

# **OVERSIGHT REPORT ON THE 2021/22 ANNUAL REPORT**



**MARCH 2023**

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**Acronyms**

<b>ADM</b>	Amajuba District Municipality
<b>AFS</b>	Annual Financial Statements
<b>ANC</b>	African National Congress
<b>AoPO</b>	Audit of Predetermined Objectives
<b>APR</b>	Annual Performance Report
<b>CoGTA</b>	Department of Co-operative Governance and Traditional Affairs
<b>DA</b>	Democratic Alliance
<b>DoRA</b>	Division of Revenue Act
<b>EFF</b>	Economic Freedom Fighters
<b>ExCo</b>	Executive Committee
<b>GRAP</b>	South African Standard of Generally Recognised Accounting Practice
<b>IFP</b>	Inkatha Freedom Party
<b>MFMA</b>	Municipal Finance Management Act 56 of 2003
<b>MIG</b>	Municipal Infrastructure Grant
<b>MPAC</b>	Municipal Public Accounts Committee
<b>MSA</b>	Municipal Systems Amendment Act 3 of 2022
<b>MWIG</b>	Municipal Water Services Infrastructure Grant
<b>NT</b>	National Treasury
<b>OAG</b>	Office of Auditor-General
<b>OMM</b>	Office of the Municipal Manager
<b>PT</b>	Provincial Treasury
<b>Qualified</b>	A qualified opinion is a statement made by an auditor that suggests the financial information provided by an organisation was limited in scope or there was a material issue regarding application of the South African Standard of Generally Recognised Accounting Practice but one that is not pervasive.
<b>SDBIP</b>	Service Delivery and Budget Implementation Plan
<b>Structure's Act</b>	Municipal Structures Amendment Act 3 of 2021
<b>TSSA</b>	Team Sugar South Africa
<b>UIFWE</b>	Unauthorised, Irregular, Fruitless and Wasteful Expenditure
<b>UTW</b>	uThukela Water (Pty) Ltd
<b>MSCMR</b>	Municipal Supply Chain Management Regulation

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**Foreword by the Chairperson**

The Council of Amajuba District Municipality (ADM) has the responsibility to oversee the performance of the Municipality, as required by the South African Constitution of 1996, the Municipal Finance Management Act 56 of 2003 (MFMA) and the Municipal Systems Act 32 of 2000 (MSA). Council in fulfilling its oversight responsibility establishes the oversight committees in terms of section 79A(1) of the Municipal Structures Amendment Act 3 of 2021. The Municipal Public Accounts Committee (MPAC) is one of these oversight committees.

The mandate of the MPAC includes an analysis of the institution's annual report and the development of the oversight report with appropriate recommendations to Council. The oversight report is the final major step in the annual reporting process of a municipality. Section 129 of the MFMA requires the Council to consider the annual report and to adopt an oversight report containing the Council's comments on the annual report. The oversight report is therefore clearly distinguished from the annual report. The oversight report is a report of the Municipal Council and follows consideration and consultation on the annual report by the Council itself.

At this point, it is the annual report of the year ended 30 June 2022 for which the MPAC is obligated to evaluate and prepare its oversight report. On the 20<sup>th</sup> of January 2023, Council considered the 2021/22 annual report of the ADM and referred the report to the MPAC for review and the development of this oversight report once public participation processes have been finalised. As MPAC, we are reached the stage of compiling the oversight report. On behalf of the MPAC, I hereby present this oversight report on the annual report for the year that ended 30 June 2022.

Lastly, I would like to acknowledge and appreciate the MPAC Members, Councillors, Management and Staff for efforts made throughout 2021/22 financial years.



Cllr JS Thusi

**Chairperson of MPAC**

## 1 Introduction and Legislative Framework

The Municipal Finance Management Act 56 of 2003 (MFMA) assigns specific oversight responsibilities to Council in regard to the annual report and the preparation of an oversight report. Given the processes required by Council to effectively undertake its oversight role, the establishment of an oversight committee of Council provides the appropriate mechanism in which Council can fulfil its oversight responsibilities.

The oversight committee's primary role is to consider the annual report, receive input from the various role players and to prepare an oversight report for consideration by Council. The oversight role of Council is an important component of the financial reforms, and it is achieved through the separation of roles and responsibilities between Council, the Mayor, Executive Committee (ExCo) and Administration.

Good governance, effective accountability and oversight can only be achieved if there is a clear distinction between the functions performed by the different role players. Non-executive Councillors are required to maintain oversight on the performance of specific responsibilities and delegated powers that they have been given to the Mayor and ExCo. In other words, in exchange for the powers in which Council have delegated to ExCo, Council retains a monitoring and oversight role ensuring that there is accountability for either performance or non-performance of the municipality. The MFMA vests in Council specific powers of approval and oversight, such as approval of budgets and related policies; as well as the review of the annual report and adoption of the oversight report.

Section 129(1) of the MFMA stipulates that the Council of a municipality must consider the annual report of the municipality by no later than two months from the date on which the annual report was tabled in the Council in terms of section 127 of the same act. The same section further states that MPAC must recommend to Council an adoption of an oversight report, which must include a statement whether the council -

- (a) approves the annual report with or without reservations, or
- (b) reject the annual report, or
- (c) refer the annual report back for revision of those components that can be revised.

