

Report of the auditor-general to the Eastern Cape Provincial Legislature and council on the Dr Beyers Naude Local Municipality

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the Dr Beyers Naude Local Municipality set out on pages ... to ... which comprise the statement of financial position as at 30 June 2023, the statement of financial performance, the statement of changes in net assets, the 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, the financial statements present fairly, in all material respects, the financial position of the Dr Beyers Naude Local Municipality as at 30 June 2023, 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 2022 (Dora).

Basis of opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of my report.
4. 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.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my unqualified opinion.

Material uncertainty relating to going concern

6. I draw attention to the matter below. My opinion is not modified in respect of this matter.
7. As disclosed in note 56 to the annual financial statements, which indicates that the municipality incurred a net deficit of R125,6 million during the year ended 30 June 2023 and, as of that date, the municipality's current liabilities exceed its total assets. These events and conditions, along with other matters as set forth in note 56, indicate that a material uncertainty exists that may cast significant doubt on the municipality's ability to continue as a going concern. The

steps taken by management to address the risk and ensure the municipality's financial sustainability are also highlighted in note 56 to the financial statements.

Emphasis of matters

8. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Material allowance for impairment – receivables

9. As disclosed in note 6 to the financial statements, material allowance for impairment of statutory receivables from non-exchange transactions of R7,7 million (2021-22: R6,7 million) was incurred as a result of non-payment by consumer debtors.
10. As disclosed in note 7 to the financial statements, material impairments for receivables from exchange transactions of R74,1 million (2021-22: R61,2 million) were incurred as a result of non-payment by trade debtors.

Restatement of corresponding figures

11. As disclosed in note 43 to the financial statements, the corresponding figures for the year ending 30 June 2022 were restated as a result of errors in the financial statements of the municipality at, and for the year ended, 30 June 2023.

Distribution losses – electricity

12. As disclosed in note 52 to the financial statements, material electricity losses of R7,7 million (2021-22: R5,9 million) were incurred, which represents 8,8% (2021-22: 6,5%) of total electricity purchased.

Distribution losses – water losses

13. As disclosed in note 53 to the financial statements, material water losses of R43,2 million (2021-22: R26,4 million) were incurred, which represents 43,27% (2021-22: 27,43%) of total water production.

Other matter

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

Unaudited disclosure notes

15. 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

16. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the GRAP and the requirements of the MFMA and Dora, 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.

17. 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.

Auditor-general's responsibilities for the audit of the financial statements

18. 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.
19. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

20. 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 development priorities presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
21. I selected the following development priorities presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected development priorities that measures the municipality's performance on its primary mandated functions and that are of significant national, community or public interest.

Development priority	Page numbers	Purpose
Basic service delivery and infrastructure development	XX	Upgrade reticulation system by systematically replacing old installations. To have all Municipal water-supply consumers connected to a metering system and registered on the debtor's database for monthly billing purposes. For all households to have uninterrupted access to good quality, potable water. The eradication of illegal dumping and littering and creation of clean and healthy urban areas and surrounding environment. To adequately upgrade the electrical supply and install the necessary electrical infrastructure, as well as regular maintenance thereof

22. I evaluated the reported performance information for the selected development priorities 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.

23. 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
- the indicators are well defined and verifiable to ensure that they are easy to understand and apply consistently and 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 what was 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
- there is adequate supporting evidence for the achievements reported and for the reasons provided for any over- or underachievement of targets.

24. I performed the procedures for the purpose of reporting material findings only; and not to express an assurance opinion.

25. I did not identify any material findings on the reported performance information for the selected development priority

Other matters

26. I draw attention to the matters below.

Achievement of planned targets

27. The annual performance report includes information on reported achievements against planned targets and provides explanations for over- or underachievement/ measures taken to improve performance.

Adjustment of material misstatements

28. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were on the reported performance information of development priority: infrastructure development. As management subsequently corrected the

misstatements, I did not raise any material findings on the usefulness and reliability of the reported performance information.

