Auditor-General of South Africa

Msunduzi Local Municipality
Audit report for the year ended 30 June 2022

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Report of the auditor-general to KwaZulu-Natal Provincial Legislature and the council on Msunduzi Local Municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Msunduzi Local Municipality set out on pages x to x, which comprise the statement of financial position as at 30 June 2022, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget and actual amounts for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.

2. In my opinion, except for the effects of the matter described in the basis for qualified opinion section of this auditor's report, the financial statements present fairly, in all material respects, the financial position of the Msunduzi Local Municipality as at 30 June 2022, and its financial performance and its cash flows for the year then ended in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Municipal Finance Management Act of South Africa, 2003 (Act No. 56 of 2003) (MFMA) and the Division of Revenue Act of South Africa, 2021 (Act No. 9 of 2021) (Dora).

Basis for qualified opinion

Service charges and consumer debtors

3. The municipality did not correctly recognise service charges from the sale of water , as required by GRAP 9, *Revenue from exchange transactions*. Discrepancies were identified between the meter readings and the billing reports used to calculate the consumption and revenue charged to consumers. I was unable to determine the full extent of the misstatement of the service charges revenue from the sale of water stated at R773,66 million in note 36 to the financial statements, as it was impracticable to do so. There was a resultant impact on consumer debtors, distribution losses, impairment, accumulated surplus and surplus for the period.

Context for the 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 auditor-general's responsibilities 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.

Material uncertainty relating to going concern

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

   I draw attention to note 79 to the financial statements, which includes indicators of doubt as to the appropriateness of the going concern basis of accounting. As stated in note 79, these indicators include the impact of the COVID 19 pandemic on municipal finance and operations, adverse liquidity ratios, below norm cash cost coverage ratio, the outstanding gross debtors balance that has increased significantly and the majority of the debtors have been outstanding for over 365 days, the dwindling of reserves over the recent years, deteriorating creditors days, the increase in net debtors balances and successive deficits..As stated note 79, these events or conditions, along with the other matters as set forth in note 79, indicate that a material uncertainty exists that may cast significant doubt on the municipality's ability to continue as a going concern.

Emphasis of matters

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

Material impairment – statutory receivables and consumer debtors

9. As disclosed in note 6 to the financial statements, the municipality recognised a provision for impairment amounting to R943,904 million (2020-21: R785,58 million) on statutory receivables as the recoverability of these amounts was doubtful.

10. As disclosed in note 7 to the financial statements, the municipality recognised a provision for impairment amounting to R2,95 billion (2020-21: R2,10 billion) on consumer debtors as the recoverability of these amounts was doubtful.

Material losses - electricity

11. As disclosed in note 68 to the financial statements the municipality incurred material electricity losses of R362,59 million (2020-21: R321,30 million) which represents 25% (2020-21: 22%) of total electricity purchased. This was mainly due to illegal connections, infrastructure vandalism, metering inaccuracies (due to faulty meters), unmetered energy (meter tempering or bypassing the meter at the customer meter), revenue collection as well as ageing infrastructure that results in increased power dissipation during transmission and distribution on lines, cables and transformers in the system and overloading .

Restatement of corresponding figures

12. As disclosed in note 73 to the financial statements, the corresponding figures for 30 June 2021 were restated as a result of errors in the financial statements of the municipality at, and for the year ended, 30 June 2022.

Other matter

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

Unaudited disclosure note

14. 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

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

16. In preparing the financial statements, the accounting officer is responsible for assessing the municipality's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the municipality or to cease operations, or has no realistic alternative but to do so.

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

17. 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.

18. 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

Introduction and scope

19. In accordance with the Public Audit Act of South Africa, 2004 (Act No. 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 selected development priority presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

20. 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.

21. 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 *basic service delivery development priority* presented in pages' x to x in the annual performance report of the municipality for the year ended 30 June 2022.

22. 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.

23. The material findings on the usefulness and reliability of the performance information of the selected development priority are as follows:

Various indicators

24. I was unable to obtain sufficient appropriate audit evidence that systems and processes were established to enable consistent measurement and reliable reporting of the actual achievement of the indicators listed below against the predetermined indicator definitions. This was due to a lack of measurement definitions and processes. I was unable to confirm the reported achievement by alternative means. :

Indicator description	Planned output	Reported achievement
Percentage of households with access to water	100% of households with access to basic level of water by the 30th of June 2022	93.02% of households with access to basic level of water by the 30th of June 2022.
Percentage of households with sanitation	60% Percentage of households with access to basic level of sanitation by the 30th of June 2022	55.66% of households with access to basic level of sanitation by the 30th of June 2022.

Other matters

25. I draw attention to the matters below.

Achievement of planned targets

26. The annual performance report on pages x to x sets out 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 paragraph 26 of this report.

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 *basic service delivery development priority*. 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:

Financial statements

30. 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 current assets, revenue and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided subsequently, but the uncorrected material misstatements resulted in the financial statements receiving a qualified audit opinion.