In compiling this oversight report, the MPAC bases its work on the following documents:

- annual report
- audited annual financial statements (AFS) and annual performance report (APR)
- Municipal Finance Management Act, 56 of 2003
- Municipal Systems Act, 32 of 2000
- Municipal Systems Amendment Act, 3 of 2022
- National Treasury Circular 32 - The Oversight Report
- National Treasury Circulars 11 and 63 - The Annual Report

## **2 Establishment of the Municipal Public Accounts Committee**

The MPAC is the oversight committee of Council which is established under section 79A(1) of the Municipal Structures Amendment Act 3 of 2021. Section 79, allows for the co-option of advisory members to a Committee of Council, who are not members of the Council. The Municipal Public Accounts Committee (MPAC) fulfils the oversight role of Council.

### **2.1 Authority, Powers and Functions**

The MPAC fulfils the oversight role of Council.

On behalf of Council, the MPAC is delegated, among others, with the following responsibilities:

- To undertake a review and analysis of the annual report.
- To invite, receive, and consider inputs from Councillors and Portfolio Committees, on the annual report.
- To consider written comments received on the annual report.
- To conduct meetings and to hold public hearing(s) to allow the local community or any organs of state to make representations on the annual report. Timely notice of all meetings should be given and all meetings held by the MPAC must be open to the public and minutes of the meetings must be submitted to Council meetings.
- To receive and consider Council's Audit Committee views and comments on the annual financial statements and the performance report.
- Finally, to prepare an oversight report, taking into consideration, the views and inputs of the public, representative(s) of the Auditor-General, organs of state, Council's Audit Committee and Councillors.

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## **2.2 Composition of the Municipal Public Accounts Committee**

The current MPAC was established in November 2021 and is made up of nine (9) members – 3 from Inkatha Freedom Party (IFP), 3 from African National Congress (ANC), 1 from Democratic Alliance (DA), 1 Economic Freedom Fighters (EFF) and 1 from Team Sugar South Africa (TSSA).

The members of MPAC are as follows:

- |  |                          |
|--|--------------------------|
| 1) Cllr JS Thusi<br>(Chairperson) - DA | 6) Cllr ZC Msibi - ANC   |
| 2) Cllr IS Sithole - IFP               | 7) Cllr G Thwala - ANC   |
| 3) Cllr LN Zulu - IFP                  | 8) Cllr VF Hadebe - TSSA |
| 4) Cllr RS Langa - IFP                 | 9) Cllr NA Zulu – EFF    |
| 5) Cllr MT Makhoba – ANC               |                          |

The MPAC members prior establishment of the current MPAC were as follows:

- |  |                              |
|--|------------------------------|
| 1) Cllr D Ngwenya<br>(Chairperson) – ANC | 5) Cllr M Msibi – EFF        |
| 2) Cllr MN Ntshangase –<br>ANC           | 6) Cllr MV Buhali –<br>AZAPO |
| 3) Cllr NS Hlatshwayo –<br>ANC           | 7) Cllr TM Nzuza – IFP       |
| 4) Cllr VP Mzima – ANC                   | 8) Cllr RN Ngcobo – DA       |
|  | 9) Cllr MV Molefe – ANC      |

In the year 2021/2022, MPAC held meetings as follows:

- |                             |                    |
|-----------------------------|--------------------|
| • 30 July 2021              | • 21 January 2022  |
| • 20 August 2021            | • 21 February 2022 |
| • 17 September 2021         | • 22 March 2022    |
| • 22 October 2021           | • 29 April 2022    |
| • 28 October 2021 (Special) | • 24 May 2022      |
| • 02 November 2021          | • 28 June 2022     |

## **3 Tabling of the Annual Report to Council**

In terms of section 121(1) of the MFMA, every municipality must for each financial year prepare an annual report. The Council must within nine months after the end of a financial year deal with the annual report of a municipality in accordance with section 129.

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The purpose of the annual report is:

- (a) to provide a record of the activities of the municipality during the financial year to which the report relates;
- (b) to provide a report on performance against the budget of the municipality for the financial year; and
- (c) to promote accountability to the local community for the decisions made throughout the year by the municipality.

The Office of the Municipal Manager (OMM) coordinated the process of developing the 2021/2022 annual report. This report was submitted to the Audit Committee for inputs, it was thereafter tabled to Council on the 20<sup>th</sup> of January 2023. In that meeting, Council referred the report to the MPAC to perform functions of an oversight committee (*Resolution C345:20/01/2023 is attached as Annexure A*).

The OMM coordinated the process of publicising the annual report. The community members within Amajuba jurisdiction were advised through the print media of the availability of the annual report and were invited to submit inputs, comments and representations on the report (*advertisement is attached as Annexure B*). The annual report was made available for inspection at the municipal offices, was also placed on the ADM website; and was submitted to the Office of Auditor-General (OAG), Provincial Treasury (PT) and the Department of Co-operative Governance and Traditional Affairs (CoGTA).

The annual report was therefore subjected to a public participation process from the 26<sup>th</sup> of January to the 16<sup>th</sup> of February 2023. At the closing date for public submissions on the 16<sup>th</sup> of February 2023, no submissions were received from the public; comments were received from the OAG as part of their audit process and from CoGTA as part of their review process.

#### **4 Evaluation of the Annual Report**

The evaluation of the annual report by the MPAC is presented in two sections, as reflected below:

- MFMA and MSA annual report requirements – This section contains the Committee's comments on whether the 2021/2022 annual report included the items required by the MFMA and followed the guidance provided by National Treasury (NT) Circulars.

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- Other annual report issues – This section contains the MPAC’s substantive comments on the annual report and other issues raised by the committee.

**4.1 MFMA and MSA Annual Report Requirements**

The Annual Report is compiled based on the requirements of the MSA and MFMA, as well as the National Treasury guidance on the content of annual reports.

