

# Report of the auditor-general to the Limpopo provincial legislature and the council of Mogalakwena local municipality

## Report on the audit of the financial statements

### Opinion

1. I have audited the financial statements of Mogalakwena Local Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2024, statement of profit or loss and other comprehensive income, statement of cash flows as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Mogalakwena Local Municipality 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 Practices (Standards of GRAP) and the requirements of 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 financial statements section of my report.
4. I am independent of the municipality in accordance with the International Ethics Standards Board for Accountants' *International code of ethics for professional accountants (including International Independence Standards)* (IESBA code) as well as other ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

### Emphasis of matters

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

### Material losses- electricity

7. As disclosed in note 40 to the financial statements, material electricity losses of R66 623 272 (2023: R60 821 491) was incurred, which represents 22% (2023: 25%) of total electricity purchased. Distribution losses relating to electricity are due to illegal connection.

## Material losses- impairment

8. As disclosed in note 42 to the financial statements, material losses were incurred as a result of a write-off of irrecoverable trade debtors.

## Significant uncertainties

9. With reference to note 48 of the financial statements, the municipality is currently involved in litigation with various service providers and third parties. The ultimate outcome of these matters could not be determined and no provision for any liability that may result has been made in the financial statements.

## Restatement of corresponding figures

10. As disclosed in note 60 to the financial statements, the corresponding figures for 30 June 2023 were restated as a result of an error in the financial statements of the municipality at, and for the year ended, 30 June 2024.

## Other matters

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

## Unaudited supplementary schedules

12. The supplementary information set out on pages xx to xx does not form part of the financial statements and is presented as additional information. I have not audited this schedule and, accordingly, I do not express an opinion on it.

## Responsibilities of the accounting officer for the financial statements

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

## Responsibilities of the auditor-general for the audit of the financial statements

15. 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.

16. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor’s report. This description, which is located at page XX and XX , forms part of our auditor’s report.

**Report on the audit of the annual performance report**

17. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for the selected development priorities presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.

18. I selected the following development priorities presented in the annual performance report for the year ended 30 June 2024 for auditing. I selected development priorities that measure the municipality’s performance on its primary mandated functions and that are of significant national, community or public interest.

Development priority	Page numbers	Purpose
<b>KPA 2: Basic Service Delivery and Infrastructure Development</b>	[XX]	The development priority exists to improve efficiency of municipal infrastructure and provision of basic services
<b>KPA 3: Local Economic Development</b>	[XX]	Create inclusive and well-coordinated investment opportunities for the growth of the economy

19. I evaluated the reported performance information for the selected development priorities 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.

20. 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 reasons provided for any over- or underachievement of targets / measures taken to improve performance

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

22. I did not identify any material findings on the reported performance information for the following development priorities:

- KPA 2: Basic service delivery and infrastructure development
- KPA 3: Local economic development

### Other matter

23. I draw attention to the matter below.

### Achievement of planned targets

24. The annual performance report includes information on reported achievements against planned targets and provides explanations for over- or under achievements.

25. The table that follows provide 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 reasons for any underachievement of targets are included in the annual performance report on pages xx to xx.

### KPA 2: Basic service delivery and infrastructure development

<i>Targets achieved: 89%</i>		
<i>Budget spent: 100%</i>		
<b>Key service delivery indicator not achieved</b>	<b>Planned target</b>	<b>Reported achievement</b>
KPI 15-Number of test conducted reports on Waste Water Quality by 30 June 2024	12	6

KPI 16- Percentage of water loss	25%	26%
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### Material misstatements

26. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for KPA 2: basic service delivery and infrastructure development. Management subsequently corrected all the misstatements, and I did not include any material findings in this report

### Report on compliance with legislation

27. 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.
28. 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.
29. 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.
30. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

### Annual financial statements, performance and annual report

31. The financial statements submitted for auditing were not prepared in accordance with the prescribed financial reporting framework as required by section 122(1) of the MFMA.
32. Material misstatements identified by the auditors in the submitted financial statements were subsequently corrected and/or the supporting records were provided subsequently, resulting in the financial statements receiving an unqualified audit opinion.
33. The oversight report adopted by the council on the 2022-23 annual report was not made public, as required by section 129(3) of the MFMA

### Expenditure management

34. Money owed by the municipality was not always paid within 30 days, as required by section 99(2)(b) of the MFMA.

35. Reasonable steps were not taken to prevent irregular expenditure as required by section 62(1)(d) of the MFMA.
36. Reasonable steps were not taken to prevent fruitless and wasteful expenditure, as required by section 62(1)(d) of the MFMA.