Strategic planning

31. The performance management system and related controls were inadequate as it did not describe how the performance measurement, review and reporting processes should be conducted, organised and managed, as required by municipal planning and performance management regulation 7(1).

Expenditure management

32. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R510,13 million, as disclosed in note 66 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the unauthorised expenditure was caused by overspending of the approved budget.

33. Reasonable steps were not taken to prevent irregular expenditure amounting to R106,30 million as disclosed in note 63 to the annual financial statements, as required by section 62(1)(d) of the MFMA. The majority of the irregular expenditure was caused by non-compliance with supply chain management regulations.

34. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.

Revenue management

35. An effective system of internal control for debtors and revenue was not in place, as required by section 64(2)(f) of the MFMA.

36. An adequate management, accounting and information system which accounts for revenue, debtors and receipt of revenue was not in place, as required by section 64(2)(e) of the MFMA.

Consequence management

37. 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).

Procurement and contract management

38. Some of the goods and services of a transaction value above R200 000 were procured without inviting competitive bids, as required by SCM regulation 19(a). Deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM regulation 36(1).

39. Some of the contracts were awarded to providers whose tax matters had not been declared by the South African Revenue Service to be in order, in contravention of SCM regulation 43.

40. Some of the contracts were awarded to bidders based on preference points that were not allocated or calculated in accordance with the requirements of section 2(1)(a) of the Preferential Procurement Policy Framework Act and its regulations.

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 financial statements, the auditor's report and those selected development priorities presented in the annual performance report that have 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 financial statements

and the selected development priority 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 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 basis for the qualified opinion, the findings on the performance report and the findings on compliance with legislation included in this report.

46. Management did not ensure that systems of internal control were adequately implemented and monitored to ensure compliance with key legislation relating to strategic planning, annual financial statements, expenditure management, revenue management, procurement and contract management and consequence management.

47. Management did not adequately review the annual financial statements and annual performance report before submitting for audit. In addition, management did not validate achievements against supporting documents. As a result, material findings were raised during the audit.

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 and on the status of the material irregularities reported in the previous year's auditor's report.

Material irregularities identified during the audit

49. The material irregularities identified are as follows:

Poor management of the New England landfill site

50. The Municipality did not take reasonable measures at the New England landill site to prevent pollution or degradation of the environment from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management Act 107 of 1998 (NEMA), read with section 16(1)(c) and (d) of the National Environmental Management Waste Act 59 of 2008 (NEMWA), as well as section 19(1) of the National Water Act 36 of 1998) (NWA).

51. The New England landfill site is not operated in terms of the minimum requirements and its waste management license of 2017. This is evidenced by:

- poor access control and inadequate separation of waste disposed at the site,
- lack of compacting and cover to limit gas emission impacting on air quality;
- spontaneous combustions and other fires resulting in accidents, other safety risks and air pollution; and
- lack of / poor leachate and storm water management to prevent continued contamination of the soil and water resources.

52. This state of affairs has been ongoing for several years as noted in compliance notices by the Department of Economic Development, Tourism and Environmental Affairs dating back to 2015 and February 2020, as well as the court ruling of 17 June 2021. A subsequent waste management license (WML) audit report issued July 2021 by engineers contracted by the municipality, and the site visit observations by the AGSA on 28 March 2022, confirmed continued non-compliance with the requirements and little or no progress on the action plan drafted in response to the court ruling or the WML requirements. There was further no gas or water quality monitoring since 2017.

53. Inadequately disposed or untreated waste may cause serious health problems for populations surrounding the area of disposal or safety risks for those exposed to it. It contaminates the soil, surface- and groundwater supplies due to untreated leachate and storm water run-off. Uncontrolled burning and improper landfilling also contributes significantly to air pollution. Greenhouse gasses are generated from the decomposition of organic waste landfills, with untreated leachate or storm water run-off polluting the surrounding soil and water resources (i.e. groundwater, stream or extended water networks).

54. Continued untreated leachate seeping and unmanaged storm water run-off into the adjacent environment and streams are contaminating the soil, ground water, streams and extended water course which may affect the communities in the surrounding environment and along the extended water course. Uncontrolled fires may endanger the lives of the surrounding community, schools and motorist on the N3 highway, posing serious safety and health risks due to air pollution. Health and safety risks for all workers and public accessing and using the site, including waste pickers inhabiting the site may be affected. This non-compliance is likely to cause substantial harm to the communities as it has combined adverse impact on the health, safety and livelihoods of the general public exposed to these environmental risks.

55. The accounting officer was notified of the material irregularity on 14 April 2022.

56. The following are the actions taken and/or planned to resolve the material irregularity:

- An internal waste management licence audit report dated 21 September 2022 was prepared on the management of the landfill site to assess progress and identify deficiencies.

