

OVERSIGHT REPORT 2021/2022



REPORT OF THE MUNICIPAL PUBLIC
ACCOUNTS COMMITTEE

OVERSIGHT REPORT ON THE ANNUAL REPORT 2021/2022

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1. ACRONYMS

AGSA	Auditor-General South Africa
EPWP	Expanded Public Works Programme
NLM	Ntabankulu Local Municipality
FY	Financial Year
IDP	Integrated Development Plan
LED	Local Economic Development
MPAC	Municipal Public Accounts Committee
M & E	Monitoring and Evaluation
MIG	Municipal Infrastructure Grant
MFMA	Municipal Finance Management Act
EXCO	Executive Committee
NDP	National Development Plan
NKPA	National Key Performance Areas
OCA	Operation Clean Audit
PMS	Performance Management System
SDBIP	Service Delivery Budget Implementation Plan
SPU	Special Programmes Unit
SMME	Small Micro Medium Enterprises

2. EXECUTIVE SUMMARY BY THE CHAIRPERSON

The Ntabankulu Municipal Council is legally mandated to perform the oversight responsibility over the executive and administration of the municipality. This oversight role, though remains the function of the Council, but it has been sub-delegated to the Municipal Public Accounts Committee (MPAC), a section 79 committee of council. The oversight mandate is supported by numeral legislative directives including, but not limited to, the Constitution of the Republic of South Africa, the Local Government: Municipal Structures Act, 117 of 1998, as amended, the Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA) and the Local Government: Municipal Systems Act, 32 of 2000 (MSA). The Municipal Council received an unaudited Draft Annual Report of 2021/2022 at its Ordinary Council Meeting held on the 30th August 2022. The council considered the unaudited Draft Annual Report and subsequently referred it by a resolution to the MPAC for further analysis and/or review of the content. The MPAC's ultimate mandate was to conclude the annual reporting cycle by drafting and submitting this Oversight Report on the Annual Report.

However, it must be noted that this is the second Oversight Report for the five-year term of Council between 2021-2026 on the Annual Report. For 2021/2022 financial year, this Oversight Report is the last stage towards the completion of the annual reporting process of a municipality for the year under consideration. The oversight report is finally tabled to Council for approval as required by section 129 of the MFMA. The Municipal Public Accounts Committee of Ntabankulu Municipality, through this Oversight Report is thus duly fulfilling its oversight responsibility, a mandate justly assigned by the legislation to the Council. It must be noted that the Council when delegating its oversight mandate, firstly approved the Terms of Reference for the MPAC. The MPAC's mandate includes, but not limited to, the analysis of the municipality's quarterly and annual performance reports and the development of appropriate recommendations to Council for approval. The Municipal Public Accounts Committee, in considering the 2021/2022 Annual Report arranged a series of meetings that were perhaps open to the public and media. This was done in terms of the provisions of section 20(1) of the Municipal Systems Act, 32 of 2000. The main objective for opening the MPAC meetings to the public was to ensure that the MPAC subscribed to the notion of transparent and credible oversight process when considering the annual report.

The dates for MPAC meetings wherein the committee considered the Annual Report for 2021/2022 are indicated below:

- I. 12-13 August 2021
- II. 18-22 October 2021
- III. 8-10 December 2021
- IV. 10 March 2022
- V. 6-8 April 2022
- VI. 19-20 May 2022
- VII. 20 June 2022
- VIII. 04-05 August 2022
- IX. 19-23 September 2022
- X. 09-11 November 2022
- XI. 30 January -01 February 2023

Moreover, the 2021/2022 Annual Report was considered following an intensive consultation processes, *inter alia*; (1) presentation of the annual report to the public during the Exco Outreach conducted on the 7th-10th December 2021, and the Executive Committee (EXCO), led by the Honourable Mayor used the Annual Performance Report to account to the public with performance information, and to start the (2) planning process for the next 5-years' IDP. The MPAC further embarked on projects visit programme, which was undertaken on the 7th - 8th September 2022. The programme provided a platform to the members of the public to indicate their satisfaction, and comment thereof on the quality and standard of services provided during the year under review. The MPAC further summoned the management to provide more information on certain clarity seeking questions within the annual report on the 09-11 November 2022.

The Municipal Public Accounts Committee noted with concern the regression on the performance of the municipality, especially with the receipt of the Qualified Audit Opinion. In the previous two financial years the municipality received an Unqualified Audit Opinion.

However, the committee was impressed by the performance of the Municipality on the predetermined IDP objectives. The MPAC noted that Auditor-General South Africa did not raise any matters of emphasis on the performance information. The overall Annual Performance of the Institution was detailed as follows:

- Development Planning was at 66%
- Technical Services was at 77%
- Corporate Services was at 98%
- Financial Management Services was at 100%
- Community Services was at 100%

- Management Services was at 100%

The overall performance of the institution was at 88% for the year under consideration, and the difference of 3% compared to 91% of the previous financial year.

Finally, I am pleased with the good work performed by the management of the municipality, especially on the performance information. Nevertheless, the committee noted with concern the regression on the overall performance on financial statements by receiving a *Qualified Audit Opinion*. It is with great humility and pleasure for me to compliment, the previous MPAC chairperson, Cllr. T. Lubisi and members of the committee serving during her term, my current fellow members of the Municipal Public Accounts Committee for their firm and hardworking, including the commitment they have shown during the period of scrutinizing the 2021/2022 Annual Performance Report as reflected in the AG's Dashboard (AG Report, 14 December 2022).

