Report of the auditor-general to the North West Provincial Legislature and the council on JB Marks local municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of JB Marks 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 the statement of comparison of budget and actual amounts for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.

2. In my opinion, except for the effects 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 JB Marks local municipality as at 30 June 2023, and financial performance and cash flows for the year then ended in accordance with the 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 measure revenue from the sale of electricity and water in accordance with GRAP 9, *Revenue from exchange transactions*. The revenue from the sale of electricity and water included an amount of R25 049 253 (2022:R25 474 142) for estimated billing. This billing was not based on actual consumption for a substantial period of time exceeding 12 months. The municipality did not have adequate internal controls in place to ensure that the revenue billed is based on the recent actual meter readings, in compliance with the municipal by-laws. I was unable to determine the value of the misstatement on the sale of electricity of R752 957 566 (2022: R803 922 539) and sale of water of R127 738 003 (2022: R123 600 080) included in service charges as disclosed in note 20 to the financial statements or the relate consumer receivables, as well as on distribution losses, as it was impracticable to do so. This also has an impact on the deficit for the period and on the accumulated surplus.

Cash and cash equivalents

4. I was unable to obtain sufficient appropriate audit evidence for cash and cash equivalents due to unreconciled differences between the financial statements and the accounting records. I was unable to confirm these balances by alternative means. Consequently, I was unable to determine whether any adjustment to cash and equivalents of R90 521 371 as disclosed in note 8 to the financial statements was necessary.

Contracted services

5. I was unable to obtain sufficient appropriate audit evidence that all contracted services were received as the municipality did not have adequate systems to confirm receipt of services. In addition, ,the municipality did not correctly record contracted services transactions as required by GRAP 1, *Presentation of financial statements* due to the municipality not having an adequate system to record and allocate expenditure transactions that agrees to the invoices. This resulted in contracted services being overstated with R4 054 444 and general expenditure being understated by the same amount. Consenquently, I as unable to determine whether adjustments to contracted services of R133 639 216 as disclosed in note 40 were necessary.

Repairs and Maintenance

6. The municipality did not correctly record repairs and maintenance transactions as required by GRAP 1, *Presentation of financial statements* due to the municipality not having an adequate system to record and allocate expenditure transactions that agrees to the invoices in the correct financial year. This resulted in repairs and maintenance being overstated with R26 674 328 and general expenditure being understated by the same amount.

Employee cost

7. I was unable to obtain sufficient and appropriate audit evidence for the overtime expense of R82 053 851 disclosed in note 30 to the financial statements. This was due to the municipality not having an overtime policy to govern the overtime claims. I was unable to confirm that all overtime hours were supported by adequate evidence of the actual work performed. Consenquently, I as unable to determine whether adjustments to overtime included in employee cost of R545 080 864 as disclosed in note 30 were necessary.

Property plant and equipment

8. I was unable to obtain sufficient appropriate audit evidence for additions to work in progress included in property plant and equipment due to the accounting records not being submitted. I was unable to confirm these balances by alternative means. Consequently, I was unable to determine whether any adjustment to property plant cash and equipment of R3 423 349 078 as disclosed in note 10 to the financial statements was necessary. Additionally, there was a resultant impact on the defecit for the period and the accumulated surplus.

Irregular Expenditure

9. Section 125 of the MFMA requires the disclosure of irregular expenditure incurred. The municipality incurred irregular expenditure in the current year in contravention with the supply chain management (SCM) requirements that were not included in the irregular expenditure disclosed. As the municipality did not quantify the full extent of the irregular expenditure, it was impracticable to determine the resultant understatement of irregular expenditure of R3 458 403 532 as disclosed in note 57 to the financial statements.

Context for opinion

10. 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.

11. 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.

12. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matters

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

Unauthorised and fruitless and wasteful expenditure

14. As disclosed in note 46 to the financial statements, unauthorised expenditure of R33 208 916 was incurred in the current year and the unauthorised expenditure of R865 226 224 in respect of prior years have not yet been dealt with in accordance with section 32 of the MFMA.

15. As disclosed in note 47 to the financial statements, fruitless and wasteful expenditure of R5 948 118 was incurred in the current year and fruitless and wasteful expenditure of R83 439 043 from prior years have not yet been dealt with in accordance with section 32 of the MFMA

Material losses

16. As disclosed in note 4, 5 and 7 to the financial statements, receivables and consumer debtors have been significantly impaired. The allowance for impairment amounts to R1 485 980 584 (2022: R1 285 880 835) which represents 81% (2022: 80%) of the total receivables. In addition, as disclosed in note 35 to the financial statements, debt impairment of R200 099 238 (2022: R140 336 992) was incurred as a result of significant impairment of receivables.

