actions to address the MI, which were due to be implemented by the same date.

- Reasonable steps must be taken to implement a system of expenditure control, as required by section 65(2)(a) of the MFMA for the provision of security services, to prevent payment for security services not received.
- Disciplinary proceedings must begin without undue delay against all officials alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- Appropriate action must be taken to recover the financial loss suffered from the service provider, without undue delay through the liquidation process. Alternatively, if the financial loss cannot be recovered in part or in full through the liquidation process, all person(s) liable for the losses should be identified and appropriate action should commence to recover the remaining financial loss. The remedial action to include a directive in terms of section 5A (3) of the PAA read with MI regulation 9(2), as a financial loss was suffered because of the non-compliance with legislation.

130. The accounting officer submitted representations and substantiating documents for the implementation of the remedial action on 3 February 2023, 24 March 2023 and 1 September

2023 however the information was not sufficient to demonstrate that disciplinary action was implemented. The accounting officer submitted further representations and substantiating documents on 31 October 2023.

131. The accounting officer conducted an investigation into the matter which was finalised in June 2022. The investigation recommended to the accounting officer the actions to be implemented. The investigation quantified the financial loss as R20 647 946.36 relating to payments made without evidence of services being rendered and an additional R6 384 816.08 suffered as a result of the overpayments made on inflated invoices submitted by the service provider.
132. The investigation made recommendations on internal controls that had to be implemented to address the control weaknesses and to prevent reoccurrence, which was implemented by the accounting officer.
133. Subsequently, the accounting officer also referred the matter to the North West Department of Cooperative Governance and Traditional Affairs for investigation and a draft report was issued on 17 April 2024. The report identified officials who have committed financial misconduct and a legal firm was appointed to conduct a disciplinary hearing and a verbal warning was issued to one of the officials.
134. The North West Department of Cooperative Governance and Traditional Affairs agreed with the quantification of the financial loss quantified and indicated that R169 177.44 of the financial loss has been recovered prior to the service provider going into liquidation. No evidence was provided that a portion of the financial loss was recovered.
135. The accounting officer provided an update on 16 September 2024 on the matter indicating that the service provider has been liquidated and the municipality will not be able to recoup the remaining portion of the financial loss.
136. The actions taken by the accounting officer to implement the recommendations are deemed appropriate and have addressed the MI and therefore the material irregularity has been resolved.

### **Overpayment of service provider delivering sanitation services**

137. The municipality appointed a supplier in June 2018 to provide sanitation services to communities within the Ngaka Modiri Molema District Municipality on an ad-hoc basis for a period of two years in different areas within the district. An effective system of expenditure control was not in place to ensure that the claims paid were based on the actual kilometres travelled and that the services were actually rendered as required by section 65(2)(a) of the MFMA, resulting in overpayments to the supplier. In the current financial year, the municipality paid R4 045 620 (2020: R4 847 612) for sanitation services. This was determined to likely result in a material financial loss if the overpayments were not recovered.
138. The accounting officer was notified of this MI on 14 April 2021 and invited to make a written submission on the actions taken, or to be taken, to address the matter. The accounting officer indicated that an investigator would be appointed to investigate all material irregularities raised to date and, based on the results, the municipality would develop a method by which such losses can be recovered. The accounting officer did not commit to any timeline within which such investigation will be done.

139. The accounting officer failed to implement the planned actions as committed and consequently, I recommended that the accounting officer should take the following actions to address the MI, which had to be implemented by 26 April 2022:

- The financial loss in the form of overpayments should be quantified and appropriate action should commence to recover the loss from the supplier.
- Implement a system of expenditure control, as required by section 65(2)(a) of the MFMA, for the provision of sanitation services, to prevent over invoicing for kilometres and/or hours.
- The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
- Disciplinary or, when appropriate, criminal proceedings should begin against any official alleged to have committed an act of financial misconduct or an offence as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and criminal proceedings.
- If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.

140. The accounting officer failed to respond by the stipulated due date of 26 April 2022 with a written response and substantiating documentation on the implementation of the recommendations. On 5 May 2022, the accounting officer requested an extension of time up to 1 August 2022 for the implementation of the recommendations. The request was considered and on 30 May 2022, the accounting officer was notified that the extension up to 1 August 2022 was granted.

141. The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 1 August 2022, 12 August 2022 and 24 August 2022, respectively. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.