I would also like to thank the Speaker and the Council Support staff for their tireless efforts and support in the oversight process for the MPAC. Furthermore, a word of gratitude also goes out to the management, especially the Municipal Manager, Chief Financial Officer, and Directors, who have provided strategic support to the MPAC during the oversight process.

Lastly, it is truly predicted that the clean audit is possible, and it must remain a commitment of the municipality envisioned to achieve, but above all what is required is a concerted effort and a teamwork from both management and political leadership of the institution.

The Auditor-General SA has once again certainly affirmed to this, and confirmed the receipt of sufficient, fairly presented performance information and appropriate audit evidence, something that served as the basis for the audit opinion.

However, with regard to AFS the AGSA indicated that the AFS 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 non-current assets, current assets and disclosure items identified by the AGSA in the submitted AFS were subsequently corrected, but the uncorrected material misstatements resulted in the AFS receiving a *Qualified Audit Opinion*.

The AGSA's report underlined material findings on compliance with specific matters in key legislation in the Annual Financial Statements for the 2021/2022 financial year. The AGSA also expressed qualification paragraphs in the annual financial statements, like the emphasis of

matters like annual financial statements, expenditure management, procurement and contract management, internal control deficiencies and material irregularities.

The committee also noted that the AGSA raised matters of emphasis as detailed below:

- Receivables of R4, 7 million, and this was incurred as a result of significant number of debtors not paying their accounts.
- Property, plant and equipment; the municipality did not impair buildings and infrastructure assets that were clearly impaired at reporting date in accordance with GRAP 21, impairment of non-cash generating assets. In terms of AGSA's report, the property plant and equipment were overstated at a value of R355,1 million in the annual financial statements. This was the basis *for Qualified Audit Opinion*.
- Current year (2021/22) irregular expenditure of R15,6 million, which was caused by contravention of supply chain management regulations.
- Fruitless and wasteful expenditure identified in the current year amounted to R2,2 million, this was caused by contravention of section 62(1)(d) of the MFMA, (of the total of R2.2 million, an amount of (R2 079 290 relates to the SAMWU Matter and 77 547 relates to ESKOM, Telkom, IHEANS, workmen's compensation fund and SARS)
- Material irregularities resulted from SAMWU Litigation which amounted R26 390 553 million.

The institutional performance on predetermined IDP objectives gradually improved. Then, it has been acceptable to the MPAC's point of view, except one material finding raised by AGSA on service delivery, namely service delivery and infrastructure. Furthermore, the MPAC proposes that the council must forge good relations with both the AGSA, and provincial treasury. This must be done in good faith, but to ensure that the municipality receives proper and necessary support to further eliminate the audit findings with the absolute objective of achieving clean audit. Finally, the management should constantly interact with Provincial Treasury for urgent transfer of financial commitments made by state departments to the municipality. The management should further strengthen relations with the Audit Committee and Internal Audit Unit, and this should be done to keep the drive for clean audit and

improvement for the performance continuum on the financial management and provision of services.

COUNCILLOR A. ZAKHABANA

ACTING CHAIRPERSON

3. PURPOSE OF THE REPORT

The purpose of this report is to submit to the Council an Oversight Report on the Annual Report of 2021/2022. This Oversight Report is a remarkable milestone that enables the MPAC to discharge its oversight responsibility when considering the Ntabankulu Municipality's Performance Information for 2021/2022. This report also presents the findings and recommendations of the MPAC to Council for adoption of the Oversight Report and the Annual Performance Report for 2021/2022.

4. BACKGROUND

4.1. Annual Report 2021/2022

The 2021/2022 Unaudited Annual Performance Report of the Ntabankulu Local Municipality (NLM) was tabled before the Council on the 30 August 2022. The annual performance report presented a good picture about the municipality's predetermined IDP objectives.

The MPAC observed that the 2021/2022 Annual Report was prepared in compliance with the provisions of the Municipal Finance Management Act, 2003 (MFMA) and MFMA: Circulars, 11, 32 and 63. It worth to note that the intention of the MFMA is to modernize budget and financial management while simultaneously promoting transparency and accountability for the fiscal and financial affairs of the municipality. The annual report gives a determination to the Annual Reporting. The MFMA is firmer than Municipal Systems Act requirements. In terms of Section 127(2) of the MFMA, the municipalities are required to prepare and submit annual reports against the promises made in the IDP, service delivery and budget implementing plans (SDBIP) and other supporting planning documentations.

As stated earlier, the 2021/2022 Unaudited Annual Report was presented to Council on the 30 August 2022 by the mayor. Section 127 (2) of the MFMA directs that "the mayor must submit the Annual Performance Report of the municipality within a period of seven (7) months after the end of the financial year". Subsequently, the audited annual report was

submitted by AGSA on the 25 January 2023 to council. However, the draft of 2021/2022 Unaudited Annual Report was submitted to Council in time, as a working document, on the 30 August 2022.

The MFMA: Circular 63 provides a new Annual Report Format and serves as a guide for the completion process of the annual reporting. The MFMA: Circular 63 streamlines the Annual Report process and provides the timeline for the adoption of the Oversight Report on the Annual Report by the Municipal Council before going on recess, which means that this process must be completed in December not January of the following Calendar Year as the MFMA initially provides. The delays to comply with the circular were due to late release of the signed Audited Annual Report by AGSA, as the report was received by the council on the 25 January 2023.