Restatement of corresponding figures

17. As disclosed in note 51 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 matters

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

Unaudited disclosure notes

19. 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

20. The accountng 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 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.

21. 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 municiplaity 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

22. 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.

23. 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 annual performance report

24. 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 key performance areas presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.

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

Key performance area	Page numbers	Purpose
Basis service and infrastructure development	[XX]	To eradicate backlogs in order to improve access and ensure proper operations and maintenance to service and infrastructure development
Local economic development	[XX]	To create environment that promotes development of the economy and facilitate job creation

26. I evaluated the reported performance information for the selected key performance area 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.

27. I performed procedures to test whether:

    - the indicators used for planning and reporting on performance can be linked directly to the municipalitiy'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 .

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

29. The material findings on the reported performance information for the selected key performance areas are as follows:

Basic service and infrastructure development

Various indicators

30. 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
Number of households with accesss to basic level water in the JB Marks LM areas by June 2023	67 539 of households with accesss to basic level water in the JB Marks LM areas by June 2023	67 945 of households with accesss to basic level water in the JB Marks LM areas by June 2023
Number of households with accesss to basic level of santitation in the JB Marks LM areas by June 2023	67 539 of households with accesss to basic level of santitation in the JB Marks LM areas by June 2023	67 945 of households with accesss to basic level of santitation in the JB Marks LM areas by June 2023
Number of households with accesss to basic level of electricity in the JB Marks LM areas by June 2023	67 539 of households with accesss to basic level of electricity in the JB Marks LM areas by June 2023	67 945 of households with accesss to basic level of electricity in the JB Marks LM areas by June 2023
Number of households with accesss to basic level of solid waste removal in the JB Marks LM areas by June 2023	67 539 of households with accesss to basic level of solid waste removal in the JB Marks LM areas by June 2023	67 945 of households with accesss to basic level of solid waste removal in the JB Marks LM areas by June 2023

Number of retrofitting of 600W High Mast Lights fitting 463W energy efficiency LED Light in JB Marks LM Areas by June 2023

31. An achievement of 800 was reported against a target of 800. I could not determine if the reported achievement was correct, as adequate supporting evidence in the form of a detailed register was not provided for auditing. Consequently, the achievement might be more or less than reported and was not reliable for determining if the target had been achieved.

Local economic development

Number of Capacity Building for SMME's in the JB Marks Areas by June 2023

32. The indicator was included in the approved service delivery and budget implementation plan and integrated development plan but then not clearly defined during planning processes. Consequently, the information might be less useful for measuring performance.

Other matters

33. I draw attention to the matters below.

Achievement of planned targets

34. The annual performance report includes information on reported achievements against planned targets and provides explanations for over- or underachievements. This information should be considered in the context of the material findings on the reported performance information.

Achievement of planned targets
Targets achieved: 36%

Budget spent: 64%		
Key service delivery indicators not achieved	**Planned target**	**Reported achievement**
% MIG Grant spent in JB Marks Local Municipality by June 2022	100%	62%
Number of KM Road and Storm Water constructed in Ikageng (Ward 1, 9, 18, 27) by June 2023	0.5	0.0
% of Desludging of Sledge Lagoon and upgrade in WWTP by June 2023	30%	0%
% of upgrading of Botha Sewer Pump Station in Potchefstroom by June 2023	10%	0%
% of construction of New Reservoir (25ml) (Phase E) in Ikageng Ext 7 by June 2023	20%	18%
% of upgrading of sewer line upgrade in Mohadin Poortjie Dam by June 2023	50%	0%
Number of KM of Road and Storm water constructed in Toevlug (Phase 2) by June 2023	1.6KM	0
% of Replacement of Asbestos pipeline in Vyfhoek Potchefstroom by June 2023	75%	53.90%
% of Upgrading of Sewer Pump Station in Toevlug by June 2023	10%	0.00%
Number of high mast lights installed in various section in JB Marks LM areas by June 2023	10	0
Number of houses electrified in Tshing Ext 10 by June 2023	500 Houses	0
Number of Additional 20MVA Transformers installed in Ikageng West Sarafina by June 2023	1 of additional 20MVA	0
% of Disaster Management Centre constructed in Potchefstroom by June 2023	100%	87%
% of households reticulated with bulk water supply (467) in Boikhutso (Phase 2) by June 2023	100%	0%
Number of KM of road and storm water constructed in Boikhutsong by June 2023	0.5	0
% of upgrading water pump station (Phase C) in Ikageng ward 8 by June 2023	100%	94%
Local Economic Development	**Planned target**	**Reported achievement**
Number of Capacity Building for SMME’s in the JB Marks Areas by June 2023	9	8

