

ANNUAL REPORT 2022 | 23





PORTS REGULATOR` OF SOUTH AFRICA

ANNUAL REPORT

2022/2023 FINANCIAL YEAR

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PART A:

GENERAL INFORMATION



1. PUBLIC ENTITY'S GENERAL INFORMATION

REGISTERED NAME:	Ports Regulator of South Africa
REGISTRATION NUMBER:	N/A
PHYSICAL ADDRESS:	Suite 1101 The Marine Building 22 Dorothy Nyembe Street Durban 4001
POSTAL ADDRESS:	Private Bag X54322 Durban 4000 +27 31 365 7800
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EMAIL ADDRESS:	info@portsregulator.org
WEBSITE ADDRESS:	www.portsregulator.org
EXTERNAL AUDITORS:	Auditor-General of South Africa
BANKERS:	Standard Bank Limited South African Reserve Bank
COMPANY/ REGULATOR SECRETARY:	Andile Nosisa Mhlongo



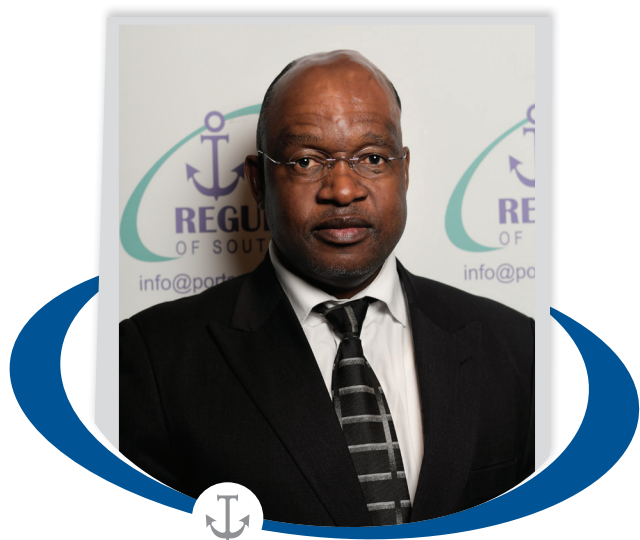


LIST OF ABBREVIATIONS/ACRONYMS

AGSA	Auditor General of South Africa
BBBEE	Broad-Based Black Economic Empowerment
CAPEX	Capital Expenditure
CEO	Chief Executive Officer
CFO	Chief Financial Officer
MEC	Member of the Executive Council
MTEF	Medium Term Expenditure Framework
NPA	National Ports Authority
PFMA	Public Finance Management Act
PRSA	Ports Regulator of South Africa
SCM	Supply Chain Management
TOPS	Terminal Operator Performance Standard
TR	Treasury Regulations
WEGO	Weighted Efficiency Gains from Operations



2. FOREWORD BY THE CHAIRPERSON



Chairperson of the Board

Dr Victor Tshisikhawe Munyama

The Board of the Ports Regulator is committed to executing the regulatory functions as mandated by the National Ports Act, Act 12 of 2005 (the Act) to ensure efficient and sustainable port pricing and reducing the cost of doing business in South African ports. This commitment includes ensuring equitable access to port facilities and services and addressing transformation challenges that still characterise certain parts of the port system.

In the 2022/23 FY, the Regulator members undertook a Port of Durban oversight visit to further understand the realities of this strategic port. The Regulator members were acquainted with and became duly alive to the challenges in our port system, regulatory, operations, CAPEX execution and otherwise, which broadly include, though not confined to:

- The treatment of the Regulatory Asset Base, based on the corporate structure of the Authority. That is, how the Regulator's framework is responding to progress with the corporatisation of NPA; (1)
- Problems with expenditure on CAPEX in our port infrastructure to sustain current capacity and provide capacity ahead of demand; (2)

- Users of the various parts of the port system decrying the low-efficiency levels in terminal operations because of the ineffective improvement plans by terminal operators; as well as congestion that hampers effective evacuation of cargo into and out of terminals; (3)
- The slow pace of transformation in the provision of port facilities and services, in leases and commercial licenses, despite the NPA meeting the BBBEE level 4 requirements; coupled with the need to improve participation of private sector players and SMMEs in the different offerings in our port system; and
- The continued need for efficient pricing of port infrastructure based on the cost and benefit arising from the use of infrastructure by different port user segments, which takes into account industry structure, sustainability of the NPA and the equitable pricing for port users. (4)

The end goal is to improve:

- Port pricing and efficiencies, which will result in competitiveness of South African ports in the global shipping and supply chain, and
- Levels of responsiveness to prevailing conditions and lower barriers of entry for SMMEs, women and black-owned businesses.

The Regulator members and the secretariat were fit to deal with the different challenges and continued to apply and enhance the regulatory framework, which has been developed over the years by working with port users, interested, and affected parties through rigorous stakeholder engagement.

The Regulator's main outputs as a Board are the Records of Decision on the NPAs tariff application, duly received and the Records of Decision on Tribunal matters dealing with appeals or complaints against the NPA. In December 2022, the Regulator announced its decision on the NPA's application,



which covered the following areas of concern:

- Delayed sharing of the updated Port Development Framework Plans (PDFPs) to inform capacity needed ahead of demand for the port system;
- How to incentivise the NPA to drive better efficiencies and improvements in terminal operations;
- Interventions aimed at effective delivery and improving CAPEX, including CWIP;
- How to properly include land parcels acquired by the NPA as part of their Port Development Framework Plans; and
- Continued incentives for the government's intention to grow the number of vessels on the South African ship registry whilst increasing the opportunities for training and development of SA seafarers.

The complaints and appeals process is intended to provide port users, licensed operators, or any person an avenue to obtain redress when their rights are adversely affected by a decision, action, or inaction of the Authority. By the end of the 2022/23 financial year, the Tribunal concluded six (6) tribunal matters. Through the disposal and completion of numerous tribunal matters, the Regulator contributed to effectual management of the port system aligned to its mandate as per section 30(1)(a), (b) and(c) of the National Ports Act. Accordingly, any port users, licensed operators and/or any person whose rights are adversely affected by any action or failure to act by the Authority are encouraged to use the complaints and appeals process.

The Regulator continued with the usage of virtual platforms to adjudicate all tribunal hearings for purposes of convenience.

The Regulator's strategic focus over the medium to long-term period includes:

- Regulatory response to the incorporation of the NPA and support to the Minister of Transport for the process;

- Continuing to address operational inefficiencies in the port system through oversight, monitoring of improvement plans, and research conducted;

Using the tariff process and regulatory oversight to bring about improvements not only in pricing but the NPA CAPEX program; and

- Transitioning the PRSA and its functions into the Single Transport Economic Regulator, where it will have the role of being the nucleus of this entity.

The multi-year-tariff methodology valid for the 2021/22 – 2023/24 tariff period had reached the end of its applicability. The Regulator had the opportunity to engage port users, stakeholders and interested parties in revising the tariff methodology for the period 2024/25 – 2026/27. The methodology is used to assess and determine revenues allowed for the NPA and resultant port tariffs. This was the fourth (4th) review of the methodology since it was developed in 2015/16. Reviews of the multi-year tariff methodology continue to contribute immensely to regulatory certainty, transparency of the process and consistency in the tariff-setting process.

The methodology has allowed significant smoothing of the NPA's return and allowed the Regulator to establish a lower tariff trajectory whilst still ensuring the profitability of the NPA.

On behalf of the Ports Regulator, I would like to extend our appreciation to the Minister of Transport, Honourable Ms Sindisiwe Chikunga, the Deputy Minister of Transport, Mr Lisa Mangcu, the Director General, Advocate James Mlawu and the Deputy Director General: Maritime Branch, Mr Mthunzi Madiya for their unwavering support and guidance to enable us to fully execute our mandate.

Dr Victor Tshisikhawe Munyama
Ports Regulator of South Africa

Date: 31 July 2023

CHIEF EXECUTIVE OFFICER'S OVERVIEW



Name: Ms. Mukondeleli Johanna (Jowie) Mulaudzi
Title: Chief Executive Officer

ACCOUNTING OFFICER STATEMENT

I am pleased once again to submit the Annual Report on the operational and financial performance of the Ports Regulator of South Africa for the 2022/23FY. Under circumstances we are not accustomed to as a Secretariat we performed well and achieved 100% of the 2022/23 Annual Performance Plan targets. This is testament to the resilience of staff and efficacy of the delivery systems that we have matured over time, the leadership of the Members of the Regulator and the Acting CEO Ms. Nkowane during the last two months of the Financial Year when the CEO was on suspension.

South Africa's Commercial Ports are part of nodes in the arteries that drive the country's trade and economic activity; making ports performance important and requiring a focus on making sure that appropriate levels of port infrastructure and related services are delivered, managed and maintained and are efficient and competitive. The Ports Regulator of South Africa (PRSA) is mandated to ensure that the National Ports Authority as the Landlord of all our commercial ports, performs its

functions fully.

During the year under review, the Secretariat provided administrative and technical support to the members of the Regulator as we maintained the Ports Regulator's commitment to our mandate of undertaking effective pricing of South Africa's eight (8) commercial ports. We conducted technical analysis of the tariff application which led to a balanced decision by the Member, ensuring that port users pay affordable tariffs adjusted upward by an average of 3.32% well below inflation and in line with government's call for controlled administered prices yet still allowing the NPA to raise required revenue to invest in approved port infrastructure and related services. The Excessive Tariff Margin Increase Credit (ETIMC) remain a critical component of the Required Revenue formula where it was deployed in previous years to mitigate against higher tariff adjustments, during for the 2023/24 – 2025/26 FY the Regulator added to ETIMC increasing the savings account for use in later years.

We conducted research on efficiencies in port operations feeding into the Weighted Efficiency Gains from Operations and combined with the NPAs submitted performance results for 2022 resulted in a reduction of R205m on their net profit due to deterioration in overall operational efficiencies.

Legislative and Regulatory Overview

The Regulator Chief Executive Officer as the Accounting Officer, together with the Board of the Regulator, must in terms of the PFMA, comply with its fiduciary duties and manage all revenue, expenditure, assets, and liabilities of the Entity effectively and efficiently. The Regulator continues to approach matters related to the execution of its mandate as contained in the Ports Act and implementation of the provisions of the PFMA in a



transparent and responsible manner.

Supported by the Department of Transport, the Regulator monitors the progress on the establishment of NPA as an independent entity. Amongst others, during the 2022/23 Annual Performance Plan period, the Regulator continued to focus on:

1. Greater regulatory role in the operations, competitive pricing and access to port facilities and services.
2. Execution of port infrastructure investment projects as a catalyst for volume growth and a competitive, efficient port system.
3. Consistent, efficient, and value-driven stakeholder engagements on regulatory, compliance, and operational outputs and processes.
4. A motivated, empowered, and capacitated workforce to deliver on the Regulator mandate.

Business Performance

The Annual Performance Plans (APP) projects presented for the 2022/23 FY, addressed how the Regulator responded to the challenges arising out of its mandate and operational environment. The Regulator's performance on how it discharges its mandate is greatly influenced and impacted by the regulated entity, the National Ports Authority's performance. The Regulator's APP projects, focus on activities that can bring about positive change and improvements in South African ports. It is with great pride that we announce through its departments, the Regulator has achieved all its thirty-four (34) targets of 2022/23 FY.