Section 121(1) of the MFMA requires every municipality to prepare an annual report for each financial year. This section further states that the council of a municipality must within nine months after the end of a financial year deal with the annual report of the municipality and of any municipal entity under the municipality’s sole or shared control in accordance with section 129 of the MFMA.

Section 121(2) of the MFMA further illustrates the purpose of an annual report as follows:

- a) to provide a record of the activities of the municipality or municipal entity
- b) to provide a report on performance against the budget of the municipality
- c) to promote accountability to the local community for the decisions made during the financial year to which the report relates.

Furthermore, Section 121(3) of the MFMA stipulates that the annual report of a municipality must include:

- a) the AFS of the municipality, and in addition, if section 122(2) applies, consolidated AFS, as submitted to the AG for audit in terms of section 126(1);
- b) the AG’s audit report in terms of section 126(3) on those financial statements;
- c) the annual performance report (APR) of the municipality prepared by the municipality in terms of section 46 of the MSA;
- d) the AG’s audit report in terms of section 45(b) of the MSA;
- e) an assessment by the municipality’s accounting officer of any arrears on municipal taxes and service charges;
- f) an assessment by the municipality’s accounting officer of the municipality’s performance against the measurable performance objectives referred to in section 17(3)(b) for revenue collection from each revenue source and for each vote in the municipality’s approved budget for the relevant financial year;

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- g) particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d);
- h) any explanations that may be necessary to clarify issues in connection with the financial statements;
- i) any information as determined by the municipality;
- j) any recommendations of the municipality's audit committee: and any other information as may be prescribed.

As guided by the above legislative framework, the current annual report consists of the following:

- Headings and content recommended in National Treasury Circulars and Guidelines.
- Audited AFS and APR.
- AG's audit report.
- Report of the Audit Committee and its recommendations made during the year under review.
- Conditional grants and assessment of compliance.
- Total payments for audit fees, taxes, levies, pension, and medical aid contributions.
- Each bank account (name, type, balances).
- Summary of all investments.
- Material irregular, fruitless or wasteful expenditure and whether recoverable.
- Salaries, allowances and benefits for each political office-bearer and top management official (as listed in the AFS).
- Arrears owed by each ADM Councillor.
- Some information on backlogs.
- Performance report – Performance statistics and narratives are included, as required.
- Comparative performance information – Actual performance 2021/22 compared to the 2020/21 performance information.
- An extract of entity's, uThukela Water Pty Ltd, performance report which is directly related to the ADM.

#### **4.2 Matters of concern noted by the MPAC**

The MPAC noted that the municipality received a Qualified audit outcome with matters of emphasis for the year which ended 30 June 2022.

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**4.2.1 Audit Outcome by Auditor-General**

The MPAC perused the audit report and records its concerns at the Qualified audit opinion received from the AG and the matters of emphasis expressed in the audit report. These matters include:

- 4.2.1.1 Service charges and receivables from exchange transactions:** MPAC noted that some consumers were not billed for services rendered and in other instances consumers were billed on an incorrect amounts.
- AG was unable to determine the full extent of the misstatement of service charges stated at R34,91 million (2020-2021: R28,78 million) as disclosed in note 19 to the financial statements.
- 4.2.1.2 Contracted services – water tankers:** MPAC noted that there was insufficient and lack of appropriate audit evidence that payments for water tanker expenditure included in contracted services were in respect of goods and services that were actually received.
- AG was unable to determine whether any further adjustments were necessary to water tanker expenditure included in contracted services stated at R8,74 million (2020-2021: R6,39 million) as disclosed in note 31 to the financial statements.
- 4.2.1.3 Cash flow statement:** MPAC noted that the municipality did not correctly prepare and disclose the net cash flows from operating activities.
- AG was not able to determine the full extent of the errors in the net cash flows from operating activities as it was impracticable to do so. Consequently, AG was unable to determine whether any adjustments to the cash flow statement were necessary.
- 4.2.1.4 Contingencies:** MAPC noted that the municipality is the defendant in various litigation matters as disclosed in note 36 to the financial statements.
- AG could not determine the ultimate outcome of the identified matters and no provision for liability that may result.
- 4.2.1.5 Water distribution losses:** as disclosed in note 50 to the financial statements, MPAC noted that water distribution losses of R28,00 million (2020-2021: R25,07 million) were incurred, which represents 45% (2020-2021: 51%) of total water purchased.

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- AG indicated that this was due to unbilled and unmetered consumption as a result of the utilisation of auto standpipes and the use of water tanker delivery services to rural areas that do not have water infrastructure.

4.2.1.6 **Restatement of corresponding figures:** as disclosed in note 40 to the financial statements, MPAC noted that the corresponding figures for 30 June 2021 were restated as a result of an error in the financial statements of the municipality at, and for the year ended 30 June 2022.

4.2.1.7 **Material impairments – consumer debtors:** as disclosed in note 11 to the financial statements, MPAC noted that the municipality recognised an allowance for impairment of R159,67 million on consumer debtors as the recoverability of these amounts was doubtful.

4.2.1.8 **Material underspending of conditional grants:** as disclosed in note 14 to the financial statements, MPAC noted that the municipality unspent on its Water Services Infrastructure Grant by R19,47 million and its disaster management grant by R6,77 million, due to challenges in the appointment of service providers.

4.2.1.9 **Unaudited disclosure notes:** in terms of section 125(2)(e) of the MFMA, the municipality is required to disclose particulars of non-compliance with the MFMA in the financial statements. MPAC noted that this disclosure requirement did not form part of the audit of the financial statements and, accordingly, AG could not express an opinion on it.

