

Report of the auditor-general to Eastern Cape Provincial Legislature and Council on Nyandeni Local Municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Nyandeni Local Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2023, statement of financial performance and other comprehensive income, 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 of the matter described below the financial statements present fairly, in all material respects, the financial position of the Nyandeni 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 (SA Standards of 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 qualified opinion

Property, plant and equipment under construction

3. I was unable to obtain sufficient appropriate audit evidence to substantiate the property, plant and equipment construction work in progress disclosed in note 9.2 to the financial statements. Included in property, plant and equipment under construction is R12,27 million for payments made to consultants that could not be substantiated with supporting evidence. I was unable to confirm value of the property plant and equipment under construction through alternative means. Consequently, I was unable to determine whether any adjustments were required to construction work in progress stated at R137,1 million in note 9 to the financial statements.

Context for opinion

4. 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.
5. 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.

6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matter

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

Irregular expenditure

8. As disclosed in note 52.1 to the financial statements, the municipality incurred irregular expenditure of R56,54 million and R39,24 million has been written off during the current year.

Other matter

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

Unaudited disclosure notes

10. 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

11. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the SA standards of GRAP, 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.
12. 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

13. 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.

14. 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

15. 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 priority presented in the annual performance report. The Accounting Officer is responsible for the preparation of the annual performance report.
16. I selected the following development priority presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected development priority that measures the Municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Development priority	Page numbers	Purpose
Basic Service Delivery	X-X	To provide access to quality infrastructure and sustainable basic services to the communities within available resources

17. I evaluated the reported performance information for the selected development priority 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.
18. 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.
19. I performed the procedures for the purpose of reporting material findings only; and not to express an assurance opinion or conclusion.
20. I did not identify any material findings on the reported performance information for the selected programme development priority

Other matters

21. I draw attention to the matters below.

Achievement of planned targets

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

Material misstatements

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

Report on compliance with legislation

23. 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.
24. 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.
25. 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.
26. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Annual financial statements

27. 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, current liabilities, impairment and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected the supporting records were provided subsequently, but the supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.

Asset management

- 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.

Human resource management

- The senior managers did not sign performance agreements within the prescribed period, as required by section 57(2) (a) of the MSA.

Procurement and contract management

- The invitation to tender for procurement of commodities designated for local content and production, did not stipulate the minimum threshold for local production and content as required by the 2017 preferential procurement regulation 8(2).
- The performance of the contractors or providers was not monitored on a monthly basis, as required by section 116(2) (b) of the MFMA.

Other information in the annual report

28. 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.
29. 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.
30. 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.
31. I did not receive the other information before the date of this auditor's report. When I receive and read this information, if I conclude that there is a material misstatement therein, I must

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

32. 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.
33. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion and the material findings on compliance with legislation included in this report.
34. There was a lack of effective controls at the municipality related to the daily processing, reconciling, reviewing and monitoring over financial information and compliance with key legislation.

Auditor General

East London

30 November 2023



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

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

	Legislative requirements	Description of non-compliance
1.	Section 122(1) of the MFMA	The financial statements submitted for auditing were not prepared in all material respects. Material misstatements of non-current assets items identified by the auditors in the submitted financial statements supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion
2.	Section 57(2)(a) of the MSA	The senior managers did not sign performance agreements within the prescribed period
3.	Section 67(1)(d) of the MSA	Appropriate systems and procedures to monitor, measure and evaluate performance of staff were not developed and adopted
4.	Section 63(2)(a) of the MFMA	An adequate management, accounting and information system which accounts for assets was not in place
5.	Section 63(2)(c) of the MFMA	An effective system of internal control for assets (including an asset register) was not in place
6.	Section 65(2)(b) of the MFMA	An adequate management, accounting and information system was not in place which recognised expenditure when it was incurred
7.	2017 preferential procurement regulation 8(2).	Some of the invitation to tender for procurement of commodities designated for local content and production, did not stipulate the minimum threshold for local production and content
8.	Section 116(2)(b) of the MFMA	The performance of some of the contractors or providers was not monitored on a monthly basis

9.	Section 112(1)(j) MFMA and SCM Regulation 44	Awards were made to providers who were in the service of other state institutions or whose directors / principal shareholders were in the service of other state institutions. Similar awards were identified in the previous year and no effective steps were taken to prevent or combat the abuse of the SCM process, as required by SCM Regulation 38(1)
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