The PRSA has a fully developed economic regulation function strengthening economic regulation through the reviewed, consulted and approved Tariff Methodology 2023/24 – 2025/26 and tariff strategy, an efficient and fully functioning Tribunal processes, and stakeholder management programme. More effort will be put in 2023/24 into creating the remaining aspects

of the tariff strategy, such as marine tariffs and a lease rental strategy. Having provided support to the Department of Transport's Interim Economic Regulator for Rail, and with growing sophistication in regulatory processes and expertise, the PRSA poised to serve as the touted nucleus of the Single Transport Economic Regulator (STER), and all human resources and financial resources should be availed for the success of STER.

The implementation of the STER is critical in enabling competitiveness of the transport sector and levelling the playing field for private sector participation. Various research projects have continue to be undertaken to gain insights into and understand economic regulation imperatives in the broader Transport Sector in preparation for the Regulator's role in the Single Transport Economic Regulator, as envisaged in the Transport Economic Regulator Bill currently before Parliament.

Human Resources Overview

One of our values is "Protection of the values enshrined in the Constitution of human dignity, equality, and freedom". This means that we are an entity that is people-centred in terms of protecting the rights of our staff enshrined in the Constitution and upholding the democratic values of Fairness, Integrity, and Transparency.

It is important that the PRSA is abundantly and fully capacitated as well as empowered to discharge and enforce its functions.

Our organogram comprise a permanent staff complement of twenty-seven (27) and by end of 2022/23Fy there are two vacancies. We continue to ameliorate the challenge of functionaries in Corporate Services playing multiple roles through the Board approved contracts additional to the establishment. These are in the Supply Chain Management and Information Technology departments.

The Department of Transport is considering and processing the proposed expanded structure.

The approval of the revised structure will further ensure that segregation of duties is maintained and key positions like Risk Manager, Supply Chain Specialist, Human Resources Executive, and other support staff are appointed.

The Secretariat continue to implement most of its projects through our employees and this is reflected in the proportion of the budget which goes to compensation of employees i.e. 66.17% is spent on remuneration. Whereas we lost staff to other regulators, promotions out of the organisation and for personal reasons in previous years, in the 2022/23 FY, a total of eight (8) positions were filled including both Executive Managers: Industry Development and Policy, Strategy and Research, and Specialist: Tribunals which were filled in March 2022 and July 2022 respectively. Towards the separation of finance and corporate services functions residing under the Chief Financial Officer, we appointed the Corporate Service's Manager in May 2022. In the 2022/23 FY.

As we committed in the 2021/22 FY, the benchmarking exercise which was scheduled for the 2023/24 FY was brought forward with extended terms of reference to address challenges with the Secretariat's remuneration structure and benefits. The outcomes of this benchmarking exercise were approved and implemented by the Board.

Financial Overview (63)

In line with Section 42 of the National Ports Act, Act 12 of 2005 ("the Act"), the Ports Regulator is funded mainly through allocations from the fiscus; interest earned on investments, and fees paid by port users and affected parties in lodging an appeal or complaint against the National Ports Authority ("the Authority").

For the 2022/23 FY, the Regulator received a baseline allocation of R 42 995 000.00 with indicative allocations of (R 42 564 000, R 44 476 000, R 46 469 000, R 48 607 000) for the Medium-Term Expenditure Framework.

Sixty percent (66,17%) of the Regulator's budget is allocated for the compensation of employees. The changes that were made to the remuneration

structure will see this increasing in the 2023/24FY. Under the current economic and fiscal conditions characterised by low economic growth, the holding strategy remains for the Regulator to be allowed to retain its baseline allocation and approval of the use of retained surpluses which can be used to source temporary human capacity as a non-permanent expenditure.

Even with the retention of surplus, without an increase in the baseline allocation, the Economic Viability of the Regulator remains especially concerning our current mandate and in the context of the Regulator being a "nucleus" to the STER. We will work even closer with the Department of Transport on this matter.

Supply Chain Management

There were no unsolicited bid proposals to the Regulator for the year under review. The Regulator's Supply Chain Management function, though under-resourced, has performed well. Charged with the sourcing of goods and services for both the Secretariat and Members of the Board, SCM handled transactions to the value of R 16,5 million.





To empower staff involved in the procurement processes, fourteen (14) employees were trained in March 2023 on the functioning of the Bid Committee. This is to ensure that as an entity we comply with controls put in place to avoid and eliminate irregular, wasteful, and fruitless expenditure.

Audit and Risk Function

The Audit and Risk Committee of the Regulator, which also monitors the organisation's reported financial performance, risk management, and internal controls, is chaired by an Independent Non-Executive Chairperson and two additional independent Non-Executive members. We also have the services of an external Auditing Firm with a clearly agreed-upon program for the year. At financial year-end, we are audited by the Auditor General. I am honored to highlight that the PRSA continues to have clean audits in spite of the operational challenges they experience. Once again for the 2022/23 FY audit, the Regulator received a clean audit. Whilst it was a team effort with an ethos of "ensuring that we audit as we process each transaction and not when we are audited" credit goes to the finance team under the Chief

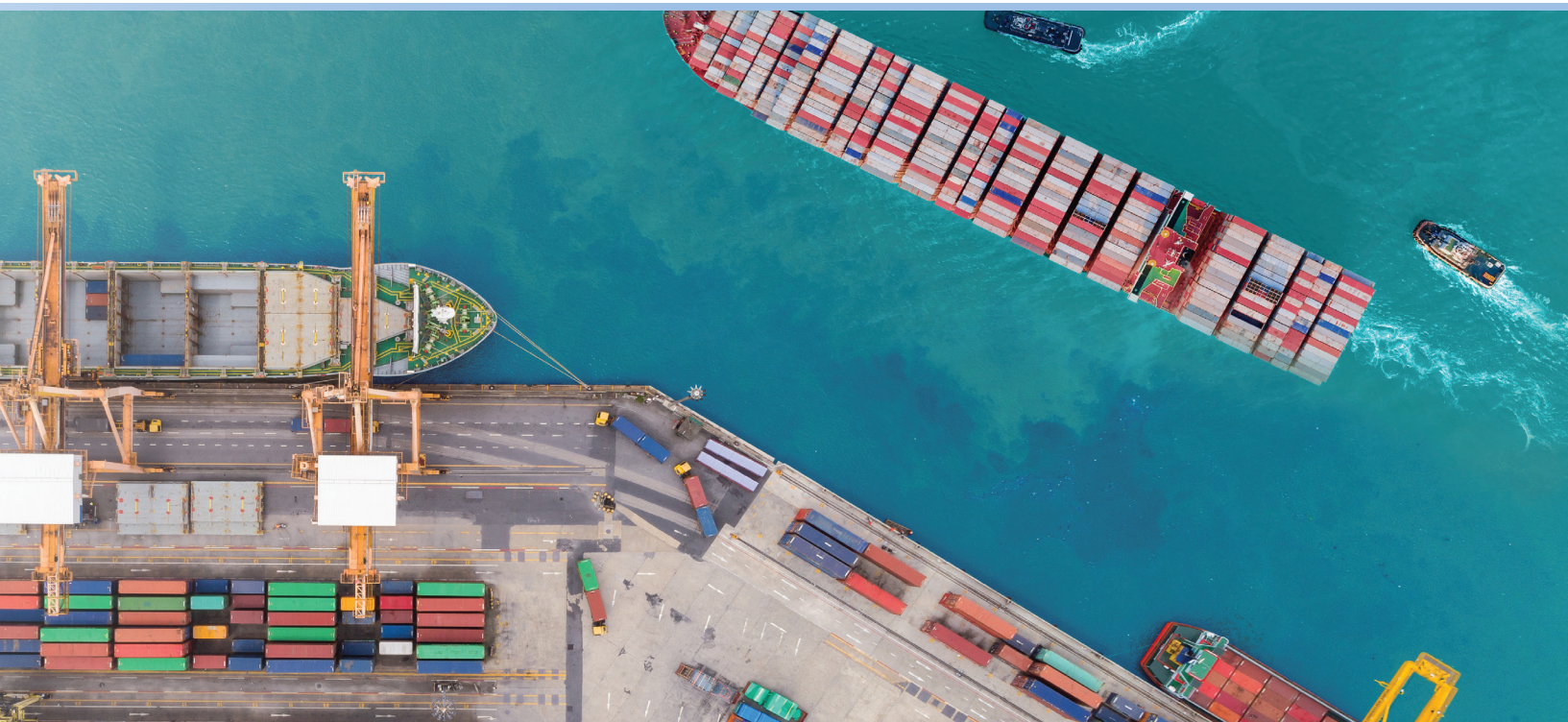
Financial Officer, our Corporate Service Manager, Ms. Lisa Varden and Ms. Nokubonga Ndlela. Your consistency and long-suffering always pays off.

On behalf of the Secretariat, I would like to extend our appreciation of support to the Department of Transport, the Regulator members, and our stakeholders. We are here to serve the South African port industry by sustaining the set trajectory of efficient and effective tariffs for the National Ports Authority's port infrastructure and related services thereby ensuring that our ports supports the country's economic growth and development. To our staff, there is no Ports Regulator of South Africa without you. Thank you for choosing to work with the PRSA, you are greatly appreciated, and I salute you.

Ms. Mukondeleli Johanna (Jowie) Mulaudzi

Chief Executive Officer
Ports Regulator of South Africa

Date: 31 July 2023



3. STATEMENT OF RESPONSIBILITY AND CONFIRMATION OF ACCURACY FOR THE ANNUAL REPORT



Chief Executive Officer
Ms. Mukondeleli Johanna (Jowie) Mulaudzi

To the best of my knowledge and belief, I confirm the following:

All information and amounts disclosed in the annual report are consistent with the annual financial statements audited by the Auditor General of South Africa.

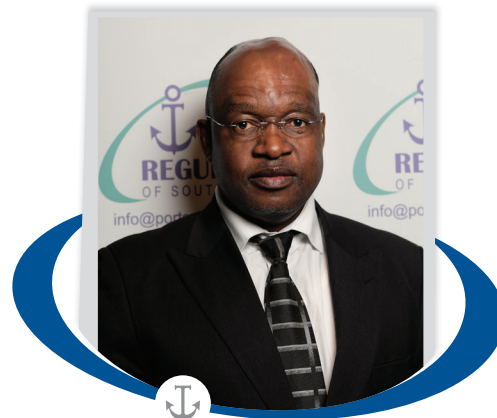
The annual report is complete, accurate and free from any omissions.

The annual report has been prepared in accordance with the guidelines on the annual report as issued by National Treasury.

The Annual Financial Statements (Part E) have been prepared in accordance with the Generally Recognised Accounting standards applicable to public entities.

The Accounting Authority is responsible for

Chief Executive Officer
Ms. Mukondeleli Johanna (Jowie) Mulaudzi
Date: 31 July 2023



Chairperson of the Board
Dr Victor Tshisikhawe Munyama

preparing the annual financial statements and the judgements made in this information.

The Accounting Authority is responsible for establishing and implementing a system of internal control designed to provide reasonable assurance to the integrity and reliability on performance, human resources information and the annual financial statements.

The external auditors are engaged to express an independent opinion on the annual financial statements.

In our opinion, the annual report fairly reflects the operations, performance information, human resources information and the financial affairs of a public entity for the financial year ended 31 March 2023.

Yours faithfully

Chairperson of the Board
Dr Victor Tshisikhawe Munyama
Date: 31 July 2023



4. STRATEGIC OVERVIEW

4.1. Vision

The Ports Regulator developed its vision at inception and has retained it without alteration as it clearly articulates the primary perspective of its existence. The vision of the PRSA remains as follows:

“The Ports Regulator will be regarded nationally and internationally as a world-class institution which sets the standards for economic regulation in South African maritime ports.”

