REPORT OF THE AUDITOR-GENERAL 2021-22

eThekwini Municipality and its municipal entities

AUDITOR-GENERAL SOUTH AFRICA

Auditing to build public confidence

Report of the auditor-general to the KwaZulu-Natal Provincial Legislature and the council on eThekwini Municipality and its municipal entities

Report on the audit of the consolidated and separate financial statements

Opinion

1. I have audited the consolidated and separate financial statements of the eThekwini Municipality and its municipal entities (the group) set out on pages … to …, which comprise the consolidated and separate statement of financial position as at 30 June 2022, the consolidated and separate 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 consolidated and separate financial statements, including a summary of significant accounting policies.

2. In my opinion, the consolidated and separate financial statements present fairly, in all material respects, the financial position of the group as at 30 June 2022, and their 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 9 of 2021 (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 auditor-general's responsibilities for the audit of the consolidated and separate financial statements section of my report.

4. I am independent of the group 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 opinion.

Emphasis of matters

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

Material debt impairments, losses and write-offs

7. As disclosed in note 6 to the consolidated and separate financial statements, the municipality recognised a provision for debt impairments of R10,71 billion (2020-21: R8,05 billion) on consumer debtors, as the recoverability of these amounts was doubtful.

8. As disclosed in note 51 to the consolidated and separate financial statements, material water losses of 618 465 kl/day (2020-21: 515 325 kl/day) were incurred by the municipality, which resulted in losses of R1,99 billion (2020-21: R1,75 billion). These losses arose from ageing and deteriorating infrastructure as well as illegal connections.

9. As disclosed in note 51 to the consolidated and separate financial statements, material electricity losses of 1,15 billion kilowatt hours (2020-21: 1,22 billion kilowatt hours) were incurred by the municipality, which resulted in losses of R1,36 billion (2020-21: R1,22 billion). These losses arose as a result of transmission and distribution losses as well as illegal connections.

Significant uncertainties

10. As disclosed in note 43 to the consolidated and separate financial statements, various legal claims were lodged against the municipality. The ultimate outcome of these claims could not be determined and no provision for any liability was made in the consolidated and separate financial statements.

Other matter

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

Unaudited disclosure notes

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

Responsibilities of the accounting officer for the consolidated and separate financial statements

13. The accounting officer is responsible for the preparation and fair presentation of the consolidated and separate financial statements in accordance with 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 the consolidated and separate financial statements that are free from material misstatement, whether due to fraud or error.

14. In preparing the consolidated and separate financial statements, the accounting officer is responsible for assessing the group'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 group or to cease operations, or has no realistic alternative but to do so.

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

15. My objectives are to obtain reasonable assurance about whether the consolidated and separate 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 consolidated and separate financial statements.

16. A further description of my responsibilities for the audit of the consolidated and separate financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

Introduction and scope

17. In accordance with the Public Audit Act of South Africa 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for the selected objective presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

18. My procedures address the usefulness and reliability of the reported performance information, which must be based on the municipality's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the municipality enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.

19. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the objective *creating a quality living environment* presented in the municipality's annual performance report for the year ended 30 June 2022.

20. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

21. The material findings on the usefulness and reliability of the performance information of the selected objective are as follows:

Various indicators

22. I was unable to obtain sufficient appropriate audit evidence for the reported achievements of three of the 67 indicators relating to this objective. This was due mainly to the lack of accurate and complete records. I was unable to confirm the reported achievements by alternative means. Consequently, I was unable to determine whether any adjustments were required to the reported achievements in the annual performance report for the indicators listed below:

Indicator no.	Indicator description	Reported achievement
3A.7	WS3.11 - percentage of callouts responded to within 24 hours (sanitation/wastewater)	42,30%
3A.8	WS3.21 - percentage of callouts responded to within 24 hours (water)	59,00%
3A.26	EE3.11 - percentage of unplanned outages that are restored to supply within industry standard time frames	70,08%

Indicator 3A.24 - EE1.13 – percentage of valid customer applications for new electricity connections processed in terms of municipal service standards

23. The achievement of 46% was reported against a target of 50% in the annual performance report. However, some supporting evidence provided differed materially from the reported achievement, while in other instances I was unable to obtain sufficient appropriate audit evidence. This was due to the lack of accurate and complete records. I was unable to further confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any further adjustments were required to the reported achievement.

