

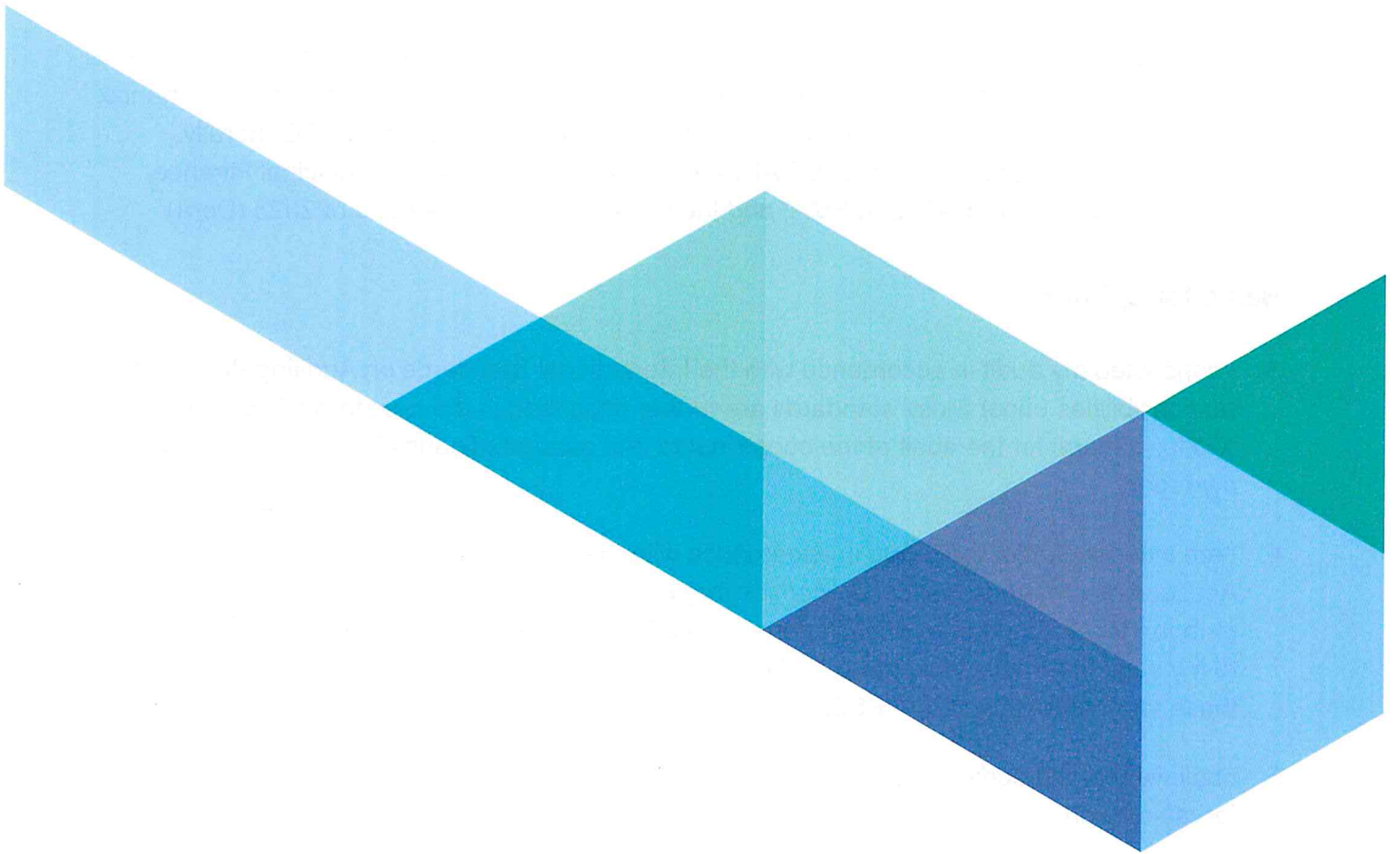


AUDITOR - GENERAL
SOUTH AFRICA

AUDIT REPORT

eThekweni Municipality and its subsidiaries

2023-24



Report of the auditor-general to the KwaZulu-Natal Provincial Legislature and the council on eThekweni Municipality and its subsidiaries

Report on the audit of the consolidated and separate financial statements

Opinion

1. I have audited the consolidated and separate financial statements of the eThekweni Municipality and its subsidiaries (the group) set out on pages xx to xx, which comprise the consolidated and separate statement of financial position as at 30 June 2024, 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 2024 and its financial performance and cash flows for the year then ended in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 5 of 2023 (Dora).