4.2. Mission

The Mission of the Ports Regulator is to:

- Exercise economic regulation of the South African ports system consistent with the government’s strategic objectives;
- Promote equity of access to ports, facilities and services provided in ports;
- Monitor the activities of the National Ports Authority to ensure that it performs its functions in accordance with the National Ports Act, Act No.12 of 2005;
- Consider the proposed tariffs of the National Ports Authority; and
- Regulate the provision of adequate, affordable and efficient port services and facilities.

4.3. Values

The Ports Regulator initially established a value set that represented the articulation of its mandates as set out in legislative, regulatory and policy sources. These have been reviewed on an annual basis since inception. The values that the Ports Regulator aspire to have been retained over the years and are articulated to align with the performance of our mandate. They represent the foundation upon which the corporate culture in the Ports Regulator is built and maintained at every level.

The Ports Regulator, therefore, continues to adhere to the Key Values of:

	Values	Behavioural Attributes
P	Protection of the values enshrined in the Constitution of human dignity, equality, and freedom.	Being people centred in terms of protecting the rights of our staff enshrined in the Constitution and upholding the democratic values of fairness, integrity, and transparency.
R	Respect and Relevance	Respect for others at all levels, maintaining high ethical standards and trust, especially with regard to the proper use of the resources entrusted to us by the public.
S	Service Delivery and Stakeholder focus	Striving to exceed stakeholder expectations which engenders credibility of our decisions.
A	Accountability	Being accountable to the Board of the Regulator, its Executive Authority and stakeholders for the decisions and actions it takes.

Table 1: Key values of the Ports Regulator

5. LEGISLATIVE AND OTHER MANDATES

The Ports Regulator is established in terms of section 29 of the National Ports Act, Act 12 of 2005 (the Act). The Ports Regulator is a public entity that reports to the Minister of Transport. The Ports Regulator's main functions are to:

- Exercise economic regulation of the ports system in line with the government's strategic objectives;
- Promote equity of access to ports and to facilities and services provided in ports;
- Monitor the activities of the Authority to ensure that it performs its functions in accordance with the Act; and
- Hear appeals and complaints.

Charged with the responsibility of considering the proposed tariffs of the National Ports Authority; the promotion of regulated competition, and to regulate the provision of adequate, affordable and efficient port services and facilities, the Ports Regulator is guided by various government programs aimed at improving the price and operational efficiencies of South Africa's commercial ports thereby contribute to the country's overall goal of reducing the cost of transport and increasing the country's competitiveness in global supply chains.

In addition to the National Ports Act, the Ports Regulator operates within and derives its mandate from a range of statutory and policy instruments, the primary sources being the White Paper on Commercial Ports (2002); the Comprehensive

Maritime Transport Policy (2017); the National Ports Act, Act No.12 of 2005, together with the 2007 Regulations and 2009 Directives thereto.

The Ports Regulator's procedural and substantive mandate is derived from statutory and policy instruments, including but not limited to:

- the Constitution of the Republic of South Africa, Act 108 of 1996 (as amended);
- Comprehensive Maritime Transport Policy (CMTP) for South Africa, 2017
- the Basic Conditions of Employment Act, Act No.75 of 1997;
- the Employment Equity Act, Act No.55 of 1998;
- the Labour Relations Act, Act No.66 of 1995, as amended;
- the Public Finance Management Act, No.1 of 1999, as amended, and its Regulations;
- Medium Term Strategic Framework 2019-2024 (as amended);
- Ministerial Performance Agreement;
- National Ports Act, Act No.12 of 2005;
- the National Development Plan;
- Government's Oceans Economy Strategy;
- the Ports Regulator Regulatory Review and Strategic Plan;
- the Annual State of the Nation Address (SONA).
- the Economic Recovery and



Five (5) Priorities of the Department of Transport

The Regulator's work continued to be guided by and we took cognisance of the following Minister of Transport's five(5) guiding strategic thrusts and focus areas of the sixth administration infused by the Khawuleza ethos for the Department and the public entities reporting to the Department. The Regulator assist in building a maritime nation and elevating the oceans economy by participating in and taking regulatory decision which takes account of the Minister's maritime programme constituting 5 pillars:

Pillar 1: Enhancing South Africa's Ship Registration Regime. In support of the Department of Transport's efforts to build and grow the South African register, the Regulator introduced and has maintained discounts on marine services for those merchant shipping vessels on the South African register since 2017;

Pillar 2: Mainstreaming maritime through empowering historically disadvantaged persons to access opportunities, support development of young people to take up opportunities in maritime fraternity through recreation and economic opportunities;

Pillar 3: Rolling out coastal shipping and creating partnerships to ensure sustainable support systems for effective implementation. The end goal is to have a SADC region-wide coastal shipping market. This is to include all offshore shipping activities in the Oil and Gas sector. The Regulator conducted research into the coastal shipping models in various regions and countries in support of the Department of Transport's aims and objectives with a coastal shipping strategy

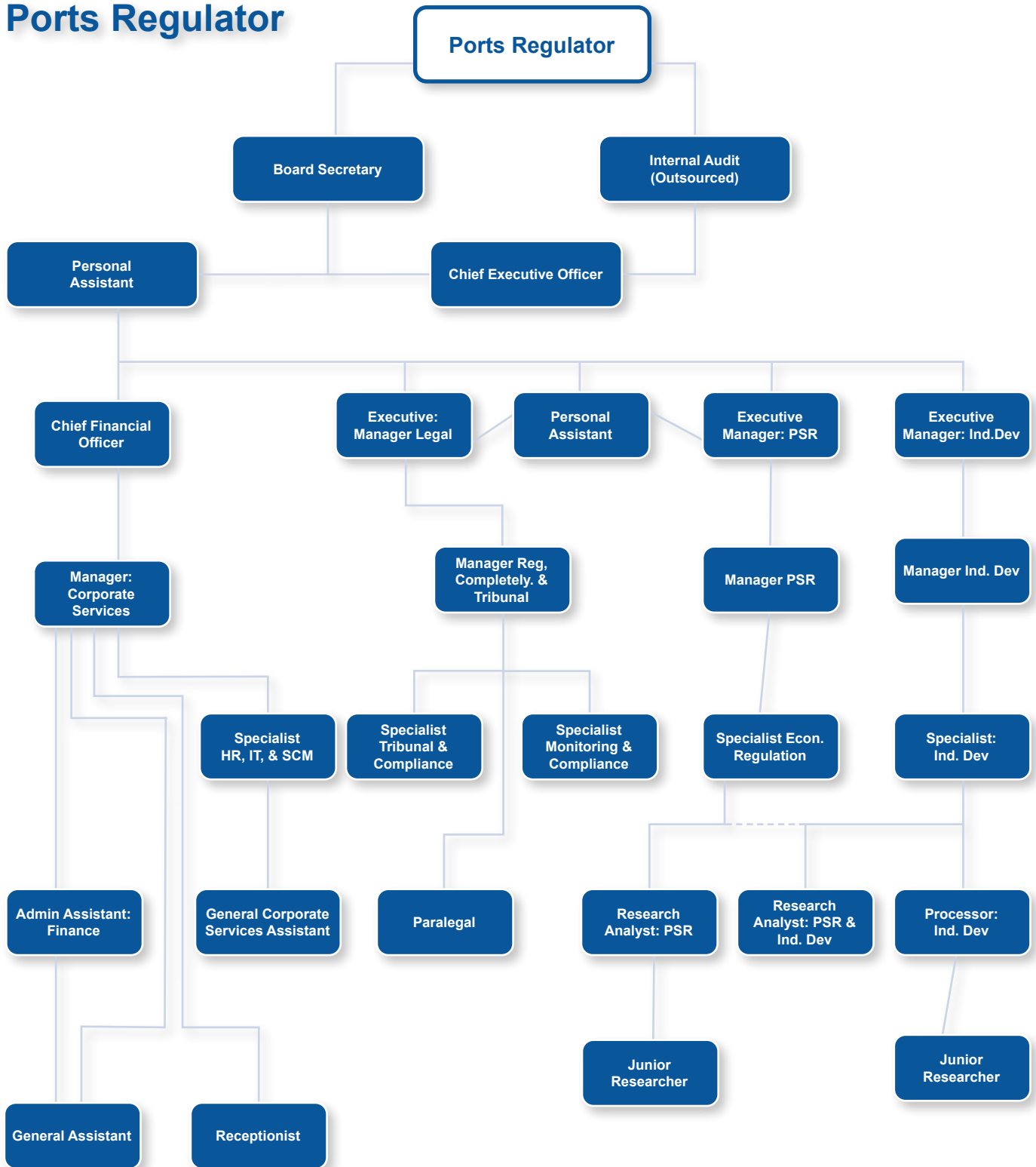
Pillar 4: Create programmes to elevate fluvial transport and open up new economic opportunities by maximising the use of inland waterways; and

Pillar 5: Unlocking maritime for economic stimulation and recreation.



6. ORGANISATIONAL STRUCTURE

Ports Regulator





Organisational Structure

Executive Managers



Chief Executive Officer
Ms. Mukondeleli Johanna
(Jowie) Mulaudzi



Mr Thokozani Mhlongo
Chief Financial Officer



Executive Manager: Industry Development
Ms. Nokuzola Nkowane



Mr Pule Mothiba
Executive Manager Policy Strategy & Research



Advocate Lesedi Boihang
Executive Manager Legal

Organisational Structure

Board Members



Dr Victor Munyama
Acting Chairperson



Mr Mthunzi Madiya



Mr Zola Fihlani



Ms Kenosi Selane



Ms Andile Mhlongo
Company Secretary



Ms Sekgothadi Kabelo



Ms Siphokazi Matolengwe



Ms Zandile Kabini



Ms Zonica Leanda
Marsha Mtshali



Organisational Structure

Managers



Freddy Raseote- Manager- Corporate Services



Matlhodi Senyatsi- Manager- Industry Development



Nonhlanhla Khumalo- Manager- Policy, Strategy and Research



Siziphiwe Shoba- Manager- Legal



PART B:

PERFORMANCE INFORMATION



1. AUDITOR'S REPORT: PREDETERMINED OBJECTIVES

The Auditor General of South Africa currently performs the necessary audit procedures on the performance information to provide reasonable assurance in the form of an audit conclusion. The audit conclusion on the performance against predetermined objectives is included in the management report, with material findings being

reported under the Predetermined Objectives heading in the Report on other legal and regulatory requirements section of the auditor's report.

Refer to page 95 to 103 of the Report of the Auditors Report, published as Part E: Financial Information.

2. OVERVIEW OF PERFORMANCE

2.1 Service Delivery Environment

The world faced challenges brought by the COVID-19 pandemic which resulted in the National State of Disaster implemented by the government. The state of Disaster came to an end in April 2022 which allowed for all business processes to go back to normal while observing strict protocol to protect everyone from the pandemic. The secretariat had to adapt to the new normal and implement systems and processes to ensure delivery of the annual performance plan.

The secretariat has adopted some of the operating procedures brought about by the pandemic due to the opportunities for cost savings which include virtual platforms for Regulator and Regulator subcommittee oversight meetings, Tribunal hearings, recruitment interviews, tariff assessment roadshows, Port Consultative Committee (PCC) and National Port Consultative Committee (NPCC) quarterly meetings etc. Some of these structured engagements are back to being held physically on site, but where possible the virtual options are used from a cost management point of view.