### **Procurement and contract management**

37. Some of the goods and services within the prescribed transaction values for formal written price quotations were procured without obtaining the required price quotations, in contravention of supply chain management (SCM) regulation 17(1)(a) and (c). Similar non-compliance was also reported in the prior year.
38. Some of the goods and services within the prescribed transaction value for competitive bids 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). Similar non-compliance was also reported in the prior year. This non-compliance was identified in the procurement processes for the procurement of legal services. (Maintenance of fleet).
39. Some of the contracts and quotations were awarded to bidders based on preference points that were not allocated and calculated in accordance with the requirements of section 2(1)(a) of the Preferential Procurement Policy Framework Act 5 of 2000 and its regulations. This non-compliance was identified in the procurement processes from quotation process
40. Some of the contracts and quotations were awarded to bidders that did not score the highest points in the evaluation process, 2017 preferential procurement regulations 11 and 2022 preferential procurement regulation 4(4) and 5(4). Similar non-compliance was also reported in the prior year.

### **Other information in the annual report**

41. The accounting officer is responsible for the other information included in the annual report. The other information referred to does not include the financial statements, the auditor's report and those selected development priorities presented in the annual performance report that have been specifically reported on in this auditor's report.
42. My opinion on the financial statements, the report on the audit of the annual performance report and the report on compliance with legislation do not cover the other information included in the annual report and I do not express an audit opinion or any form of assurance conclusion on it.
43. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the financial statements and the selected development priorities

presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

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, annual performance report and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
46. The matters reported below are limited to the significant internal control deficiencies that resulted in qualified opinion, material findings on the annual performance report and on compliance with legislation included in this report.
47. There was inadequate oversight regarding financial reporting, compliance and related internal controls to ensure that compliance requirements are met in order to prevent irregular, fruitless and wasteful expenditure.
48. The action plan developed by the leadership to address actual root causes for material findings was not effective as repeat findings were raised during the audit process.
49. Internal controls designed and implemented to ensure accurate financial information were not effective. The preparation of financial information in support of the financial statements preparation process was not adequately executed to ensure a comprehensive review of year-end adjustments and reconciliations; resulting in material adjustments identified and adjusted for through the audit process.
50. Controls over regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information were not adequate as material findings were identified in the financial statements and annual performance report submitted for audit.

### Material irregularities

51. 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

52. The material irregularities identified are as follows:

## Ineffective management of Rebone landfill site

53. In terms of section 16(1) of the National Environmental Management Waste Act 107 of 2008, A holder of waste must, within the holder's power, take all reasonable measures to:
- (a) Avoid the generation of waste and where such generation cannot be avoided, to minimize the toxicity and amounts of waste that are generated
  - (b) Reduce, re-use, recycle and recover waste
  - (c) Where waste must be disposed of, ensure that the waste is treated and disposed of in an environmentally sound manner
  - (d) Manage the waste in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts
  - (e) Prevent any employee or any person under his or her supervision from contravening this act, and
  - (f) Prevent the waste from being used for an unauthorised purpose
54. In terms of section 28(1) of the National Environment Management Act 59 of 1998, every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorized by law or cannot reasonably be avoided or stopped, to minimize and rectify such pollution or degradation of the environment.
55. In terms of paragraph 2.1.1(a) of the G:S:B permit- Rebone Waste disposal site, the activities must be managed and operated in accordance with an environmental management system that inter alia identifies and minimizes risk of pollution, including those arising from operations, maintenance, accidents, incidents and non-conformances and those drawn to the attention of the permit holder as a result of complaints.
56. In terms of paragraph 5.1.1 of the G:S:B permit- Rebone Waste disposal site, The permit holder must ensure that the site is operated in such a manner that nuisance conditions or health hazards, or the potential creation of nuisance conditions or health hazards are prevented.
57. In terms of paragraph 5.2.3 of the G:S:B permit- Rebone Waste disposal site, The permit holder must ensure that litter and mud arising from the activities must be cleared from affected areas outside the site as soon as practicable and wind-blown waste and litter must be picked up and removed from fences and vegetation on a daily basis.
58. Contrary to the above requirements, during the site visit performed at Rebone landfill site on the 31 October 2023, we identified that waste on the landfill site was not being managed in a manner that is in compliance with National Environmental Management Waste Act and the G:S:B permit. Waste was identified outside the landfill site and this has a potential to endanger health of the public and/or cause environmental harm. Specifically, we noted the following matters:
- The site has a wire fence and a gate; however, it does not appear to be in accordance with the minimum height requirement of 1.8m per paragraph 1.3.1 of the permit

- No compacting or covering of the waste is done.
- Wind-blown litter is scattered outside of the site.
- There are livestock roaming around the landfill site.

