

Report of the auditor-general to North West Provincial Legislature and the council on Tswaing Local Municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of Tswaing Local Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2023, statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects and possible effects of the matters 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 Tswaing Local Municipality 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), the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 5 of 2022 (Dora).

Basis for qualified opinion

Service charges

3. The municipality did not correctly recognise service charges revenue, as required by GRAP 9, *Revenue from exchange transactions*. The municipality did not charge for services in accordance with the approved tariffs, resulting in service charges and trade and other receivables from exchange transactions, being overstated by R3 130 349 (2022: (R3 714 301)). In addition, I was unable to obtain sufficient appropriate audit evidence for service charges due to the poor status of the accounting records. I was unable to confirm these service charges by alternative means. Consequently, I was unable to determine whether any further adjustments were necessary to service charges of R74 662 061 (2022: R92 999 169) as disclosed in note 17 to the financial statements and gross trade and other receivables from exchange transactions of R297 205 276 (2022: R272 888 256) as disclosed in note 5 to the financial statements.

Property rates

4. I was unable to obtain sufficient appropriate audit evidence for property rates due to the poor status of the accounting records. I was unable to confirm these property rates by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to property rates of R28 770 537 (R26 536 093) as disclosed in note 20 and consumer debtors - rates of R110 789 516 (2022: R96 971 510) as disclosed in note 4 to the financial statements.

Receivables from exchange transactions

5. I was unable to obtain sufficient appropriate audit evidence for supplier with debit balance, included in receivables from exchange transactions, due to the poor status of the accounting records. I was unable to confirm the supplier with debit balance by alternative means. Consequently, I was unable to determine whether any adjustments were necessary to supplier with debit balance of R7 935 629 (2022: R12 163 500) included in receivables from exchange transactions of R8 045 226 (2022: R13 187 820), as disclosed in note 3 to the financial statements.

Provisions

6. The municipality did not correctly classify and disclose all provisions as required by GRAP 19, *Provisions, contingent liabilities and contingent assets*, as all the municipality's provisions for environmental rehabilitation were not disclosed in note 15 to the financial statements. Consequently, the current year total disclosed for environmental rehabilitation in note 15 to the financial statements and the related expenditure was understated by R4 239 744.

Commitments

7. I was unable to obtain sufficient appropriate audit evidence for commitments due to the poor status of the accounting records. I was unable to confirm these commitments by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to commitments of R12 101 209 as disclosed in note 36 to the financial statements.

Irregular expenditure

8. Section 125(2)(d) of the MFMA requires the disclosure of irregular expenditure incurred. I was unable to obtain sufficient appropriate audit evidence for irregular expenditure as the municipality did not have adequate systems to maintain records to support financial information. Furthermore, the municipality made adjustments to the prior year balance based on errors discovered relating to prior periods of R155 943 159 which included amounts that were confirmed as not being in contravention of the supply chain management requirements, however these were still included in irregular expenditure disclosed. I was unable to confirm the irregular expenditure by alternative means. Consequently, I was unable to determine whether any further adjustment was necessary to irregular expenditure of R858 818 260 (2022: R731 979 424) as disclosed in note 42 to the financial statements.

Context for opinion

9. 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.
10. 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.

11. 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

12. I draw attention to the matter below. My opinion is not modified in respect of this matter.
13. The statement of financial position indicates that the municipality's total current liabilities exceeded its total current assets by R231 078 132 as at 30 June 2023. This condition, along with other matters as set forth in note 40, indicate the existence of a material uncertainty that may cast significant doubt on the municipality's ability to operate as a going concern.

Emphasis of matters

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

Unauthorised and fruitless and wasteful expenditure

15. As disclosed in note 41 to the financial statements fruitless and wasteful expenditure of R20 078 644 was incurred in the current year and R91 794 759 from prior years have not yet been dealt with in accordance with section 32 of the MFMA.
16. As disclosed in note 46 to the financial statements unauthorised expenditure of R86 069 059 was incurred in the current year and unauthorised expenditure of R695 790 654 in respect of prior years have not yet been dealt with in accordance with section 32 of the MFMA.

Material losses

17. As disclosed in note 43 to the financial statements, the municipality incurred distribution losses on electricity of R11 445 174 (2022: R2 190 610).

Restatement of corresponding figures

18. As disclosed in note 49 to the financial statements, the corresponding figures for 30 June 2022 have been restated as a result of errors in the financial statements of the municipality at, and for the year ended, 30 June 2023.

Other matter

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

Unaudited disclosure notes

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

Responsibilities of the accounting officer for the financial statements

21. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the GRAP and the requirements of the MFMA and the Dora; and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
22. 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

23. 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.
24. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.
25. 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 the 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.

Report on the audit of the annual performance report

26. 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 information against predetermined objectives for the selected material performance indicators presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
27. No supporting evidence was provided for auditing to substantiate the reported performance information for the selected key performance area 2: basic service delivery and infrastructure development. Consequently, I could not audit the usefulness and reliability of this information.