The end of the National State of Disaster allowed the Regulator to accelerate on its mandate discharge without the limitations brought about by the COVID-19 lockdown restrictions. The business

processes including appointing employees in funded vacant positions; the Annual General Meeting were all processed on time using the option that is practical either being virtual or physical.

The entity has managed over the past financial years to consistently upscale the discharge of its mandated functions despite the challenges of scarce human resources and budgetary constraints. However, it can safely be said that the Regulator has reached the full implementation of all of its programmes, and it is expected that the existing constraints will be stretched further when the Minister of Transport approves the revised organogram. The Regulator has submitted a revised organogram to the Minister to increase the positions from the current 27 to 60 to allow the Regulator to expand in preparation for the Single Transport Economic Regulator (STER). Currently, the Regulator is busy filling all positions on the organogram including two positions additional to the establishment as well as the appointment of interns. This is aimed at capacitating the Regulator and to assist in preparation for the STER.

The entity has strengthened its governance structures to fully comply with its key legislative framework, policies, procedures and regulations. This process of strengthening governance has also led to the development and approval of policies and procedures that will govern the operating activities of the entity and achieve the required output in line



with Annual Performance Plans and Strategic Plan. The governance and compliance of the entity are monitored on a quarterly basis through a checklist, which is tabled and discussed at the Audit and Risk Committee. This checklist helps to identify areas of concern and measures to improve non-compliance if any.

Legislation requires the Ports Regulator to measure the overall performance of the organisation based on public perception. This is aimed at understanding the impact of the decisions taken by the Regulator and done by way of regulatory review. The results help to detect areas of improvement and acceptance of Regulator decisions by stakeholders.

Following the delays in the submission of the Tariff Application for Tariff Years 2022/23- 2024/25 as a result of the cyber-attack suffered by Transnet on its IT system in July 2021 and permission granted by the Regulator for the submission to be filed on 16th instead of 1st August 2022, the NPA requested for a 23.96% tariff increase application. Deemed to be excessively high, and a tariff application unresponsive to the challenges the economy was faced with, the Authority proposed the utilisation of some of the Excessive Tariffs Increase Margin Credit (ETIMC) to moderate the tariff application increase to 9.4%. A Record of Decision on the NPAs 2023/24 – 2025/26 Tariff Application was published in December 2022 and provided port user with the following:

Whilst guided by the regulatory framework, including the Multi-Year Tariff Methodology applied in the ports sector, the Regulator took into cognisance, the most pressing economic challenges facing the country, particularly the aftereffects of the COVID-19 pandemic most evident in the port system and on port users. In support and consideration of the Government's continued economic response to these challenges, the Regulator set an average increase in tariffs for 2022/23 tariff year at 4.8%.

The Regulator continued with discounts to revive ports economic activity and recovery on some of the most affected areas of ports business. With

conditions and circumstances specified in the tariff decision, all license fees were discounted by 30% for the tariff year. A further 30% on all marine tariffs for existing commercial South African flagged vessels as well as commercial vessels registered in South Africa from 2019/20. Similarly, a 35% reduction on port dues, 60% reduction continued for vessels calling for the sole purpose of taking on bunkers and related stores, and a further 35% reduction granted for vessels not engaged in cargo working for the first 30 days only.

On an annual basis, the National Ports Authority ("the Authority" / "the NPA") and the Port users through the Port Consultative Committee ("the PCC") are given an opportunity to select key performance indicators (KPIs) and weights for purposes of measuring and monitoring operational efficiencies in each of the South African ports. These KPIs need to encapsulate and reflect performance on both the water and land side. This process is in line with the Record of Decision on the Weighted Efficiency Gains from Operations (WEGO) published on 29 March 2018, which directs the Ports Regulator of South Africa ("the Regulator") to decide on the KPIs for measurement in the next financial year.

For the 2022/23 FY, the Authority and the port users were invited, by 01 March 2022, to make submissions to the Ports Regulator on KPIs and Weights to be measured. Due to sustained poor performance on all KPIs in 2021/22 FY and in 2022/23 FY, the Regulator has decided that the 2022/23 financial year's five (5) KPIs be retained for measurement and monitoring during the 2023/24 FY.

The Secretariat of the Regulator represents the Regulator at industry forums and provides the interface with port users at Port Consultative Committees, National Port Consultative Committee, and other relevant fora. In accelerating the execution of its mandate, the Secretariat through these engagements:

- monitors industry development processes within the SA system with particular focus on,

- monitors and reports on port operational efficiency,
- analyses capex expenditure; and
- monitors transformation in line with the National Ports Act of 2005 objective of promoting the development of an effective and productive South African port industry that can contribute to the economic growth and development of the country.

Another Regulator’s success is in building its research capability for purposes of improving performance of the port system through benchmarking projects. There are a number of Research reports that are annually produced by the Policy, Strategy and Research (PSR) department and the Industry Development (ID) department. These reports amongst others include the following:

- Report on the implementation of -BBEE in the ports sector;
- The Terminal Operator Performance Standards Report;
- The Port Authority CAPEX Analysis Report;
- The Global Ports Pricing Study and the Port Performance Benchmarking Study with both reports published on the Regulator website by 31 March 2023.

Through the disposal and completion of numerous tribunal matters, as per the National Ports Act, the Regulator contributes to effectual management of the port system aligned to its mandate as per section 30(1)(a), (b) and(c) of the National Ports Act. The Tribunal has been hard at work to adjudicate over lodged appeals and complaints. Six (6) Tribunal matters have since been finalised by the end of 2022/23FY.

2.2. Organisational environment

The Regulator is an independent ports regulatory body vested with legal personality, which is governed and constrained by the parameters of the Act together with its Regulations and Directives.

Section 30 of the Act specifically sets out the parameters of the functions of the Regulator, which is namely to:

- Exercise economic regulation of the ports system;
- Promote equity of access to ports and to facilities and services provided in ports;
- Monitor the activities of the Authority to ensure that it performs its functions in accordance with the National Ports Act;
- Consider and approve the proposed tariffs of the Authority ; and
- Regulate the provision of adequate, affordable, and efficient ports services and facilities

The Regulator had to ensure that it could manage the smooth transition of employees going back to the office after the end of the Sate of Disaster and still deliver on the Annual Performance Plan as signed off by the Minister of Transport. There was also a great need to assure stakeholders that the Regulator would be able to deliver the tariff assessment Record of Decision as well as hold Tribunal hearings after going back to normal business processes. This was successfully achieved.

The Regulator submitted to the Minister of Transport in February 2020 a revised organogram for approval. When approved, the revised organogram will allow the Regulator to better capacitate itself in preparation for the Single Transport Economic Regulator as the Regulator is to be the nucleus of the STER. Approval of the revised organogram will require the Minister to revise the baseline allocation to the Regulator as the current allocation is insufficient to appoint more employees. It must be remembered that mainly the transfers from



the Appropriation are used to finance operating expenditure of the Regulator, and thus its revenue-generating ability is limited based on the provisions of section 41 of the National Ports Act.

The Regulator continued to operate through its three main committees which include the Regulatory Committee, Human Resources & Remuneration Committee, and the Audit & Risk Committee whose operations were guided by their respective approved charters. The Committees executed their responsibilities and oversaw the successful implementation of the 2022/23 Annual Performance Plan and projects.

2.3. Key Policy Developments and Legislative Changes

The Ports Regulator's proposed amendments to the National Ports Act, Act 12 of 2005 submitted to the Department of Transport to augment the funding of the Ports Regulator; clothe the Regulator with enforcement powers; and to address other ancillary matters of the Ports Regulator were still put in abeyance by the Department in the 2022/23 FY. Although this was in favour of the Maritime Development Fund, in consultations with the DoT during the year revealed that the proposed MDF will not cover funding of the Regulator, which will require renewed focus on the amendments. Instead, the legislative process of passing the Transport Economic Regulator Bill achieved a critical milestone in the 2022/23 when the Portfolio Committee on Transport tagged the Bill as a section 76 to be consulted on in the various provinces under the National Council of Province in 2023/24. This is anticipated to bring the process closer to the Bill being ultimately being debated in the National Assembly and when approved, and signed into law by the President of the country, will see the Ports Regulator absorbed into the new Regulator and cease to exist in its current form.

2.4. Progress towards achievement of institutional Impacts and Outcomes

The new administration of the Ports Regulator developed a strategic plan for the 2020/2021 to 2024/2025 financial year considering the Medium-Term Strategic Framework, National Development Plan as well as other guiding planning documents of the government. This plan was then translated into annual targets and annual performance plan, which was approved by the Minister of Transport.

Whilst maintaining the well defined trajectory for port tariffs that are supportive of the National Ports Authority's mandate as the sole owners and developer of South Africa's port infrastructure and related services in a manner that is transparent, sustainable and affordable to port users through the tariff methodology and tariff strategy; the Ports Regulator has also retained its focus on addressing lack of efficiencies in the port system through the Weighted Efficiency Gains from Operations (WEGO) in its tariff setting and related projects articulated in the Strategic Plan and APP 2022/23.

The 2022/23 APP placed more emphasis on enforcing compliance by the NPA; amending the outdated National Ports Directives and Regulations, and an analysis of the NPA's lease revenue to tie up to results of compliance monitoring. This aims to ensure that market-related prices are charged on leases and the NPA property portfolio is leveraged to the extent possible to drive transformation in the sector.

Strategic Goal	Progress
Ensure implementation of all elements of the regulatory framework within its mandate	The publication of the tariff strategy and the tariff methodology which creates greater certainty and transparency for the industry in terms of the principles applied in tariff assessment. This also demonstrates compliance to the requirements of the Comprehensive Maritime Transport Policy (CMT) and other government policies, and responds to the needs of the stakeholders.
Enhance the capacity to deal with all the output requirements of the organisation	Revision of the organogram as well as implementation of the training plan to ensure development of staff.
Continue to maintain its reputation as an organisation with integrity focused on delivery and excellence	Continuous public consultations with the maritime sector and stakeholders on the decisions of the Regulator, and the processes followed to reach such decisions, thereby engender confidence in the Regulator's decisions.
Ensure that all port sector participants comply with the Act	Compliance reviews performed on contracts that fall within the jurisdiction of the National Ports Authority by the Regulator to ensure that such contracts comply with government policies, frameworks and guidelines. This includes B-BBEE status review.
Consider the proposed tariffs of the Authority and regulate the provision of adequate, affordable and efficient port services and facilities to ensure enhanced competition and investment	Implemented of the equity of access strategy to allow entry of new port participants; implemented WEGO to enhance efficiency in the port system; analysed tariff assessments and issued records of decisions compliant with the 2019 Presidential call for reduced port administered prices while ensuring sustainability of the NPA.

Table 2: Strategic goals and progress





3. INSTITUTIONAL PROGRAMME PERFORMANCE INFORMATION

3.1. Programme 1: Administration

Section 31(1)(a) of the National Ports Act states that: 'The Regulator consists of a chairperson and a minimum of six and a maximum of twelve other members appointed by the Minister for a period of up to five years.

The Minister of Transport appointed Regulator members effective 01 June 2020 for a three-year term. This was a significant milestone for the Ports Regulator because without members, the Regulator is unable to carry out its governance, other statutory responsibilities, and oversight role as required by the PFMA and other legislation. With the appointment of members, the Regulator's functions are back on track, and its Tribunal function commenced and accelerated to reduce the Tribunal backlog.

