

To: Auditor General South Africa

By email: ShereenN@agsa.co.za and YandisaMA@agsa.co.za

Auditor General - Submission

RE: Submission on the Auditor General South Africa – Amathole District Municipality lack of service delivery and poor financial management

31 August 2022

INTRODUCTION

1. This submission is made on behalf of the Mncwasa Water Scheme Community Advisory Committee constituting Vuyolwethu Jaxa on behalf of the Elliotdale Stakeholders Forum; Councillor Phumelele Methu of Ward 19, Councillor Phumzile Msaro of Ward 28 and Councillor Lungisa Mahobe of Ward 18; Community Development Worker, Vuyisa Malangeni; and the Nosintu Gwebindlala Foundation; Viva con Agua; and the Equality Collective (together 'the parties').
2. Together we undertake projects in the Amathole District Municipality (ADM) jurisdiction focused on the right to water and/or serve communities in the ADM region.
3. Together we represent the interests of community members from wards 18, 19 and 28 falling within the Mbashe Local Municipality within the Amathole District Municipality.
4. Our direct experience concerning water service delivery primarily falls within the supply area of the Mncwasa Water Scheme which supplies water to approximately 33 000 people.
5. This submission seeks to bring to the attention of the Auditor General (AG) concerns regarding poor service delivery, poor financial management and related challenges that are apparent in the ADM. This submission is structured in two parts. The first half consists of general submissions which raise a series of concerns regarding the state of affairs at the ADM. The second half provides a

specific submission on the deterioration of service delivery as our communities have experienced it in the Mncwasa Water Scheme Supply Area.

PART 1: GENERAL SUBMISSIONS

Administration

6. ADM was placed under Section 139 (5) (a) administration in 2021.¹ This follows four successive years where ADM was unable to achieve a clean audit.²
7. The latest 2020/21 audit outcome for ADM was an 'adverse audit outcome with findings'. The latest Auditor General Report 2020/2021³ confirms that ADM's financial position has not progressed in the past year under administration. Recent efforts to address the problems contributing to the adverse audit outcome in the ADM appear not to have borne fruit yet.
8. We are concerned at how long it took for the province to place ADM under financial administration. The delay in placing ADM under administration is likely to have caused irreparable damage to the municipality and to service delivery in this region. The AG herself has raised concerns over provincial government intervention being slow and that when intervention did occur, she notes that the municipality has not cooperated or has been slow to implement recommendations. Sadly, ADM has also been listed in the AG report as one of the municipalities where intervention has not yielded any noticeable progress.
9. We urgently need a strengthened intervention framework from the provincial government for ADM to ensure that recommendations are implemented.
10. The poor financial affairs of ADM are now a long term problem that require a serious collective effort and committed leadership to turn it around.

¹ Dayimani M *Broke Amathole municipality placed under administration* 21 Jan 2021, available at: <https://www.news24.com/news24/southafrica/news/broke-amathole-municipality-placed-under-administration-20210121>.

² Equality Collective Auditor General Findings 2020/21 Poster available at https://www.equalitycollective.org.za/files/ugd/f6ead8_92d155b5829b40519d9f4424f0e0497e.pdf.

³ Auditor General *MFMA 2020/21 local Government Audit outcomes* <https://www.agsa.co.za/Reporting/MFMAReports/MFMA2020-2021.aspx>.

Financial Recovery Plan

11. A draft Financial Recovery Plan (FRP)⁴ was prepared and is available to the public on ADM's website. However, it remains unclear to us, as members of the public, whether this plan has in fact been adopted as a finalised financial turnaround strategy for the Municipality.
12. It is also important that the FRP be assessed as to whether it is realistic. Some of the timeframes listed appear unrealistic given that the turnaround of a Municipality in ADM's state could take over five years.⁵
13. We believe that without a finalised FRP, ADM and provincial department of Co-operative Governance & Traditional Affairs (COGTA) cannot adequately plan for the Municipality's financial recovery nor garner support for its financial recovery process. Equally the public is unable to engage meaningfully with the plan, monitor for compliance, or contribute to ensuring accountability regarding compliance to the FRP.

