Report of the Auditor-General to Eastern Cape Provincial Legislature and council on Nelson Mandela Bay Metropolitan Municipality

Report on the audit of the consolidated and separate financial statements

Opinion

1. I have audited the consolidated and separate financial statements of the Nelson Mandela Bay Metropolitan Municipality and its subsidiary (the group) set out on pages … to …, which comprise the consolidated and separate statement of financial position as at 30 June 2023, the consolidated and separate statement of financial performance, consolidated and separate statement of changes in net assets, and consolidated and separate statement of cash flows 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 2023 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 2022 (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.

Emphasis of matters

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

Restatement of corresponding figures

7. As disclosed in note 40 to the consolidated and separate financial statements, the corresponding figures for 30 June 2022 have been restated as a result of errors identified in the consolidated and separate financial statements of the municipality at, and for the year ended, 30 June 2023.

Material losses and impairment

8. As disclosed in note 15 to the consolidated and separate financial statements, material impairment allowances of R9,5 billion (2021-22: R6,2 billion) and R2,1 billion (2021-22: R1,8 billion) were made against trade receivables – exchange and non-exchange transactions respectively. The net movement in these impairment allowances together with the bad debt write-offs resulted in an impairment expense of R4 billion (2021-22: R3 billion).

9. As disclosed in note 35.9 to the consolidated and separate financial statements, material water losses of R253,2 million (2021-22: R219,4 million) were incurred, which represented 43,14% (2022: 39,29%) of the total water cost.

10. As disclosed in note 35.10 to the consolidated and separate financial statements, material electricity losses of R986,1 million (2021-22: R822,9 million) were incurred, which represented 25.90% (2021-22: 22,66%) of the total electricity purchased.

Unauthorised expenditure

11. As disclosed in note 44.1 to the consolidated and separate financial statements, unauthorised expenditure of R65,3 million was incurred, as actual expenditure per budget vote exceeded the approved adjustments budget.

Underspending on conditional grants

12. As disclosed in note 7 to the separate financial statements, the municipality had an unspent portion of conditional grants of R185,4 million.

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 and its entity 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 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

15. 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 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.

16. 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

17. My objectives are to obtain reasonable assurance about whether the consolidated and separate financial statements as a whole are free from material misstatement, whether due to fraud or error; and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these consolidated and separate financial statements.

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

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

20. I selected the following development priority presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected a development priority that measures the municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Development priority	**Page numbers**	**Purpose**
Basic service delivery	[XX]	To provide key basic services

21. I evaluated the reported performance information for the selected development priority against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the municipality's planning and delivery on its mandate and objectives.

22. I performed procedures to test whether:

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

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

24. The material findings on the reported performance information for the selected development priority are as follows:

Basic service delivery

Various indicators

25. 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	Target	Reported achievement
KPI: 63 Percentage of unsurfaced road graded	0. 7300%	0,8710%
KPI: 64 Percentage of surfaced municipal road lanes which has been resurfaced and resealed	0.4400%	0,6110%

Other matters

26. I draw attention to the matters below.

Achievement of planned targets

27. 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.

28. The municipality plays a key role in delivering services to South Africans. 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.

Basic service delivery

Targets achieved: 68% *Budget spent: 85%*		
Key service delivery indicator not achieved	**Planned target**	**Reported achievement**
KPI 2: Percentage of total residential electricity provision allocated as free basic electricity (FBE)	7%	6.1%
KPI 3: Percentage of planned maintenance performed	96%	68%
KPI 45: Number of serviced sites	1 386	718
KPI 66: Number of new sewer connections meeting minimum standards	2 000	1 056
KPI 67: Number of new water connections meeting minimum standards	2 000	1 056

Material misstatements

29. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for basic service delivery development priority. Management did not correct the misstatements and I reported material findings in this regard.

Report on compliance with legislation

30. 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.

31. 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.

32. 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.

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

Annual financial statements

34. The financial statements submitted for auditing were not fully prepared in all material respects in accordance with the requirements of section 122(1) of the MFMA. Material misstatements of liabilities, revenue and disclosure items identified by the auditors in the submitted financial statement were subsequently corrected resulting in the financial statements receiving an unqualified audit opinion.