142. On 4 October 2022, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A (3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 3 January 2023. On 14 October 2022, I then issued an addendum informing the accounting officer that the implementation date had been extended to accommodate the recess period over the festive season. The revised date for the implementation of the remedial action and the execution of the directive is now 3 February 2023.

143. In addition, I notified the accounting officer of the following remedial actions to address the MI, which due to be implemented by the same date:

- The financial loss in the form of overpayments must be quantified and appropriate action must commence to recover the loss from the supplier.
- The investigation must identify all person(s) that must be held liable for the losses suffered and all the official(s) that might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.

- Evidence must be provided on the reasonable steps taken to implement a system of expenditure control, as required by section 65(2)(a) of the MFMA, to prevent further losses through payments for goods and services not delivered.
- Disciplinary proceedings must begin without undue delay against all officials alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If it appears that the municipality suffered the financial loss through fraud, such was expected to be reported to the South African Police Services, as required by section 32(6)(b) of the MFMA.

144. The accounting officer submitted representations and substantiating documents for the implementation of the remedial action on 3 February 2023, 24 March 2023 and 1 September 2023, however, the information was not sufficient to demonstrate that disciplinary action was implemented. The accounting officer submitted further representations and substantiating documents on 31 October 2023.

145. On 06 September 2024, the accounting officer was requested to provide a progress report on the implementation of the remaining remedial action by 16 September 2024. A follow up was sent to the accounting officer on 16 October 2024 requesting the accounting officer to submit the requested information by no later than 17 October 2024, no response was received by the due date, however, he submitted the report and substantiating documents on 11 November 2024. At the date of the auditor's report we are still assessing the response to determine the most suitable action to take.

### **Procurement of generators for Boikhutsong pump stations at excessive prices**

146. The municipality appointed a supplier using SCM regulation 36 for repairs in the Boikhutsong pump station project, at a contract amount of R25 884 435. The project comprised five sites: Blydeville Ext 1, Blydeville Ext 3, Boikhutso Pump Station, Biesiesvlei Pump Station and Lichtenburg Wastewater Treatment Plant. The scope of work entailed repairs of the electrical and mechanical equipment and putting the pump stations and the wastewater treatment plant back into operation.

147. As part of the work done at these pump stations, the municipality also procured four generator sets. The payment certificate indicated that the supplier was to deliver and install 100KVA, 80kw diesel generators at a cost of R250 000 each. However, the contractor procured four 137KVA diesel generator sets at a revised amount of R550 000 each. The accounting officer did not determine whether the supplier was charging reasonable market-related prices for these generators. In total, the municipality paid R2 200 000 for four 137 KVA diesel generator sets. Awarding the contract to the supplier is likely to result in a material financial loss, as the price paid for the generators was significantly higher than the market price.

148. The accounting officer was notified of this MI on 18 August 2021. The accounting officer did not disagree with MI and indicated that this MI would be included in the investigation scope of

MIs being investigated by the panel of investigation firms that investigate all the MIs raised. It was, however, noted that this MI was not included in the project plan of MIs to be investigated. I therefore concluded that the accounting officer was not taking appropriate action to address the MI. As a result, I have approved the referral of the MI for investigation to a public body, as provided for in section 5(1A) of the PAA.

149. In addition to the referral of the MI to a public body, I recommended that the accounting officer take the following actions to address the MI, which were due to be implemented by 14 March 2023:

- The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
- The financial loss should be quantified.
- All person(s) liable for the loss should be identified and appropriate action should be taken to recover the financial loss. The recovery process should not be unduly delayed.
- Disciplinary proceedings should begin without undue delay against all officials alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury, as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

150. The accounting officer submitted representations and substantiating documents with reasons and circumstances which delayed the implementation of the recommendations within the stipulated due date and requested an extension to implement the recommendations by 31 August 2023.

151. The representation was noted and also taking note of an on-going investigation by the Special Investigating Unit ("SIU") into the irregular award of the contract to the service provider for the provision of repairs and maintenance of water pump stations and water treatment facilities on the Boikhutsong project. As a result, I referred the material irregularity to the Special Investigating Unit on 7 July 2023 for investigation as provided for in section 5(1A) of the PAA. The SIU acknowledged receipt on 8 July 2023 and the matter was accepted by SIU for investigation on 25 March 2024

152. On 19 March 2024, the accounting officer provided a letter indicating that a meeting was held with the SIU on 18 March 2024 where the SIU confirmed that they are investigating the material irregularity that was referred by the AGSA and will issue actions for the accounting officer to execute on finalisation of the investigation.