Senior Managers to be Appointed in Accordance with the Law

14. It recently came to light that the previous Municipal Manager of ADM - who presided over the Municipality for the last five years - was not in fact qualified for the position.
15. On 9 June, COGTA MEC, Mr Xolile Nqatha, wrote a letter⁶ to the then Executive Mayor of ADM addressing the credibility of the reappointment⁷ of the ADM Municipal Manager, Mr Thandekile Mnyimba.
16. Most concerning to us as the residents of ADM were COGTA's findings that Mr Mnyimba did not have one of the legislated qualifications for a Municipal

⁴ Amathole District Municipality *Draft Financial Recovery Plan April 2021*

<http://www.amathole.gov.za/attachments/article/952/DRAFT%20FINANCIAL%20RECOVERY%20PLAN.pdf>.

⁵ Ibid at 2.

⁶ Bonani A. 'No record of Amathole municipal manager having passed matric' — *Cogta* 15 June 2022

<https://www.dispatchlive.co.za/news/2022-06-15-no-record-of-amathole-municipal-manager-having-passed-matric--cogta/>.

⁷ *ADM Council Special Meeting Resolutions*

<://www.amathole.gov.za/index.php/portfolio/1109-adm-council-special-meeting-resolutions>.

Manager; that there is no evidence showing that Mnyimba has a Matric certificate and that he fabricated information on his CV claiming that he was a member of the Institute for Municipal Finance Officers (IMFO) (now CIGFARO) when he is not.⁸ We also note that in 2012 Mr Mnyimba was removed as the Oudtshoorn Municipal Manager for not having the required qualifications.⁹

17. We insist that a competent and qualified Municipal Manager be put in place, after a valid and transparent recruitment process, so that ADM can ensure the provision of water services to us. We hope that this will be done speedily.

Political Instability

18. The ADM is currently affected by political instability and dangerous factionalism. Examples of this include municipal officials and councillors being targeted through violent mechanisms such as shootings and destruction of their property.¹⁰ This is deeply troubling.

19. Recently, given the revelations concerning the Municipal Manager Mr Mnyimba, the African National Congress Provincial Executive Committee removed and replaced the entire troika (Mayor, Chief Whip and Council Speaker) of ADM.¹¹

20. We need reassurance that political in-fighting at ADM will not paralyse the Council and that there is a commitment from the incoming troika to principled and accountable leadership that will work to stabilise the institution and implement an adopted FRP.

⁸ Eastern Cape COGTA MEC – *Appointment of Municipal manager at Amathole District Municipality* https://drive.google.com/file/d/1mzRLYG3C_-lAvHW7R4zI3VhQ07IOAPhJ/view?usp=sharing and <https://drive.google.com/file/d/1XpVpbLtL0KZDoBF0i3aZ8Kpi6ogggLtz/view?usp=sharing>.

⁹ Makinana A *ANC Won't give up on 'incompetent' cadre* 17 Aug 2012, available at: <https://mg.co.za/article/2012-08-17-00-anc-wont-give-up-on-incompetent-cadre/>.

¹⁰ Nini A *ADM administration boss fears for life amid alleged death threats, hostage drama* 20 August 2022, available at: <https://www.dispatchlive.co.za/news/2022-08-20-adm-administration-boss-fears-for-life-amid-alleged-death-threats-hostage-drama/> and SABC *ANC Councillor Rulashe gunned down in Amathole District* 30 Jan 2022, available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjritPFre_5AhWwSUEAHRd4DNkQwqsBegQIAhAB&url=https%3A%2F%2Fwww.youtube.com%2Fwatch%3Fv%3DcN05VM8L-wo&usq=AOvVaw18GVdPsbruXQDYX3BWrp8X.

¹¹ Cakata L *ANC recalls ADM Mayor, speaker and chief whip* 2 Aug 2022, available at: <https://www.news24.com/news24/community-newspaper/mithathaexpress/anc-recalls-adm-mayor-speaker-and-chief-whip-20220802> and Cakata L *New Amathole District Municipality trioca elected* 11 Aug 2022, available at: <https://www.news24.com/news24/community-newspaper/mithathaexpress/new-amathole-district-municipality-troika-elected-20220811>.