5. THE PURPOSE OF THE MPAC OVERSIGHT REPORT

It is important to comprehend that the oversight function of the Council over the executive and administration is not an event, but rather a process that unfolds throughout the course of the financial year, and ideally this is aimed to ensure the checks and balances. Accordingly, the effectiveness of oversight by the leadership over administration would be evaluated against the continuous improved performance of the municipality. The oversight is a function that occurs at various levels within the municipality as outlined in the table below:

Table 1: Accountability Framework for Local Government

	Responsible for	Oversight over	Accountable to
Council	Approving policies, IDP and budget	Mayor & EXCO	Community
Mayor	Policy, budgets, service delivery outcomes and Management of or oversight over Municipal Manager	Municipal Manager	Council
Municipal Manager	Outputs and implementation of policies and SDBIP	The Administration	Mayor

	Responsible for	Oversight over	Accountable to
CFO and Senior Managers	Outputs and implementation of SDBIP	Financial Management and Operational Functions	Municipal Manager

Source: MFMA Circular 32-The Oversight Report, 15 March 2006

The Oversight Report completes the annual reporting cycle, and it is the final major step in the annual reporting process of a municipality. Section 129(1) of the MFMA requires that the Council must consider the annual performance report of its municipality and adopt an “oversight report”, which contains the MPAC’s comments on the annual performance report.

The Oversight Report also discloses the level of success or otherwise, obtained in the implementation of the SDBIP outcomes of the municipality and meeting the priority needs and stated desires of the community as contained in the IDP.

6. THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

6.1. Composition of the Committee

The National Treasury: MFMA Circular (National Treasury issued Circular No.32 dated 15 March 2006) acknowledges the difficulties that could be experienced in trying to discuss the Annual Report within a full council meeting/s. This then follows to say that the Council must consider establishing an Oversight Committee hereinafter referred as Municipal Public Accounts Committee (MPAC) as provided in terms of Section 129(4) of the MFMA, to discuss the Annual Report, and later submit the Oversight Report to the Council for adoption.

Therefore, the Council of Ntabankulu Local Municipality abides with the provisions of Section 129(4) of the MFMA and established the Municipal Public Accounts Committee by way of resolution on the 29 November 2021 and appointed five members including the Chairperson [4 ANC members, and 1 members from the opposition]. The council further adopted the Terms of Reference for the MPAC. The council also authorized the MPAC to review the Annual Work Plan for purposes of considering and evaluating the content of the AGSA’s audit report and conclude the Oversight Report for subsequently submission to the council for adoption of the oversight reports in the form of recommendations.

The Council further acknowledged that it has the responsibility to oversee the performance of the municipality as mandated by the Constitution, Municipal Finance Management Act (MFMA) and Municipal Systems Act. These legislation prescripts recognize that the council has a critical role to play in terms of oversight to ensure better performance by the municipal departments.

The Council, as a standard procedure approved the IDP, budget and SDBIP. The SDBIP serves as a linkage between the strategic goals, set by the council through the integrated development plan (IDP) that are translated into the budget, targets, indicators and the delivery of those goals, and successively reported in the annual report.

The Council meeting convened on the 29th November 2021, therefore established the new MPAC as a mechanism to enable all councillors and the members of public to fully digest and discuss the annual report contents and suggest, where possible, better ways to improve service delivery.

With reference to the National Treasury: MFMA Circular No. 32 dated 15 March 2006, the role of MPAC is to analyze and review quarterly, half-year and annual reports in details and recommend to Council on whether to adopt or reject the quarterly, half-year or annual report.

Key to this responsibility, the MPAC is authorized to ensure that both the executive and administration are held accountable for their actions and performance for the entire municipality.

The former MPAC for 2016-2021 was made up of five non-executive councillors as indicated in the table below:

Table1: Previous MPAC for 2016-2021

Name of Committee Member	Designation / Representing
1. B.Z. Ndamase	Councilor (Chairperson)
2. E. N. Diko	Councilor
3. T. Lubisi	Councilor
4. M. Mkhandaniso	Councilor

Name of Committee Member	Designation / Representing
5. N. Sithunzi	Councilor

The new MPAC for 2021-2026 is made up of the following five non-executive councilors:

Table2: Current MPAC for 2021-2026

Name of Committee Member	Designation / Representing
1. T. Lubisi	Chairperson (resigned)
2. A. Zakhabana	Councilor (acting)
3. S.W. Sophera	Councilor
4. P.M. Ndabeni	Councilor
5. N. Sidudu	Councilor
6. N. Daniel	Councilor

The MFMA assumes a separation of roles and functions between councilors serving on the executive (i.e. executive committee) and non-executive councilors.

This separation of powers is imperative to ensure checks and balance within the municipality. The council, through MPAC performs oversight on the performance of specific responsibilities and delegated powers to the mayor or executive committee.

6.2. Authority of the Committee

The Municipal Public Accounts Committee is a Council Committee, which is established in terms of sections 33 and 79 of the Municipal Structures Act, No. 117 of 1998 read with section 32 of MFMA. Therefore, the MPAC in terms of line of accountability, accounts directly to the Council.