59. The non-compliance is likely to result in substantial harm. The mismanagement and the lack of monitoring of the landfill site has a negative impact on the environment and may result in polluted air and the emission of other toxins which pose significant health and safety risks to the general community of Rebone.

60. The extent of the harm could, however, not be determined with absolute certainty. The non-compliance is therefore likely to result in substantial harm if remedial actions are not taken and if the landfill site is not managed in full compliance with the requirements of the landfill site permit and other applicable legislation to address and prevent pollution and harm to the community.

61. The accounting officer was notified of the material irregularity on 18 March 2024 and the following actions were taken to resolve the material irregularity:

- The municipality appointed a service provider on 13 May 2024 for the hiring of plant and plant operations for management and maintenance of rebone landfill site for the duration of 36 months in Mogalakwena local municipality. The service provider and the project manager have developed a monthly schedule of activities for management of the Rebone Landfill site to comply with the conditions as imposed by the Limpopo Department of Economic Development and Tourism.
- All waste that was identified outside the landfill site, which may endanger health to the public and/or environmental harm, is being cleared by the service provider. Waste compacting and covering is now being done at the landfill site.
- The Landfill site is now properly fenced in compliance with applicable laws as a 2.4-meter fence has been installed at the landfill site.
- Dust suppression is done regularly, landfill gas monitoring done regularly, survey to determine waste deposition volumes done regularly and maintenance of the access gravel road to the landfill site is being done.
- The service provider has implemented controls and management of reclamation activities to ensure compliance with permit conditions.

62. I will follow up on the implementation of the actions in progress and planned actions during my next audit.

## **Status of previously reported material irregularities**

### **Expenditure paid without evidence of receipt of goods**

63. In terms of section 65(2)(a) of the MFMA, the accounting officer must take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds.

64. The municipality appointed service providers to deliver water to the local communities during the period when the municipality was faced with water challenges due to drought. The service providers were to provide their own methods of transportation and would claim the cost at an approved rate per kilometre. After the service providers delivered the water to the communities, they were required to submit proof of delivery to claim for the costs. The documents required for claims processing included proof of delivery, evidence to support the kilometres claimed by the supplier, approved rate per kilometre and locations where the water was delivered to. These transactions took place in the 2020-21 financial year.
65. Contrary to the above requirements, the municipality paid for transactions for which no proof could be provided to validate the claim and confirm that goods and services were received from the suppliers.
- The official responsible (Division Head: Rural Water Operation and Maintenance) for the issuing of orders to the service providers for water tankering, was placed on suspension on 16 March 2023, and went through disciplinary hearing/process which was completed on 26 March 2024 and the sanction was dismissal with immediate effect after the employee was found guilty of misconducts and the dismissal letter was sent on 10 April 2024 to the official indicating that salary for April 2024 was the last payment.
  - The Special Investigations Unit (SIU) is currently investigating the expenditure incurred through a proclamation issued on the 05 March 2021. The investigation was ongoing at the date of this report.
66. The matter handled by SIU is not within the control of the accounting officer and we will track the progress on the SIU investigation outside the MI process, as the accounting officer has implemented controls around payment for goods or services and we have not identified non-compliance where payments were made without confirming receipts of goods or services. The accounting officer has put measures around confirmation of goods or services by the departments before payment is made.
67. I received your written submission on 02 September 2024. I considered the representations made and the substantiating documents provided and have concluded that appropriate actions have been taken to address the material irregularity. Therefore, I will not pursue this matter any further.

### **Payment for work not done**

68. In terms of section 65(2)(a) of the MFMA, the accounting officer must take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds.
69. The municipality has made payments for work not done in that the contractor over claimed on the underground concrete works, top of the surface bed, claims slabs, inverted beams and formwork which were not on site, various items paid for not on site such as electrical installations, outdoor gym, cricket mat, mini steel grandstand, soccer field and landscaping and irrigation. This is indicative of shortcomings in the municipality's expenditure control processes and that the controls were ineffective, thus resulting in non-compliance with section 65(2) (a) of

the MFMA. The expenditure incurred is relating to construction of Moshate Stadium, contract number 03-2015/2016.