Report on compliance with legislation

29. 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.
30. 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.
31. 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.
32. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Expenditure management

33. Reasonable steps were not taken to prevent irregular expenditure of R125,8 million as disclosed in note 47 to the annual financial statements, as required by section 62(1)(d) of the MFMA. The majority of the irregular expenditure was caused by non-compliance with multiple SCM regulations.
34. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R105,8 million, as disclosed in note 45 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 of the budgeted votes within the approved budget of the municipality.
35. Reasonable steps were not taken to prevent fruitless and wasteful expenditure of R48,3 million as disclosed in note 46 to the 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 charged by creditors due to the municipality not paying invoices within 30 days.
36. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.

Consequence management

37. 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.

38. Irregular expenditure incurred by the municipality were not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.
39. 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.

Procurement and contract management

40. The contract performance and monitoring measures were not in place to ensure effective contract management, as required by section 116(2)(c)(ii) of the MFMA.
41. The performance of some contractors or providers was not monitored on a monthly basis, as required by section 116(2)(b) of the MFMA.
42. Some construction contracts were awarded to contractors that did not qualify for the contract in accordance with section 18(1) of the Construction Industry Development Board (CIDB) Act and CIDB regulations 17 and 25(7A).
43. 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 reported in the prior year.

Other information in the annual report

44. The accounting officer is responsible for the other information included in the annual report. The other information referred to does not include the financial statements, the auditor's report and those selected development priorities presented in the annual performance report that have been specifically reported on in this auditor's report.
45. 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.
46. 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 development priorities presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
47. 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

48. 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.
49. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the material findings on compliance with legislation included in this report.
50. Material non-compliance with key legislation and policies of the municipality was identified. This indicates that the audit action plan was not effective, as matters communicated to management in the prior year were not addressed in the current reporting period.

Material irregularities

51. 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.

Status of previously reported material irregularities

52. The material irregularities identified are as follows:

Interest paid on late payments of Eskom invoices

53. The municipality paid interest to Eskom on invoices that were not paid within 30 days. The payments not made within 30 days constitutes non-compliance with section 65 (2)(e) of the MFMA, which requires the accounting officer to take all reasonable steps to ensure that all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.
54. The interest paid is a financial loss to the municipality, as the payment of interest could have been avoided if the payments were made within the required 30 days from receipt of invoices. The non-compliance has resulted in a material financial loss of R62,2 million as at 30 June 2023 and is likely to result in further material financial losses for the municipality.
55. The accounting officer was notified of the material irregularity on 18 January 2022. The accounting officer performed a preliminary investigation and identified non-payment by customers as an issue with Eskom debt. There is no individual person or group that can be held accountable for the municipality incurring interest from Eskom or the inability to make payments as the municipality has been in financial distress. The municipality has been in dispute with Eskom regarding the outstanding balance. The arbitration process is still ongoing at year-end. In addition; the municipality has developed a financial recovery plan to improve its financial situation, as part of the plan the municipality has also applied for debt relief from National Treasury and the application is still in progress. The matter is still on-going and will be followed up during the next audit.

Interest paid on late payments of Sars invoices

56. The municipality did not pay employees tax, deducted from employees, to the South African Revenue Service (Sars) within seven days after the end of the month during which the amount was deducted. This was in contravention of section 2(1) of the fourth schedule of the Income Tax Act and section 210 of the Tax Administration Act. The municipality was required to pay interest and penalties to Sars due to non-compliance with the Income Tax Act and Tax Administration Act.
57. The interest and penalties paid are a financial loss to the municipality as the payment of interest and penalties could have been avoided if the payments were made within the required seven days after the end of the month during which the amount was deducted. The non-compliance has resulted in a material financial loss of R16,2 million as at 30 June 2023 and is likely to result in further material financial losses for the municipality.
58. The accounting officer was notified of the material irregularity on 31 January 2022. The municipality has entered into a payment arrangement with Sars to service the outstanding debts. In addition, the municipality has implemented revenue-enhancing strategies and cost-containment measures to improve its financial position. The matter is still on-going and will be followed up during the next audit.