Basis for 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 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.

Key audit matters

6. I have determined that there are no key audit matters to communicate in this auditor's report.

Emphasis of matters

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

Significant uncertainties

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

Material debt impairments, losses and write-offs

9. As disclosed in note 5 to the consolidated and separate financial statements, the group recognised a provision for debt impairments of R19,45 billion (2022-23: R13,64 billion) on consumer debtors, as the recoverability of these amounts was doubtful.

10. As disclosed in note 51 to the consolidated and separate financial statements, material water losses of 622 743 kl/day (2022-23: 659 478 kl/day) were incurred by the municipality, which resulted in losses of R2 billion (2022-23: R2,03 billion). These losses arose mainly from ageing and deteriorating infrastructure, uncontrolled, unplanned rapid rural expansion and illegal connections.

11. As disclosed in note 51 to the consolidated and separate financial statements, material electricity losses of 1,12 billion kilowatt hours (2022-23: 1,05 billion kilowatt hours) were incurred by the municipality, which resulted in losses of R1,72 billion (2022-23: R1,37 billion). These losses arose as a result of transmission and distribution losses as well as illegal connections.

Other matter

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

Unaudited disclosure notes

13. In terms of section 125(2)(e) of the MFMA, the group 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

14. The accounting officer is responsible for the preparation and fair presentation of the consolidated and separate financial statements in accordance with the GRAP and the requirements of the MFMA and the Dora; and for such internal control as the accounting officer determines is necessary to enable the preparation of consolidated and separate financial statements that are free from material misstatement, whether due to fraud or error.

15. 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.

Responsibilities of the auditor-general for the audit of the consolidated and separate financial statements

16. My objectives are to obtain reasonable assurance about whether 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.

17. 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. This description, which is located at page 16 forms part of my auditor's report.

Report on the audit of the annual performance report

18. 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 plan presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.

19. I selected the following plan presented in the annual performance report for the year ended 30 June 2024 for auditing. I selected a plan that measures the municipality's performance on its primary mandated functions and that are of significant national, community or public interest.

Plan	Page numbers	Purpose
Creating a quality living environment	XX	The goal of this plan is to promote access to equitable, appropriate and sustainable levels of household infrastructure and community services and facilitate access to housing.

20. I evaluated the reported performance information for the selected plan 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.

21. I performed procedures to test whether:

- the indicators used for planning and reporting on performance can be linked directly to the municipality's mandate and the achievement of its planned objectives
- all the indicators relevant for measuring the municipality's performance against its primary mandated and prioritised functions and planned objectives are included
- the indicators are well defined to ensure that they are easy to understand and can be applied consistently, as well as verifiable so that I can confirm the methods and processes to be used for measuring achievements
- the targets can be linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated
- the indicators and targets reported on in the annual performance report are the same as those committed to in the approved initial or revised planning documents
- the reported performance information is presented in the annual performance report in the prescribed manner and is comparable and understandable
- there is adequate supporting evidence for the achievements reported and for the measures taken to improve performance.

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

23. The material findings on the reported performance information for the selected plan are as follows:

Creating a quality living environment

Various indicators

24. Targets were not set for indicators or, if they were, they were set at zero. Reasons for these were not acceptable as they were not in line with the requirements of Addendum 4 of MFMA Circular No. 88. Consequently, the targets are not useful for measuring and monitoring progress against the municipality's planned objectives.

Indicator description	Targets and reasons as per annual performance report	Reason provided by accounting officer for no/zero target
Percentage of valid customer applications for new electricity connections processed in terms of municipal service standards	0% Currently being determined	This could not be reported due to system constraints. The system challenges were resolved, and the municipality is reporting on this indicator in 2024-25 financial year.
Number of informal settlements upgraded to Phase 2	0 (Human Settlements will not be able to report on this due to the technical indicator description (TID) having many requirements	The definition of phase 2 involves the acquisition of land, amongst others, which happens less frequently. These entail lengthy