- An approved action plan with implementation time frames is in place to address the issues detailed in the compliance notices. The National Department of Water and Sanitation and the National Department of Forestry, Fisheries and the Environment has been consulted with regard to this action plan. The majority of planned corrective actions are targeted for completion by 31 July 2023.
- The municipality will establish and maintain the landfill gas monitoring points by 31 July 2023 in terms of the approved action plan.
- A storm water and leachate management system will be upgraded/constructed by 31 July 2023 in terms of the approved action plan. Interim measures are being implemented to prevent pollution in the interim.
- A new compactor was bought and in operation, together with two dozers, a front-end loader and excavator.

57. I will follow-up on the implementation of the actions being taken during my next audit.

Material irregularities in progress

58. I identified a material irregularity during the audit and notified the accounting officer of this, as required by material irregularity regulation 3(2). By the date of this auditor's report, I had not yet completed the process of evaluating the responses from the accounting officer. This material irregularity will be included in the next year's auditor's report.

Status of previously reported material irregularities

Revenue not billed at the landfill site

59. Revenue earned from the municipal operated landfill site for waste deposits was not recognised as the weighbridge digitiser was not working for a period of six months in the 2019-2020 financial year. Vehicles entering the site were not weighed and there was no record of tonnage deposited. The non-compliance with section 64(2) (e) (i) of the MFMA is likely to result in a material financial loss for the Msunduzi Local Municipality.

60. The accounting officer was notified of the material irregularity on 1 April 2021 and I included recommendations in the audit report of 2020-21 on the steps that the accounting officer should take to address the MI because the accounting officer had not taken appropriate action in response to being notified of the material irregularity. The accounting officer was required to implement these recomendations by 29 April 2022. However, these were not adequately implemented.

61. On 17 August 2022, I issued a notification to the accounting officer advising him of the following remedial actions, that should be implemented by 17 November 2022, to address the material irregularity:

- The non-compliance must be investigated to determine if any official might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA. Where applicable, the financial loss must be quantified;
- Disciplinary or, when appropriate, criminal proceeding must commence against any official who has allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial misconduct procedures and Criminal Proceedings; and
- Any person(s) liable for the losses must be identified and appropriate action must commence to recover the financial loss.

62. I am in the processes of assessing whether the accounting officer has implemented the remedial actions.

Salary payments to a manager that never reported for duty

63. Salary payments were made by the municipality from 1 December 2016 to 31 July 2019 to an employee who never reported for duty since their appointment date. The municipality received no services in return for the payments made. This is evident of a non-compliance with section 65(2) (a) of the MFMA. The non-compliance is likely to result in a material financial loss for the Msunduzi Local Municipality.

64. The accounting officer was notified of the material irregularity on 15 April 2021.

65. The following actions have been taken by the accounting officer to resolve the material irregularity:

- A forensic investigation was conducted by the municipality's internal audit unit and a report was tabled in council.
- The Head: Legal services was issued with an instruction by the accounting officer on 24 March 2021 to institute the recovery of the financial loss and the appointed attorney has since instituted the process with the matter having been presented at the High court for personal service to be effected by the sheriff on the defendant.

66. I will follow up on the implementation of the actions being taken during my next audit.

Failure to recover revenue from the sale of timber

67. The municipality failed to collect revenue from a service provider as per the agreement between the service provider and the municipality for the disposal of timber. The resulted in non-compliance with section 64(2) (a) of the MFMA and is likely to result in a material financial loss for the Msunduzi Local Municipality.

68. The accounting officer was notified of the material irregularity on 3 May 2021.

69. The following are the actions taken and planned to resolve the material irregularity:

- An independent expert was appointed to conduct a verification of the plantation was noted to be inconclusive. The accounting officer then instructed internal audit to investigate the matter which was in progress.
- A new organogram has been compiled and approved for the forestry business unit and a forester has been appointed on a contractual basis.
- A tender notice was issued on 19 August 2021 for the appointment of a suitable service provider for total management of the municipal forestry plantation and this was not successful. The process has since been re-initiated and the tender was still to be advertised.
- The Head: Legal services was issued with an instruction by the accounting officer on 10 May 2021 to institute the recovery of the financial loss. The appointed attorney has since instituted the process and a letter of demand has been sent out, however the delays has been experienced as the pursuance of this matter is dependent on the outcome of the investigation that is still in progress.

70. I will follow-up on the implementation of the actions being taken during my next audit.

Other reports

71. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted 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.

72. At the request of the accounting officer and senior management, the internal audit unit performed investigations into allegations of fraud, corruption, theft, recruitment, mismanagement and supply chain management irregularities, covering the period 1 August 2020 to 30 June 2022 Thirty two investigations were conducted of which twenty one were concluded and reported to council. Eleven investigations were still in progress at the date of this report. Seventeen of these investigations resulted in disciplinary action against certain officials of the municipality. These proceedings were in progress at the date of this report.

Auditor - General

Pietermaritzburg

15 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 financial statements and the procedures performed on the reported performance information for the selected development priority 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 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 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 Msunduzi Local 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

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 to 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.