Number of Tourism Awareness Programmes for the JB Marks Community by June 2023	4	1
Number of Notices for non-compliance of informal trading in Hawkers within JB Marks Areas by June 2023	80	16
Number of Notices of Compliance of Businesses within JB Marks LM Areas by June 2023	80	6

Material misstatements

35. 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 and infrastructure development and Local economic development. Management did not correct all of the misstatements and I reported material findings in this regard.

Report on compliance with legislation

36. 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 municiplity's compliance with legislation.

37. 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.

38. 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.

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

Annual financial statements and annual report

40. 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 expenditure and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided subsequently, but the uncorrected material misstatements and supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.

41. The council failed to adopt an oversight report containing the council's comments on the 2021/22 annual report, as required by section 129(1) of the MFMA.

Expenditure management

42. 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 the competitive bidding process not being followed.

43. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R60 365 013, as disclosed in note 47 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 The majority of the disclosed fruitless and wasteful expenditure was caused by late payment to major suppliers Eskom and Department of Water and Sanitation.

44. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R33 208 916 as disclosed in note 46 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The unauthorised expenditure was caused by the overspending of the budget.

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

Procurement of contract management

46. Sufficient appropriate audit evidence could not be obtained that all contracts were awarded in accordance with the legislative requirements as some information was not submitted for audit. Similar non-compliance was also reported in the prior year.

47. 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.

48. Some of the written quotations were accepted from prospective providers who were not on the list of accredited prospective providers and did not meet the listing requirements prescribed by the SCM policy, in contravention of SCM Regulations 16(b) and 17(1) (b).

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

50. Sufficient appropriate audit evidence could not be obtained that bid specifications were unbiased and allowed all potential suppliers to offer their goods or services, as required by SCM Regulation 27(2) (a). Similar non-compliance was also reported in the prior year.

51. Sufficient appropriate audit evidence could not be obtained that invitations for competitive bidding were advertised for a required minimum period of days, as required by SCM Regulation 22(1) and 22(2). Similar non-compliance was also reported in the prior year.

52. Sufficient appropriate audit evidence could not be obtained that contracts were awarded to bidders based on points given for legislative requirement that were stipulated in the original

invitation for bidding, as required by SCM regulations 21(b) and 28(1)(a(i) and Preferential Procurement Regulations.

53. Sufficient appropriate audit evidence could not be obtained that contracts were awarded through a competitive bidding process that were adjudicated by the bid adjudication committee as required by SCM Regulations 29(1) (a) and (b) and Preferential Procurement Regulations. Similar non-compliance was also reported in the prior year.

54. 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. Similar non-compliance was also reported in the prior year.

55. Some of the contract 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/or 2022 Preferential Procurement Regulation 4(4) and 5(4). This was also identified on the Construction of the 25ML Ikageng Reservoir.

56. Sufficient appropriate audit evidence could not be obtained that construction contracts were awarded to contractors that were registered with the Construction Industry Development Board (CIDB) and qualified for the contract in accordance with section 18(1) of the CIDB Act and CIDB Regulations 17 and 25(7A).

57. Some of the invitation to tender for procurement of commodities designated for local content and production, did not stipulated the minimum threshold for local production and content as required by the 2017 Preferential Procurement Regulation 8(2). Similar non-compliance was also reported in the prior year.

58. 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.

59. 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.

60. Awards were made to providers who were in the service of the municipality and whose directors / principal shareholders are in the service of the municipality, in contravention of section 112(j) of the MFMA and SCM Regulation 44. Furthermore the provider failed to declare that he / she was in the service of the municipality, as required by SCM Regulation 13(c). Similar non-compliance was reported in the previous year and the municipality did not take disciplinary action against the suppliers / officials involved.

61. 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. Similar awards were identified in the previous year and no effective steps were taken to prevent or combat the abuse of the SCM process, as required by SCM Regulation 38(1).