153. On 13 September 2024, the accounting officer provided an update on the implementation of recommendations and indicated that following the meeting with the SIU on 18 March 2024, the documentation relating to the material irregularity was handed-over to the SIU and the matter is no longer within the ambits of the municipality, as the SIU is investigating it further. The municipality will await the final report from the SIU for implementation.

154. The responses were assessed to determine whether the accounting officer adequately implemented or made satisfactory progress with the implementation of the recommendations. I decided not to pursue the matter any further under the MI process, as the merits of the MI is under investigation by the SIU, and the SIU will, within their functions, powers and mandate take actions to recover any losses and will identify responsible officials for disciplinary actions.
155. I will continue to monitor the implementation of the actions to address the material irregularity through referral made to the SIU.

### **Procurement of generators at excessive prices (Boitshepegi)**

156. During March 2020, the municipality made an emergency procurement of generators to the value of R5 299 985 from a supplier. The procurement was done using SCM regulation 36(1). The deviation was approved by the municipal manager on 6 March 2020 and payment was made on 8 May 2020. The reason stated for the deviation was the timeous response and monitoring of the covid-19 pandemic. While the municipality had had a contract with a panel of suppliers to supply water material (including generators), it had expired on 3 February 2020. This deviation was therefore due to poor planning, as the municipality was aware of the end date for the contract to supply water material. The municipality should have begun the tender process to appoint new service providers early enough to ensure that they could follow a competitive bidding process. Awarding the contract to the supplier was determined to likely result in a material financial loss, as the price paid for the generators was significantly higher than the market-related price.
157. The accounting officer was notified of this MI on 15 October 2021. The accounting officer disagreed with MI and stated that no financial loss was suffered. Based on this, the accounting officer did not commit to taking any actions to address the MI. I therefore concluded that the accounting officer was not taking appropriate actions to address the MI. As a result, I have approved the referral of the MI for investigation to a public body as provided for in section 5(1A) of the PAA.
158. In addition to the referral of the MI to a public body, I recommended that the accounting officer take the following actions to address the MI, which were due to be implemented by 14 March 2023:
- The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
  - The financial loss should be quantified.
  - All person(s) liable for the loss should be identified and appropriate action should be taken to recover the financial loss. The recovery process should not be unduly delayed.
  - Disciplinary proceedings should begin without undue delay against all officials alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
  - If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury, as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

159. The accounting officer submitted representations and substantiating documents with reasons and circumstances which delayed the implementation of the recommendations within the stipulated due date and requested an extension to implement the recommendations by 31 August 2023.
160. The representation was noted and also taking note of an on-going investigation by the Special Investigating Unit ("SIU") into the irregular award of the contract to a service provider for the provision of repairs and maintenance of water pump stations and water treatment facilities on the project. As a result, I referred the material irregularity to the Special Investigating Unit on 7 July 2023 for investigation as provided for in section 5(1A) of the PAA. The SIU acknowledged receipt on 8 July 2023 and the matter was accepted by SIU for investigation on 25 March 2024.
161. On 19 March 2024, the accounting officer provided a letter indicating that a meeting was held with the SIU on 18 March 2024 where the SIU confirmed that they are investigating the material irregularity that was referred by the AGSA and will issue actions for the accounting officer to execute on finalisation of the investigation.
162. On 13 September 2024, the accounting officer provided an update on the implementation of recommendations and indicated that following the meeting with the SIU on 18 March 2024, the documentation relating to the material irregularity was handed over to the SIU and the matter is no longer within the ambits of the municipality, as the SIU is investigating it further. The municipality will await the final report from the SIU for implementation.
163. The responses were assessed to determine whether the accounting officer adequately implemented or made satisfactory progress with the implementation of the recommendations. I decided not to pursue the matter any further under the MI process, as the merits of the MI is under investigation by the SIU, and the SIU will, within their functions, powers and mandate take actions to recover any losses and will identify responsible officials for disciplinary actions.
164. I will continue to monitor the implementation of the actions to address the material irregularity through referral made to the SIU.