Other matters

24. I draw attention to the matters below.

Achievement of planned targets

25. Refer to the annual performance report on page x to x for information on the achievement of planned targets for the year. This information should be considered in the context of the material findings on the usefulness and reliability of the reported performance information in paragraphs 22 to 23 of this report. The eThekwini Municipality achieved 46% of the planned targets for the year in the selected objective *create a quality living environment*. Some of the planned targets that were not achieved relate to key service delivery indicators on water, sanitation and electricity, as listed in the table below:

No.	Indicator	Planned target	Reported achievement
3A.5.	The % of non-revenue water loss	Less than 52% non-revenue water loss by 30 June 2022	56,20%

No.	Indicator	Planned target	Reported achievement
3A.6	The percentage of households with access to at least a basic level of water	82,92% of households with access to at least a basic level of water by 30 June 2022	80,90%
3A.15.	The percentage of estimated indigent households with access to a free basic services: water	76,17% of estimated indigent households with access to a free basic services: water for the 2021-22 financial year	68,60%
3A.14.	The percentage of households with access to at least a basic level of sanitation	73,51% of households with access to at least a basic level of sanitation by 30 June 2022	72,38%
3A.16.	The percentage of estimated indigent households provided with free basic services: sanitation	57,77% of estimated indigent households provided with free basic services: sanitation by 30 June 2022	52,99%
3A.21.	The percentage of households with access to a basic level of electricity within the eThekwini municipal area	68,57% households with access to a basic level of electricity by 30 June 2022	65,63%
3A.22.	Electricity losses (technical and non-technical) as a % of electricity purchases	≤8,5% electricity lost as a percentage of electricity purchased for the 2021-22 financial year	11,28%

26. Reasons for the underachievement of targets are included in the annual performance report on pages xx to xx.

Adjustment of material misstatements

27. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information of the objective *create a quality living environment*. As management subsequently corrected only some of the misstatements, I raised material findings on the usefulness and reliability of the reported performance information. Those that were not corrected are reported above.

Report on the audit of compliance with legislation

Introduction and scope

28. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the municipality's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

29. The material findings on compliance with specific matters in key legislation are as follows:

Expenditure management

30. Reasonable steps were not taken to ensure that the municipality implements and maintains an effective system of expenditure control, including procedures for the approval/authorisation and payment of funds for expenditure related to the Expanded Public Works Programme and Presidential Employment Programme, as required by section 65(2)(a) of the MFMA.

31. Reasonable steps were not taken to prevent irregular expenditure of R1,5 billion disclosed in note 52 to the financial statements of the municipality, as required by section 62(1)(d) of the MFMA. The majority of the irregular expenditure was as a result of non-compliance with supply chain management (SCM) regulations.

Environmental management

32. The Kingsburgh, Isipingo and Mpumalanga waste water treatment works did not have valid operating licences, as required by section 22(1)(b) of the National Water Act 36 of 1998.

33. The Northern waste water treatment works was not maintained to prevent malfunctioning infrastructure that could not operate as intended, as required by section 63(1)(a) of the MFMA.

Procurement and contract management

34. Some goods and services with a transaction value above R200 000 were procured without inviting competitive bids, as required by SCM regulation 19(a). Similar non-compliance was also reported in the prior year.

35. Some invitations 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).

36. Some commodities designated for local content and production were procured from suppliers who did not submit a declaration on local production and content, as required by the 2017 preferential procurement regulation 8(5).

37. Persons in the service of the municipality whose close family members had a private or business interest in contracts awarded by the municipality failed to disclose such interest, in contravention of the code of conduct for councillors and the code of conduct for staff members issued in terms of the Municipal Systems Act 32 of 2000 (MSA).

38. Persons in the service of the municipality who had a private or business interest in contracts awarded by the municipality failed to disclose such interest, in contravention of the code of conduct for councillors and the code of conduct for staff members issued in terms of the MSA.

Consequence management

39. Disciplinary proceedings were not instituted by council where the report of independent investigators confirmed the financial misconduct by a senior manager, as required by disciplinary regulation 5(6) for senior managers and municipal regulation 6(8) on financial misconduct procedures and criminal proceedings.

40. Appropriate action was not taken against officials of the municipality where investigations proved financial misconduct, as required by section 171(4)(b) of the MFMA and municipal regulation 6(8) on financial misconduct procedures and criminal proceedings.

Other information

41. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the consolidated and separate financial statements, the auditor's report and the selected objective presented in the annual performance report that has been specifically reported in this auditor's report.

42. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion on it.

43. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the consolidated and separate financial statements and the selected objectives presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

44. 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

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

46. The accounting officer and management did not ensure that systems of internal control were adequately implemented and monitored to ensure compliance with key legislation relating to environmental, expenditure and consequence management, as well as procurement and contract management. Management had not implemented preventative controls in the environment to ensure a reduction in irregular expenditure and an improvement in the audit outcomes.

47. Management did not implement proper record keeping to maintain information supporting certain achievements in the annual performance report as well as compliance with SCM legislation.

Material irregularities

48. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit.

49. The material irregularities identified are as follows:

Material irregularities identified during the audit

Procurement of surgical face masks with tie-on at prices higher than the limits in the National Treasury's circular

50. Through an emergency procurement process on 19 April 2020, the municipality ordered 200 000 units of surgical face masks with tie-ons at prices in excess of the price limits contained in Annexure A of MFMA circular no. 101, *Bulk procurement strategy for government institutions*. The circular provided price limits for personal protective equipment (PPE) items in order to facilitate an efficient and effective delivery of goods and services to address covid-19. This resulted in the uneconomical use of the municipality's resources by the officials responsible, in contravention of section 62(1)(a) of the MFMA.