62. Persons in the service of the municipality who had a private or business interest in contracts awarded by the municipality failed to disclose such interest, in contravention of SCM Regulation 46(2) (e). Similar non-compliance was reported in the previous year and the municipality did not take disciplinary action against the suppliers / officials involved.

63. 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) and the code of conduct for councillors issued in terms of the Municipal Systems Act . Similar non-compliance was reported in the previous year and the municipality did not take disciplinary action against the suppliers / officials involved.

Consequence management

64. 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.
65. Irregular expenditure incurred by the municipality were not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.
66. 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.
67. Allegations of financial misconduct laid against officials of the municipality were not investigated, as required by section 171(4)(a) of the MFMA.

Revenue management

68. A tariff policy was not adopted for the levying of fees for provision of municipal services, as required by section 74(1) of the MSA and section 62(1)(f)(i) of the MFMA.

69. A credit control and debt collection policy was not adopted, as required by section 96(b) of the MSA and section 62(1)(f)(iii) of the MFMA.

70. A policy on the levying of rates on rateable property within the municipality was not adopted, as required by section 3(1) of the MPRA and section 62(1)(f)(ii) of the MFMA.

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

Strategic planning and performance management

72. The performance management system and related controls were not maintained as it did not describe how the performance planning and measurement processes should be conducted as required by municipal planning and performance management regulation 7(1).

Human resources management

73. 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

74. The accounting officer is responsible for the other information included in the annual report, which includes the audit committee's 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.

75. 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.

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

77. 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

78. 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.

79. 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.

    - Management did not adequately develop and monitor the implementation of action plans to address internal control deficiencies.

    - The municipality did not adequately implement consequence management through ensuring that unauthorised, irregular and fruitless and wasteful expenditure are investigated to ensure that responsible parties can be held accountable.

    - Management did not adequately review and exercise adequate oversight in the preparation of the Annual financial statements which is indicated by the numerous findings raised in the current year.

    - Management did not prepare regular, accurate and complete financial and performance reports that are supported and evidenced by reliable information.

Material irregularities

80. 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

Pollution of water resource not prevented: Ventersdorp wastewater treatment works and pump stations

81. The municipality did not take reasonable measures at Ventersdorp Wastewater Treatment works and pump stations to prevent pollution or degradation of the environmental and water resources from occurring, continuing or recurring as required by section 28(1) of the National Environmental Management Act and section 19(1) of the National Water Act. The wastewater treatment works and related pump stations have not been properly functional for more than three years, with overflows causing some serious pollution to the site and surroundings. This is due to vandalism of cables, stolen equipment and depleted and decayed infrastructure. The untreated effluent that is discharged into the environment adjacent to the Ventersdorp WWTW and Tshing Extension 8 pump station is discharged into a stream which flows into the Elandskuil dam. At the Ventersdorp Town pump station (in Rosher Street) the effluent is discharged into the Schoonspruit which is next to the pump station. The Elandskuil dam also eventually flows in the Schoonspruit south of Ventersdorp. This contaminates the ground water in the surrounding areas which is also polluted due to overflows. The non-compliance is likely to cause substantial harm to the communities exposed to, and dependent on, the contaminated water resources.

82. The accounting officer was notified of the MI on 6 October 2022 and invited to make a written submission on the actions taken, and to be taken, to address the matter. The accounting officer responded by indicating that physical security is now stationed at the pump stations and camera surveillance installed at the plant; to prevent blockage overflows, flushing of the main lines at identified strategic points is being performed on a continuous basis; de-slugging of settling ponds at the plant is being done on a continuous basis; unlined pit for inlet screens was closed at the WWTW; the palisade fencing at the plant has been fully repaired and the province has been requested to assist rge municipality with a jet machine to assist and manage outflows.

83. However, a follow-up site visit of the wastewater works and related pump stations was performed in April 2023 and October 2023, it was confirmed that despite appointment of physical security and flushing of the main lines, serious blockages and overflows within the sewer reticulation were still unresolved with very little wastewater reaching the pump station or the plant for treatment and disposal processes.

84. The accounting officer submitted further responses and substantiating documentation on 8 November 2023 and I considered the representations made. I am in the process of determining the most suitable action to take.

Status of previously reported material irregularities

Inadequate safeguarding of sport complexes

85. During a physical verification in 2020 it was noted that two sport complexes included in community assets as disclosed in the financial statements were severely vandalised. The fences around the stadiums were not maintained and on the day of initial verification of the Sarafina Sport complex the gate was locked with no security guard present. No security guards were present at the Ventersdorp sport complex. The vandalism resulted in the municipality needing to impair these buildings as per GRAP 17 guidelines in the 2019-20 financial year.