Revenue management

35. Revenue due to the municipality was not calculated on a monthly basis, as required by section 64(2) (b) of the MFMA.

Expenditure management

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

37. Reasonable steps were not taken to prevent irregular expenditure amounting to R1,4 billion as disclosed in note 44.2 to the annual financial statements, as required by section 62(1)(d). The majority of the irregular expenditure was caused by non-compliance with SCM regulation 36(1).

38. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R 22,1 million as disclosed in note 44.3 to the separate annual financial statements of the municipality, in contravention of section 62(1) (d). The majority of the disclosed fruitless and wasteful expenditure was caused by salaries paid to suspended officials.

Strategic and performance management

39. The performance management system and related controls were not adequately implemented and managed, as required by municipal planning and performance management regulation 7(1).

Procurement and contract management

40. Some of the goods and services with a transaction value of below R200 000 were procured without obtaining the required price quotations, in contravention of SCM Regulation 17(1) (a) and (c). Similar non-compliance was also reported in the prior year.

41. Some of the quotations were accepted from bidders who did not submit a declaration on whether they are employed by the state or connected to any person employed by the state, as required by SCM Regulation 13(c).

42. Some of the contracts were awarded to bidders based on points given for legislative requirement that differed from those stipulated in the original invitation for bidding, in contravention of SCM regulations 21(b) and 28(1)(a)(i) and the Preferential Procurement Regulations.

43. The preference point system was not applied on some of the procurement of goods and services as required by section 2(1) (a) of the Preferential Procurement Policy Framework Act.

44. Some of the contracts and quotations were awarded to bidders that did not score the highest points in the evaluation process, as required by section 2(1) (f) of Preferential Procurement Policy Framework Act and 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.

45. Sufficient appropriate audit evidence could not be obtained that contracts were extended or modified with the approval of a properly delegated official as required by SCM Regulation 5. Similar limitation was also reported in the prior year.

46. Sufficient appropriate audit evidence could not be obtained that the performance of contractors or providers was monitored on a monthly basis as required by section 116(2) of the MFMA. Similar limitation was also reported in the prior year.

47. Sufficient appropriate audit evidence could not be obtained that contract performance and monitoring measures were in place to ensure effective contract management as required by section 116(2)(c)(ii) of the MFMA. Similar limitation was also reported in the prior year.

48. 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 staff members issued in terms of the Municipal Systems Act.

Consequence management

49. Unauthorised expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(a) of the MFMA.

50. Some of the irregular expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

51. Some of the fruitless and wasteful expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

Environmental Management

52. The Rocklands, Fishwater flats and Driftsands waste water treatment works did not have valid operating licences, in contravention with section 22(1) (b) of the National Water Act.

Other information in the annual report

53. 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 the selected development priority presented in the annual performance report that have been specifically reported on in this auditor's report.

54. 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 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.

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

56. 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

57. 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.

58. 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.

59. Management did not consistently implement daily, weekly and monthly financial and performance management disciplines. In addition, key risks relating to financial and performance reporting as well as supply chain management were not actively managed during the year under review. The municipality's audit plan was not effective and led to recurring findings reported on the financial statements, performance report and compliance.

Material irregularities

60. 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

61. The material irregularities identified are as follows:

Unused Software Licence

62. The municipality has a contract for software licences. In 2021/22 financial year, we identified that the municipality paid an amount of R50,3 million (R18,2 million relates to 2021-22 and R32,1 million relates to 2020-21) for unused software licences as there were no users using those licences, as result the municipality incurred a financial loss. This resulted in fruitless and wasteful expenditure being incurred by the municipality and non-compliance with section 62(1)(a) of the MFMA.