70. The non-compliance resulted in a material financial loss of R 12 237 171.00 for Mogalakwena Local Municipality as the municipality incurred expenditure and there was no benefit received/work done.
71. The accounting officer was notified of the material irregularity on 14 December 2019 and responded on the following actions were taken to resolve the material irregularity:
- The accounting officer instituted a preliminary investigation into the matter on 12 February 2020. The preliminary investigation revealed that two officials were directly involved (Deputy Manager Technical Services and Divisional Head: Project Management Unit). The municipality issued letters of suspensions in May 2020 for the duration of the investigation.
  - In light of the seriousness of the matter the accounting officer appointed a service provider to conduct a formal investigation. The investigation into the matter was conducted over a period of three months from June to August 2020. The investigation confirmed that a financial loss had indeed occurred and confirmed the identified officials as responsible. The investigation recommended that the officials be charged with act of misconduct.
  - A disciplinary hearing was planned in March 2021 for the one official but there was a delay that was caused by the resignation of the accounting officer in March 2021. One official's disciplinary action was held on the 18th May 2021 whilst the other official took early retirement in January 2021. As the officials are no longer in the employment of the municipality the disciplinary proceedings were withdrawn. Attorneys were appointed on the 15 February 2021 for the recoveries of the money from the supplier. There is intention to recover the monies from the retired employee if unable to recoup it from the supplier. The contractor terminated his contract 07 February 2020.
  - Court summons were issued on 08 November 2022 in the high court Polokwane were the municipality is lodging a claim of recovery against the engineer, contractor and the two officials responsible for the MI. The summons were delivered to the defendants. The particulars of the claim included conspiracy and fraud, of R12 273 171.07 of amounts overpaid to the contractor in a bid to recover the money which will be utilized for rebuilding and repairing the Moshate Stadium.
  - The defendant raised an exception which was heard on the 10th August 2023 and was dismissed with costs. The matter will now proceed in the normal course of court proceedings however the date of trial has not been set as at the date of this report.
72. On the 2 September 2024 substantiating documentation on the remedial action was received, which included final investigation report 31 October 2023.
73. I will therefore track the progress on the court processes outside the MI process.
74. I received your written submission on 02 September 2024 I considered the representations made and the substantiating documents provided and have concluded that appropriate actions

have been taken to address the material irregularity. Therefore, I will not pursue this matter any further.

## Penalties and interest

75. As per the Income tax act no.58 of 1962, Paragraph 2 of Part 11 (EMPLOYEE'S TAX-EMPLOYER'S TO DEDUCT TAX) of the Fourth Schedule states that every employer who pays or becomes liable to pay any amount by way of remuneration to any employee shall, unless the commissioner has granted authority to the contrary, deduct or withhold from that amount by way of employees' tax an amount which shall be determined as provided in paragraph 9, 10,11 or 12, whichever is applicable, in respect of the liability for normal tax of that employee and pay the amount so deducted or withheld to the Commissioner within seven days after the end of the month during which the amount was deducted or withheld.
76. The municipality incurred interests and penalties as a result of late payments of Pay as you earn, skills development levy and Unemployment Insurance Fund for an amount of R977 282, 33 and R615 250.04 in the 2019/2020 and 2020/2021 financial years respectively. Subsequent to that, it was also noted that there was an amount of R25 409,80 incurred in the 2021/22 financial year. This resulted in non-compliance with paragraph 2 of the 4th Schedule of the Income Tax Act.
77. The non-compliance resulted in a material financial loss for municipality as they incurred interest and penalties, the total amount of R1 617 941.
78. The accounting officer was notified of the material irregularity on 13 December 2022 and the following actions were taken to resolve the material irregularity:
  - The expenditure was referred to the financial misconduct board as part of total investigation on fruitless and wasteful expenditure on 29 October 2020 however the investigation commenced on the 17 March 2023 for investigation and reported to MPAC on the 1st of August 2023. The report was approved by council on the 16th of August 2023. The board has noted that the municipality has written an appeal to SARS regarding the issue and will wait for the outcome of the appeal on this issue.
  - The Municipality submitted an appeal for the interest and penalties to be written off on 01 March 2023. The outcome of the appeal was that the request for remission is invalid issued on notice dated 13 March 2024.
79. In implementing the remedial action, the accounting officer through council requested financial misconduct board to conduct investigation into the non-compliance to identify any responsible person(s) liable for consequences management. The investigation found that the fruitless and wasteful expenditure was incurred as a result from interest and penalties charged on late payment to SARS. The investigation further found that no official(s) could be held liable for interest and penalties incurred, as the non-payment to SARS and subsequent interest and penalties charged resulted from the problem in the server of the municipality. Council resolution dated 06 August 2024 certified the interest and penalties irrecoverable and written off.