#### **4.2.2 Audit of Pre-determined Objectives**

The MPAC expressed the following concerns on the audit of predetermined objectives (AoPO):

4.2.2.1 **Material finding on usefulness and reliability of the performance information:** MPAC noted that AG raised material findings on the usefulness and reliability of the performance information of the selected key performance area which was basic service delivery.

- AG was unable to obtain sufficient appropriate audit evidence for the achievement of indicators as reported in

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the annual performance report, due to the lack of accurate and complete records.

- AG unable to confirm the reported achievement by alternative means. Consequently, AG was unable to determine whether any adjustments were required to the reported achievement in the annual report for indicator under audit.

4.2.2.2 **Adjustment of material misstatements:** MPAC noted that AG identified material misstatements in the annual performance report submitted for auditing and that these material misstatements were in the reported performance information of the *basic service delivery key performance area*.

- Management subsequently corrected only some of the misstatements and AG raised material findings on the usefulness and reliability of the reported performance information as well as on performance information that management was unable to correct.

#### **4.2.3 Compliance with Legislation**

The MPAC expressed the following concerns on the audit of compliance with legislation:

4.2.3.1 **Financial statements:** MPAC noted that 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 and this resulted in the financial statements receiving a qualified audit opinion.

4.2.3.2 **Expenditure management: MPAC noted that**

- Money owed by the municipality was not always paid within 30 days or an agreed period, as required by section 65(2)(e) of the MFMA.
- Reasonable steps were not taken to prevent irregular expenditure amounting to R57,55 million as disclosed in note 46 to the financial statements, as required by section 62(1)(d) of the MFMA. The majority of the irregular expenditure was

caused by the supply chain management processes not being followed.

- Reasonable steps were not taken to prevent unauthorised expenditure amounting to R104,94 million, as disclosed in note 44 to the financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the unauthorised expenditure was caused by the non-cash items (impairment loss of assets, debt impairment, share of losses in associates and depreciation) that were not budgeted for as well as overspending on employee related costs and contracted services.
- An adequate management, accounting and information system was not in place which recognised expenditure when it was incurred and accounted for as creditors, as required by section 65(2)(b) of the MFMA.

**4.2.3.3 Revenue management:** MPAC noted that an effective system of internal control for debtors and revenue was not in place, as required by section 64(2)(f) of the MFMA.

**4.2.3.4 Human resource management:** MPAC noted that AG was unable to obtain sufficient appropriate audit evidence that appropriate systems and procedures to monitor, measure and evaluate performance of staff were developed and adopted, as required by section 67(1)(d) of the MSA. Furthermore, a senior manager did not sign a performance agreement within the prescribed period, as required by section 57(2)(a) of the MSA.

**4.2.3.5 Utilisation of conditional grants:** performance in respect of programmes funded by the Water Services Infrastructure Grant (WSIG) was not evaluated within two months after the end of the financial year, as required by section 12(5) of the Division of Revenue Act (DoRA).

**4.2.3.6 Procurement and contract management:** MPAC noted that

- Some goods and services with a transaction value of below R200 000 were procured without obtaining the required price quotations, in contravention of regulation 17(1)(a)(c) of the municipal supply chain management regulations of 2017

(MSCMR). Similar non-compliance was also reported upon in the prior year.

- Deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of regulation 36(1) of the MSCMR. This non-compliance was identified in the procurement processes for the executives' personal protection services.
- Some contracts were awarded to bidders based on points given for criteria that differed from those stipulated in the original invitation for bidding, in contravention of regulations 21(b) and 28(1)(a)(i) of the MSCMR as well as the Preferential Procurement Regulations of 2017. This non-compliance was identified in the procurement processes for the non-revenue water reduction program.
- Some contracts were made to bidders other than those recommended by the bid evaluation committee without ratification by the accounting officer, as required by regulation 29(5)(b) of the MSCMR. This non-compliance was identified in the procurement processes for the construction and the refurbishment of the Utrecht water treatment plant.
- Some contracts were awarded to 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 regulation 13(c) of the MSCMR. This non-compliance was identified in the procurement processes for the installation of backup generators for Durnacol, Chelmsford and Braakfontein Mechanical Engineering upgrade.
- Some invitations to tender for the procurement of commodities designated for local content and production, did not stipulate the minimum threshold for local production and content as required by the 2017 Preferential Procurement Regulation 8(2). This non-compliance was identified in the procurement processes for the water supply schemes improvement construction. Similar non-compliance was also reported upon in the prior year.
- Awards were made to providers who were in the service of other state institutions, in contravention of section 112(1)(j) of the MFMA and regulation 44 of the MSCMR. Similar awards were identified in the previous year and no effective

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steps were taken to prevent or combat the abuse of the supply chain management processes, as required by regulation 38(1) of the MSCMR.

**4.2.4 Internal control deficiencies**

MPAC noted that AG considered internal control relevant to audit of the financial statements, reported performance information and compliance with applicable legislation; AG noted that management has not adequately implemented certain requirements of the financial reporting framework to ensure that the accounting treatment was effected as prescribed.

Additionally, AG noted that leadership did not implement effective oversight over performance reporting and compliance with applicable legislation, which resulted in material findings on usefulness in the annual performance report and compliance with legislation.

Furthermore, record and safe-keeping of files, documents as well as portfolio of evidence for both financial as well as performance information was not maintained at the desired standards.