51. The total value of the orders and payments made was R4,37 million. The non-compliance resulted in a material financial loss of R1,87 million for the municipality by 30 April 2020.

52. The accounting officer was notified of the material irregularity on 29 October 2020 and invited to make a written submission on the actions taken, or to be taken, to address the matter.

53. The accounting officer responded by disagreeing that there were any losses incurred on the contract and he maintained that payments made were based on valid charges. An internal investigation was completed on 8 July 2022. The accounting officer is analysing the recommendations to be actioned.

54. I am in the process of evaluating the further actions to be taken to ensure resolution of the material irregularity.

Procurement of N95 masks at prices higher than the limits in the National Treasury's circular

55. Through an emergency procurement process on 19 April 2020, the municipality ordered 100 000 units of N95 masks at prices in excess of the price limits contained in Annexure A of MFMA circular no. 101, *Bulk procurement strategy for government institutions*. The circular provided price limits for personal protective equipment (PPE) items in order to facilitate an efficient and effective delivery of goods and services to address covid-19. This resulted in the uneconomical use of the municipality's resources by the officials responsible, in contravention of section 62(1)(a) of the MFMA.

56. The total value of the orders and payments made was R7 million. The non-compliance resulted in a material financial loss of R1,03 million for the municipality by 8 May 2020.

57. The accounting officer was notified of the material irregularity on 29 October 2020 and invited to make a written submission on the actions taken, or to be taken, to address the matter.

58. The accounting officer responded by disagreeing that there were any losses incurred on the contract and he maintained that payments made were based on valid charges. An internal investigation was completed on 8 July 2022. The accounting officer is analysing the recommendations to be actioned.

59. I am in the process of evaluating the further actions to be taken to ensure resolution of the material irregularity.

Suspected material irregularity – payments made to the supplier for services not rendered

60. Possible fictitious payments were made to a service provider under contract S5086 during the period 25 May 2018 to 6 January 2020 without evidence that goods and services were received. The municipality's internal controls were overridden by officials to ensure that the service provider received payment. As a result of the above, a likely financial loss of R21 million was incurred by the municipality.

61. The accounting officer was notified of the suspected material irregularity on 24 November 2021 and invited to make a written submission on the actions taken, or to be taken, to address the matter.

62. The municipality and the supplier were unable to produce evidence to support services billed to date. The municipality applied to the high court and, on 28 August 2021, were granted an order in their favour for the service provider to deliver all the supporting documents justifying the invoices raised. The service provider appealed the application, which was dismissed by the Supreme Court of Appeal in September 2022. The supporting documents have been subsequently delivered to the municipality. The accounting officer is in the process of assessing the information provided by the service provider.

63. Further to the court case above, an investigation into this suspected material irregularity was concluded by Office of the Premier in April 2022. The accounting officer did not implement the recommendations from the investigation report.

64. I am in the process of evaluating the further actions to be taken to ensure resolution of the material irregularity.

Outstanding invoices not paid within 30 days

65. The municipality failed to ensure that the payments due to a security service provider were made within 30 days of receiving the relevant invoice or statement for the period July 2019 to September 2019, in contravention of section 65(2)(e) of the MFMA.

66. The non-compliance resulted in a material financial loss of R1,87 million, which was disclosed as fruitless and wasteful expenditure in note 52 to the 2020-21 consolidated and separate financial statements of the municipality.

67. The accounting officer was notified of this material irregularity on 15 December 2021 and was invited to make a written submission on the actions taken and that will be taken to address the matter.

68. The following actions have been taken to address the material irregularity:

- The municipality engaged with the supplier, arranged for the interest to be written off and undertook to effect full payment within 30 days of the arrangement.

- The accounting officer planned to strengthen controls over creditors and to prioritise third party payments.

69. The material irregularity is resolved.

Other reports

70. 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 did not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation.

71. At the request of the accounting officer, the city integrity and investigations unit performed internal investigations relating to allegations of financial misconduct and non-compliance with SCM regulations by municipal officials. Four hundred and sixty three investigations were in progress as at 30 June 2022. The accounting officer is currently assessing the outcomes and recommendations for those cases that have been finalised.

72. The Special Investigating Unit and the Directorate for Priority Crime Investigations are investigating alleged irregularities in the management of the affairs of the municipality, which cover the period 2015 to 2021. These investigations were still in progress at the date of this report.

Auditor-General

Pietermaritzburg

9 December 2022

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure – Auditor-general's responsibility for the audit

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the consolidated and separate financial statements, and the procedures performed on the reported performance information for the selected objective and on the municipality's compliance with respect to the selected subject matters.

Financial statements

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

   - identify and assess the risks of material misstatement of the consolidated and separate 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 by the accounting officer
   - conclude on the appropriateness of the accounting officer's 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 group 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
   - obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the group to express an opinion on the consolidated financial statements. I am responsible for the direction, supervision and performance of the group audit. I remain solely responsible for my audit opinion.

Communication with those charged with governance

3. 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.

4. I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence, and communicate 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.