



**NEWCASTLE MUNICIPALITY
KWAZULU-NATAL**

**Private Bag X6621
2940 Newcastle**

REFERENCE : 6/1/1 (2022/23)
ENQUIRIES : PHZ Kubheka
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Head of Department
KZN Provincial Treasury:
Municipal Finance Management
145 Chief Albert Luthuli Road
Pietermaritzburg
3201

Attention: F. Cassimjee

**RESPONSE ON THE COMMUNICATION RECEIVED ON THE EARLY WARNING SIGNALS FOR
THE MUNICIPALITIES MEETING THE CRITERIA OF FINANCIAL PROBLEMS**

Your correspondence dated 26 July 2023 (ref: 11/6/13/1 KZN252 2023) has reference.

Provincial Treasury performed an assessment alerting the municipality of findings and raised concerns in terms Sections 138 and 140 of the Municipal Finance Management Act, Act No. 56 of 2003 (MFMA). Newcastle Municipality would like to respond as follows.

The municipality acknowledges the fact that it approved an unfunded budget in respect of the 2022/23 financial year, which was approved together with the Budget Funding Plan. We further confirm that the arrear Eskom debt was settled in July 2023, earlier than the July 2023 planned date. With regards to uThukela water, the Municipal Manager has met with the Managing Director, and they have agreed on the payment agreement amounting to R205 million with effect from August 2023. The payment agreement has also been tabled and adopted by the council.

Your comments regarding the understatement of creditors extracted from data strings is also noted. The data strings are still unable to adequately populate SC4, and this matter is being dealt with by our system vendor as previously communicated. We will however continue our efforts to ensure proper alignment of creditors as each creditor is settled.

Monthly progress reports on the implementation of the Budget Funding Plan are still being submitted to council. The reports provide the status of implementation of each strategy contained in the plan, as well as the remedial actions where the council deviates from its targets. This allows the council to exercise its oversight in the implementation of the budget and the BFP. Linked to the implementation of the BFP is the implementation of the revenue enhancement and cost containment strategies.

The municipality allows appreciates assessments that are performed by Provincial Treasury in the implementation of its budget. There is no doubt that your assessments will assist the municipality to improve its financial viability in future.

Yours faithfully



DR DUMISANI (PD) THABETHE
ACTING MUNICIPAL MANAGER:
NEWCASTLE MUNICIPALITY

DATE: 01/08/23



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DIRECTORATE: HEAD OF DEPARTMENT

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Reference: 11/6/13/1(KZN252)-2023
Enquiries: Mr. F. Cassimjee
Date: 26 July 2023

**THE MUNICIPAL MANAGER
NEWCASTLE LOCAL MUNICIPALITY
PRIVATE BAG X6621
NEWCASTLE
2940**

Fax No: 034 312 7089

Dear Mr. Z.W. Mcineka

EARLY WARNING SIGNALS FOR THE MUNICIPALITIES MEETING THE CRITERIA OF FINANCIAL PROBLEMS

Section 71(1) of the Municipal Finance Management Act, Act No. 56 of 2003 (MFMA) requires that *the Accounting Officer of a municipality must by no later than 10 working days after the end of each month submit to the Mayor of the municipality and the relevant Provincial Treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month.*

The purpose of the MFMA Section 71 report is amongst others, to serve as an early warning system to identify and assist municipalities facing financial problems, including any emerging or impending financial problems.

Section 138 of the MFMA specifies criteria for determining serious financial problems at municipalities. As per Section 138 of the MFMA, the following factors, singly or in combination, may indicate a serious financial problem:

- (a) *The municipality has failed to make payments as and when due;*
- (b) *the municipality has defaulted on financial obligations for financial reasons;*
- (c) *the actual current expenditure of the municipality has exceeded the sum of its actual current revenue plus available surpluses for at least two consecutive financial years;*
- (d) *the municipality had an operating deficit in excess of five per cent of revenue in the most recent financial year for which financial information is available;*
- (e) *the municipality is more than 60 days late in submitting its annual financial statements to the Auditor-General in accordance with Section 126 [of the MFMA];*
- (f) *the Auditor-General has withheld an opinion or issued a disclaimer due to inadequacies in the financial statements or records of the municipality, or has issued an opinion which identifies a serious financial problem in the municipality;*



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- (g) any of the above conditions exists in a municipal entity under the municipality's sole control, or in a municipal entity for whose debts the municipality may be responsible, and the municipality has failed to intervene effectively; or
- (h) any other material condition exists which indicates that the municipality, or a municipal entity under the municipality's sole control, is likely to be unable for financial reasons to meet its obligations.