80. The accounting officer appointed the service provider to specifically fix the server problems with appointment letter dated 9 November 2022. We did not identify interest and penalties on late payments to SARS in the audit performed for the year ended 30 June 2024.
81. I received your written submission on 02 September 2024. I considered the representations made and the substantiating documents provided and have concluded that appropriate actions have been taken to address the material irregularity. Therefore, I will not pursue this matter any further.

### Assets not safeguarded

82. Section 63(1)(a) of the MFMA states that the accounting officer of a municipality is responsible for management of – the assets of the municipality, including safeguarding and maintenance of those assets.
83. Several deficiencies caused by vandalism and theft were noted during the Moshate stadium site visits conducted on the 08 December 2021; and again; on the 02 November 2022. The observations are as follows:
- Roof for the change room was vandalized and roof sheet stolen
  - Fence around combi-courts and equipment were stolen
  - 4 stands and JoJo tanks were vandalized and stolen
  - There was no kikuyi grass on the soccer pitch
  - Outdoor gym roof sheeting and steel bracing were vandalized
  - Landscaping and irrigation installation was also vandalized
84. The site visit conducted revealed that there were neither cameras nor security guards on site to ensure that municipal infrastructure assets were safeguarded. There was no evidence provided to indicate that the municipality opened a case with the law enforcement agencies to report the items stolen and vandalized.
85. The non-compliance resulted in a likely material financial loss for Mogalakwena Local Municipality as the municipality incurred financial loss amounting to more than R948 148.75. Of this amount, an amount of R842 748.75 was paid to replace the original kikuyi grass that was laid. As of 08 December 2021 there were no kikuyi grass observed. Furthermore, as per the site visit on 2 November 2022 it was observed that the kikuyi grass had, in fact, perished. Furthermore, additional financial loss is still to be determined by the municipality as there are additional infrastructure items which was also damaged but with which, we could not quantify as payments were made in a lump sum.
86. The accounting officer failed to comply with section 63(1) (a) of which the non-compliance resulted in a likely material financial loss that was suffered by the municipality.
87. The accounting officer was notified of the material irregularity on 14 December 2022 and the following actions were taken to resolve the material irregularity:

- The accounting officer performed a security assessment conducted on all municipal properties on February 2023 to identify assets that are not safeguarded and has further placed security at Moshate Stadium effective from January 2023.
- The accounting officer instituted investigation to identify official(s) responsible for the MI on the 01 June 2023 and the investigation was completed on 31 October 2023. The investigation revealed that two officials were directly involved (Deputy Manager Technical Services and Divisional Head: Project Management Unit).
- The above-mentioned two (2) officials who were in charge of the project were suspended on 20 May 2020 and the notice of termination contract letter was submitted to the municipality by the contractor on 07 February 2020. This was more than 2 months before they left the employ. These officials were responsible for ensuring the municipality assets were safeguarded. According to the chief operating officer, security was a high priority for the municipality and in the absence of security personnel within the municipality, a deviation to outsource would have been made if a request was forwarded to the relevant department
- A disciplinary hearing was planned in March 2021 for the one official but there was a delay that was caused by the resignation of the accounting officer in March 2021. One official's disciplinary action was held on the 18th of May 2021 whilst the other official took early retirement in January 2021. As the officials are no longer in the employment of the municipality the disciplinary proceedings were withdrawn. Attorneys were appointed on the 15 February 2021 for the recovery of the money from the supplier. There is an intention to recover the monies from the retired employee if unable to recoup it from the supplier.
- Court summons were issued on 08 November 2022 in the high court Polokwane where the municipality is lodging a claim of recovery against the engineer, contractor and the two officials responsible for the MI. The summons were delivered to the defendants. The particulars of the claim included conspiracy and fraud, of R12 273 171.07 of amounts overpaid to the contractor in a bid to recover the money which will be utilized for rebuilding and repairing the Moshate Stadium.
- A criminal case has been opened at the South African Police Service against the former employees of the municipality as well as the supplier on 8 November 2021 court case no 8280/2021.

88. The accounting officer has taken adequate steps to address the matter, and the audit process for 2023-24 has confirmed that there are no further losses identified on the project. The accounting officer has ensured that projects are timeously completed and handed over to the communities to avoid vandalism and theft on delayed project.