#### **No system of internal control to safeguard assets (2020-21)**

165. In the financial statements for 2020-21, the municipality disclosed assets written off with a carrying value of R12 953 259. The assets written off included infrastructure and movable assets with a carrying value of R9 562 561 and R3 345 567, respectively. The management representation letter, received on 28 September 2021, indicated that these assets were either vandalised or stolen. The municipality therefore did not have and maintain a system of internal control to safeguard assets, as required by section 63(2)(c) of the MFMA. The write-off of R12 953 259, as disclosed in note 4 to the 2020-21 financial statements, resulted in a material financial loss.
166. The accounting officer was notified of this MI on 13 December 2021 and invited to make a written submission on the actions taken or to be taken to address the matter. The accounting officer indicated that the loss of assets was a result of vandalism and the infrastructure assets components being stolen across the district; inadequate security for the infrastructure assets in the outskirts, making it difficult to protect the full complement of boreholes and pump stations; inadequate internal control processes and capacity to investigate loss of assets; and inadequate physical verification processes to ensure full coverage of all municipal assets. The accounting officer also indicated that the municipality was considering capacitating the asset

division by reviewing the Budget and Treasury Office (BTO) organogram to assign a manager responsible for their overall assets management and to reduce their overall reliance on consultants.

167. Further, an investigation of the assets written-off from 2018-19 to 2020-21 and an assessment of the internal control effectiveness had been outsourced to an external investigator. The independent investigation would detect other root causes and recommend remedial actions to the accounting officer. The investigation was planned to be finalised by 31 May 2022 and actions implemented by 30 June 2022.

168. The accounting officer failed to implement the above planned actions. Consequently, I recommended that the accounting officer take the following actions to address the MI, which should have been implemented by 29 May 2023:

- The financial loss should be quantified and all person(s) liable for the loss should be identified and appropriate action should be taken to recover the financial loss. The recovery process should not be unduly delayed.
- Disciplinary proceedings should begin without undue delay against all officials alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury, as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- The accounting officer submitted a written response and supporting evidence on the implementation of the recommendations on 6 June 2023. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.

169. I granted accounting officer six months from 20 July 2023 to implement controls and quantify the financial loss, as the financial loss could not be accurately determined and the controls over assets were in a dire state. I requested progress reports to be provided on the implementation of the recommendation every two months.

170. The accounting officer submitted the first progress report on 22 September 2023, and I was satisfied that actions are being implemented. However, the second progress report that was due on 20 November 2023 was not submitted.

171. I determined that these controls and processes are not achieving the desired impact in accounting accurately for infrastructure assets. In response, I have raised a new material irregularity in the 2023-24 financial year, refer to paragraph 73 under the heading material irregularities in progress.

#### **Failure to keep full and proper records of the financial affairs of the municipality resulting in ineffective use of financial consultants.**

172. The district municipality appointed a panel of three financial consultants to compile GRAP compliant financial statements for a period of three years, effective from 1 April 2019 to 31 March 2022. The consultants' scope of work was to compile annual financial statements,

prepare detailed information on unauthorised, irregular, fruitless, and wasteful expenditure, and review the annual financial statements. Payments made to the consultants for the 2019- 20 and 2020-21 financial years that related directly to preparing GRAP compliant financial statements amounted to R15 608 008.

173. The municipality did not ensure that the daily accounting disciplines such as reconciliations, data capturing, payments, compiling registers and document management were done diligently and accurately to produce credible financial information for the purposes of the financial statements. This resulted in the municipality not being able to provide the financial consultants with complete, accurate and reliable information, as required by section 62(1)(b) of the MFMA, to enable them to compile GRAP compliant financial statements.
174. The accounting officer was notified of the MI on 3 August 2022 and invited to make a written presentation on the actions taken, or to be taken, to address the matter. He indicated that the municipality had vacancies in the BTO and officials lacked skills and capabilities. Therefore, a phased in/out approach would be followed to reduce the reliance on consultants and capacitate the BTO. The process would not be implemented immediately due to other matters and approval processes. The organisational structure was also being reviewed. No timelines were provided for these actions.
175. The accounting officer further indicated that he will not be investigating this MI and no official will be held responsible/liable for the financial loss. This is inappropriate because an equivalent benefit to the money paid to consultants was not received, as the municipality did not provide accurate and complete financial information to enable the consultants to produce the GRAP compliant annual financial statements that they were appointed and paid to prepare. The accounting officer is therefore not taking appropriate actions to address the MI and, consequently, I recommended that the accounting officer take the following actions to address the MI, which were due for implementation by 30 May 2023:
- The non-compliance should be investigated to determine the root causes and whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA. This would be for the purposes of recovering the loss.
  - Disciplinary proceedings should begin without undue delay against all officials alleged to have committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA, and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
  - If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury, as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
  - The financial loss should be quantified, all person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss. The recovery process should not be unduly delayed.
  - Appropriate action should be taken to develop and begin implementing an action plan to address poor record keeping so that full and proper records are kept, as required by section 62(1)(b) of the MFMA. These records should be readily available. The plan should include the material deficiencies that resulted in the materially non-compliant annual financial statements.