Indicator description	Targets and reasons as per annual performance report	Reason provided by accounting officer for no/zero target
	which are not in line with internal processes)	processes that will drag the implementation of this indicator that was initially meant to fast track the provision of essential services to the poor.
Number of residential properties developed through state-subsidised human settlements programmes entering the municipal valuation roll	0 (Cannot report on at this time. Human settlements unit can supply the number of Social and GAP houses facilitated but cannot report on when they are entered into the Valuation roll)	Once a unit is constructed it does not automatically get entered into the valuation roll, as this only occurs upon transfer to beneficiaries, at which stage it can be captured into the valuation roll. This results in incomplete data.
Percentage of reported pothole complaints resolved within standard municipal response time	Currently cannot report on this due to the TID suggesting that this is cumulative, in our processes it is static	The indicator could not be reported on due to system limitations. The challenges that were causing the municipality not to be able to report on this indicator were resolved and the municipality started reporting on this indicator from the first quarter of 2024-25

Percentage implementation of disaster programmes

25. The indicator was not clearly defined during the planning process. The TID does not provide clear explanation of the indicator that is being reported in the annual performance report. It is not clear what disaster programmes consists of as it is not documented in the TID. Consequently, the indicator is not useful for measuring and reporting on progress against planned objectives.

Various indicators

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

Indicator description	Target	Reported achievement
Percentage of callouts responded to within 48 hours (water)	75% of callouts responded to within 48 hours (water) for the 2023/24 financial year	80%
Percentage of wastewater treatment capacity unused	10%-20% percentage of wastewater treatment capacity unused by 30 June 2024	56,27%
Infrastructure leakage index	10.5 Infrastructure leakage index by 30 June 2024	8,9

Indicator description	Target	Reported achievement
Percentage of callouts responded to within 48 hours (sanitation/wastewater)	45% of callouts responded to within 48 hours (sanitation/wastewater) for the 2023/24 financial year	60%
Percentage of unplanned outages that are restored to supply within industry standard timeframes	90% of unplanned outages that are restored to supply within industry standard timeframes	45%
Percentage implementation of disaster programmes	100% implementation of disaster programmes by 30 June 2024	100%

Various indicators

27. Some supporting evidence was not provided for auditing; and, where it was, I identified material differences between the actual and reported achievements. Consequently, the achievements might be more or less than reported and were not reliable for determining if the targets had been achieved.

Indicator description	Target	Reported achievement
Number of new water connections meeting minimum standards	2750 new water connections meeting minimum standards by 30 June 2024	2 887
Number of new sewer connections meeting minimum standards	10 000 new sewer connections Meeting Minimum Standards by 30 June 2024	5 379

Percentage of unsurfaced road graded

28. An achievement of 165% was reported against a target of 140%. However, the audit evidence did not support this achievement. I could not determine the actual achievement, but I estimated it to be materially more than reported. Consequently, it is likely that the achievement against the target was better than reported.

Other matters

29. I draw attention to the matters below.

Achievement of planned targets

30. 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.

31. The table that follows provides information on the achievement of planned targets and lists the key service delivery indicators that were not achieved as reported in the annual performance report. The measures taken to improve performance are included in the annual performance report on pages xx to xx.

Plan 3 – Creating a quality living environment

<i>Targets achieved: 83,93%</i> <i>Budget spent: 97,51%</i>		
Key indicator not achieved	Planned target	Reported achievement
Number of new sewer connections meeting minimum standards (WS1.11)	10 000 new sewer connections Meeting Minimum Standards by 30 June 2024	5 379
Percentage of wastewater treatment capacity unused (WS4.31)	10%-20% Percentage of wastewater treatment capacity unused by 30 June 2024	56,27%
Number of dwellings provided with connections to the mains electricity supply by the municipality (EE1.11)	3000 dwellings provided with connections to the mains electricity supply by the municipality by 30 June 2024	2 943
Electricity losses (technical and non-technical) as a % of electricity purchases.	<=11% Electricity losses (technical and non-technical) as a % of electricity purchases.	11,56%
Percentage of unplanned outages that are restored to supply within industry standard timeframes (EE3.11)	90% of unplanned outages that are restored to supply within industry standard timeframes	45%
Number of title deeds registered to beneficiaries (HS1.22)	800 Title deeds registered to beneficiaries by 30 June 2024	593

Material misstatements

32. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for Plan 3 – Creating a quality living environment. Management did not correct all of the misstatements and I reported material findings in this regard.

Report on compliance with legislation

33. 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.