6.3. Legislative/ Statutory Requirements

The following legislative framework is applicable to improve the quality of Annual Reporting:

- 6.3.1. The Constitution of the Republic of South Africa, 1996
- 6.3.2. The Local Government: Municipal Structures Act, No. 117 of 1998
- 6.3.3. The Local Government: Municipal Systems Amendment Act, No. 32 of 2000
- 6.3.4. The Local Government: Municipal Finance Management Act, No. 56 of 2003
- 6.3.5. The Local Government: Municipal Finance Management Act: Circular Number 11
- 6.3.6. The Local Government: Municipal Finance Management Act: Circular Number 32
- 6.3.7. The Local Government: Municipal Finance Management Act: Circular Number 63
- 6.3.8. The Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers of 2006.
- 6.3.9. National Treasury and Department of Cooperative Governance and Traditional Affairs: Final Guidelines for the Establishment of Municipal Public Accounts Committees, August 2011.

7. EXPOSITION OF FACTS AND PROPOSALS

7.1. Circulation of the Annual Report and Oversight Report Process

Section 127(2) of the MFMA states “the mayor of the municipality must, submit the Annual Performance Report of the municipality within a period of seven (7) months after the end of the financial year”. On the 30th August 2022, the mayor submitted an unaudited annual report to the council, which was the record of the implementation of the budget and the financial state of affairs of the municipality”. The MFMA: Circular 63 further directs the council to effectively consider the report and to finalize its oversight report within 7 days of receipt of Auditor-General’s audit report, less than a month after it was tabled before the council.

It is worth to note that in compliance with provisions of the MFMA, the Ntabankulu Local Municipality’s unaudited annual report was tabled in the council meeting held on the 30 August 2022, as prescribed in terms of section 121 (a-k) of the MFMA and the oversight function started immediately and was intensified by the EXCO Outreach and MPAC projects visit processes.

The MPAC also played its oversight and assessed the *Unaudited Annual Report* as it was tabled by the mayor to Council on the 30th August 2022, and referred it to MPAC by a way of a

resolution. The Accounting Officer further made public the Unaudited Annual Report on an advertisement, which was placed in the *Ikhwezi News* (see **Annexure E**), a local newspaper published on the 2nd September 2022.

The advert was meant to alert the public about the availability of the annual report and afford the members of the public an opportunity to submit written comments and/or objections on the annual report within 21 days, from the date of the publication. The copies of the Annual Report were circulated and made available at the Reception, Ntabankulu Local Municipal Offices, Erf 85 Main Street, Ntabankulu, and additional copies were placed in the municipal library, and municipal buildings of Ntabankulu Local Municipality.

Upon the closing date of the advert, the 30th September 2022, for the public comments and/or objections, the municipality did not receive any written public comments, presentations and/or objections received as the legislation prescribes. Furthermore, the MPAC formulated an itinerary to visit projects that were implemented during the financial year under consideration, and five (05) high value projects were visited, as they were reported being completed in the annual report; these projects include two access roads, one housing project (32 units), one Lwandi'olubomvu MPCC and one internal streets project.

The verbal comments were solicited from the benefiting communities, chiefly represented by the project steering committees (PSCs) members, traditional leadership, and ward committees. The verbal comments were received and consolidated during the public hearings and summarized in item 8 below.

It is worth to note that in compliance with provisions of the MFMA, the Ntabankulu Local Municipality's annual performance report was tabled in the council meeting held on the 30 August 2022. During the assessment of the Annual Report 2021/2022, the MPAC summoned the management on the 10th November 2022 to appear before the Committee and to provide an additional information. The additional information was to complement the reported performance information contained in the Annual Report. In turn, the management provided useful information to the Committee. The MPAC further summoned the Acting Municipal Manager on the 30th January 2023 to present additional information, which includes, but not limited to, the progress report on the development and implementation of *Management Audit Action Plan* (see **Annexure A**).

The minutes of all the MPAC meetings wherein the Annual Report was discussed are attached as formal record of the proceedings (see *Annexure B*), and the oversight function was concluded within the record time, by the 30th January 2023, but after the month of December 2022 as prescribed by Circular 63 of the MFMA.

Moreover, the MPAC experienced delays in the process of completing the Oversight Report, and these delays were due to late release of the signed AGSA's report.

7.2. Applied Mechanism in Preparation for the Oversight Report

The Municipal Public Accounts Committee submitted a reviewed Workplan/Schedule to the Ordinary Council Meeting held on the 30th August 2022 for approval, but the plan has been affected by the delays of the final AGSA's reporting time.

The MPAC followed the reviewed and approved Workplan, and in considering the Annual Report, the Committee assessed the following referral documents:

1. The Ntabankulu Integrated Development Plan 2021/2022.
2. The Ntabankulu Service Delivery and Budget Implantation Plan 2021/2022.
3. The Ntabankulu Local Municipality's Annual Report of 2021/2022.
4. The Auditor-General of South Africa's Audit Report 2021/2022 (see *Annexure C*)
5. The Audit Committee's Report on the Annual Financial Statements 2021/2022 (see *Annexure D*), and
6. The Management Audit Action Plan (see *Annexure A*).

It is worth to note that the MPAC was assigned to evaluate the content of the annual performance report for the municipality by way of a resolution, which was taken in the Ordinary Council Meeting held on the 30th August 2022, in which the unaudited annual report was tabled. The first step for the MPAC to consider the annual report was to adopt an approach, and to embark on scrutinizing the annual report with the support of the relevant referral documents.

The applied approach adopted by the MPAC, was to consider the following two key issues:

- (1) To scrutinize the Annual Performance Report of 2021/2022; and
- (2) To formulate recommendations to be presented to the Council for adoption of the Oversight Report on the Annual Report of 2021/2022.

Therefore, in the process of reviewing and analyzing the Annual Report, the MPAC allowed the management to present a summary on the performance management in accordance with the predetermined IDP objectives.