89. I will therefore track the progress on the court processes outside the MI process.

90. I received your written submission on 02 September 2024. I considered the representations made and the substantiating documents provided and have concluded that appropriate actions have been taken to address the material irregularity. Therefore, I will not pursue this matter any further.

Polokwane

30 November 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 financial statements and the procedures performed on reported performance information for selected development priorities and on the municipality's compliance with selected requirements in key legislation.

#### **Financial statements**

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

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the municipality's internal control.
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made
- conclude on the appropriateness of the use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the municipality to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a municipality to cease operating as a going concern
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- 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 party responsible 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 party responsible with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

### Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Municipal Finance Management Act 56 of 2003	Section 1 - Paragraph (a), (b) & (d) of the definition: irregular expenditure, Section 1 - Definition: service delivery and budget implementation plan, Sections 11(1), 13(2), 14(1), 14(2)(a), 14(2)(b), 15, 24(2)(c)(iv), 29(1), Sections 29(2)(b), 32(2), 32(2)(a), 32(2)(a)(i), 32(2)(a)(ii), 32(2)(b), Sections 32(6)(a), 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 62(1)(f)(i), Sections 62(1)(f)(ii), 62(1)(f)(iii), 63(1)(a), 63(2)(a), 63(2)(c), 64(2)(b), Sections 64(2)(c), 64(2)(e), 64(2)(f), 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), Sections 72(1)(a)(ii), 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), Sections 122(2), 126(1)(a), 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), Sections 129(1), 129(3), 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, Sections 171(4)(a), 171(4)(b)
MFMA: Municipal Budget and Reporting Regulations, 2009	Regulations 71(1), 71(2), 72
MFMA: Municipal Investment Regulations, 2005	Regulations 3(1)(a), 3(3), 6, 7, 12(2), 12(3)
MFMA: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014	Regulations 5(4), 6(8)(a), 6(8)(b), 10(1)
MFMA: Municipal Supply Chain Management Regulations, 2017	Regulations 5, 12(1)(c), 12(3), 13(b), 13(c), 13(c)(i), 16(a), 17(1)(a), Regulations 17(1)(b), 17(1)(c), 19(a), 21(b), 22(1)(b)(i), 22(2), 27(2)(a), Regulations 27(2)(e), 28(1)(a)(i), 28(1)(a)(ii), 29(1)(a), 29(1)(b), Regulations 29(5)(a)(ii), 29(5)(b)(ii), 32, 36(1), 36(1)(a), 38(1)(c), Regulations 38(1)(d)(ii), 38(1)(e), 38(1)(g)(i), 38(1)(g)(ii), 38(1)(g)(iii), 43, Regulations 44, 46(2)(e), 46(2)(f)
Municipal Systems Act 32 of 2000	Sections 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 29(3)(b), 34(a), 34(b), Sections 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 43(2), 56(a), 57(2)(a),

Legislation	Sections or regulations
	Sections 57(4B), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 93J(1), 96(b)
MSA: Municipal Planning and performance Management Regulations, 2001	Regulations 2(1)(e), 2(3)(a), 3(3), 3(4)(b), 3(6)(a), 7(1), 8, 9(1)(a), 10(a), Regulations 12(1), 15(1)(a)(i), 15(1)(a)(ii)
MSA: Municipal Performance Regulations for Municipal Managers and Managers directly Accountable to Municipal Managers, 2006	Regulations 2(3)(a), 4(4)(b), 8(1), 8(2), 8(3)
MSA: Regulations on Appointment and Conditions of Employment of Senior Managers, 2014	Regulations 17(2), 36(1)(a)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2), 5(3), 5(6), 8(4)
Annual Division of Revenue Act	Section 11(6)(b), 12(5), 16(1); 16(3)
Construction Industry Development Board Act 38 of 2000	Section 18(1)
Construction Industry Development Board Regulations	Regulations 17, 25(7A)
Municipal Property Rates Act 6 of 2004	Section 3(1)
Preferential Procurement Policy Framework Act 5 of 2000	Sections 2(1)(a), 2(1)(f)
Preferential Procurement Regulations, 2017	Regulations 4(1), 4(2), 5(1), 5(3), 5(6), 5(7), 6(1), 6(2), 6(3), 6(6), 6(8), Regulations 7(1), 7(2), 7(3), 7(6), 7(8), 8(2), 8(5) 9(1), 10(1), 10(2), Regulations 11(1), 11(2)
Preferential Procurement Regulations, 2022	Regulations 4(1), 4(2), 4(3), 4(4), 5(1), 5(2), 5(3), 5(4)
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section 34(1)