Other matter

28. I draw attention to the matter below.

Achievement of planned targets

29. The annual performance report includes information on reported achievements against planned targets and provides explanations for over- or underachievement and measures taken to improve performance. This information should be considered in the context of the disclaimer of conclusion expressed on the usefulness and reliability of the reported performance information in paragraph 29 of this report.

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 and annual reports

34. 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 disclosure items identified by the auditors in the submitted financial statements were subsequently corrected, but the uncorrected material misstatements and supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.
35. The 2020-21 and 2021-22 annual reports were not made public after being tabled in council, as required by section 127(5)(a)(i) of the MFMA.
36. The local community was not invited to submit representations in connection with the 2020-21 and 2021-22 annual reports, as required by section 127(5)(a)(ii) of the MFMA.
37. The council failed to adopt an oversight report containing the council's comments on the 2020-21 annual report, as required by section 129(1) of the MFMA.
38. The oversight report adopted by the council on the 2021-22 annual report was not made public, as required by section 129(3) of the MFMA.

Expenditure management

- 39. I was unable to obtain sufficient appropriate audit evidence that money owed by the municipality had always been paid within 30 days, as required by section 65(2)(e) of the MFMA.
- 40. Reasonable steps were not taken to prevent irregular expenditure, as required by section 62(1)(d) of the MFMA. The full extent of the irregular expenditure could not be quantified as indicated in the basis for qualification paragraph. The majority of the disclosed irregular expenditure was caused by non-compliance with section 2(1)(f) of Preferential Procurement Policy Framework Act (PPPFA) and 2017 preferential procurement regulations (PPR) 11. Irregular expenditure of R1 127 332 was incurred on the construction of the Geysdorp Community Hall.
- 41. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R20 078 644, as disclosed in note 41 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the disclosed fruitless and wasteful expenditure was caused by interest levied on overdue amounts.
- 42. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R86 069 059, as disclosed in note 46 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 budget.

Revenue management

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

Asset management

- 44. Capital assets were disposed of without the municipal council having, in a meeting open to the public, decided on whether the assets were still needed to provide the minimum level of basic municipal services as required by section 14(2)(a) of the MFMA.

Consequences management

- 45. Unauthorised, irregular and fruitless and wasteful expenditure incurred by the municipality was not investigated to determine whether any person was liable for the expenditure, as required by section 32(2)(a) of the MFMA.

Procurement and contract management

- 46. Some of the contracts were awarded to bidders based on preference points that were not allocated in accordance with the requirements of section 2(1)(a) of the Preferential Procurement Policy Framework Act and its regulations.
- 47. Some of the contracts 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.
- 48. Awards were made to providers who were in the service of other state institutions or whose directors / principal shareholders were in the service of other state institutions, in contravention of MFMA 112(1)(j) and SCM regulation 44.

Human resource management

49. Appropriate systems and procedures to monitor, measure and evaluate performance of staff were not developed and adopted, as required by section 67(1)(d) of the MSA.

Other information in the annual report

50. 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 key performance areas presented in the annual performance report that have been specifically reported on in this auditor's report.
51. 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.
52. 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 key performance areas presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
53. I did not receive the other information prior to the date of this auditor's report. After I receive and read this information, and if I conclude that there is a material misstatement, 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

54. 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.
55. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion, the material findings on the annual performance report and the material findings on compliance with legislation included in this report.
56. The municipality's leadership did not exercise adequate oversight of financial and performance reporting, compliance monitoring and related internal controls. Policies and procedures did not adequately guide financial, performance and compliance activities and consequence management measures were not fully implemented.
57. Management's internal controls and processes for the preparation and presentation of financial statements, performance reports and compliance monitoring did not ensure that the reports were free from material misstatements and material deviations from legislation. Numerous financial registers and schedules submitted by management did not agree with amounts in the annual financial statements; were not complete for all items recorded; and management did not adequately ensure the collection, collation, verification, storing and reporting of actual performance information.

58. The audit committee and internal audit was not established during the year under review. As a result, there was no proper oversight and monitoring of internal controls to prevent and detect misstatements in the financial statements, to ensure compliance with legislation and the preparation of an annual performance report that is supported by full and proper supporting documentation.

Other reports

59. 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.

Investigation into financial misconduct by former employees

60. During the 2021-22 financial year, the council ordered an investigation into various allegations of financial misconduct, as set out in section 171 of the MFMA, against former employees of the municipality. The investigation was conducted by an independent consulting firm. The final investigation report was dated and received on 29 July 2022 by the previous municipal manager and was tabled in council on 22 August 2022 in the special council meeting. The municipal manager referred the report to the Directorate of Priority Crime Investigations (Hawks) for further investigation of the criminal elements contained in the report.

Auditor General
Rustenburg

30 November 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 the selected key performance area 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.

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), 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), Sections 57(4B), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 93J(1), 96(b) Parent municipality with ME: Sections 93B(a), 93B(b) Parent municipality with shared control of ME: Sections 93C(a)(iv), 93C(a)(v)
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)