The management further presented the Institutional Performance Report, and this was presented per directorate/division as against the available information (see paragraph 9 table below).

8. SUMMARY OF COMMENTS RECEIVED FROM THE COMMUNITY

The MPAC developed an itinerary to evaluate procedures on reported performance information for selected development priorities of the municipality. On the 7th -8th September 2022, the MPAC visited the projects that were implemented by the municipality in various wards during the financial year under consideration for purposes of assessment and evaluation in order to check the quality and value for money against the actual work reflected in the annual report. During the projects visit, the MPAC also met with the members of the community i.e. project beneficiaries in order to establish their level of satisfaction and have a feel on the impact with regard to the completed projects against their initial needs for the programmes or initiatives.

The committee noted with concern that some of the capital projects implemented during 2021/2022 overlapped to 2022/2023 financial year. The following high value projects were selected, among other projects, for the MPAC site visits and the public comments were solicited thereon, as follows:

8.1. Mafinyela Phase 2 Access Road and Bridge: (2.7km)

The MPAC visited the project of Mafinyela phase 2 Access Road and bridge, and the committee noted that the project had unconstructed dish drains and a slab. The committee noted that the contractor was on site. The Committee **recommends** that the management must ensure that the identified defects are attended to before the retention certificate is issued to the contractor.

Nevertheless, the community members indicated their satisfaction with the quality of the road.

8.2. Ngozi Access Road (4,3km)

The MPAC visited the project of Ngozi Access Road and the committee observed that there were some glaring defects on the road, including the bridge that was poorly constructed.

The Committee **recommends** that the management must ensure that the identified defects are attended to before the retention certificate is issued to the contractor. The management should also undertake a close monitoring of the projects in progress, especially by the user-department and this should be done on quarterly basis.

8.3. Lwandl'olubomvu MPCC

The MPAC visited the project of Ulwandl'olubomvu MPCC at Ward 05. The Committee observed that the project was progressing well to near completion and that the construction work was satisfactory. However, the committee noticed with concern that there were SMMEs who were demanding 30% on the project to be paid by the contractor. The committee, thereof, **recommends** that the management should resolve the challenges with the SMMEs and the contractor and ensure that the project is proceeding.

8.4. Construction of 32 Housing Units at Bomvini Village

The MPAC visited the project of 32 Housing Units at Bomvini Village and the committee observed that the project is in progress and there were no challenges encountered.

8.5. Ntabankulu Internal Streets 1,3km

The MPAC visited the project of Ntabankulu Internal Streets in ward 10. The committee observed that the project was progressing well to near completion and the construction work was satisfactory.

The committee observed that there is a challenge with ESKOM pole that needs to be relocated and a sewer on street 5 which will cause the delays in the finalization of the project at the stipulated time.

9. MPAC DELIBERATIONS AND RECOMMENDATIONS ON THE ANNUAL REPORT

Performance Area	Issue (Supposition)	Recommendation

<p>Annual Financial Statements</p>	<p>The MPAC wanted the assurance on completion and submission of Annual Financial Statements to AGSA for audit purposes.</p>	<p>The MPAC observed that the Audit Committee submitted a report on the status of the AFS to assure the Council of the AFS authenticity. The Audit Committee report was presented to the Council meeting of the 30th August 2022. The Audit Committee assured the Council that the Annual Financial Statements (AFS) were fairly presented in all material respects, and were being GRAP compliant and certainly met the requirements of MFMA and DoRA. The MPAC further used the AGSA's report together with the Audit Committee Report for purposes of assurance on the Annual Financial Statements performance.</p> <p>The Audit Committee Report with the assurance on the accuracy of AFS for submission to AG for audit, was presented to the Council Meeting held on the 30th August 2022, and the report was also used as the referral document.</p> <p>The Audit Committee Report reflected an assurance on fair presentation of the AFS and compliance to the legislation. The MPAC further noted that the AFS were submitted in time to the AGSA for audit purposes.</p> <p>The MPAC complemented the municipality for submitting the Annual Financial Statements (AFS) report to AGSA for audit purposes within the record time.</p>
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		<p>Furthermore, the MPAC resolved to consider the AGSA's Report and observed that there were material findings on the Annual Financial Statements for 2021/2022 expressed by AGSA, except on three matters of emphasis, and these matters of emphasis had an effect on the AGSA's opinion. The emphatic matters included the following: (1) Receivables, (2) Assets impairments, (3) Irregular expenditure, (4) Fruitless and wasteful expenditure and (5) Material irregularities.</p>
<p>Audit Opinion</p>	<p>The MPAC noted that the Auditor-General SA's report for 2021/2022 signaled regression in the audit opinion and received a Qualified Audit Opinion.</p>	<p>The MPAC was not pleased by the municipality's performance on the annual financial statements by receiving the Qualified Audit Opinion with material findings that modified the AGSA's opinion.</p>
<p>Annual performance of the municipality on predetermined objectives</p>	<p>The MPAC considered the institutional performance on predetermined IDP objectives.</p>	<p>The MPAC noted that the AGSA performed audit on reported performance information. The audit included procedures to determine whether the indicators and related targets were measurable and relevant. The MPAC observed that the AGSA did express an unqualified audit opinion on the performance information and indicated the usefulness and reliability of the performance information of the selected development priority on service delivery. The MPAC observed that the institutional performance on predetermined objectives</p>

