

Report of the auditor-general to the Eastern Cape Provincial Legislature and the council on the Intsika Yethu Municipality

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the Intsika Yethu Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2023, statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget and actual amounts 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 Intsika Yethu Municipality as at 30 June 2023, and its financial performance and cash flows for the year then ended in accordance with South African 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 for 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 responsibilities of the auditor-general 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.

Emphasis of matters

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

Restatement of corresponding figures

7. As disclosed in note 38 to the financial statements, the corresponding figures for 30 June 2023 were restated as a result of errors in the financial statements of the municipality at, and for the year ended, 30 June 2022.

Material impairments – receivables

8. As disclosed in note 3 to the financial statements, material impairments of receivables from exchange transactions of R2,1 million (2022: R2,9 million) were incurred as a result of poor collection practices.
9. As disclosed in note 4 to the financial statements, material impairments of receivables from non-exchange transactions of R8,5 million (2022: R6,7 million) were incurred as a result of poor collection practices.

Other matters

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

Unaudited disclosure note

11. 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

12. 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 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.
13. 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

14. 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.
15. 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

16. 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 areas presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
17. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected a key performance area that measures the municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Key performance area	Page numbers	Purpose
Basic infrastructure and service delivery	xx	To provide sound municipal planning, maintenance and infrastructure provision that delivers for the needs of the IYM citizens by 2027

18. 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.
19. 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 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
 - there is adequate supporting evidence for the achievements reported and for the measures taken to improve performance.

20. I performed the procedures for the purpose of reporting material findings only and not to express an assurance opinion or conclusion.
21. I did not identify any material findings on the reported performance information for the selected key performance area.

Other matters

22. I draw attention to the matters below.

Achievement of planned targets

23. The annual performance report includes information on reported achievements against planned targets and provides measures taken to improve performance. This information should be considered in the context of the material findings on the reported performance information.

Material misstatements

24. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for basic infrastructure and service delivery. Management subsequently corrected all the misstatements and I did not include any material findings in this report.

Report on compliance with legislation

25. 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.
26. 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.
27. 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.
28. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Annual financial statements and annual reports

29. 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, expenditure and disclosure items identified by the auditors in the submitted

financial statements were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

Procurement and contract management

- 30. The preference point system was not applied for some of the procurement of goods and services as required by section 2(1)(a) of the Preferential Procurement Policy Framework Act.
- 31. Some of the contracts were awarded to bidders based on functionality legislative requirement that were not stipulated and differed from those stipulated in the original invitation for bidding, in contravention of 2017 Preferential Procurement Regulation 5(1) and 5(3).
- 32. 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. Similar non-compliance was also reported in the prior year.

Expenditure management

- 33. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
- 34. An adequate management, accounting and information system was not in place which recognised expenditure when it was incurred, as required by section 65(2)(b) of the MFMA.
- 35. Reasonable steps were not taken to prevent irregular expenditure, as required by section 62(1)(d) of the MFMA. The expenditure disclosed does not reflect the full extent of the irregular expenditure incurred as indicated in the basis for qualification paragraph. The majority of the disclosed irregular expenditure was caused by SCM regulations.
- 36. Reasonable steps were not taken to prevent fruitless and wasteful expenditure, as required by section 62(1)(d) of the MFMA. The majority of the disclosed fruitless and wasteful expenditure was caused by the lack of accurate and complete records by management resulting in the inability to confirm the number of dwellings that were connected as part of the electrification projects.
- 37. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R10 million, as disclosed in note 40 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.

Asset management

- 38. An effective system of internal control for assets (including an asset register) was not in place, as required by section 63(2)(c) of the MFMA.

Consequence management

- 39. Some of the unauthorised expenditure incurred by the municipality was not investigated to determine if any person was liable for the expenditure, as required by section 32(2)(a) of the MFMA.

40. Some of the irregular expenditure incurred by the municipality were not investigated to determine if any person was liable for the expenditure, as required by section 32(2)(b) of the MFMA.

Strategic planning and performance management

41. The performance management system and related controls were not maintained or were inadequate, as it did not describe how the performance planning processes should be organised, as required by municipal planning and performance management regulation 7(1).

Human resources management

42. Appropriate systems and procedures to monitor, measure and evaluate the performance of staff were not developed and adopted, as required by section 67(1)(d) of the Municipal Systems Act 32 of 2000.
43. The senior managers did not sign performance agreements within the prescribed period, as required by section 57(2)(a) of the MSA.