The Secretariat reviewed several policies and procedures covering all areas of administration and support, while strategies and frameworks were updated to ensure ongoing guidance of the entity's business processes regarding the finance, human resources, information technology, supply chain management and risk management functions. Regular compliance monitoring and review has resulted in a system of strong internal control and adequate governance practices ensuring minimal instances of non-compliance by the Regulator.

The Regulator achieved all its Administration programme KPI's which focus on effective management of the entity's performance, employee performance, policy management and oversight reporting by the Secretariat. These KPI's ensure that the entity complies with all key legislated deadlines and enable effective oversight by Regulator members.

The Regulator advanced in accelerating its mandate discharge by ensuring that the administration department is fully capacitated through the appointment of employees additional to the

establishment for Supply Chain Management as well as Specialist IT. The Regulator also appointed Manager: Corporate Services. All these appointments were made with the view to capacitate the Administration department so that it can offer corporate support to core departments and ensure that the entity achieves segregation of duties and complies with the Guide to Accounting Officers issued by National Treasury. The Regulator further engaged with the Transport Education Training Authority (TETA) to assist with funding for interns as the available funding is not sufficient from the baseline. The Regulator managed to secure funding from the TETA which will assist with 5 interns who started in May 2023 and will go a long way on the quest to strengthen capacity and contribute in reducing unemployment for the youth in south Africa.

The delays in the appointment processes led to the under expenditure on employee costs for this programme. This relates to the positions of Specialist IT, Specialist SCM who resigned in November 2022, Manager: Corporate Services who was appointed in May 2022.

The department embarked on a salary benchmarking project which is aimed amending the PRSA salaries, job profiles, perform employee engagement surveys, train HR on job grading amongst other things. The project deliverables were submitted to the Regulator for consideration and approval, some elements of the project were approved in March 2023 and some deferred to the next quarter for further engagements by the Regulator.

The department also implemented the recommendations of the Legal Opinion relating to the salary structure of the PRSA. This was aimed at ensuring that the PRSA implements a salary structure that complies with legislation and to implement recommendations of the Legal opinion in the benchmarking project. This will capacitate the PRSA and enable us to offer competitive remuneration and attract and retain talent when filling funded vacant positions.

Table 3: Efficient and effective administration

Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations
The running of an efficient and effective administration system.	All Corporate Services Policies reviewed on an annual basis.	IT, HR and Finance policies reviewed by the Accounting Officer and approved by the Regulator.	Achieved	Achieved	Annual review of organisational policies and submit a report on these to the Regulator for approval.	Achieved	None	N/A
	Organisational and employee performance improved.	Organisational performance monitored and reported on to the Regulator quarterly.	Achieved	Achieved	Achievement of all targets set in the Annual Performance Plan.	Achieved	None	N/A
	Align organisational and employee performance management system with strategy and APP	Employee PMS monitored and enhanced by conducting half-year and final employee performance reviews to be provided to the Accounting Officer.	Achieved	Achieved	Assessment of employee performance to improve organisational efficiency and performance.	Achieved	Achieved	None
		Organisational performance monitored and reported to the Regulator quarterly.	Achieved	Achieved	Monitoring employee performance in order to achieve alignment with strategic objectives.	Achieved	None	N/A



Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations
	HR Management and ongoing skills development of Members and staff to enhance the effectiveness and efficiency of the organisation.	Regulator members and staff matters dealt with and training attendance on regulatory matters reported annually.	Achieved	Achieved	Full implementation of the PRSA HR and training plan for members and staff and annually report to the Regulator on all regulatory training that has taken place in line with the organisational HR plan.	Achieved	None	N/A
	Percentage reduction of cases of irregular, wasteful and fruitless expenditure.	Irregular, wasteful and fruitless expenditure eliminated.	New indicator	New indicator	100% reduction of cases of irregular, wasteful and fruitless expenditure.	Achieved	None	N/A
	Percentage implementation of action plans to address audit findings.	Implementation of action plan to address audit findings.	New indicator	New indicator	Full implementation of action plans to address audit findings.	Achieved	None	N/A
	Elimination of fraud and corruption.	Percentage resolution of reported incidents of fraud and corruption.	New indicator	New indicator	100% resolution of reported incidents of fraud and corruption.	Achieved	None	N/A
	Respond to parliamentary questions within the stipulated timelines.	Percentage responses to Parliament questions within stipulated timelines.	New indicator	New indicator	100% responses to Parliament questions.	Achieved	None	N/A

Linking Performance With Budgets

The Regulator underspent its administration budget because of delays in the appointment of employees on funded vacant positions as well as other procurement processes that were not finalised on time by the end of the financial year. There were also changes to the business regarding meetings where most of the meetings were held virtually; thus, the planned costs for traveling were saved. This includes training and development, stakeholder engagements, Board oversight, which would normally be in person

at the Regulator’s offices. Quarterly governance meetings by Regulator members at the Board and subcommittee level to review the implementation of the APP and address any strategic matters facing the organisation in compliance with PFMA were held virtually.

The filling of vacant posts, which had been advertised at the time of lockdown, was delayed, which resulted in the Regulator being unable to fully spend the allocated 2022/23 annual budget resulting in an under-expenditure on the Administration budget.

Programme/ activity/ objective	2022/2023			2021/2022		
	Budget	Actual Expenditure	(Over)/ Under Expenditure	Budget	Actual Expenditure	(Over)/ Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Administration	20 476	20 316	160	14 772	15 733	(961)
Total	20 476	20 316	160	14 772	15 733	(961)

Table 4: Administration budget and expenditure

Strategy to overcome areas of under-performance

The Ports Regulator achieved all its set targets under the Administration programme.

Achievements of the Administration Programme

The Administration programme was instrumental in supporting the Policy, Strategy and Research; Industry Development; Legal Departments and Corporate Services to fill the activated funded posts during the 2022/23FY. Eight (8) positions were filled during the

The Service Provider appointed on a three (3) year contract in the fiscal year 2021/22 to conduct salary benchmarking exercises, review grades to ensure that they are correctly graded, and review, employment conditions, employment

contracts, and letters of appointment continued in 2022/23 with the Board approving changes in the remuneration structure and regarding of position. The Board approved changes were implemented in March 2023 with the new remuneration structure effected from 1 April 2023.

3.2. Programme 2: Policy, Strategy & Research (Economic Regulation)

The department is responsible for the implementation of the regulatory frameworks; development of port policy; port strategy and instruments thereof, applicable to the South African port system.

The role includes research, tariff setting and design with the NPA being the primary regulated entity in the ports sector. The regulatory instruments aim to attain cost reflective prices, and port operations efficiency and competitiveness.



The Regulator continues to make strides in reforming port pricing and addressing efficiencies in line with the regulatory framework in the space of administered pricing where predefined principles and frameworks guide achievement of the intended outcomes and objectives. In this regard, the Regulator has developed a tariff methodology and a tariff strategy to guide the principles to determination of the required revenues for the Authority, to provide for operating costs and capital investments.

Over the financial years, several milestones have been attained with these regulatory instruments and as a result have enabled the Regulator to smoothen the Authority's return. At the same time, it has allowed the Regulator to establish a lower tariff trajectory whilst ensuring the profitability of the NPA.

In the financial year 2022/23, the tariff methodology was reviewed. The review of the methodology sought to strengthen transparency and effectiveness of the tariff setting process whilst providing greater focus on efficiency. In addition, the methodology is earmarked for greater guidance in regulatory approach prior to, during and after the transition of the NPA as a corporate entity in terms of the National Ports Act in line with section 3(2) of the National Ports Act is implemented by the Minister of Public Enterprises in consultation with the Minister of Transport.

The Regulator has in previous tariff decisions indicated its concerns on the under expenditure on much needed capital infrastructure to deliver port services. Capital expenditure (Capex) should always increase capacity, efficiencies or increase safety within the port system. As such the methodology thus seeks to enhance aspects relating to Capex planning, Capex spending and Capex monitoring and efficiencies in Operational Expenditure (Opex).

The tariff decision for the 2023/24 tariff year, approved in December 2022, was taken in a time fraught with challenges where the sustainability of the Authority needed to be balanced with the impact of higher tariffs on port users. The Regulator approved an overall average tariff of 3.32%, in line with expected inflation, and in conjunction of the Tariff Strategy which called for bulk commodities (i.e. coal exports and magnetite) exports to be increased significantly higher i.e., 6%.

In addition, discounts of up to 30% were allowed for all commercial South African flagged vessels. Further to promote access in the port system and eliminate the barriers to entry which exist for the provision of port services, a discount of 30% was allowed for all license fees applicable to all commercial South African flagged vessels and commercial vessels registered in SA. More work in this area is underway.

The Regulator has Boldly determined that all marine tariffs applicable to ship building and ship repair should remain unchanged pending the presentation of a ship building and ship repair strategy by the Authority.

There is progress in the move towards enactment of the Economic Regulator of Transport Bill into law, and establishment of the Transport Economic Regulator. Indications are that the framework of economic regulation as applied currently in the ports sector will be retained, and the transition will be undertaken in an orderly manner in the interest of all stakeholders and most importantly to enable certainty of recovery of investments in port infrastructure, facilities and services already in provision.

During 2021/22 and 2022/23, the staff complement has grown from 04 to 05. This is notwithstanding the expanded organogram which when approved, will increase further and there will be new roles and additional capacity needed.

TTable 5: Economic regulation of ports

Programme / Sub-programme:									
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons For Deviations	
Ongoing implementation of economic regulation of ports (price, access, institutional structure).	Conduct research on the economic contribution of the South African Ports system in the South African motor vehicle manufacturing logistics chain.	Research report on the South African steel and stainless-steel logistics value chain.	Achieved	Achieved	Research report on the South African steel and stainless-steel logistics chain.	Achieved	None	N/A	
	Complete tariff assessment in accordance with the multi-year tariff methodology and publish record of decision.	ROD and Tariff Book published.	Achieved	Achieved	Implement the approved Tariff Methodology and Tariff Strategy through the annual Tariff Decision.	Achieved	None	N/A	
	Report on bunkering industry in the South African port system.	Report on shipbuilding and repair industry in the South African ports system completed.	New indicator	New indicator	Report on bunkering industry in the South African ports system.	Achieved	None	N/A	



Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons For Deviations
	Global Port Pricing Study.	Annual GPCS study published	Achieved	Achieved	Global Port Pricing Study.	Achieved	None	N/A
	Conduct a report on market concentration and abuse of dominance.	Report on market concentration and abuse of dominance finalised.	Achieved	Achieved	Report on market concentration and abuse of dominance in SACU.	Achieved	None	N/A
	Development of lease revenue strategy.	Report on lease revenue strategy.	Achieved	Achieved	Lease revenue strategy.	Achieved	None	N/A
	Development of a tariff strategy applicable to Marine Services.	Report on marine services strategy.	New indicator	New indicator	Tariff strategy on marine services.	Achieved	None	N/A
	Report of the review of the Multi-Year Tariff Methodology.	Tariff methodology approved and published.	New indicator	New indicator	Tariff methodology, consulted, approved, and published.	Achieved	None	N/A

Linking Performance With Budgets

The Regulator underspent its Economic Regulation budget as the COVID-19 regulations caused delays in the appointment of staff on funded vacant positions. Furthermore, the planned expenditure for roadshows was saved since these roadshows took place virtually, thus saving venue costs, travelling and subsistence costs etc. Other costs, such as subscriptions, were not spent due to delays in procurement processes.