		<p>for 2021/2021 Annual Report was rated per the directorate as follows:</p> <ul style="list-style-type: none"> • Corporate Services Directorate performed at 98%; • Community Services Directorate performed at 100%; • Development Planning Directorate performed at 66%; • Management Services performed at 100%; • Financial Management Services 88% • Technical Services Directorate performed at 77%. <p>The committee noted that the overall institutional performance as reflected in the audited annual performance report of the municipality was 88% for 2021/2022, and declined with 3%, as compared to 91% of the previous financial year of 2020/2021.</p> <p>Therefore, the MPAC recommends that the municipality must ensure that in the process of developing and implementing the SDBIP, the SMART principle, usefulness and reliability of the information should be adhered to, and this includes setting up realistic indicators in terms of section 41(1)(a) of the Municipal Systems Act in order to maintain the momentum.</p>
Compliance of the Annual Report with	The MPAC assessed the content of the Annual Report for purposes of	The MPAC noted the performance information on compliance as follows:

<p>relevant legislative prescripts</p>	<p>compliance with the legislative directives of MFMA: Circular No. 63 dated September 2012.</p>	<ul style="list-style-type: none"> • The NLM complied with the provisions of Sections 121(3) and (4) of the MFMA and section 46 of the Municipal Systems Act in compiling the Annual Report. • The MPAC was satisfied with the additional disclosure requirements and the extent of additional information provided by the management, especial the Audit Action Plan presented by the Acting Municipal Manager on actions to be taken by management to address the AGSA matters of emphasis.
<p>Tabling of the Annual Report to Council</p>	<p>The MPAC appreciated the timing of tabling of the unaudited annual report before the Council, which was in line with the provisions of Section 127 (2) of the MFMA.</p>	<p>The MPAC applauded that the Annual Report was properly consolidated and was in line with the requirements of the MFMA: Circular No.63. The Committee also noted that the Unaudited Annual Report was tabled to the Council on the 30 August 2022.</p>
<p>Management Audit Action Plan</p>	<p>The MPAC noted the Management Action Plan, which considers the AGSA’s audit report, audit opinion and the views of the Audit Committee that the council should consider as a corrective measure in response to</p>	<p>The MPAC appreciated the corrective actions to be undertaken by the management in response to issues raised in the audit report. The MPAC accepted the accuracy of the action plan proposed with due dates to effectively address the issues raised in the AGSA’s report.</p>

the issues raised in the audit report for both AFS and reported performance information.
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10. SUMMARY OF DELIBERATIONS ON THE ANNUAL REPORT BY MPAC

10.1. Annual Report 2021/2022

The MPAC reviewed the content of the Annual Report 2021/2022, and the MPAC worked upon given information using all referral documents including, the annual report 2021/2022, IDP, SDBIP 2021/2022, Audit Committee Report on Annual Report 2020/21, Auditor-General SA's Report 2021/2022, Management Audit Action Plan and MFMA: Circulars 11, 32 and 63.

The primary source of information was the Unaudited Annual Report 2021/2022, which was presented to the Council on the 30th August 2022, and eventually considered the audited annual report that was presented to council on the 25th January 2023. The additional information was also solicited from the responses provided by the management on matters of emphasis raised by the Auditor-General SA in the management letter.

The additional information was in the form of the Audit Action Plan presented by the Acting Municipal Manager. Furthermore, the committee considered the AG's emphasis of matters on the Annual Financial Statements for 2021/2022 of the Ntabankulu Local Municipality.

Furthermore, the MPAC received the Audited Annual Report and acknowledged the content and compliance of the annual report, and the committee was satisfied with content of the audited annual report.

10.1.1. KPA 1-Basic Services and Infrastructure

The committee further noted with gratefulness that the AGSA indicated that the reported performance information was useful and reliable and thus qualified the reported performance information.

However, the MPAC noted with concern the overall performance of the institution, which was at 88%, and the performance declined from 91% of 2020/2021 financial year by 3%. The MPAC was satisfied with the reported performance information with reference to the predetermined IDP objectives and compliance with the SMART principle.

With regard to the Audit Action Plan, the responses provided by the management, as the additional information, to the clarity seeking questions raised by the MPAC were satisfactory.

11. Annual Financial Statements 2021/2022

With regard to the Annual Financial Statements, the MPAC observed with concern that the AGSA's report underlined material findings on compliance with specific matters in key legislation for the 2021/2022 financial year. The AGSA expressed qualification paragraphs in the annual financial statements, and the consideration was made on the following emphatic areas of critical importance on the AFS:

11.1. Property, Plant and Equipment

The MPAC noted that AG raised a finding on property, plant and equipment. The finding highlighted that the municipality did not impair buildings and infrastructure assets that were clearly impaired at reporting date in accordance with GRAP 21, impairment of non-cash generating assets. The AG stated that the property plant and equipment were overstated at a value of R355,1 million in the annual financial statements. This resulted to AG being unable to determine the full extent of misstatement on the property plant and equipment and impairment loss as it was impracticable to do so. Furthermore, this was the basis *for Qualified Audit Opinion*

11.2. Receivables

The MPAC noted that the contribution allowance for impairment of R4, 7 million was incurred as a result of significant number of debtors not paying their accounts.

11.3. Contingencies

The MPAC noted that the AGSA expressed a reservation that the NLM has been sighted as a defendant in the court case as a result of demolition of illegal structures in the municipal land by the sheriff. The AGSA observed with concern that the Notices have been filed and the matters are now at pleading stages. This, in turn has led to increase in the contingent liabilities from the previous year.