**4.2.5 Material irregularities identified during the audit**

**4.2.5.1 Suspected: Supplier not evaluated for functionality on bid no. T2019/14**

- The municipality awarded a contract at an amount of R59, 93 million on the 22<sup>nd</sup> of January 2020 for the Construction of a 20 MI reinforced concrete reservoir and associated infrastructure at Braakfontein reservoir.
- A supplier with the lesser bid price was identified, but the bid was not evaluated for functionality in terms of the required regulations, paragraph 5(7) of the Preferential Procurement Policy Framework Act, 2000: Preferential Procurement Regulations, 2017 (PPR). Management could not provide reasons as to why the bid was not evaluated and the relevant documents requested to perform an evaluation of compliance were not made available to the auditors.
- Due to the non-submission of the requested documentation, I was unable to determine whether the bid would have been regarded as an acceptable tender and evaluated further in terms of price and the preference points.

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- Management has disclosed all payments relating to the awarded supplier as irregular expenditure in note 48 to the 2020-2021 annual financial statements and the non-compliance is likely to result in a material financial loss for the municipality.
- The accounting officer was notified of this material irregularity on 10 February 2022 and was invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer planned to provide training to the bid committees and SCM officials and to ensure that where there are differentiating recommendations between the bid adjudication committee and the bid evaluation committee the accounting officer will consider the differing views or section 114 of the MFMA is applied.
- The accounting officer also planned to investigate the matter by 30 June 2022.
- The Department: Treasury KwaZulu-Natal has provided Bid committee workshops on 6 to 7 October 2021, however the accounting officer has failed to investigate the matter within the stipulated period and further instances of non-compliance were identified in the 2021-22 audit period.
- During the time of audit, it was noted that AG was in the process of referring the suspected material irregularity to a public body for investigation as provided for in section 5(1A) of the PAA.
- AG further recommend that the accounting officer should take the following actions to address the material irregularity, which should be implemented within four months from date of audit report:
  - a) The non-compliance should be investigated to determine all official(s) that might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.
  - b) The financial loss should be quantified.
  - c) All person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss and the recovery process should not be unduly delayed.

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- d) Disciplinary proceedings, should commence, without undue delay, against all official(s) who have 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.
- e) 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.
- AG will follow up on the implementation of the recommendations and the investigation progress in the next audit.

**4.2.5.2 Inadequate project monitoring – Disaster Management Centre:**

- The municipality commenced with the construction of the Disaster Management Centre building on 20 June 2017 and the construction contract was terminated based on poor and unacceptable performance of the contractor. The municipality appointed a service provider and commenced with the installation of the ICT equipment within the disaster management centre whilst the contract for the disaster management centre building had been terminated, in contravention of section 62(1)(a) of the MFMA.
- Due to the delays on the construction of the Disaster Management Centre, the intangible asset was impaired in the 2019-20 financial year and the related expenditure of R2, 83 million was disclosed as fruitless and wasteful expenditure in note 54 of the annual financial statements of the municipality. The non-compliance resulted in a material financial loss of R2, 83 million for the municipality.
- The accounting officer was notified of this material irregularity on 16 February 2022 and was invited to make a written submission on the actions taken and that will be taken to

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address the matter. The accounting officer planned to continue with and to complete the construction of the Disaster Management Centre and to re-appoint the service provider to complete the installation/ establishment of the intangible asset at the remaining contract price by 31 March 2022. The accounting officer also planned on reversing the fruitless and wasteful expenditure and the impaired intangible assets in the financial statements by 30 June 2022.

- The accounting officer has re-advertised the Disaster Management Centre project on 23 February 2022 and has received additional funding of R5 million from the Department of Cooperative Governance and Trade Affairs in 30 June 2022. The accounting officer has re-appointed the service provider on 25 July 2022, at the remaining contracted price. The accounting officer has also reversed the fruitless and wasteful expenditure and capitalised the intangible asset in the financial statements as at 30 June 2022.
- AG will follow up on the implementation of the planned actions during the next audit.

#### **4.2.6 Other reports**

MPAC further noted that the municipality has instituted an investigation following a matter which was brought to their attention by CoGTA. The matter relates to the Utrecht upgrade project of R46 million. The investigation was still in progress at the date of this report.

### **5 Areas of amendment in the 2021/22 Annual Report**

- Inclusion of the details of the councillors who owes the municipal rates for more than 90 days as recommended by Co-operative Government and Traditional Affairs of KwaZulu Natal (CoGTA KZN) in terms of applicable legislation which is section 124(1)(b) of the MFMA requires each municipality to indicate any arrears owed by individual councillors to the municipality, or a municipal entity under its sole or shared control, for rates or services and which at any time during the relevant financial year were outstanding for more than 90 days, including the names of those councillors.
- CoGTA KZN also raised a concern that the annual report does not fully comply with circular 63 annual report format. Information required by circular 63 was identified as contained in various sections of the existing annual report. The

Municipality will fully adhere to circular 63 annual report format when preparing the 2022/2023 annual report.

- As identified by the Office of the Auditor General of South Africa, financial and performance information in the annual report was reviewed and corrected.

**6** **Conclusion and Recommendations**

The Municipal Public Account Committee noted with concern material irregularities identified by the Office of Auditor General.

The Municipal Public Account Committee resolved to recommend to Council that the annual report be approved with reservation to investigate the material irregular namely Suspected: Supplier not evaluated for functionality on bid no. T2019/14.

**7** **Annexures**

- 7.1 **Annexure A:** Council Resolution on the Annual Report
- 7.2 **Annexure B:** Advertisement of the Annual Report
- 7.3 **Annexure C:** Minutes of the MPAC for preparation of Oversight Report

5.5

# **Annexure A: Council Resolution on the Annual Report**

Private Bag 6615

NEWCASTLE

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**EXTRACT OF THE COUNCIL MEETING NO C/06/2022-2023 HELD ON FRIDAY 20  
JANUARY 2023 AT 10H00 AT THE AMAJUBA COUNCIL CHAMBER**

**13.32 Draft Annual Report 2021/2022**

**RESOLVED C345: 20/01/2023**


**Upon proposal by Cllr GMB Thwala and seconded by Cllr SJ Thusi**

**13.32.1 THAT** Council noted that the Draft annual for 2021/2022 is tabled to Council in terms of Section 127 (2) of the MFMA 56 of 2003.