Auditor General

East London

30 November 2023



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 development priorities 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 municipality 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	Section 1 – paragraph (a), (b) & (d) of the definition: irregular expenditure, Section 1 –definition: service delivery and budget implementation plan, Sections 11(1), 13(2), 14(1), 14(2)(a), 14(2)(b), 15, 24(2)(c)(iv), 29(1), Sections 29(2)(b), 32(2), 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), 62(1)(d), 62(1)(f)(i), Sections 62(1)(f)(ii), 62(1)(f)(iii), 63(1)(a), 63(2)(a), 63(2)(c), 64(2)(b), Sections 64(2)(c), 64(2)(e), 64(2)(f), 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), Sections 72(1)(a)(ii), 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), Sections 122(2), 126(1)(a), 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), Sections 129(1), 129(3), 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, Sections 171(4)(a), 171(4)(b)
MFMA: Municipal Budget and Reporting Regulations, 2009	Regulations 71(1), 71(2), 72
MFMA: Municipal Investment Regulations, 2005	Regulations 3(1)(a), 3(3), 6, 7, 12(2), 12(3)
MFMA: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014	Regulations 5(4), 6(8)(a), 6(8)(b), 10(1)
MFMA: Municipal Supply Chain Management Regulations, 2017	Regulations 5, 12(1)(c), 12(3), 13(b), 13(c), 13(c)(i), 16(a), 17(1)(a), Regulations 17(1)(b), 17(1)(c), 19(a), 21(b), 22(1)(b)(i), 22(2), 27(2)(a), Regulations 27(2)(e), 28(1)(a)(i), 28(1)(a)(ii), 29(1)(a), 29(1)(b), Regulations 29(5)(a)(ii), 29(5)(b)(ii), 32, 36(1), 36(1)(a), 38(1)(c), Regulations 38(1)(d)(ii), 38(1)(e), 38(1)(g)(i), 38(1)(g)(ii), 38(1)(g)(iii), 43, Regulations 44, 46(2)(e), 46(2)(f)
Municipal Systems Act 32 of 2000	Sections 25(1), 26(a), 26(c), 26(h), 26(i), 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), 56(a), 57(2)(a), Sections 57(4B), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 93J(1), 96(b) Parent municipality with ME: Sections 93B(a), 93B(b)

Legislation	Sections or regulations
	Parent municipality with shared control of ME: Sections 93C(a)(iv), 93C(a)(v)
MSA: Municipal Planning and performance Management Regulations, 2001	Regulations 2(1)(e), 2(3)(a), 3(3), 3(4)(b), 3(6)(a), 7(1), 8, 9(1)(a), 10(a), Regulations 12(1), 15(1)(a)(i), 15(1)(a)(ii)
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)
MSA: Regulations on Appointment and Conditions of Employment of Senior Managers, 2014	Regulations 17(2), 36(1)(a)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2), 5(3), 5(6), 8(4)
Annual Division of Revenue Act	Section 11(6)(b), 12(5), 16(1); 16(3)
Construction Industry Development Board Act 38 of 2000	Section 18(1)
Construction Industry Development Board Regulations	Regulations 17, 25(7A)
Municipal Property Rates Act 6 of 2004	Section 3(1)
Preferential Procurement Policy Framework Act 5 of 2000	Sections 2(1)(a), 2(1)(f)
Preferential Procurement Regulations, 2017	Regulations 4(1), 4(2), 5(1), 5(3), 5(6), 5(7), 6(1), 6(2), 6(3), 6(6), 6(8), Regulations 7(1), 7(2), 7(3), 7(6), 7(8), 8(2), 8(5) 9(1), 10(1), 10(2), Regulations 11(1), 11(2)
Preferential Procurement Regulations, 2022	Regulations 4(1), 4(2), 4(3), 4(4), 5(1), 5(2), 5(3), 5(4)
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section 34(1)