11.4. Subsequent events

The AGSA identified the subsequent events, especially the long-term loan obtained by the municipality, after year-end to finance its property, plant and equipment. Accordingly, the AGSA observed that the long-term loan was obtained on order to ease the effects of the court order, dated 4th October 2021, which resulted in the sheriff attaching the municipal bank account.

11.5. Unaudited disclosure notes

The MPAC observed that the municipality did not disclose particulars of non-compliance with section 125(2)(e) of the MFMA in the financial statements. This disclosure requirement did not form part of the audit of the financial statements, and accordingly, the AGSA did not express opinion in this regard.

11.6. Adjustment of material misstatements

The AGSA identified the misstatements in the annual performance information submitted by the municipality for audit purposes. The material misstatements were in the reported annual performance information of basic services and infrastructure. However, the management subsequently corrected the misstatements, but the AGSA did not raised any material finding on the usefulness and reliability of the performance information.

12. Annual financial statements

The MPAC noted that the AGSA's report indicated that the financial statements submitted by the municipality were not prepared in all material respects as required by section 122(1) of the MFMA. The AGSA identified the material misstatements of non-current and current assets, and disclosure items identified by the auditors in the submitted annual financial statements were subsequently corrected. However, the uncorrected material misstatements, resulted in the financial statements receiving the qualified audit opinion.

12.1. Expenditure Management

The MPAC observed that the municipality did not take reasonable steps to prevent irregular, fruitless, wasteful expenditures in terms of audited AFS, the detail of the findings in the expenditure management are presented as follows:

12.2. Fruitless and Wasteful Expenditure

The MPAC noted with concern that the municipality, in terms of audited AFS, did not take reasonable steps to prevent the occurrence of a fruitless and wasteful expenditure of R2.2 million, and this was in contravention of section 62(1)(d) of the MFMA. The majority of the fruitless and wasteful expenditure was caused by interest charged by the SAMWU National Provident Fund on arrears contributions that had been paid to the Municipal Employees' Pension Fund (MEPF) instead of SAMWU.

12.3. Irregular Expenditure

Irregular expenditure of R15,6 million, which was caused by contravention of supply chain management regulations.

The MPAC noted with concern that the municipality, in terms of audited AFS, did not take reasonable steps to prevent the occurrence of a fruitless and wasteful expenditure of R15.6 million, and this was in contravention of section 62(1)(d) of the MFMA. The majority of the fruitless and wasteful expenditure was caused by contravention of supply chain management regulations.

12.4. Procurement and Contract Management

The MPAC noted with concern that some of awards were made to the service providers who were in the service of the other state institutions or whose directors or family members were in the service of the other state institutions, but failed to disclose such interest in the contracts awarded by the municipality or failed to disclose such personal interest, in contravention of MFMA section 112(1)(j) and SCM regulation 44. As a matter of fact, similar awards were identified in the previous year and no effective steps were taken to prevent or combat the abuse of the SCM processes, as required by the SCM regulation 38(1).

12.5. Internal Controls Deficiencies

The MPAC observed that the AGSA raised finding on leadership as the significant deficiency in internal controls. Accordingly, the leadership failed to institutionalize all the disciplines necessary to enable oversight and monitoring. This was eminent in the lack of implementation of disciplines necessary to enable oversight and monitoring to promote efficiency and effectiveness in performance management and compliance with legislation. Furthermore, the AGSA noticed with concern that there were no adequate and robust systems and processes

in place to monitor compliance with applicable laws and regulations to produce credible and accurate financial and performance reporting. Accordingly, the AGSA reported that the management did not respond to all the recommendations of the Audit Committee and internal audit, something that could impacted positively on the effectiveness of these governance structures. This non-response by management resulted in a modification of the audit opinion and repeat of audit opinion being raised by the AGSA.

12.6. Material Irregularities.

The MPAC observed that the AGSA reported material irregularities, which were identified during the audit, these material irregularities resulted from the interest charges paid by the municipality to the SAMWU between 2020/2021 and 2021/2022 financial years, which was amounting to R5.3 million. The main reason was that the municipality failed to pay the over outstanding pension fund contributions from the MEPF to SAMWU within 30 days of a court order, dated 14 August 2018. The court ruling ordered the municipality to pay over all the outstanding, including interest charged. This failure to comply with the court ruling was in violation of section 65(1)(e) of the MFMA.

13. RECOMMENDATIONS ON THE ANNUAL REPORT BY MPAC

The MPAC deliberated on the Annual Report and submits the following recommendations to the Council for consideration:

With regard to the Performance Information on projects visit, the MPAC **RECOMMENDS:**

- a. That the municipality must adopt and maintain a clear *Maintenance Plan* for the rural access roads and internal streets with the intention to repair potholes and stormwater drainages at their early stages before they are deteriorated, and also to fix the poorly constructed drainage systems, kerbs and public walkways in the municipal roads.
- b. That the retention certificate for Ngozi Access Road and Mafinyela Access Road should be withheld until the contractor completes the project, including the identified defects.
- c. That the Petitions and Public Participation Committee should intensify its programmes to limit and/or resolve the service delivery related protests. In this regard, the municipality must have clear procedures for handling petitions,

starting from the level of ward committee to the office of the mayor. There must be quarterly reports submitted to council on progress of the implementation of Petitions Register.

- d. That municipality must review the SCM policy and define the local content to include, but not limited to, the procurement of local produced goods. The advert, in this case, must indicate the local content and production for purposes of preferential awards, and the priority should be given to “*proudly South African*” production as a ‘local content and production’.