**13.32.2 THAT** Council mandated the accounting officer to make public the draft annual report 2021/2022 in terms of section 21A of the MSA and Section 127 (5) of the MFMA on the municipal website and Local Media so as to ensure a participatory and transparent process, to all interested and affected parties, together with all stakeholders; and

**13.32.3 THAT** Council mandated the Honorable Mayor to present the draft annual report of 2021/2022 to MPAC for purposes of compilation of the Oversight Report.

Certified as true extract of the above minutes.

  
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**MR MP MANQELE**  
**ACTING MUNICIPAL MANAGER**

24-01-2023  
**DATE**

J.S.

## **Annexure B: Advertisement of the Annual Report**

NOTICES / TENDERS

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**PUBLIC NOTICES**

**INVITATION FOR REPRESENTATIONS/VIEWS ON THE DRAFT ANNUAL REPORT 2021/2022**

Notice is hereby given in terms of Section 21A of the Municipal Systems Act 32 of 2000, read with Section 127(5)(a) of the Municipal Finance Management Act 56 of 2003, that the Draft Annual Report for the 2021/2022 financial year is open for the public for submission of comments/representations. The Report is available on the website at [www.amajuba.gov.za](http://www.amajuba.gov.za), and may be requested at Amajuba District Municipality offices: B9356, Amajuba Building, Section 1, Madadeni.

Any person who cannot write may come during office hours to the Manager: Performance who will assist that person to transcribe that person's comments or representations and submit the same to the Acting Municipal Manager.

*Your views and comments must reach us by Thursday, 16 February 2023.*

**Mr MP Masele  
Acting Municipal Manager**

**SANRAL**

21495E



J.S.



**Annexure C: Minutes of the MPAC for preparation of  
the Oversight Report**

J.S.

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**UMASIPALA WESIFUNDA AMAJUBA**  
**DISTRICT MUNICIPALITY**

**MINUTES OF THE PHYSICAL MPAC MEETING HELD ON TUESDAY 28  
FEBRUARY 2023 AT 10H00 IN THE AMAJUBA COUNCIL CHAMBER.**

**PRESENT**

Cllr JS Thusi : Chairperson  
Cllr IS Sithole  
Cllr LN Zulu  
Cllr RS Langa  
Cllr VF Hadebe  
Mr A Ngubane : AC Chairperson (Attended via MS Teams)

**OFFICIALS**

Mr PM Manqele : Acting Municipal Manager  
Mrs Z Maduna : Acting Chief Financial Officer  
Mr B Mhlungu : Acting Director Community Services  
Mrs Zet Ndlovu : Deputy Director Corporate Services  
Miss S Phungula : Manager Municipal Manager Office  
Miss SC Gumbi : Performance Management Manager  
Mr SP Mbatha : Internal Auditor  
Miss H Thwala : Admin Officer/Translator

Item No.	ITEM /RESOLUTION	Action By
1.	<b>NOTICE CONVENING THE MEETING</b> The Acting Municipality Manager read the notice convening the meeting and thereafter the meeting was declared duly constituted.	<b>CHAIRPERSON</b>
2.	<b>OPENING OF THE MEETING</b> Cllr JS Thusi declared the meeting opened.	<b>CHAIRPERSON</b>
6 3.	<b>APPLICATION FOR LEAVE OF ABSENCE</b> The chairperson stated that he did not receive any apologies. <b>AMM - to join later due to other commitment.</b>	

MPAC Minutes for meeting held on 28/02/2023.

	<p><b>Mr Ngubane requested that new HODs be introduced to the meeting.</b></p> <p>Mr. TB Dube introduced Mr. T Shandu (Acting HOD Engineering services who was attending a meeting in Durban, Mr. S Nzuza (Acting HOD Planning and Development) who was appointed by Council on the 27<sup>th</sup> February 2023, Mr. B Mhlungu Acting HOD Community Services</p>	
4.	<p><b>OFFICIAL NOTICES</b></p> <p>Director cooperate services made the following announcements:</p> <p>4.1 Council continuation of induction workshop scheduled for 7-10 March 2023</p> <p>4.2 BTO/CORP Portfolio meeting scheduled for 14 March 2023</p> <p>4.3 Comm/LED Portfolio meeting scheduled for 15 March 2023</p> <p>4.4 ENG/PDP Portfolio meeting scheduled for 16 March 2023</p> <p>4.5 Audit Committee meeting scheduled for 17 March 2023</p> <p>4.6 Exco meeting scheduled for 23 March 2023</p> <p>4.7 MPAC meeting scheduled for 24 March 2023</p> <p>4.8 Whips Meeting scheduled for 29 March 2023</p> <p>4.9 Council Meeting scheduled for 30 March 2023</p> <p>4.10 LLF Meeting scheduled for 31 March 2023</p> <p>4.11 Strategic planning will be held in the second week of March</p>	DCS
5.	<p><b>STATEMENTS AND COMMUNICATION BY THE CHAIRPERSON</b></p> <p>Chairperson stated that the politics of Amajuba has changed and appeal to everyone to work together for the benefits of the ADM communities since there are some people who are trying to collapse the Amajuba District Municipality. He added in the council meeting that was held yesterday they approved items that were sent to MPAC for investigation therefore they can't continue with the investigation.</p> <p>Cllr Sthole stated that he thinks as the MPAC they supposed to do recommendations to council and it must be their decision not to continue with the investigations.</p>	CHAIRPERSON
6.	<p><b>DISCLOSURE OF INTEREST</b></p> <p><b>RESOLVED MPAC63:28/02/2023.</b></p> <p>NIL- there was no disclosure of interest by councillors and officials.</p>	ALL
7.	<p><b>CONFIRMATION OF THE AGENDA</b></p>	CHAIRPERSON

MPAC Minutes for meeting held on 28/02/2023.