176. The accounting officer submitted a written response on 6 June 2023 indicating that the municipality had challenges in implementing the recommendation and requested an extension to implement the recommendations. Based on my assessment of the written response, I concluded that the accounting officer did not adequately implement the recommendations.
177. The accounting officer submitted a written responses on 17 April 2024 and 13 September 2024. We are currently assessing the submission to determine the most suitable action to take.

### **Procurement of water service material, tools and electrical components without following competitive bidding process**

178. The previous water services material contract ended in February 2020 and, due to the procurement process not being initiated in time to appoint a new service provider to supply water services materials, tools and electrical components, the municipality appointed two service providers through SCM regulation 36(1) on 26 March 2020.
179. SCM regulation 19(a) requires that goods and services above a transaction value of R200 000 (VAT included) be procured by the municipality only through a competitive bidding process. The district municipality's responsibilities as a water service authority includes the restoration/operation and maintenance of boreholes, water tankering and repairing water leakages, which includes replacing leaking items and burst pipes. As a result, it is expected to always have a contract in place for the supply of water materials to deliver in line with its mandate. The deviation from following a competitive bidding process after the previous contract expired was, therefore, not due to an emergency but rather as a result of poor planning by management to ensure that a new tender process was followed in time. Not following a competitive bidding process precluded the municipality from having an opportunity to assess market-related prices from different suppliers who would have submitted bids for this procurement.
180. As a result of the deviation and the municipality not following a competitive bidding process as required by SCM regulation 19(a), the municipality did not ensure that water services materials, tools and electrical components were procured at market-related prices, which resulted in overpayment in procuring these materials. The total payment made to the two service providers for water services materials, tools and electrical components as a result of the deviation was R12 062 991 (excluding VAT).
181. The non-compliance was determined to likely to result in a material financial loss for the municipality if the overpayments was not recovered.
182. The accounting officer was notified of this MI on 29 March 2022 and invited to make written representation on the actions taken, or to be taken, to address the matter. The accounting officer disagreed with the MI. The disagreement was based on the accounting officer indicating that the process of acquiring the service of a panel of service providers was not delayed but was in the process of being advertised when the country was placed under lockdown. This restricted the municipality's ability to advertise and complete the process of appointing a panel to supply of water material. The accounting officer also indicated that the municipality did not suffer any financial loss by using the emergency procurement process as it had used the expired contract which stipulated prices agreed by the municipality and the panel of service providers.

183. The accounting officer failed to implement the above planned actions. Consequently, I concluded that the accounting officer had not taken appropriate action to resolve the material irregularity.
184. I referred the material irregularity to the Special Investigating Unit on 7 July 2023 for investigation as provided for in section 5(1A) of the PAA. The SIU acknowledged receipt on 8 July 2023 and is currently assessing the matter for further investigation. Based on the latest update on 10 September 2024 the investigation is still in progress.
185. I also referred certain aspects of the material irregularity to the Public Protector South Africa (PPSA) for investigation on 7 July 2023 as provided for in section 5(1A) of the PAA read with regulation 5(2) of the MI regulations. The referral was accepted by the PPSA on 12 July 2023. Based on the latest update on 11 October 2024, a meeting was held with the Municipality on 23 September 2024 and the accounting officer undertook to provide a response on 30 September 2024. However, no response was received. PPSA is in the process of issuing a notice in terms of section 7(4) of the Public Protector Act.