With regard to the Annual Report, the MPAC **RECOMMENDS**:

- e. That the Audit Committee should constantly monitor the management performance and progress on the audit action plan. The Audit Committee should ensure that the management undertakes corrections to all matters of emphasis as raised by the AGSA’s audit report for the municipality to realize the determination to achieve clean audit.

With regard to the Annual Financial Statements, the MPAC **RECOMMENDS**:

- f. That the municipality must ensure that there are adequate and robust internal controls in place, this includes the proper management of impairment assets, implementation of contract management system to ensure that the contracted service providers are held accountable. This should be done as a continuous in-year oversight and monitoring of the implementation of SCM regulations and policy.
- g. That the municipality must consider reviewing the Supply Chain Management Policy and its content to accurately spell out the Preferential Procurement Policy Framework Regulations (PPP, 16 January 2023), and to clearly specify the specific goals for which a point may be awarded to the potential service provider, as per the National Treasury Gazette on PPR, 2022 with effective date as 16 January 2023.
- h. That the management must exercise due diligence on contract management, and implement decisively decisions to the service providers that are under-performing, this includes regular monitoring of performance contracts with the view to obtain the intended outcomes and value for money.

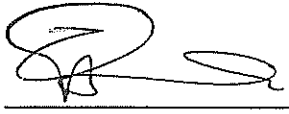
- i. That the municipal leadership must implement acceptable and vigorous internal controls, including continuous oversight at all levels. This will ensure that there is adequate implementation of consequent management.
- j. That the irregular expenditure amounting to R17 137 251 million, caused by contravention of MFMA 61(d) and SCM Regulation 44 should be investigated, and the investigation report must be submitted to MPAC and ultimately to council for approval.
- k. That fruitless and wasteful expenditure amounting to R25 171 002 million should be investigated, and the investigation report must be submitted to MPAC and ultimately to council for approval.
- l. That the municipality must appoint an independent service provider to investigate both irregular and fruitless and wasteful expenditure.

14. RESOLUTION AND STATEMENT

It is therefore **RECOMMENDED**:

- 14.1. That the Council having fully considered the 2021/2022 Annual Report of the municipality and comments thereon, adopts the 2021/2022 Oversight Report in terms of Section 129(1) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, and
- 14.2. That the Council approves the 2021/2022 Annual Report in terms of Section 129(1)(a) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 without reservations.
- 14.3. That the MPAC Oversight Report on the Annual Report of 2021/2022 for the Ntabankulu Local Municipality must be made public on the municipal website in terms of Section 129(3) of the Local Government: Municipal Finance Management Act, No 56 Of 2003.
- 14.4. That both the MPAC Oversight and Annual Reports of 2021/2022 of the Ntabankulu Local Municipality must be submitted to the Provincial Legislature in terms of Section 132(2) of the Local Government: Municipal Finance Management Act, No. 56 of 2003.

Signed:



10/02/2023

Cllr. A. Zakhobana

Date

MPAC Acting Chairperson

1. ANNEXURE A: IKHWEZI PUBLISHERS
2. ANNEXURE B: MPAC MINUTES
3. ANNEXURE C: AUDITOR GENERALS REPORT
4. ANNEXURE D: AUDIT COMMITTEE REPORT ON ANNUAL FINANCIAL STATEMENTS
5. ANNEXURE E: COUNCIL EXTRACT



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Date: 10 February 2023

Enquiries: S. N. Ntlahta

Cell: 063 6816 825

COUNCIL RESOLUTION EXTRACT: SCM/6/23/006.1

Extract 10 February 2023

Time: 10H00

Venue: Virtual


MPAC Oversight Report on the 2021/2022 Audited Annual Report.

In a Virtual Special Council Meeting held on the 10 February 2023 the Acting MPAC Chairperson, Councilor A. Zakhabana presented the MPAC Oversight Report on the 2021/2022 Audited Annual Report before the council for adoption.

The Chairperson reported that Ntabankulu Local Municipal Council is legally mandated to perform the oversight responsibility over the executive and administration of the municipality. The Municipal Council received an unaudited Draft Annual Report of 2021/2022 at its Ordinary Council Meeting held on the 30th August 2022. The council considered the unaudited Draft Annual Report and subsequently referred it by a resolution to the MPAC for further analysis and/or review of the content.

Thereafter, the Council RECOMMENDS that:

1. That the Council having fully considered the 2021/2022 Annual Report of the municipality and comments thereon, adopts the 2021/2022 Oversight Report in terms of Section 129(1) of the Local Government: Municipal Finance Management Act, No. 56 of 2003, and
2. That the Council approves the 2021/2022 Annual Report in terms of Section 129(1)(a) of the Local Government: Municipal Finance Management Act, No. 56 of 2003 without reservations.
3. That the MPAC Oversight Report on the Annual Report of 2021/2022 for the Ntabankulu Local Municipality must be made public on the municipal website in terms of Section 129(3) of the Local Government: Municipal Finance Management Act, No 56 Of 2003.

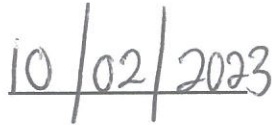
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4. That both the MPAC Oversight and Annual Reports of 2021/2022 of the Ntabankulu Local Municipality must be submitted to the Provincial Legislature in terms of Section 132(2) of the Local Government: Municipal Finance Management Act, No. 56 of 2003.

Signed



V. Matwasa

Speaker of the Council



Date