63. A material irregularity notification letter was issued to the accounting officer on 23 November 2022 requiring the accounting officer to make a written submission on the actions taken or to be taken to address the matter. The accounting officer responded on 10 March 2023 to the notification letter and submitted supporting documents. After evaluation of the information submitted, we quantified the value of loss to be R34,1 million (R6 million relates to 2022-23 and R28,1 million relates to 2021-22). The amount was disclosed on the annual financial statements. The accounting officer started process of investigation for the loss and submitted section 32 reports to the municipal public accounts committee (MPAC) sub-committee on 18 September 2023. The accounting officer also reduced the number of users on a new contract entered on 10 January 2023 to be in line with our recommendation in order to prevent future loss. The accounting officer committed to have the outcomes of investigation submitted to council on 7 December 2023.

64. Based on the actions taken by the accounting officer so far, the matter has been investigated by the MPAC subcommittee and referred to MPAC on 7 October 2023. MPAC considered the matter on 24 October 2023 and referred it to council for 7 December 2023.

65. After the above actions were taken, we concluded that the accounting officer took appropriate actions.

66. I will follow up on the investigation and the implementation of the planned actions during my next audit.

Revenue for water and sanitation services not calculated on a monthly basis

67. The municipality did not charge for service charges for the year ended 30 June 2022. It was found that 3 512 properties were not billed for the sale of water, sanitation and sewerage services provided by the municipality. This resulted in non-compliance with section 64(2)(b) of the MFMA which requires revenue due to the municipality to be calculated on a monthly basis.

The municipality is likely to suffer a material financial loss if service charges are not being billed.

68. The accounting officer was notified of the material irregularity on 25 November 2022 and invited to make a written submission on the actions taken or to be taken to address the matter.

69. The following actions have been taken to respond to the material irregularity:

- A service level agreement (SLA) between Budget and Treasury, Infrastructure and engineering and human settlements directorates was signed off on 7 July 2021.
- Budget and treasury directorate prepares a monthly report that gives a status of all properties on the consolidated billing system and whether there are water meters linked or not. This report also indicates if this is a sectional title property or a multipurpose property. This report is made available to the infrastructure and engineering directorate for their review and further action.
- Infrastructure and engineering directorate is busy reviewing their internal business processes relating to the transfer of meter installation information to the consolidated billing system.
- Infrastructure and engineering directorate is busy procuring additional resources to enable the physical verification of water meters on properties to enable an improved turnaround time.

70. The accounting officer further planned to implement the following actions to resolve the material irregularity:

- Regular correspondence between the Waterworks Division and Revenue Management and Customer Care Sub-directorate is in place regarding the anomalies identified on route numbers that need to be created on the consolidated billing system.
- Monthly meetings between Infrastructure and Engineering and Budget and Treasury Directorate are in place, where actions are implemented and monitored for progress. Human Settlements Directorate will also be integrated in these monthly meetings to ensure alignment of processes envisaged in line with the signed service level agreement (SLA).

71. The billing will be rectified in subsequent accounts based on the actual tariffs applicable during the period.

72. A commitment thus obtained from the accounting officer and it was indicated that the date committed to have fully addressed the material irregularity is 30 June 2024.

73. The implementation of the above planned actions and committed deadline will be followed up in the next audit cycle.

Status of previously reported material irregularities

Materiality Irregularities were identified for these two services providers:

Payment for services not received: Stormwater drain cleaning: Supplier 1

74. The municipality paid R10, 1 million on 19 December 2018 for the provision of stormwater drain cleaning services which were not rendered to the municipality. This resulted in non-compliance with section 65(2) (a) of the MFMA which requires that the municipality have and maintain an effective system of expenditure control relating to the approval, authorisation, and payment of funds. The non-compliance with legislation is likely to result in a material financial loss if the municipality does not recover the money paid to the service provider.

75. The accounting officer was notified of the material irregularity on 13 December 2019 and invited to make a written submission on the actions taken or to be taken to address the matter.

76. An investigation into the matter by the Directorate for Priority Crime Investigation (Hawks) commenced in January 2020 and the municipality have been co-operating with the investigation. The municipality appointed a forensic investigator to assist in quantifying the value of the financial loss incurred and to compile further evidence for the submission to the Hawks. On conclusion of the investigation, the municipality intends to pursue the recovery of losses incurred and consequence management against the identified responsible official(s). The forensic investigation report was finalised on 28 February 2022 and handed over to the Directorate for Priority Crime Investigation unit for further investigation. The Hawks along with National Prosecuting Authority (NPA) finished their investigation on 29 August 2023 and concluded that they would not prosecute the matter further, due to insufficient evidence that the drains were not cleaned.