### **Pollution of water resource not prevented – Coligny Wastewater Treatment Works**

186. The municipality did not take reasonable measures at the Coligny Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management and section 19(1) of the National Water Act. Neither the wastewater treatment works nor the new pump station were operational due to the lack of electricity supply for a period of eighteen months during 2020 and 2021. The old pump station equipment was vandalised and also not operational. This resulted in the wastewater not reaching the plant for treatment and continued spilling of raw sewerage / untreated effluent into the adjacent environment, including the groundwater, the Taaibosspruit and its extended watercourse. The river flows into the Schoonspruit through Klerksdorp and ultimately, into the Vaal River and is used for consumption, farming and agricultural purposes by the communities and the farmers along the extended water network. The non-compliance is likely to cause substantial harm to the communities exposed to, and dependent on, the contaminated water resources.
187. The accounting officer was notified of the MI on 14 December 2021 and invited to make a written submission on the actions taken, and to be taken, to address the matter. The accounting officer responded by indicating that the electricity was restored, and that the wastewater treatment works and the pump station were operational again. A contractor was appointed on a three-year contract to supply, start-up and operate the wastewater treatment works, including monthly analysis of the wastewater effluent quality disposed into the immediate environment. However, based on follow-up visits in March 2022 and September 2022, it was confirmed that despite the restored electricity, serious blockages and overflows within the sewer reticulation system were still unresolved with very little wastewater reaching the pump station or the plant for treatment and disposal processes. The accounting officer did not take appropriate action to resolve the material irregularity.
188. I referred the MI to the Department of Water and Sanitation on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and based on the latest update of 25 September 2024, the investigation is still in progress.

## **Pollution of water resource not prevented – Itsoseng Wastewater Treatment Works**

189. The municipality did not take reasonable measures at the Itsoseng Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management and section 19(1) of the National Water Act. Although some refurbishments were in progress, the wastewater works was not operational, which resulted in the wastewater received at the inlet going directly into oxidations ponds without the required treatment process taking place. The inadequate effluent is discharged from holes in the ponds into the adjacent environment, polluting the groundwater and farmland where cattle graze and drink from untreated wastewater. The wastewater treatment works is on the southern border of one of South Africa's biggest groundwater reserves: the Grootfontein aquifer. The non-compliance is likely to cause substantial harm to the communities in the surrounding area dependent on the groundwater reserves for domestic, farming and agricultural purposes.
190. The accounting officer was notified of the MI on 14 December 2021 and invited to make a written submission on the actions taken, and to be taken, to address the matter. The accounting officer responded by indicating that the wastewater treatment works is operational again. A contractor was appointed with a three-year contract to supply, start-up and operate the wastewater treatment works, including monthly analysis of the wastewater effluent quality disposed into the immediate environment. However, based on follow up visits in March 2022 and July 2022 it was confirmed that the wastewater treatment works was still not operational, with refurbishment still underway. Wastewater received at the inlet was still directed to the maturation ponds outside of the wastewater works without proper treatment.
191. The accounting officer has not taken sufficient action to minimise and rectify the pollution or degradation of the environment. I therefore concluded that the accounting officer was not taking appropriate action to address the MI.
192. I referred the MI to the Department of Water and Sanitation on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and based on the latest update of 25 September 2024, the investigation is still in progress.

## **Pollution of water resource not prevented – Lichtenburg / Blydeville Wastewater Treatment Works**

193. The municipality did not take reasonable measures at the Lichtenburg / Blydeville Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management and section 19(1) of the National Water Act. The wastewater treatment works had totally collapsed and was not operational due to improper management of the operational and mechanical equipment, with serious maintenance and repair needs (including vandalism and theft) over a number of years. The wastewater received at the wastewater treatment works was discharged into the adjacent wetlands without treatment, while the completely clogged reticulation system caused raw sewerage overflows and spilling from manholes in the wetlands before reaching the wastewater treatment works. This resulted in the pollution of the adjacent environment, including the groundwater, the Harts Rivier and its extended watercourse. The river, which originates in Lichtenburg, flows in a south westerly direction through various towns in North West and is used for consumption, farming and

agricultural purposes by the communities and the farmers along the extended water network. The non-compliance is likely to cause substantial harm to the communities exposed to, and dependent on, the contaminated water resources.