ADM Expenditure Priorities – Salaries and Re-categorization

21. The ADM is faced with the mounting problem of high employee costs that materialised out of the decision to re-categorise ADM from a level 6 to a level 7 Municipality in 2013 and the decision to standardise salaries in 2014.¹² In addition there are a number of employee benefits that have contributed to an unsustainable salary base.¹³
22. The Makhanda High Court declared the above decisions illegal and directed that the Municipality correct these mistakes.¹⁴ To date, the recategorisation and standardisation process has not been reversed.¹⁵
23. However, problems remain evident arising from the massive salary bill that is carried by ADM. Recognising and being deeply empathetic to workers who have not received a salary increment since 2019, we remain concerned that ADM is not in a financial position to cater for employee increases.¹⁶

Expenditure on Operation and Maintenance

24. The ADM recently wrote off a R1.2 billion revenue debt citing that it was irrecoverable.¹⁷ ADM itself recognises that it has a poor revenue collection base and makes a point of it in its draft FRP.¹⁸
25. This results in the municipality being reliant on provincial and national grants to cater for its obligations on service delivery. The net effect of this is that there is poor spending on operations and maintenance (O&M), estimated at about 1% of

¹² Amathole District Municipality *Long Term Vision* <http://www.amathole.gov.za/index.php/57-institutional-info>.

¹³ Ibid.

¹⁴ Ntshobane S *Amathole decision to upgrade district municipality ruled illegal* 23 Aug 2021, available at: <https://www.dispatchlive.co.za/news/2021-08-23-amathole-decision-to-upgrade-district-municipality-ruled-illegal/>.

¹⁵ Parliament of The Republic of South Africa *Media Statement: Committee on COGTA continues engagement with Amathole District Municipality on Financial Challenges* 14 April 2021, available at: <https://www.parliament.gov.za/press-releases/media-statement-committee-cogta-continues-engagement-amathole-district-municipality-financial-challenges>.

¹⁶ Nini A *ADM workers demand 14.65% increase* 25 Aug 2022, available at: <https://www.dispatchlive.co.za/news/2022-08-25-adm-workers-demand-1465-increase/>.

¹⁷ Nini A *Struggling Amathole municipality writes off R1.2bn in debt* 13 May 2022, available at: <https://www.dispatchlive.co.za/news/2022-05-13-struggling-amathole-municipality-writes-off-r12bn-in-debt/>.

¹⁸ Amathole District Municipality *Draft Financial Recovery Plan April 2021* <http://www.amathole.gov.za/attachments/article/952/DRAFT%20FINANCIAL%20RECOVERY%20PLAN.pdf>.

the total budget, as compared to the nominal 8% recommended by national guidelines.¹⁹

26. The effect of poor O&M expenditure means that infrastructure is not adequately repaired and maintained and frequently falls into disrepair. The cost of repairing collapsed infrastructure is inevitably more expensive and can take many years to fix while the standard of living of our community members will further decline.

PART 2: MNCWASA WATER SCHEME

27. The Mncwasa Water Scheme (the Scheme) supplies water to approximately 6,100 households in the coastal region of the Mbashe Local Municipality, close to Zithulele Hospital. The area around the hospital, which is served by the Scheme, is rapidly developing as a service centre and the hospital itself is increasingly recognised as a place of health care excellence in the region.

28. The Scheme was finalised in 2015 and was set to change the lives of our community members. It is estimated to have cost R125 million.²⁰ Five years later, the Scheme is not delivering consistent and reliable water services.

29. With the support of ADM, in April 2021, we conducted a survey diagnosis of the Scheme interviewing close to 300 people. On the day surveyed, over half of the respondents (55%) indicated that there was not water available that day and 82% of respondents indicated that water is not available every day. Of those who indicated that water is not available every day, 41% indicated that they had not had water since the previous year.