77. The accounting officer should implement the actions recommended in the forensic report and recommend to council for further approval if necessary.

78. I will follow up on implementation of the planned actions which arose as result of the investigation during my next audit.

Payment for services not received: Stormwater drain cleaning: Supplier 2

79. The municipality paid R10, 1 million on 19 December 2018 for the provision of stormwater drain cleaning services which were not rendered to the municipality. This resulted in non-compliance with section 65(2) (a) of the MFMA which requires that the municipality have and maintain an effective system of expenditure control relating to the approval, authorisation, and payment of funds. The non-compliance with legislation is likely to result in a material financial loss if the municipality does not recover the money paid to the service provider.

80. The accounting officer was notified of the material irregularity on 13 December 2019 and invited to make a written submission on the actions taken or to be taken to address the matter.

81. An investigation into the matter by the Hawks commenced in January 2020 and the municipality has been co-operating with the investigation. The municipality appointed a forensic investigator to assist in quantifying the value of the financial loss incurred and to compile further evidence for the submission to the Hawks. On conclusion of the investigation, the

municipality intends to pursue the recovery of losses incurred and consequence management against the identified responsible official(s). The forensic investigation report was finalised on 28 February 2022 and handed over to the Hawks for further investigation. The Hawks along with NPA finished their investigation on 29 August 2023 and concluded that they are not going to prosecute the matter further.

82. The accounting officer should implement the actions recommended in the forensic report and recommend to council for further approval if necessary.

83. I will follow up on implementation of the planned actions which arose as result of the investigation during my next audit.

Revenue for water and sanitation services not calculated on a monthly basis

84. The municipality did not charge for service charges for the year ended 30 June 2019. It was found that 1 237 properties were not billed for the sale of water, sanitation and sewerage services provided by the municipality. This resulted in non-compliance with section 64(2)(b) of the MFMA which requires revenue due to the municipality to be calculated on a monthly basis. The municipality is likely to suffer a material financial loss if service charges are not being billed.

85. The accounting officer was notified of the material irregularity on 13 December 2019 and invited to make a written submission on the actions taken or to be taken to address the matter.

86. The following action has been taken to resolve the material irregularity:

- The service level agreement (SLA) between budget and treasury, infrastructure and engineering and human settlements directorates was signed on 7 July 2021. The SLA outlines the value chain process between human settlements, infrastructure and engineering directorate and budget and treasury directorate in respect of the installation of new water meters, as well as linking them to the billing system.

87. The accounting officer further planned to implement the following actions to resolve the material irregularity:

- Monthly reporting to identify properties without water related services on the billing system.
- The monthly report will be sent to the infrastructure and engineering directorate for investigation.
- Monthly meeting to be held between revenue management customer care sub-directorate, infrastructure, and engineering directorate.

88. The billing will be rectified in subsequent accounts based on the actual tariffs applicable during the period.

89. A commitment and a detailed project plan was thus obtained from the accounting officer and it was indicated that the date committed to have fully addressed the material irregularity is 30 June 2023.

90. The implementation of the planned actions was followed up in the current year audit and it was noted that the accounting officer has made reasonable progress in addressing the material irregularity but did not fulfil the commitment made to fully resolve the material irregularity.

91. The implementation of the above planned actions will be followed in the next audit cycle.

Revenue for water and sanitation services not calculated on a monthly basis

92. The municipality did not charge for service charges for the year ended 30 June 2020. It was found that 7 255 properties were not billed for the sale of water, sanitation and sewerage services provided by the municipality. This resulted in non-compliance with section 64(2)(b) of the MFMA which requires revenue due to the municipality to be calculated on a monthly basis. The municipality is likely to suffer a material financial loss if service services are not being billed.

93. The accounting officer was notified of the material irregularity on 1 September 2021 and invited to make a written submission on the actions taken or to be taken to address the matter.