Additionally, Section 140 of the MFMA specifies criteria for determining serious or persistent breach of financial commitments. As per Section 140(2) of the MFMA, the following factors, singly or in combination, may indicate that a municipality is in serious material breach of its obligations to meet its financial commitments:

- (a) The municipality has failed to make any payment to a lender or investor as and when due;
- (b) the municipality has failed to meet a contractual obligation which provides security in terms of Section 48 [of the MFMA];
- (c) the municipality has failed to make any other payment as and when due, which individually or in the aggregate is more than an amount as may be prescribed or, if none is prescribed, more than two per cent of the municipality's budgeted operating expenditure; or
- (d) the municipality's failure to meet its financial commitments has impacted, or is likely to impact, on the availability or price of credit to other municipalities.

In this regard, the National and Provincial Treasuries are utilising the criteria as per Sections 138 and 140 of the MFMA to identify and monitor municipalities that display **one or more** of the indicators of serious financial problems on a quarterly basis based on the MFMA Section 71 (data string) reports.

Based on the MFMA Section 71 reports as at 19 July 2023, your municipality has met the criteria listed below in terms of Sections 138 and 140 of the MFMA which could indicate that your municipality may be facing serious financial problems. **It should be noted that in instances of inaccurate and incomplete MFMA Section 71 reporting by municipalities, other relevant criteria for financial problems may not have been triggered and met.**

• **Section 138(a) of the MFMA - Failure to make payments for amounts in excess of R1 million which are outstanding for longer than 90 days**

The municipality has amounts in excess of R1 million that are outstanding for longer than 90 days as reflected in Table 1. The municipality has thus failed to make payments as and when due as per Section 138(a) of the MFMA. Furthermore, Section 65(2)(e) of the MFMA requires that the Accounting Officer of the municipality take all reasonable steps to ensure *that all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.*

Table 1: Failure to make payments for amounts in excess of R1 million which are outstanding for longer than 90 days

Name of municipality R'000	Total creditors owed > 90 days	Indicator
Newcastle	142 263	TRUE

Source: KZN Provincial Treasury

The municipality has indicated that the bulk of the Creditors outstanding as at 30 June 2023 in the over 90 days' category is attributable to amounts owing to Eskom and uThukela Water as the municipality is currently facing cash flow challenges. The municipality further indicated that it has paid the final amount of the R127.4 million of the Eskom payment arrangement on 05 July 2023.

105,342

142 426



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M + Managing Director Arrangement was made Tebled to Cabinet Arrangement

The municipality has further confirmed that even though they owe uThukela Water for bulk water supply, there is however no payment arrangement in place to settle this debt. The municipality has indicated that the discussions between the Newcastle Local Municipality and uThukela Water regarding the payment agreement with respect to the arrear debt are still underway and have not been finalised. The municipality is therefore advised to fast track this process and conclude the discussions as the municipality provided the same response in the third quarter of the 2022/23 financial year.

In addition, the municipality has understated their Trade creditors total as their MFMA Section 71 Creditors Quarter four data string does not include the total aged Bulk water owed to uThukela Water as at 30 June 2023.

The municipality further approved an unfunded Budget for the 2023/24 financial year together with an updated Budget funding plan which is still being assessed by Provincial Treasury and it is currently facing cash flow challenges.

How we Plan committee

- Section 140(2)(c) of the MFMA - Failure to make any other payment as and when due, which individually or in the aggregate is more than an amount as may be prescribed or, if none is prescribed (40 percent as applied by National Treasury), more than two per cent of the municipality's budgeted operating expenditure

As per Table 2, the municipality has failed to make payments as and when due, which individually or in the aggregate is more than two per cent and 40 percent of the municipality's budgeted Operating expenditure as per Section 140(2)(c) of the MFMA.

Table 2: Failure to make any other payment as and when due

Name of Municipality	Bulk electricity					Operating expenditure Budget	Bulk water				Total creditors			
	Operating expenditure Budget	Bulk electricity creditors > 90 days	Bulk electricity creditors > 90 days as % Opex Budget	Indicator (> 2%)	Indicator (> 40%)		Bulk water creditors > 90 days	Bulk water creditors > 90 days as % Opex Budget	Indicator (> 2%)	Indicator (> 40%)	Total creditors > 90 days	Total creditors > 90 days as % Opex Budget	Indicator (> 2%)	Indicator (> 40%)
R'000														
Newcastle	2 446 078	-	-	-	-	2 446 078	-	-	-	-	142 263	5.8	TRUE	-

Source: KZN Provincial Treasury

The municipality has indicated that the bulk of the Creditors outstanding as at 30 June 2023 in the over 90 days' category is attributable to amounts owing to Eskom and uThukela Water as the municipality is currently facing cash flow challenges. The municipality further indicated that it has paid the final amount of R127.4 million of the Eskom payment arrangement on 05 July 2023.