30. The Survey diagnosis, which was supported by two experienced engineers, also included comprehensive recommendations. It was recommended that ADM:

- a. Address all readily identifiable faults: Broken taps, reservoirs and BPT control valves identified from the survey should be attended to.

¹⁹ Amathole District Municipality *Annual Report V1 2011/12*
<http://mfma.treasury.gov.za/Documents/06.%20Annual%20Reports/2011-12/03.%20District%20municipalities/DC12%20Amathole/DC12%20Amathole%20Annual%20report%202011-12.pdf>.

²⁰ Department of Water and Sanitation *Regional Bulk Infrastructure Impact on Service Delivery*
<https://pmg.org.za/files/180327RBIG.ppt>.

- b. Ensures two duty pumpsets are operational at all times and that one standby pumpset is available.
 - c. Ensures that the Eskom phase imbalance challenges are addressed and/or standby power generation capacity is provided.
 - d. Builds a second pipeline from the command reservoir, with its own outlet, to the Zithulele T-off, to ensure an equitable water supply to the Zithulele leg.
 - e. Ensures judicious flow control within the scheme.
 - f. Devises a longer-term strategy to improve community monitoring and reporting.
 - g. Provides ongoing monitoring and operations as well as puts in place a repair and maintenance system.
31. The survey acutely shows how an impressive infrastructural investment has been left to deteriorate and, in a short period of time, is no longer able to provide lawfully compliant water services to our communities.
32. Since the beginning of this year, as a community, we have put in place a community monitoring system that includes 32 volunteers checking the availability of water daily across the 40 villages serviced by the Scheme and reporting any incidents (leaks etc.). Our intention with this monitoring system is to work hard, as a community, to do our part, in partnership with ADM, to improve the reliability of water services.
33. While the local ADM team responds promptly to most issues identified, major issues that we have identified so far cannot be fixed as we are routinely informed that there is no money available. The reality is that the longer the municipality fails to invest adequately in maintaining its infrastructure, huge capital investments will fall into total disrepair.
34. The implications of eroding infrastructure on our people is dire. As one community member noted in our Survey, 'water is life' and 'now we are drinking water with the cows, pigs and donkeys of the village'.

Recommendations

35. In conclusion we make the following recommendations to the AG:

- a. The AG should note that the delay in putting ADM under administration has put the municipality on the brink of collapse and the AG should encourage the Eastern Cape provincial government to intervene at earlier stages as permitted by law.
- b. The AG should note that it is imperative that a realistic, time-bound, final FRP must be adopted as soon as possible; that the financial plan should be made available on the website; and that the public be given regular status reports on progress made.
- c. The AG should recommend that the Provincial Executive, through the office of the MEC-COGTA, must provide significant oversight and support to the ADM in order to ensure compliance with the FRP.
- d. The AG should investigate whether senior managers at ADM have been appointed in accordance with the law and, if not, make recommendations accordingly.
- e. The AG should investigate how political factionalism is impacting the stability of the Municipality.
- f. The AG should recommend that ADM implement the court order concerning its re-categorisation and finalise the requisite labour negotiations with the necessary speed.
- g. The AG should emphasise and provide guidance to ADM on appropriately budgeting for O&M expenditure going forward.

36. As citizens of ADM we urge the AG to do all that is within your power to help ADM do what is in the best interests of ADM citizens. We urgently need reliable water provision and we need sound financial governance to get us there.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Phiso', written in a cursive style.

Vuyolwethu Jaxa
Secretary of the Elliotdale Stakeholders Forum
Nosintu Gwebindlala Foundation

Representing the other Mncwasa Water Scheme Advisory Committee Members:

Vuyolwethu Jaxa
Secretary of the Elliotdale Stakeholders Forum
Nosintu Gwebindlala Foundation

Vuyisa Malangeni
Community Development Worker

Lungisa Mahobe
Councillor of Ward 18

Phumelele Methu
Councillor of Ward 19

Ajay Paul
Director, Viva con Agua

Phumzile Msaro
Councillor of Ward 28

Tess Peacock
Director, Equality Collective