Programme/ activity/ objective	2022/2023			2021/2022		
	Budget	Actual Expenditure	(Over)/ Under Expenditure	Budget	Actual Expenditure	(Over)/ Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Economic Regulation	8 390	5 972	2 418	6 359	4 859	1 500
Total	8 390	5 972	2 418	6 359	4 859	1 500

Table 6: Economic regulation

Strategy to Overcome Areas of Underperformance

The PRSA achieved all its set targets under the Administration programme.

3.3. Programme 3: Legal Services

Section 30(2)(a) of the National Ports Act states that, "The Regulator must hear appeals and complaints contemplated in sections 46 and 47, respectively, and investigate complaints contemplated in section 48". Complaints management, appeals and hearings are conducted in line with the 2009 Directives issued in terms of Section 30(3) of the Act.

In 2022/23 FY a total of six (6) matters were disposed of by way of issuance of Records of Decision. All pending matters before the Regulator will be heard by the Tribunal or may be settled through alternative dispute resolution measures during 2023/24FY.

The Compliance function of the Ports Regulator is enabled by Section 30(1)(c) of the National Ports Act, which states that, "*The main functions of the Regulator are to – monitor the activities of the Authority to ensure that it performs its functions in accordance with this Act*".

This is one of the key functions of ensuring that the Authority complies with the Act and its broader legislative framework, including the National Ports Regulations, 2007, issued in terms of sections 80(1) (a),(c),(d),(f) and(g) of the Act.

The Ports Regulator, in fulfilling this role, also strives to ensure compliance with the broader legislative framework applicable and relevant to its environment, including key pieces of legislation as contained in its Regulatory Universe, such as the National Ports Act, 2005 (Act No. 12 of 2005), Public Finance Management Act, 1999 (Act No. 1 of 1999, as amended), the Labour Relations Act, 1995 (Act No. 6 of 1995), Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997), Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), Promotion of Administrative Justice Act, 2000 (Act



No. 3 of 2000), Protection of Personal Information Act, 2013 (Act No. 4 of 2013) as well as any other relevant and applicable legislation.

Quarterly, the Ports Regulator reviews data, information and documents submitted by the Authority, covering the following key areas:

- The NPA as a corporate entity;
- Sections 56, 57, 65 and 66 agreements, licences and lease agreements, respectively;
- B-BBEE compliance;
- Section 79 Directives issued; and
- General Compliance in terms of Section 72(4) agreements.

The Regulator's approach to monitoring across the port system is to engage and work with the NPA on an ongoing basis on its compliance. Findings are reviewed to enable improved and increased compliance. The primary purpose of compliance monitoring is to determine the extent to which the Authority has met the requirements embodied in all Chapters of the National Ports Act, along with the 2007 Regulations, save for Chapter 5 of the Act.

The Ports Regulator is also required on an ongoing basis to examine all agreements, leases and licenses of port terminals, port services, and port facilities provided by the Ports Authority within its domain as port landlord to ensure the Act has been adhered to.

The Ports Regulator aims to ensure that compliance monitoring of the port industry operations and development is a joint process of compliance monitoring and regulation of the port sector. The Ports Regulator further aims to ensure that the NPA is compliant with the Act.

In the financial year under review, quarterly compliance review reports and quarterly B-BBEE compliance implementation reports were submitted

to the Chief Executive Officer and the Regulator Members for approval. An annual Section 30(5) report on compliance review in the ports sector was submitted to the Minister of Transport.

All the reports are compiled to ensure that the Ports Regulator plays its oversight role effectively and efficiently, identifies, prevents, and corrects any compliance risks with the applicable laws, regulations, company policies etc. The compliance reports also provide assurance that the Authority executes its activities in line with the requirements of the National Ports Act and its Regulations.

PRSA's Regulatory Compliance:

Section 51(1)(h) of the Public Finance Management Act ("PFMA") provides that *"an accounting authority for a public entity - must comply, and ensure compliance by the public entity, with the provisions of this Act and any other legislation applicable to the public entity"*.

Compliance with all relevant and applicable legislation, regulations, standards and codes is imperative to the Ports Regulator. As a result, the organisation has managed to strengthen its compliance systems to fully comply with the applicable regulatory frameworks.

This process of strengthening compliance has further led to the development and approval of a compliance management framework, a compliance scorecard, several policies and a compliance risk management plan (CRMP) for its enabling legislation – the National Ports Act, that governs the operating activities of the organisation as it aims to achieve its output in line with its Strategic Objectives and Annual Performance Plan, which are reviewed annually.

Table 7: Operating an efficient tribunal

Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations
Operating an effective and efficient tribunal to hear complaints and appeals under the National Ports Act.	Optimised operational efficiency of the hearing panel.	Report on performance assessment of case management, adjudication of matters and decision-making.	Achieved	Achieved	Tribunal supported by the secretariat to operate an efficient hearing panel on complaints and appeals and report quarterly on case management, adjudication and decision making of the Tribunal.	Achieved	None	N/A

Table 8: Monitoring the Authority's activities

Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2019/2020	Audited Actual Performance 2020/2021	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations
Monitoring the activities of the Authority and its compliance with the National Ports Act and other regulatory instruments to ensure access to and competition within the port system.	Improved levels of compliance with the Act by the NPA.	Number of compliance monitoring conducted.	Achieved	Achieved	Five (5) quarterly Compliance Monitoring Reports and One (1) Section 30(5) Report	Achieved	None	N/A
	Improved levels equity of access in the ports system by HDIs in accordance with the relevant regulatory instruments.	Number of B-BBEE compliance reviews conducted.	Achieved	Achieved	One (1) annual B-BBEE Compliance Review Report	Achieved	None	N/A



Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2019/2020	Audited Actual Performance 2020/2021	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations
	Aligned and improved legal instruments.	Number of engagements with the DoT on legislative development regarding new B-BBEE Maritime Sector Codes.	Achieved	Achieved	Four (4) Legislative Development Quarterly Progressive Reports	Achieved	None	N/A
		Number of engagements with the DoT on the legislative development of the ERT Bill, the development of the STER of the STER Business Case and its Implementation Plan.	Achieved	Achieved	Four (4) Legislative Development Quarterly Progressive Reports	Achieved	None	N/A
		Number of draft amendments of the National Ports Regulations, 2007.	New indicator	Achieved	One (1) amendment to National Ports Regulations	Achieved	None	N/A



Programme / Sub-programme:									
Outcome	Output	Output Indicator	Audited Actual Performance 2019/2020	Audited Actual Performance 2020/2021	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations	
		Number of draft amendments of the National Ports Directives, 2009.	New indicator	Achieved	One (1) amendment to National Ports Directives	Achieved	None	N/A	
Ensuring Regulatory Compliance within the organisation.	Improved levels of compliance with various regulatory frameworks by the PRSA.	Number of compliance management frameworks developed.	New indicator	Achieved	Ensuring regulatory compliance within the organisation (Compliance Management Framework and Compliance Risk Management Plan).	Achieved	None	N/A	

Linking Performance With Budgets

The Regulator members prioritised the Tribunal matters and invoked section 50(a) of the Act by appointing a person to assist and dispense counsel to the Hearing Panel members in the complex matters before the Tribunal. All the KPIs for the programme were met. There was also an increase in the staff complement of the Legal Department with the appointment of a Specialist: Tribunal and Compliance effective from 3 October 2022.

Programme/ activity/ objective	2022/2023			2021/202		
	Budget	Actual Expenditure	(Over)/Under Expenditure	Budget	Actual Expenditure	(Over)/Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Legal Services	11 053	10 848	205	10 983	10 268	715
Total	11 053	10 848	205	10 983	10 268	715

Table 9: Legal services

Strategy to Overcome Areas of Underperformance

The PRSA achieved all its set targets under the Legal Services' programme.





3.4. Programme 4: Industry Development

The Industry Development Portfolio is responsible for the Stakeholder Management and efficient South African ports mandate of the Ports Regulator of SA (PRSA). Its role is anchored in the National Ports Act of 2005, Chapter 5, 30 (1) (b), (c) and 30 (2) (f). Through stakeholder engagement platforms, including engagements with the regulated entity, the National Ports Authority, Industry Development, in collaboration with other PRSA portfolios, drives the following processes of the PRSAs mandate:

- Promote equity of access to ports and to facilities and services provided in ports;
- Monitor the activities of the National Ports Authority to ensure that it performs its functions in accordance with the National Ports Act, 12 of 2005; and
- Regulate the provision of adequate, affordable, and efficient port services and facilities.

Industry Development is accountable for the following in carrying out its portfolio functions:

- Industry Development is responsible for operational performance monitoring and reporting function of SA port system with particular focus on:
 - Improvement of SA ports' operational efficiencies informed by agreed upon Key Performance Indicators between the Port Authority, Terminal Operators, and other key stakeholders;
 - Research work to identify weaknesses and opportunities for improvement for SA ports performance;
 - The Port Authority's CAPEX expenditure and Transformation Agenda align with the National Ports Act of 2005 objective of promoting the development of an effective and productive South African port industry that can contribute to the economic growth and development of the country;

- Raising awareness and disseminating information about the duties and activities of the port regulator;
- The department also collates and analyses port users' perceptions and feedback about the work of the Ports Regulator through self-administered questionnaires at each of the road shows and the consultative process of the Regulator; and
- Support the Department of Transport's (DOT) initiatives and interventions on Oceans Economy and the Minister's priorities for the Maritime Sector as reflected on the Minister's Performance Agreement.

The PRSA's stakeholder interactions, specifically the Port Consultative Committees (PCC), National Port Consultative Committees (NPCC), KPI and WEGO Sub-Committees, Tariff Roadshows, and Annual PCC Port Performance Roadshows, reveal that port users continue to have pain points and experience challenges in areas such as:

- **Terminal Performance:** Port users continuously complain about equipment breakdowns in key terminals e.g., container terminals, unavailability of adequate resources to handle cargo efficiently. This demonstrates lack of investment in terminals especially those operated by Transnet Port Terminals in ports like Richards Bay and Container Terminals.
- **Congestion:** The unreliability of rail has driven cargo to be transported via road, which has created high volumes of trucks on SA ports' roads but also on national roads leading to the ports. The unprecedented number of trucks queuing for port access in the Port of Richards Bay has resulted in port users raising a red flag on the sustainability of this untenable situation.
- The Port Authority's inability to spend its CAPEX as approved by the PRSA through the Port Authority's Tariff Application year-on-year continues to plague SA ports. The inability to invest in SA ports infrastructure timeously, is a great concern. Furthermore, its protracted approval processes and decision-

making, is of great concern for port users and as a result, the Port Authority has cost them money in demurrage costs because of delays and business opportunities lost.

- **Operational Efficiencies:** The effectiveness of current performance improvement mechanisms that are in place is being questioned. Many of the SA ports are deemed inefficient, with port users noting pockets of improvements in ports like Cape Town. The continued poor performance of Key Performance Indicators (KPIs) in Terminal Operator Performance Standards (TOPS), Marine Operator Performance Standards (MOPS) and Weighted Efficiency Gains from Operations (WEGO) is a pain point that port users have escalated to the PRSA and Government.
- The view of port users is that SA ports together with port users need to fix the base and create an environment for KPI performance monitoring. With lack of investment in terminals and sufficient gangs to operate, renders the WEGO an ineffective mechanism to improve performance.

Industry Development performs diverse research to ensure that interventions to areas of concern are relevant and successful, allowing the port

community and itself as an institution to stay ahead of evolving trends in worldwide ports. Industry Development issued the following research document and Record of Decision on the PRSA website for the fiscal year 22/23:

- Port Benchmarking 2021/22 Report; and
- Record of Decision on WEGO KPIs 2022/23.