34. 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.
35. 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.
36. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Procurement and contract management

37. 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). Similar non-compliance was also reported in the prior year.
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 Municipal Supply Chain Management (SCM) Regulation 46(2)(e) and the code of conduct for staff members issued in terms of the Municipal Systems Act 32 of 2000 (MSA).
39. Persons in 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 SCM regulation 46(2)(e), the code of conduct for councillors issued in terms of the MSA and the code of conduct for staff members issued in terms of the MSA.

Consequence management

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 Regulations on Financial Misconduct Procedures and Criminal Proceedings 6(8).

Expenditure management

41. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
42. Reasonable steps were not taken to prevent irregular expenditure amounting to R1,61 billion as disclosed in note 52 to the separate financial statements, as required by section 62(1)(d) of the MFMA. The majority of the irregular expenditure was caused by non-compliance with Preferential Procurement Regulation 8(2).

Strategic planning and performance management

43. Performance targets were not set for some of the key performance indicators for the financial year, as required by section 41(1)(b) of the MSA and Municipal Planning and Performance Management Regulation 12(1).

Environmental management

44. The Kingsburgh, Magabeni, Umkomaas, Isipingo, Hillcrest, 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 (NWA).

Other information in the annual report

45. The accounting officer is responsible for the other information included in the annual report. The other information referred to does not include the consolidated and separate financial statements, the auditor's report and the selected plan presented in the annual performance report that has been specifically reported on in this auditor's report.
46. My opinion on the consolidated and separate financial statements, the report on the audit of the annual performance report and the report on compliance with legislation does 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.
47. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the consolidated and separate financial statements and the selected plan presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
48. 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

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

51. Leadership did not provide effective oversight responsibility regarding compliance and performance reporting. The slow progress in implementing prior year key audit recommendations has resulted in repeat findings.
52. Leadership and senior management did not effectively implement the action plan to adequately address previous findings on predetermined objectives and compliance with legislation.
53. Senior management did not implement a proper document management and record-keeping system to ensure that complete, relevant and accurate information is accessible and available to support performance reporting.

Material irregularities

54. 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

55. The material irregularities identified are as follows:

Expanded Public Works Programme payments made for expenses not incurred

56. Payments were made on the expanded public works programme (EPWP) to individuals that did not qualify as beneficiaries. The expenditure controls and procedures designed and implemented by the municipality in the EPWP payment processes were ineffective as they did not detect and prevent payments made to fictitious beneficiaries, deceased beneficiaries and beneficiaries employed in other state institutions that do not qualify as EPWP beneficiaries. In addition, payments were also made to beneficiaries without sufficient supporting documents or proof that tasks were performed. This was in non-compliance with section 65(2)(a) of the MFMA.
57. The non-compliance has resulted in a material financial loss of R3,28 million by 31 October 2022 and is likely to result in further material financial losses of R2,34 million for the eThekweni Municipality for payments made to beneficiaries employed in other state institutions.
58. The accounting officer was notified of the material irregularity on 13 December 2022 and invited to make a written submission on the actions taken and that will be taken to address the matter.
59. The accounting officer commissioned multiple investigations into the matter, however, failed to implement all the recommendations which were included in the report. During the prior and current year audits, I identified similar issues on payments to invalid beneficiaries.
60. I notified the accounting officer on 29 November 2024 of the following recommendations, which should be implemented by 30 June 2025:

- The non-compliance should be investigated to determine the root causes and if any official might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA, for purposes of recovering the loss.
- The financial loss should be quantified and all person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss where possible. The recovery process should not be unduly delayed.
- Commence with the implementation of a system of expenditure control that also addresses the root causes, as required by section 65(2)(a) of the MFMA, to prevent and detect payments to ineligible beneficiaries. These should include verifying the beneficiaries against the latest available databases, maintaining an audit trail of verifications that were performed and cancellation of further payments to ineligible beneficiaries.
- Disciplinary proceedings should commence, without undue delay, against all officials who have allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the Provincial Treasury and the National Treasury as required by Regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this must be reported to the South African Police Service, as required by section 32(6) of the MFMA.