194. The accounting officer was notified of the MI on 14 December 2021 and invited to make a written submission on the actions taken, and to be taken, to address the matter. The accounting officer responded by indicating that the wastewater treatment works was operational again. A contractor was appointed with a three-year contract to supply, start-up and operate the wastewater treatment works, including monthly analysis of the wastewater effluent quality disposed into the immediate environment. Based on follow up visits in March 2022 and July 2022 it was confirmed that the newly upgraded section of the wastewater treatment works was now operational. However, the old part of the wastewater treatment works was not completely cleaned and repaired, causing some sewer overflows and flooding in areas. In addition, the inflow of wastewater into the wastewater works was still lower than expected indicating blockages and overflows within the sewer reticulation system preventing wastewater from reaching the wastewater treatment works for treatment and disposal processes.
195. The accounting officer has not taken sufficient action to minimise and rectify the pollution or degradation of the environment. I therefore concluded that the accounting officer was not taking appropriate action to address the MI.
196. referred the MI to the Department of Water and Sanitation on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and based on the latest update of 25 September 2024, the investigation is still in progress.

### **Pollution of water resource not prevented – Lehurutshe Wastewater Treatment Works**

197. The municipality did not take reasonable measures at the Lehurutshe Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management and section 19(1) of the National Water Act. The wastewater treatment works had not been properly functional for years due to a lack of maintenance and repair of the inlet works and oxidations ponds. This resulted in raw sewerage filling up the ponds and overflowing into the stream adjacent to the oxidation ponds, contaminating the groundwater and a network of streams and rivers in the surrounding area, including the Mmaphanyana and Notswana rivers. These water sources are used by a number of settlements and communities in the Lehurutshe area, including Ntweletsoku, Dinokana, and Boroathamadi. The non-compliance is likely to cause substantial harm to the communities exposed to and dependent on the contaminated water resources.
198. The accounting officer was notified of the MI on 16 May 2022 and invited to make a written submission on the actions taken and that be taken to address the matter. The accounting officer responded by indicating that there was a plan in place for the cleaning, dredging and desludging of the Lehurutshe oxidation ponds. However, based on the follow up visit in July 2022, no progress was made and the untreated effluent from the ponds continued to be discharged into the environment.

199. The accounting officer did not take sufficient action to minimise and rectify the pollution or degradation of the environment. I therefore concluded that the accounting officer was not taking appropriate action to address the MI.
200. I referred the MI to the Department of Water and Sanitation on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and based on the latest update of 25 September 2024, the investigation is still in progress.

### **Pollution of water resource not prevented – Zeerust Wastewater Treatment Works**

201. The municipality did not take reasonable measures at the Zeerust Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management and section 19(1) of the National Water Act. The wastewater treatment works had been dysfunctional for at least three years due to the existing infrastructure, mechanical equipment and operations being dilapidated and blocked with little or no treatment of the wastewater received. This resulted in untreated effluent being discharged into the Karee and Klein Marico rivers in the area surrounding the wastewater treatment works. The Karee and Klein Marico rivers flow into the Klein Maricopoort dam outside Zeerust, which is primarily used for irrigation. The Klein Marico River is also a tributary of the Crocodile sub-basin and the great Limpopo river basin, and is used for consumption, farming and agricultural purposes by the communities and the farmers along the extended water network. The non-compliance is likely to cause substantial harm to the communities exposed to, and dependent on, the contaminated water resources.
202. The accounting officer was notified of the MI on 16 May 2022 and invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer responded by indicating that the wastewater treatment works is functional again and that steps are being taken to drastically improve the treatment and general operation and maintenance of the wastewater treatment works. However, based on follow up visits in July 2022, it was confirmed that the refurbishment of the wastewater treatment works is still underway with no change and the discharge of untreated effluent into the water resources continued. Construction of the new wastewater treatment works was also still in progress.
203. The accounting officer did not take sufficient action to minimise and rectify the pollution or degradation of the environment. I therefore concluded that the accounting officer was not taking appropriate action to address the MI.

204. I referred the MI to the Department of Water and Sanitation on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and based on the latest update of 25 September 2024, the investigation is still in progress.

*Auditor General*

Rustenburg

30 November 2024



**AUDITOR - GENERAL  
SOUTH AFRICA**

*Auditing to build public confidence*

## **Annexure to the auditor's report**

The annexure includes the following:

- The auditor-general's responsibility for the audit
- The selected legislative requirements for compliance testing

### **Auditor-general's responsibility for the audit**

#### **Professional judgement and professional scepticism**

As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for selected key performance area and on the municipality's compliance with selected requirements in key legislation.