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 key performance areas 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 key performance area 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, and 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 qualified opinion, the material findings on the annual performance report and the material findings on compliance with legislation included in this report.
50. Leadership did not adequately exercise effective responsibility over performance reporting, compliance with legislation and related internal controls. As a result, material misstatements on the annual performance report were identified during the audit process, which were subsequently corrected, and instances of non-compliance with legislation were not prevented.
51. Management did not implement adequate internal controls to ensure the preparation of accurate financial statements, as numerous material misstatements were identified that resulted in the modification of the auditor's opinion.
52. The audit action plan was not adequately implemented and monitored to address prior year findings, as repeat material findings were identified on the annual performance report and instances of non-compliance with legislation were not prevented.

Material irregularities

53. 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 identified during the audit

Payment for goods not received

54. The municipality made a double payment to the main contractor and a sub-contractor who was appointed through a deed of cession agreement for the supply and delivery of electrical equipment, but did not receive the related goods or services amounting to a likely material financial loss. The municipality's controls were not effective, as they did not prevent the municipality from paying the contractor and sub-contractor without receiving full value.
55. Therefore, the municipality did not comply with section 65(2)(a) of the MFMA, which requires reasonable steps to be taken to ensure that the municipality has and maintains an effective system of expenditure control including procedures for the approval, authorisation, withdrawal and payment of funds. The non-compliance resulted in a material financial loss for the municipality.
56. The accounting officer was notified of the material irregularity on 28 November 2022. The council referred the material irregularity to MPAC for investigation and recovery process. The municipality investigated the matter through the Financial Misconduct and Ethics Board (DC Board) of the municipality with the intention of advising of the appropriate remedial action. The investigation report by DC Board led the council to direct instructions to one of the municipality's attorneys to look into the matter, and this culminated in a legal opinion.
57. The municipality has since taken legal action against the main contractor. A court order dated 6 November 2023 has been obtained directing that the main contractor was liable for the

amount owed to the municipality, including the interest and the costs of the suit. The recovery of the financial loss was still in progress, as the main contractor has defaulted against the court order and the municipality has taken further action by attaching the assets of the contractor against the court order.

58. I will follow up on the implementation of the planned actions during my next audit.

Status of previously reported material irregularities

Payment for goods not received

59. The municipality made payments to multiple suppliers for upgrading gravel roads in Cofimvaba extension 1, but did not receive the related goods or services amounting to a likely material financial loss. The municipality's controls were not effective, as they did not prevent the municipality from paying the contractor for preliminary and general costs and contract price adjustments without receiving full value.

60. Therefore, the municipality did not comply with section 65(2)(a) of the MFMA, which requires reasonable steps to be taken to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds. The non-compliance resulted in a likely material financial loss for the municipality by 1 April 2019.

61. The accounting officer was notified of the material irregularity on 16 November 2021. The council referred the material irregularity to MPAC for investigation and recovery process. An independent service provider was appointed by the accounting officer to investigate the matter. Upon conclusion of this investigation, the findings will be tabled to the council for its consideration and decision making. The accounting officer then reported the matter to South African Police Service in accordance with the MFMA.

62. The disciplinary board was appointed to conduct an investigation with view to instituting a disciplinary process regarding the project. The new MPAC, which assumed duties after the elections, was still investigating and its report will be presented to the council for its consideration. The municipal public accounts committee and the disciplinary board recommended that a forensic investigation be conducted.

63. The municipality embarked on a forensic investigation and concluded the investigation. The report regarding the liability of the affected parties has been tabled to council and a resolution was tabled to approve the report and its contents and to determine for implementation of the recommendations contained in the report.

64. I will follow up on the implementation of the planned actions during my next audit.

Other reports

65. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties which had, or could have, an impact on the matters reported in the municipality's financial statements, reported performance information, compliance with applicable legislation and other related matters. These reports do not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation.
66. The Directorate for Priority Crime Investigation (Hawks) is investigating allegations of fraudulent expenditure emanating from the awarding of the contract for upgrading gravel roads to surfaced roads in extension 1. The investigation was still in progress at the date of this report.

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 key performance areas 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	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)

Legislation	Sections or regulations
	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) 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)