Pollution of water resource not prevented – Northern wastewater treatment works

61. The municipality did not take reasonable measures at the Northern wastewater treatment works (WWTW) to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring, as required by section 28(1) of the National Environmental Management Act 107 of 1998 (NEMA) and section 19(1) of the NWA. The WWTW was not operational due to improper management of operational and mechanical equipment with serious maintenance and repair needs (including vandalism and theft) as well as further damages caused by the April 2022 floods. Raw untreated wastewater was also overflowing and spilling at the pump stations that have not been operational for more than a year.
62. This has resulted in raw untreated wastewater and/or inadequately treated effluent being disposed into the adjacent Umhlangaan and Umgeni rivers. The overflowing and spilling of raw untreated wastewater and discharge of inadequate effluent into the Umhlangaan and Umgeni rivers not only severely contaminates these water resources, but ultimately also the related beaches. This has a devastating effect on the communities along and dependent on these water resources as well as the ecosystems and recreational environments affected by it. It poses a serious health risk to communities using these resources for domestic or recreational purposes and adversely impacts the livelihoods of those dependent on tourism and sustenance

fishing affected by the frequent beach closures. The non-compliance is likely to cause substantial harm to the communities exposed to and dependent on the contaminated water resources.

63. The accounting officer was notified of the material irregularity on 14 April 2023 and invited to make a written submission on the actions taken and that will be taken to address the matter.
64. The accounting officer indicated on 26 June 2023 that an assessment of work required to repair the WWTW and related pump stations had been completed with tender processes on the appointment of a contractor being in progress. Follow up assessments performed by the audit team showed E.coli levels excessively higher than the norms in January 2024. Despite some actions, pollution was still ongoing and not addressed.
65. I determined that the accounting officer is not taking appropriate actions to resolve the material irregularity. I am in the process of making a decision on further actions to be taken.

Pollution of water resource not prevented – Umbilo wastewater treatment works

66. The municipality did not take reasonable measures at the Umbilo WWTW to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring, as required by section 28(1) of NEMA and section 19(1) of NWA. The plant was severely damaged by the April 2022 floods and further floods on the 27 June 2023. The East plant was decommissioned with interim measures implemented to redirect the inflow. The West plant was found to often exceed its (load) design capacity and was unable to properly treat and ensure quality compliant disposals into the Umbilo River.
67. This has resulted in improperly treated effluent being discharged directly into Umbilo River affecting the river quality and biodiversity as well as communities living next to or in close proximity to the river. Other river use and recreational activities such as swimming, fishing, canoeing, fauna and flora are negatively impacted by the poor wastewater quality and other contaminants disposed into the river. The river supports multiple livelihoods from bed and breakfast establishments to holiday parks as well as small-scale farming, therefore high levels of E.coli poses a health risk for both the public and the environment. The non-compliance is likely to cause substantial harm to the communities exposed to and dependent on the contaminated water resources.
68. The accounting officer was notified of the material irregularity on 18 April 2024 and invited to make a written submission on the actions taken and that will be taken to address the matter.
69. The accounting officer indicated on 18 June 2024 that an assessment of work required to repair the WWTW had been completed with tender processes on the appointment of a contractor being in progress. Follow up assessments performed by the audit team showed E.coli levels excessively higher than the norms in March 2024. Despite some actions, pollution was still ongoing and not addressed.
70. I determined that the accounting officer is not taking appropriate actions to resolve the material irregularity. I am in the process of making a decision on further actions to be taken.

Material irregularities in progress

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

Status of previously reported material irregularities

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

72. 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.

73. 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.

74. The accounting officer was notified of the material irregularity on 29 October 2021 and invited to make a written submission on the actions taken, or to be taken, to address the matter.

75. 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 implemented the recommendations of the investigation.

76. Based on my evaluation of the information and evidence provided in the accounting officer's written submission, this matter will not be pursued further as a material irregularity and is therefore closed.

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

77. 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.

78. 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.

79. The accounting officer was notified of the material irregularity on 29 October 2021 and invited to make a written submission on the actions taken, or to be taken, to address the matter.
80. 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 implemented the recommendations of the investigation.
81. Based on my evaluation of the information and evidence provided in the accounting officer's written submission, this matter will not be pursued further as a material irregularity and is therefore closed.

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

82. 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.
83. 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.
84. 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 were subsequently delivered to the municipality.
85. Further to the court case above, an investigation into this suspected material irregularity was concluded by Office of the Premier in April 2022.
86. The following actions have been taken to resolve the material irregularity
- The accounting officer provided an updated response on 10 May 2024 with evidence of summons filed at the high court on 8 May 2024. The municipality has claimed repayment of R57,59 million in respect of seven claims against multiple defendants for services which were paid for, but which were never rendered to the municipality.
 - The responsible officials were referred for disciplinary action through the Financial Misconduct Board.
87. The accounting officer has taken appropriate actions to address the material irregularity and the material irregularity is resolved.