The municipality has further confirmed that even though they owe uThukela Water for bulk water supply, there is however no payment arrangement in place to settle this debt. The municipality has indicated that the discussions between the Newcastle Local Municipality and uThukela Water regarding the payment agreement with respect to the arrear debt are still underway and have not been finalised.

The municipality has understated their Trade creditors total as their MFMA Section 71 Creditors Quarter four data string does not include the total aged Bulk water owed to uThukela Water as at 30 June 2023.

The municipality further approved an unfunded Budget for the 2023/24 financial year together with an updated Budget funding plan which is still being assessed by Provincial Treasury. The municipality is currently facing cash flow challenges.

Please refer to the recommendation as per Section 138(a) of the MFMA criteria above which would apply in this instance.

Neliswa Ngweni



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Provincial Treasury is alerting you to the above findings and the municipality is required to take the necessary steps to rectify the situation.

It should be noted that your municipality also met the same triggers in the previous quarters of the 2022/23 financial year as listed below and communicated in the Provincial Treasury letters dated, 28 October 2022 (Quarter 1), 26 January 2023 (Quarter 2) and 25 April 2023 (Quarter 3):

- Section 138(a) of the MFMA - Failure to make payments for amounts in excess of R1 million which are outstanding for longer than 90 days.
- Section 140(2)(c) of the MFMA - Failure to make any other payment as and when due, which individually or in the aggregate is more than an amount as may be prescribed or, if none is prescribed (40 percent as prescribed by National Treasury), more than two per cent of the municipality's budgeted operating expenditure.

Provincial Treasury received a Council resolution dated 04 July 2023 for the tabling of the Provincial Treasury letter issued on 25 April 2023. The municipality is required to indicate if it has implemented any remedial actions as tabled to Council, and also indicate what has been the outcome of these actions. Furthermore, kindly indicate the extent of Council exercising its monthly oversight of these remedial actions.

The municipality should note that according to Section 62(1)(b) of the MFMA, *the Accounting Officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards.* Furthermore, Section 135(1) of the MFMA clearly states that *the primary responsibility to avoid, identify and resolve financial problems in a municipality rests with the municipality itself.* However, as part of Provincial Treasury's oversight responsibilities, the municipality is hereby notified that the conditions for serious financial problems have been triggered as at the end of Quarter 4 of the 2022/23 financial year.

In addition, the municipality is reminded that in terms of Section 135(3) of the MFMA, if a municipality encounters a serious financial problem or anticipates problems in meeting its financial commitments, it must immediately:

- seek solutions for the problem;
- notify the MEC for Local Government and the MEC for Finance in the province; and
- notify organised local government.

The findings above are based on the MFMA Section 71 reports submitted by the municipality, therefore, it is paramount that each Municipal Manager and Chief Financial Officer verify the accuracy of the MFMA Section 71 reports prior to their submission to the National Treasury GoMuni Upload Portal. Therefore, any queries on the figures reflected in this correspondence must be referred to your Chief Financial Officer.

Please note that your municipality's performance will be monitored over the next quarter. The municipality is notified that all municipalities that meet the criteria of Sections 138 and 140 of the MFMA with the relevant reasons and explanations are reported to the Provincial Legislature for their attention on a quarterly basis as part of the MFMA Section 71(7) report.

The municipality is therefore required to investigate the reported performance as at the end of Quarter 4 of the 2022/23 financial year and take the necessary steps to rectify the situation.

Plan to resolve

Progress Rep submit on monthly basis through MPAC which is still



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The municipality is requested to do the following to address the findings identified in this letter:

- formally respond to Provincial Treasury on the remedial actions implemented by the municipality to rectify the findings by no later than 18 August 2023;
- table this letter at the next Council meeting together with the remedial actions taken by the municipality; and
- forward a copy of the signed Council resolution to Provincial Treasury within a week of tabling the letter to Council.

Yours faithfully

Ms. C. Coetzee
Head of Department – KZN Provincial Treasury

CC: Mayor
Chief Financial Officer
Audit Committee Chairperson
Mr. J. Hattingh – National Treasury