Far and above, Industry Development has concluded three (3) other research reports, which will be utilised internally to enhance the PRSA research and performance monitoring capability. In the 23/24 FY these will be shared with the Port Authority with a view of drafting intervention plans that will be monitored during the NPA/PRSA Technical Working Committees. These are:

- Report on National Ports Authority’s Capital Project Register;
- Implementation of Equity of Access in SA Ports Report; and

Terminal Operator Performance Standards Analysis Report.



Table 10: Industry development projects

Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons For Deviations
Engage stakeholders and monitor provision of infrastructure and facilities; and promotion of efficiencies in the port system.	Implementation of stakeholder engagement plan and knowledge management plan.	Quarterly reports on stakeholder engagement.	Achieved	Achieved	Quarterly stakeholder engagement report.	Achieved	None	N/A
	Monitor port performance (TOPS and MOPS).		Achieved	Achieved	One (1) Annual report on port performance (TOPS and MOPS).	Achieved	None	N/A
	Monitor and report on port performance.	Research report: benchmarking SA port performance and efficiencies.	Achieved	Achieved	One (1) research report on port performance; update infrastructure utilisation and operational efficiency report.	Achieved	None	N/A



Programme / Sub-programme:									
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons For Deviations	
		Manage implementation of WEGO.	New indicator	Achieved	WEGO	Achieved	None	N/A	
	Monitor and report on equity of access in port infrastructure and services as per strategy.	Report: monitoring equity of access in port facilities and services.	Achieved	Achieved	Report on implementation of equity of access in SA ports.	Achieved	None	N/A	
	Monitor infrastructure productivity and/or efficiency targets for existing infrastructure.	Report: non-simulated efficiency/productivity targets for existing infrastructure.	New indicator	Not achieved	Draft report with proposed non-simulated productivity/efficiency targets on selected terminals and consultations with NPA/terminals/port users on results.	Achieved	None	N/A	
	Assessment of Authority's CAPEX programme.		Achieved	Achieved	CAPEX assessment report per quarter.	Achieved	None	N/A	

All seven (7) projects under Industry Development were achieved for the 2022/23 FY.



Linking Performance With Budgets

Industry Development achieved all seven (7) projects, for the 2022/23 FY Annual Performance Plan with targets summarised in the Table below.

Programme/ activity/ objective	2022/2023			2021/2022		
	Budget	Actual Expenditure	(Over)/Under Expenditure	Budget	Actual Expenditure	(Over)/Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Industry Development	9 935	8 560	1 375	7 272	3 745	3 527
Total	9 935	8 560	1 375	7 272	3 745	3 527

Table 11: Industry Development

In 2022, all tariff application road shows were held in person and as follows:

- Eastern Cape Region: 5 September 2022
- KwaZulu-Natal Region: 13 September 2022
- Western Cape Region: 9 September 2022
- Gauteng Region: 12 September 2022

Over 150 people attended the roadshows. During these sessions, the Regulator requested all attendees to complete a short survey of 20 questions which were aimed to help the Regulator improve the engagements with port users and stakeholders in the South African port system.

In terms of the criteria used, attendees were asked to rate the Ports Regulator and the presentations of the NPA on a scale of 1 (being very poor) to 5 (being very good). These scores were aggregated and captured electronically. The table below reflects the scores.

	Scale of 1	Scale of 2	Scale of 3	Scale of 4	Scale of 5
Rate the NPA presentation	1,6%	3,2%	11,5%	38,7%	45,2%
Does the amount of information provided allow you to effectively comment on the Tariff Application?	-	3,2%	19,4%	48,4%	29%
Does the kind and quality of information provided allow you to effectively comment on the Tariff Application?	-	4,8%	19,4%	45,2%	30,6%
Rate the efficiency of the PRSA	-	1,6%	19,4%	37,1%	41,9%
Rate the effectiveness of the PRSA	-	3,2%	16,1%	43,5%	37,1%
Rate the responsiveness of the PRSA	1,6%	3,2%	12,9%	45,2%	37,1%
Rate the neutrality of the PRSA	1,6%	1,6%	17,7%	27,4%	51,6%
Rate the independence of the PRSA	1,6%	-	19,4%	33,9%	45,2%
Rate the decisions issued by the PRSA	-	6,5%	17,7%	38,7%	37,1%

Table 12: Stakeholder survey results

The feedback received from the 2022 stakeholder survey indicates that stakeholders believe and rated high the neutrality of the Regulator's decisions. This is followed by stakeholder's ratings of the PRSA on independence and efficiency respectively of the work of the organisation.

Strategy to Overcome Areas of Underperformance

Industry Development is adopting an approach of having clear improvement plans for areas of non-compliance and under-performance. The WEGO Record of Decision has articulated this area that on areas of operational efficiencies and CAPEX, the Port Authority must submit its improvement plans to the PRSA..

3.5. Programme 5: Governance

The Regulator's Governance program relates to the Regulator members as well as the Regulator/ Company Secretary. There are currently has 8 Regulator members since there are 2 members who have since left the Regulator since their appointment in June 2022.

The Regulator members exercised and siggared their responsibilities as contained in the National Ports Act as well as the Public Finance Management Act.

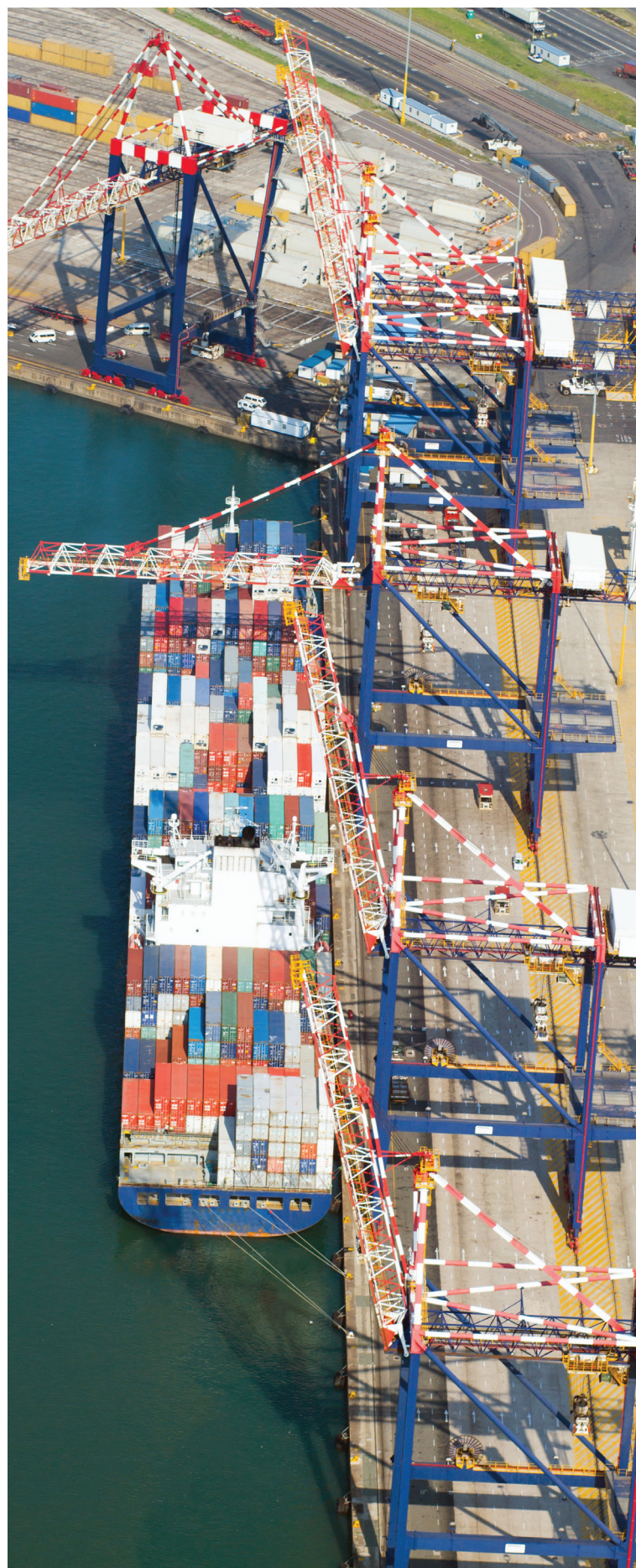


Table 13: Regulatory compliance, good governance and sustainability

Programme / Sub-programme:								
Outcome	Output	Output Indicator	Audited Actual Performance 2020/2021	Audited Actual Performance 2021/2022	Planned Annual Target 2022/2023	Actual Achievement 2022/2023	Deviation from planned target to Actual Achievement 2022/2023	Reasons for deviations
Ensuring regulatory compliance within the organisation.	Promote high ethical standards.	Implementation of ethics policy and standards.	New indicator	New indicator	Full compliance with ethical standards and objectives.	Achieved	None	N/A
Ensuring good governance and sustainability of the organisation.	Governance and compliance framework in place for the organisation.	Governance and compliance checklist reported on quarterly to the Regulator.	Achieved	Achieved	Ensuring good governance and compliance of the organisation.	Achieved.	None	N/A

Linking Performance With Budgets

All the KPIs were met within the allocated budget.

Programme/ activity/objective	2022/2023			2021/2022		
	Budget	Actual Expenditure	(Over)/Under Expenditure	Budget	Actual Expenditure	ww
Governance	R'000	R'000	R'000	R'000	R'000	R'000
	5 630	4 175	1 455	1 635	1 720	-85
Total	5 630	4 175	1 455	1 635	1 720	-85

Table 14: Governance

Strategy to Overcome Areas of Underperformance

The public entity achieved all the set targets under the Governance Programme.



4. REVENUE COLLECTION

Sources of Revenue	2022/2023			2021/2022		
	Estimate	Actual Amount Collected	(Over)/ Under Collection	Estimate	Actual Amount Collected	(Over)/ Under Collection
	R'000	R'000	R'000	R'000	R'000	R'000
Government Grants and Subsidies	42 995	42 995	0	40 966	40 966	0
Interest Income	1 490	2 084	594	1 110	1 387	277
Sale of Goods and Services	0	3	3	0	9	9
Other Income	0	0	0	0	271	271
Total	44 485		45 082	42 076	42 633	557

Table 15: Sources of revenue

The Ports Regulator's baseline allocation and operations are financed from three revenue sources in line with the section 42 of the National Ports Act, Act 12 of 2005, namely: transfers from the fiscus, interest income and complaints and appeals fees.

The Regulator's limited budget was received in full from the fiscus for 2022/23 without any baseline reduction. The South African Reserve Bank revised the interest rate during the financial year as the economy was showing small improvements from casualties of the COVID-19 in an attempt to prevent further economic deterioration and support economic recovery. To this end, the interest rate increased during the financial year resulting in the interest income earned from the investment of surplus funds and transfers that had not yet been utilised, being higher than initially anticipated.

The sale of goods and services refers to the filing fees for complaints and appeals.

The Regulator developed a funding model, which aims to expand the revenue sources of the

organisation and assign some of the burden for regulation to direct beneficiaries of the regulatory intervention by introducing a regulatory charge on revenue raised by the National Ports Authority.

The principle of the funding model was to charge the regulated entity a fee on their revenue which would have improved the revenue-generating ability for the entity similarly many other regulated sectors in the country. The levy would increase the revenues of the Regulator, allowing it to fulfil its full mandate.