Other reports

88. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties. These reports did not form part of my opinion on the consolidated and separate financial statements or my findings on the reported performance information or compliance with legislation.
89. The municipality's investigative unit performed investigations relating to allegations of financial misconduct covering the period 2018 to 2024. Some of these investigations were in progress as at 30 June 2024. The accounting officer is currently assessing the outcomes and recommendations for those cases that have been finalised.
90. 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

11 December 2024



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure to the auditor's report

The annexure includes the following:

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

Auditor-general's responsibility for the audit

Professional judgement and professional scepticism

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

Financial statements

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 group'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 consolidated and separate 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 and its subsidiaries 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 consolidated and separate financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the consolidated and separate 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 the municipality and its subsidiaries to cease operating as a going concern

- evaluate the overall presentation, structure and content of the consolidated and separate financial statements, including the disclosures, and determine whether the consolidated and separate 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

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.

From the matters communicated to those charged with governance, I determine those matters that were of most significance in the audit of the consolidated and separate financial statements for the current period and are therefore key audit matters. I describe these matters in this auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, I determine that a matter should not be communicated in this auditor's report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest of such communication.

Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Municipal Finance Management Act 56 of 2003	<p>Sections: 1, 11(1), 13(2), 14(1), 14(2)(a), 14(2)(b), 15, 24(2)(c)(iv), 28(1), 29(1), 29(2)(b), 32(2), 32(2)(a), 32(2)(a)(i), 32(2)(a)(ii),</p> <p>Sections: 32(2)(b), 32(6)(a), 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 63(1)(a), 63(2)(a), 63(2)(c), 64(2)(b), 64(2)(c), 64(2)(e), 64(2)(f),</p> <p>Sections: 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), 72(1)(a)(ii), 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), 122(2), 126(1)(a),</p> <p>Sections: 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), 129(1), 129(3), 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, 171(4)(a), 171(4)(b)</p>
MFMA: Municipal budget and reporting regulations, 2009	Regulations: 71(1)(a), 71(1)(a)(b), 71(2)(a), 71(2)(b), 71(2)(d), 72(a), 72(b), 72(c)
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	<p>Regulations: 5, 12(1)(c), 12(3), 13(b), 13(c), 16(a), 17(1)(a), 17(1)(b), 17(1)(c), 19(a), 21(b), 22(1)(b)(i), 22(2), 27(2)(a), 27(2)(e),</p> <p>Regulations: 28(1)(a)(i), 29(1)(a), 29(1)(b), 29(5)(a)(ii), 29(5)(b)(ii), 32, 36(1), 36(1)(a), 38(1)(c), 38(1)(d)(ii), 38(1)(e), 38(1)(g)(i),</p> <p>Regulations: 38(1)(g)(ii), 38(1)(g)(iii), 43, 44, 46(2)(e), 46(2)(f)</p>
Construction Industry Development Board Act 38 of 2000	Section 18(1)
Construction Industry Development Board Regulations, 2004	Regulations 17, 25(7A)
Division of Revenue Act	Sections: 11(6)(b), 12(5), 16(1); 16(3)
Municipal Property Rates Act 6 of 2004	Section 3(1)
Municipal Systems Act 32 of 2000	<p>Sections: 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 34(a), 34(b), 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 43(2),</p> <p>Sections: 54A(1)(a), 56(1)(a), 57(2)(a), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 96(b)</p> <p>Parent municipality with ME:</p>

Legislation	Sections or regulations
	Sections: 93B(a), 93B(b) Parent municipality with shared control of ME: Section: 93C(a)(iv), 93C(a)(v)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations: 5(2), 5(3), 5(6), 8(4)
MSA: Municipal Planning and Performance Management Regulations, 2001	Regulations: 2(1)(e), 2(3)(a), 3(3), 3(4)(b), 7(1), 8, 9(1)(a), 10(a), 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: Municipal Staff Regulations	Regulations: 7(1), 31
National Environmental Management: Waste Act 59 of 2008	Section: 20(b)
National Water Act 36 of 1998	Section: 22(1)(b)
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section: 34(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), 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)