	<p>Upon proposal by Cllr RS Langa and seconded by Cllr LN Zulu  <b>RESOLVED MPAC64:28/02/2023.</b></p> <p>7.1 THAT the agenda be adopted with the addition of</p> <ul style="list-style-type: none"> <li>- Auditor General Report</li> <li>- Post Audit Action Plan</li> <li>-Audit Committee report</li> </ul>	
8	<b>APPROVAL OF THE PREVIOUS MINUTES</b>	
8.1	<p><b>MPAC Minutes for Meeting Held on 26/01/2023.</b></p> <p>Upon proposal by IS Sithole and seconded by Cllr RS Langa  <b>RESOLVED MPAC65:28/02/2023.</b></p> <p>8.1.1 THAT, the MPAC Minutes for meeting held on 26/10/2022 be approved.</p>	DCS
8.2	<p><b>MPAC Minutes for Meeting Held on 31/01/2023.</b></p> <p>Upon proposal by IS Sithole and seconded by Cllr RS Langa  <b>RESOLVED MPAC66:28/02/2023.</b></p> <p>8.2.1 THAT, the MPAC Minutes for meeting held on 26/10/2022 be approved.</p>	DCS
8.3	<p><b>Matters Arising from MPAC Minutes for Meeting Held on 26/01/2023.</b></p> <p>Upon proposal by IS Sithole and seconded by Cllr RS Langa  <b>RESOLVED MPAC67:28/02/2023.</b></p> <p>8.3.1 THAT, the MPAC Matters Arising for meeting held on 26/10/2022 be noted.</p>	DCS
8.4	<p><b>Matters Arising from MPAC Minutes for Meeting Held on 31/01/2023.</b></p>	DCS

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MPAC Minutes for meeting held on 28/02/2023.

9.	<b>MATTERS SUBMITTED FOR CONSIDERATION</b>	<b>ALL</b>
9.1	<p><b>Audit Report</b></p> <p>The AMM stated that it is premature to discuss the Auditor General report before Council has discussed it. He indicated that he was not even aware that this item would be discussed. The plan was that the presentation was going to be done at the strategic planning session which was to be done in February but now will be in March. Auditor General has been invited to do this presentation. It was then resolved that this item be deferred to the next MPAC meeting.</p> <p>Mr. Ngubane was of the idea that the Auditor General Report was tabled to council but was then corrected.</p> <p><b>Upon proposal by Cllr LN Zulu and seconded by Cllr IS Sithole</b></p> <p><b>RESOLVED MPAC68: 28/02/2023.</b></p> <p><b>THAT</b> this item be deferred to the next MPAC meeting.</p>	
9.2	<p><b>Post Audit action plan for 2021/2022 report</b></p> <p><b>Upon proposal by Cllr LN Zulu and seconded by Cllr IS Sithole</b></p> <p><b>RESOLVED MPAC69: 28/02/2023.</b></p> <p><b>9.2.1 THAT,</b> Post Audit action plan for 2021/2022 report be differed to the next meeting.</p>	<b>Internal Audit</b>
9.3	<p><b>Audit Committee report</b></p> <p>Mr. Ngubane presented the report to the MPAC.</p> <p>Cllr IS Sithole stated that judging from the AC report, that means the municipality did not get clean audit that spoke about.</p> <p>The AMM stated the municipality received qualification audit outcome which is very bad and stated that it's an average achievement because what is better is to receive unqualified.</p> <p><b>Upon proposal by Cllr LN Zulu and seconded by Cllr RS Langa</b></p> <p><b>RESOLVED MPAC70: 28/02/2023.</b></p> <p><b>9.3.1 THAT,</b> MPAC noted the Audit Committee report with its recommendations to be forwarded to Council for approval.</p>	

MPAC Minutes for meeting held on 28/02/2023.