94. The following actions have been taken to resolve the material irregularity:

- The SLA between budget and treasury, infrastructure and engineering and human settlements directorates was signed on 7 July 2021. The SLA outlines the value chain process between human settlements, infrastructure and engineering directorate and budget and treasury directorate in respect of the installation of new water meters, as well as linking them to the billing system.

95. The accounting officer further planned to implement the following actions to resolve the material irregularity:

- Monthly reporting to identify properties without water-related services on the billing system.
- The monthly report will be sent to the infrastructure and engineering directorate for investigation.
- Infrastructure and engineering directorate is in the process of reviewing their internal business processes relating to the transfer of meter installation information to the billing system.
- Internal Audit and Risk Assurance to include as part of their audit readiness assessment for 2021-22, the review of the internal controls that have been implemented through the SLA and subsequent standard operating procedures between budget and treasury, infrastructure and engineering and the human settlements directorates.
- Infrastructure and engineering directorate is in the process of procuring additional resources to enable the physical verification of water meters on properties and to enable an improved turnaround time.

96. The billing will be rectified in subsequent accounts based on the actual tariffs applicable during the period.

97. A commitment and a detailed project plan were thus obtained from the accounting officer and it was indicated that the date committed to have fully addressed the material irregularity is 30 June 2023. Management did not fulfil the commitment made to fully resolve the material irregularity.

98. The implementation of the planned actions was followed up in the current year audit and it was noted that the accounting officer has made slow progress in addressing the material irregularity and did not fulfil the commitment made to fully resolve the material irregularity.

99. The implementation of the above planned actions will be followed in the next audit cycle.

Other reports

100. 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 financial statements or my findings on the reported performance information or compliance with legislation.

101. The President of South Africa promulgated that an investigation be conducted by the Special Investigation Unit (SIU) based on the allegation of possible procurement irregularities. The matter started in 23 July 2020 and was tabled to council. The investigation is still in progress at the date of this report.

Auditor-General

East London

12 December 2023

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 priority 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 Nelson Mandela Bay Metropolitan 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 accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

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

Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

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), 32(6)(a), Sections 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 62(1)(f)(i), 62(1)(f)(ii), Sections 62(1)(f)(iii), 63(1)(a), 63(2)(a), 63(2)(c), 64(2)(b), 64(2)(c), Sections 64(2)(e), 64(2)(f), 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), 72(1)(a)(ii), Sections 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), 122(2), 126(1)(a), Sections 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), 129(1), 129(3), Sections 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, 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), 16(a), 17(1)(a), Regulations 17(1)(b), 17(1)(c), 19(a),19(b) 21(b), 22(1)(b), 22(2), 27(2)(a), Regulations 27(2)(e), 28(1)(a)(i), , 29(1)(a), 29(1)(b), 29(5)(a)(ii), Regulations 29(5)(b)(i), 32, 36(1)(a), 38(1) (c), 38(1)(d)(ii), 38(1)(e), Regulations 38(1)(g)(i), 38(1)(g)(ii), 38(1)(g)(iii), 43, 44, 46(2)(e), 46(2)(f)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2), 5(3), 5(6), 8(4)
Division of Revenue Act	Sections 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, 2004	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 , 5(1), 5(3), 5(6), 5(7), 6(1), , 6(8), Regulations 7(1), 7(8), 8(2), 8(5), 9(1), 10(1), 10(2), Regulations 11(1),
Preferential Procurement Regulations, 2022	Regulations 4(1), , 4(4), 5(1), 5(4)
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section 34(1)

National Water Act 36 of 1998	Section 22(1)(b)
National Environmental Management: Waste Act 59 of 2008	Section 20(b)
Environment Conservation Act, No. 73 of 1989	Section 20(1)
Municipal Systems Act 32 of 2000	Sections 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 34(a), 34(b), 38(a), Sections 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 56(a), 57(2)(a), 57(4B) Sections 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 93J(1), 96(b) Sections 93B(a), 93B(b)
MSA: Municipal Planning and Performance Management Regulations, 2001	Regulations , 2(3)(a), 3(3), 3(4)(b), 7(1), 8, Regulations 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)