86. The municipality therefore failed to take reasonable steps to safeguard these assets as required by section 63(2)(c) of the MFMA. The non-compliance has resulted in a material financial loss of R4 985 404 that was included in the impairment of property, plant and equipment as disclosed in note 30 of the previous year financial statements. The loss was calculated as the difference between the carrying values of the assets prior to the impairment and the value of the assets after impairment as per fixed asset register and disclosed in the financial statements.

87. The accounting officer was notified of this material irregularity on 23 March 2021. The accounting officer failed to respond to the material irregularity. Consequently, I recommended that the accounting officer should take the following actions to address the material irregularity, which should be implemented by 10 May 2022:

    a. Reasonable steps should be taken to safeguard these municipal assets from any further losses as required by section 63(1)(a) of the MFMA read with section 63(2)(c) of the MFMA.

    b. The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.

    c. Disciplinary or, when appropriate, criminal proceeding should commence against any official who has allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

    d. Appropriate action should be taken to recover the financial loss suffered, through any applicable insurance policies that may be in place at the municipality. Alternatively, if the financial loss is not recovered in full, then any person(s) liable for the losses should be identified and appropriate action should commence to recover the remaining financial loss.

    e. If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.

88. The accounting officer did not provide a written response with substantiating documentation on the implementation of the recommendations. Based on the lack of a written response, I concluded that the recommendations were not adequately implemented.

89. On 1 September 2022, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A(3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 1 December 2022.

90. In addition, I notified the accounting officer of the following remedial actions to address the material irregularity, which should be implemented by the same date:

a. Reasonable steps must be taken to safeguard these assets of the municipality from any further losses as required by section 63(1)(a) of the MFMA read with section 63(2)(c) of the MFMA.

b. The non-compliance must be investigated to determine if any official might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.

c. Disciplinary proceeding should commence, without undue delay, against any official who has allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

d. If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the Provincial Treasury and the National Treasury as required by Regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

e. Appropriate action must be taken to recover the financial loss suffered, through any applicable insurance policies, which may be in place at the municipality, alternatively if the financial loss cannot be recovered in part or in full through an insurance policy, any person(s) liable for the losses should be identified and appropriate action should commence to recover the remaining financial loss.

f. If it appears that the municipality suffered the financial loss through criminal acts or possible omission, this must be reported to the South African Police service, as required by section 32(6)(b) of the MFMA.

91. A response was not received on the due date of 1 December 2022. On 27 January 2023, the AO provided a written response with substantiating documentation, which was assessed to be incomplete.

92. The AO was therefore requested to provide additional documentation to support the actions taken. The additional documentation was received on 26 June 2023 and 4 October 2023. I am in the process of assessing the additional documentation and determining the most suitable action to take.

Flood line canal – Project not adequately planned

93. The municipality awarded a contract in November 2016 to construct a flood line canal next to the N12 and Ikageng extension 11. The municipality did not adequately plan and budget for the project, as the contractor was appointed before funding was secured and the budget finalised and even though municipal infrastructure grant (MIG) funds were not confirmed for the 2017-18 and 2018-19 financial years. The municipality stopped the project in July 2017 due to insufficient funds to complete the project with no construction activity for a period of almost three years between July 2017 and June 2020. During the period when the project was effectively abandoned, the work which was done up to July 2017 deteriorated to a state that required all of the work to be redone from 2022 when the construction on the project resumed. As a result the resources of the municipality was not used effectively, efficiently and economically as required by section 65(1) (a) of the MFMA.

94. The accounting officer was notified of this material irregularity on 29 March 2022 and invited to make a written submission on the actions taken or to be taken to address the matter. The accounting officer agreed with the MI and committed to investigate the material irregularity. The investigation was expected to be completed by 31 July 2022. The investigation was not completed by the mentioned date.

95. The accounting officer has not taken appropriate action to address the MI as the committed actions were not implemented. As a result, I have approved the referral of the MI for investigation to the Special Investigation Unit on the 29 May 2023 as provided for in section 5(1A) of the PAA.

Other reports

96. 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.

97. The South African Police Service are conducting several investigations into the awarding of tenders and allegations of fraud and theft prompted by the accounting officer. These investigations were still on going at the date of this 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 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)

Legislation	Sections or regulations
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)