<p><b>9.4</b></p>	<p><b>Mid-Year and 2nd quarter 2022/2023 performance reports.</b></p> <p>Miss Sanele Gumbi presented the Mid-Year and 2nd quarter 2022/2023 performance reports.</p> <p>Cllr Sithole raised concerns about the poor attendance of HODs.</p> <p>Mr. Dube responded and stated that HOD from technical services was in PMB due to work and HOD from planning was not invited since he was only appointed yesterday (27/02/2023).</p> <p>The chairperson raised concerns about the strategic departments and made an example by BTO which its performance is not above 50%, he then asked that how far the implementation of the Management performance system is. Staff do not perform since there are no performance measurement system in place.</p> <p>The AMM responded and stated that they are working on it however they also need a policy that will guide the implementation process.</p> <p>Mr. Dube added that they have started working with COGTA and COGTA have linked them with the other municipalities who have implemented like eThekweni Metro, he also stated that they will do a presentation at the strategic planning.</p> <p>The chairperson stated that at some point AG was not able access some records due to poor performance of the departments, he then asked if they have received responses from underperforming departments.</p> <p>Miss Sanele Gumbi responded and stated that they received responses from underperforming departments. It is reflected on the report presented.</p> <p>Cllr Zulu commended the report and requested HODs to pay close attention to work that each department is designated to do.</p> <p><b>Upon proposal by Cllr IS Sithole and seconded by Cllr LN Zulu</b></p> <p><b>RESOLVED MPAC71:28/02/2023.</b></p> <p><b>9.4.1 THAT, MPAC noted performance report covering Quarter 1, Quarter 2, and Mid-year performance information.</b></p>	
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<p><b>9.5</b></p>	<p><b>Preparation of Oversight Report on the 2021/2022 Annual Report.</b></p> <p>Miss Sanele Gumbi presented the preparation of oversight report on the 2021/2022 annual report.</p> <p>Mr. Ngubane commended the report and that the report was submitted to COGTA and Auditor General. He then proposed that they send it to Internal Audit for review and comments. However, the concern was the understaffed of internal audit section. He then requested that the following acronyms be corrected to include the Municipal systems Act amendment Act 3 of 2022, page 7 paragraph 2.2 composition of MPAC be included. It looks like 2021 there was no MPAC. Add table for MPAC prior the new one.</p> <p>The chairperson raised two findings from AG which involve Braakfontein and the disposal of asset and indicated that as committee, they will approve the oversight report with reservation because of the two findings which need further investigation. Acting CFO indicated that the other matter on asset disposal was dealt with and finalized.</p> <p><b>Upon proposal by Cllr JS Thusi and seconded by Cllr IS Sithole</b></p> <p><b>RESOLVED MPAC72: 28/02/2023.</b></p> <p>9.5.1 THAT, MPAC received the annual report for the year that ended 30 June and developed the Oversight Report.</p> <p>9.5.2 THAT, MPAC received oversight report for consideration.</p> <p>9.5.3 THAT the MPAC recommended the approval of the annual report with reservation on that the Braakfontein bid not evaluated on functionality be further investigated to its finality.</p>	<p><b>BTO</b></p>
<p><b>9.6</b></p>	<p><b>Section 71 Report for January 2023</b></p> <p>The chairperson stated that there was no need for BTO to do a presentation of the report again since it was presented to council.</p> <p>Mr. Ngubane stated the following:</p> <ul style="list-style-type: none"> <li>- He was confused by the formulae used to calculate the percentage of financial performance.</li> <li>- Recommended that BTO engage with Mr. Ranjith from COGTA with regards to collection of outstanding debtors</li> <li>- Do we have a payment plan to collect outstanding creditors?</li> <li>- The inherent debt of uThukela Water amounting to R30 million</li> </ul>	<p><b>BTO</b></p>

	<p>The Acting CFO responded and stated they are still going bill revenue from the system of the treasury. She added that she is going to be transparent challenges of creditors listing is due to that they use to pay outside the system. Creditors reconciliation is not done accordingly.</p> <p>Cllr Sithole stated that he is confused by the sudden transparency and asked how come they do payments outside the system.</p> <p>The Acting CFO responded and stated that they do payments outside the system where there was no SCM processes followed. On the issue of inherent debt from Uthukela water. She did not provide any response.</p> <p>Mr Ngubane stated that MANCO need to correct the way the system is used to ensure correct and credible reporting.</p> <p><b>Upon proposal by Cllr LN Zulu and seconded by Cllr IS Sithole.</b></p> <p><b>RESOLVED MPAC73: 28/02/2023.</b></p> <p><b>THAT</b>, in compliance with Section 71 of the MFMA:</p> <p><b>9.6.1</b> The Accounting Officer submits to the mayor this statement reflecting certain particulars for the month ending 31 January 2023, and</p> <p><b>9.6.2</b> In order to comply with Section 71(4) of the MFMA, the Accounting Officer ensure that this statement be submitted to National Treasury and the Provincial Treasury, in both a signed document format and in electronic format.</p> <p><b>9.6.3</b> The monthly budget and performance statement report for the period ending 31 January 2023 be noted by MPAC.</p>	
<p><b>9.7</b></p>	<p><b>SCM Report for January 2023</b></p> <p>Mr. Ngubane stated that BTO must make sure that they report accurately and added that the municipality must move way from hiring assets that can be bought like the generator, and lastly, he said the generator was going to be cheaper if it was bought than rented.</p> <p>The AMM stated that they won't be hiring the generator for the rest of the loadshedding however it's on a month-to-month contract, he added that in future the municipality will be using the generator from Disaster Centre.</p>	<p>BTO</p>



	<p>Mr Ngubane requested clarity as to the supplier performance management in terms of the assessment of service provider. How does the municipality use the information after assessment for the benefit of the Service provider and the Amajuba DM. If the service provider performance is poor, how do you utilize the report.</p> <p>The chairperson requested clarity on whether does the municipality invoke penalty clause for poor performance or we just leave the service provider like that.</p> <p>The AMM stated that the terms and conditions of the contract it has a penalty clause where if there is poor performance, a service provider is given 14 days to rectify the performance or terminate the contract.</p> <p>Upon enquiry from the chairperson about the amount to hire the generator, It was stated that the hire for generator amounts to R179000 per month</p> <p><b>Upon proposal by Cllr IS Sithole and seconded by Cllr LN Zulu</b>  <b>RESOLVED MPAC74: 28/02/2023.</b></p> <p>9.7.1 THAT, MPAC noted and accepted the Financial Services Department Supply Chain Management report for January 2023</p>	
10.	<b>DATE OF NEXT MEETING: 24 March 2023</b>	<b>DCS</b>
11.	<p><b>CLOSURE</b></p> <p>Other items were differed to the continuation meeting and the meeting was adjourned at 13:38</p>	<b>CHAIRPERSON</b>

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**CLLR JS THUSI**  
**CHAIRPERSON**

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**DATE**