#### **Financial statements**

In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the municipality's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made
- conclude on the appropriateness of the use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the municipality to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a to cease operating as a going concern
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

## **Communication with those charged with governance**

I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

## Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Municipal Finance Management Act 56 of 2003 (MFMA)	Section 1 (a), (b) & (d) of the definition: irregular expenditure Section 1 Definition of SDBIP Sections 11(1); 13(2); 14(1); 14(2)(a); 14(2)(b); 15 Sections 24(2)(c)(iv); 29(1); 29(2)(b); 32(2) Sections 32(2)(a); 32(2)(a)(i); 32(2)(a)(ii); 32(2)(b) Sections 32(6)(a); 32(7); 53(1)(c)(ii); 54(1)(c) Sections 62(1)(d); 62(1)(f)(i); 62(1)(f)(ii); 62(1)(f)(iii) Sections 63(2)(a); 63(2)(c); 64(2)(b); 64(2)(c); 64(2)(e) Sections 64(2)(f); 64(2)(g); 65(2)(a); 65(2)(b); 65(2)(e) Sections 72(1)(a)(ii); 95(a); 112(l)(iii); 112(1)(j) Sections 116(2)(b); 116(2)(c)(ii); 117; 122(1); 122(2) Sections 126(1)(a); 126(1)(b); 127(2); 127(5)(a)(i) Sections 127(5)(a)(ii); 129(1); 129(3); 133(1)(a)  Sections 133(1)(c)(i); 133(1)(c)(ii); 170; 171(4)(a); 171(4)(b)
LG: MFMA: Municipal budget and reporting regulations, 2009	Regulations 71(1); 71(2); 72
LG: MFMA: Municipal investment regulations, 2005	Regulations 3(1)(a); 3(3); 6; 7; 12(2); 12(3)
LG: MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014	Regulations 5(4); 6(8)(a); 6(8)(b); 10(1)
LG: MFMA: Municipal supply chain management (SCM) regulations, 2017	Regulations 5; 12(1)(b); 12(1)(c); 12(3); 13(b); 13(c); 13(c)(i) Regulations 16(a); 17(1)(a); 17(1)(b); 17(1)(c); 19(a) Regulations 21(b); 22(1)(b)(i); 22(2); 27(2)(a); 27(2)(e) Regulations 28(1)(a)(i); 28(1)(a)(ii); 29(1) (a) and (b) Regulations 29(5)(a)(ii); 29(5)(b)(ii); 32; 36(1) Regulations 38(1) (c); 38(1)(d)(ii); 38(1)(e); 38(1)(g)(i) Regulations 38(1)(g)(ii); 38(1)(g)(iii)  Regulations 43; 44; 46(2)(e); 46(2)(f)
Municipal Systems Act 32 of 2000 (MSA)	Sections 25(1); 26(a); 26(c); 26(i); 26(h); Sections 29(1)(b)(ii); 29(3)(b); 34(a); 34(b); Sections 38(a); 41(1)(a); 41(1)(b); 41(1)(c)(ii); 42; 43(2) Sections 56(a); 57(2)(a); 57(4B); 57(6)(a) Sections 66(1)(a); 66(1)(b); 67(1)(d); 74(1)  Sections 93B(a); 93B(b); 93C(a)(iv); 93C(a)(v); 96(b)
LG: MSA: Municipal planning and performance management regulations, 2001	Regulations 2(1)(e); 2(3)(a); 3(3); 3(4)(b); 3(5)(a); 7(1); 8 Regulations 9(1)(a); 10(a); 12(1); 15(1)(a)(i); 15(1)(a)(ii)
LG: MSA: Municipal performance regulations for municipal managers and managers directly accountable to municipal managers, 2006	Regulations 2(3)(a); 4(4)(b); 8(1); 8(2); 8(3)

Legislation	Sections or regulations
LG: MSA: Regulations on appointment and conditions of employment of senior managers, 2014	Regulations 17(2); 36(1)(a)
LG: MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2); 5(3); 5(6); 8(4)
Annual Division of Revenue Act (DoRA)	Sections 11(6)(b); 12(5); 16(1); 16(3)
Construction Industry Development Board Act 38 of 2000 (CIDB)	Section 18(1)
CIDB regulations	Regulations 17; 25(7A)
Municipal Property Rates Act 6 of 2004 (MPRA)	Section 3(1)
Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA)	Sections 2(1)(a); 2(1)(f)
Preferential Procurement regulations (PPR), 2022	Regulations 3(1) Regulations 4(1); 4(2); 4(3); 4(4) Regualtions 5(1); 5(2); 5(3); 5(4)
Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA)	Section 34(1)