However, the required legislative amendments for the implementation of the funding model have been put in abeyance by the Department of Transport in favour of a Maritime Development Fund. However in 2022/23 the Department clarified that the Maritime Development Fund will be funding the projects in the Comprehensive Maritime Transport Policy (CMTP) and not economic regulatory functions. Efforts to seek additional funding of the Regulator will have to be redoubled in 2023/24.



5. CAPITAL INVESTMENT

The Ports Regulator did not have any infrastructure investments or projects which would be capital investments. The Ports Regulator investment is only in Property, Plant & Equipment, which comprises computer equipment, vehicles, furniture and fittings.

The expenditure on these items mainly comprises the replacement of aged assets identified during the asset count and new equipment. An asset count is conducted twice a year as part of the maintenance and updating of the asset register with both numerical and physical verification

of assets contained in the asset register. Any assets identified to be damaged during the asset verification exercise are revised down in terms of their fair value/recoverable amount as required by GRAP 17.

During the asset count for 2022/23, all assets were accounted for.

There were no major repairs and maintenance done on the assets during 2022/23. Most of the assets were in fair to good condition except for those recommended for disposal.

Table 16: Infrastructure projects

Infrastructure projects	2021/2022			2020/2021		
	Budget	Actual Expenditure	(Over)/ Under Expenditure	Budget	Actual Expenditure	(Over)/ Under Expenditure
	R'000	R'000	R'000	R'000	R'000	R'000
Property, Plant and Equipment	0	37	(37)	0	306	(306)
Intangible Assets	0	0	0	0	165	(165)
Total	0	37	37	0	471	471



PART C: **GOVERNANCE**



1. INTRODUCTION

The Members of the Regulator are guided in the performance of their governance functions by the Constitution of the Republic of South Africa, 1996; the National Ports Act, 2005; the Public Finance Management Act, 1999 (as amended); the King IV Code on Corporate Governance in South Africa, 2016 (King IV Report) and other applicable prescripts.

As a Schedule 3A Public Entity, the Ports Regulator is responsible, in terms of section 195 of the Constitution of South Africa 1996, ensuring that the democratic values and principles enshrined in the Constitution, including a high standard of professional ethics, are promoted, and maintained. The Ports Regulator's Board is the entity's focal point and custodian of corporate governance. The Regulator Members must uphold the organisational values and display the ethical characteristics of integrity, competence, responsibility, accountability, fairness and transparency in the performance of their duties and functions. The Regulator subscribes to the principles and practices of King IV Report in order to achieve the four desired governance outcomes of ethical culture, good performance, effective control, and legitimacy.

Effective Leadership

The Regulator members lead the organisation in an ethical and effective manner by ensuring the implementation of good corporate governance through its various governance structures, strategies, processes, procedures, and various prescripts. In the 2022/23 financial year, the Regulator ensured its commitment to good corporate governance and sustainability, which was at the forefront of the organisation by continuing with the implementation of a Governance and Compliance Checklist, aligned to the principles and practices of King IV Report. Quarterly Governance Compliance Reports were submitted to the Regulator, in which disclosures were made in terms of the Regulator's governance practices and explaining how the Regulator was

implementing the principles of the King IV Report. The disclosures made in the Governance Compliance Reports are an important instrument to monitor, evaluate and make an informed assessment of the Regulator's overall governance performance. The organisation generally performed well in terms of governance practices, which was strengthened by the appointment of the new Independent Audit and Risk Committee Chairperson and Company/Regulator Secretary during the 2022/23 financial year.

The Regulator Members must uphold the organisational values and display the ethical characteristics of integrity, competence, responsibility, accountability, fairness, and transparency in the performance of their duties and functions; in addition to determining the overall Strategy of the Entity.

The Regulator leads the organisation ethically and effectively by ensuring the implementation of good corporate governance through its various governance structures, which includes the Human Capital, Remuneration, Social and Ethics Committee of the Regulator, strategies, processes, procedures, and various prescripts such as delegations of authority, charters, codes of conduct and policies.

All the Members of the Regulator, in terms of section 31(4) of the National Ports Act, possess the necessary skills and experience to serve on the Regulator. The Regulator appointed appropriately qualified persons to serve as an independent Chairperson and independent Members of its Audit and Risk Committee ("the ARC").

The Ports Regulator is committed to continually striving to strengthen and improve its governance practices, processes, and procedures.



The Table below is a summarised account of the Ports Regulator’s application of the King IV Principles:

Table 17: Summary of Application of King IV Principles

King IV Principle	Description of Principle	Compliance	Application of Principle (Practices implemented)
Principle 1: Leadership	The Ports Regulator/ Accounting Authority should lead ethically and effectively.	✓	The Regulator Charter and Code of Conduct and Business Ethics Policy set out the ethical responsibilities. Members of the Regulator and Independent Audit and Risk Committee Members are required to sign Annual Declarations that they have read, are familiar with and understand the contents of the Code of Conduct and Business Ethics Policy. Members are also required to submit specific and general declarations of interest, in the form of Annual Declarations of Interest and Declarations of Interest which are made at every meeting of the Regulator and its Committees with regards to agenda items, which is minuted accordingly.
Principle 2: Organisational ethics	The Ports Regulator/ Accounting Authority should govern the ethics of the organisation in a way that supports the establishment of an ethical culture.	✓	The Regulator is responsible for institutionalising the entity’s ethical standard. The organisation has the necessary mechanisms/policies/procedures in place which advocate ethical behaviour such as a Code of Conduct and Business Ethics Policy, Fraud Prevention Policy, and a Whistleblowing Policy. The Regulator has delegated the oversight of Ethics to the Human Capital, Remuneration, Social and Ethics Committee. Employees must submit annual declarations of interest and an annual declaration in terms of the Code of Conduct and Business Ethics Policy.

King IV Principle	Description of Principle	Compliance	Application of Principle (Practices implemented)
Principle 3: Responsible corporate citizenship	The Ports Regulator/ Accounting Authority should ensure the organisation is and is seen to be a responsible corporate citizen.	✓	The Regulator is committed to open and transparent stakeholder engagements and relationships. The Industry Development Department is responsible for Stakeholder Engagement and is required to submit a Quarterly Stakeholder Engagement Report to the Regulator, through the Regulatory Committee.
Principle 4: Strategy and performance	The Ports Regulator/ Accounting Authority should appreciate that the organisation's core purpose, its risks and opportunities, strategy, business model, performance and sustainable development are all inseparable elements of the value creation process.	✓	The Regulator is responsible for the strategy, performance management and risk management. To this end, the Regulator approves the Annual Performance Plan, Strategic Plan and Strategic Risk Registers.
Principle 5: Reporting	The Ports Regulator/ Accounting Authority should ensure that reports issued by the organisation enable stakeholders to make informed assessments of the organisation's performance, and its short-, medium- and long-term prospects.	✓	The Regulator ensures that the Annual Report complies with the National Ports Act, 2005, the PFMA, 1999, the Treasury Regulations, 2005 and any other applicable regulatory instruments.
Principle 6: Primary role and responsibilities of the governing body	The Ports Regulator/ Accounting Authority should serve as the focal point and custodian of corporate governance in the organisation.	✓	The roles and responsibilities of the Regulator are contained in a Regulator Charter. The Charter provides for delegations to sub-committees such as the Audit and Risk Committee, Regulatory Committee and the Human Resource, Remuneration, Social and Ethics Committee. Each Committee has their own Terms of Reference which are approved by the Regulator.



King IV Principle	Description of Principle	Compliance	Application of Principle (Practices implemented)
Principle 7: Composition of the governing body	The Ports Regulator/ Accounting Authority should comprise the appropriate balance of knowledge, skills, experience, diversity, and independence for it to discharge its governance role and responsibilities objectively and effectively.	✓	The Regulator has the required knowledge, skills, experience, diversity, and independence to effectively discharge its mandate.
Principle 8: Committees of the governing body	The Ports Regulator/ Accounting Authority should ensure that its arrangements for delegation within its own structures promote independent judgement and assist with balance of power and the effective discharge of its duties.	✓	All members of the Regulator are non-executive members with three of the Audit and Risk Committee members, which includes the Audit and Risk Committee Chairperson, being independent members. The Regulator has delegated certain functions to three sub-committees, with each sub-committee governed by a Terms of Reference.
Principle 9: Evaluations of the performance of the governing body	The Ports Regulator/ Accounting Authority should ensure that the evaluation of its own performance and that of its committees, its chair, and its individual members, support continued improvement in its performance and effectiveness.	X	A Performance Evaluation Questionnaire was developed, and all Regulator Members are required to complete and return the questionnaire to the Company/ Regulator Secretary for evaluation and reporting. Performance Evaluations are ordinarily conducted on an annual basis. As at the end of the 2022/23 financial year, three (3) Performance Evaluation Questionnaires were outstanding from members. However, as at the end of April 2023, all Performance Evaluation Questionnaires were received from members.
Principle 10: Appointment and delegation to management	The Ports Regulator/ Accounting Authority should ensure that the appointment of, and delegation to, management contribute to role clarity and the effective exercise of authority and responsibilities.	✓	A Delegation of Authority Framework is currently in place.

King IV Principle	Description of Principle	Compliance	Application of Principle (Practices implemented)
Principle 11: Risk governance	The Ports Regulator/ Accounting Authority should govern risk in a way that supports the organisation in setting and achieving its strategic objectives.	✓	In terms of the Regulator Charter, the Regulator is responsible for the governance of risk. A Risk Management Policy is in place. A Risk Register is developed each year, and Management submits Risk Management Reports to the Regulator, through the Audit and Risk Committee, on a quarterly basis.
Principle 12: Technology and information governance	The Ports Regulator/ Accounting Authority should govern technology and information in a way that supports the organisation setting and achieving its strategic objectives	✓	Management submits Quarterly IT Governance Reports to the Regulator, through the Audit and Risk Committee.
Principle 13: Compliance governance	The Ports Regulator/ Accounting Authority should govern compliance with applicable laws and adopted, non-binding rules, codes and standards in a way that supports the organisation being ethical and a good corporate citizen.	✓	Compliance is ensured by Management, monitored by the Audit and Risk Committee who reports to the Regulator thereon.
Principle 14: Remuneration governance	The Ports Regulator/ Accounting Authority should ensure that the organisation remunerates fairly, responsibly, and transparently so as to promote the achievement of strategic objectives and positive outcomes in the short, medium, and long term.	✓	The Human Resource, Remuneration, Social and Ethics Committee provides oversight on HR matters. The PRSA has a Remuneration and Rewards Policy and Short-Term Incentive Policy in place.



King IV Principle	Description of Principle	Compliance	Application of Principle (Practices implemented)
Principle 15: Assurance	The Ports Regulator/ Accounting Authority should ensure that assurance services and functions enable an effective control environment, and that these support the integrity of information for internal decision-making and of the organisation's external reports.	✓	The Audit and Risk Committee assists the Regulator with this responsibility. An outsourced Internal Audit provides assurance services to the organisation.
Principle 16: Stakeholders	In the execution of its governance role and responsibilities, the Ports Regulator/Accounting Authority should adopt a stakeholder-inclusive approach that balances the needs, interests, and expectations of material stakeholders in the best interest of the organisation over time.	✓	The Regulator is committed to open and transparent stakeholder engagements and relationships. The Industry Development Department is responsible for Stakeholder Engagement and is required to submit a Quarterly Stakeholder Engagement Report to the Regulator, through the Regulatory Committee.
Principle 17: Institutional investors	The governing body of an institutional investor organisation should ensure that responsible investment is practiced by the organisation to promote the good governance and the creation of value by the companies in which it invests.	N/A	Not applicable

In terms of Governance, the Ports Regulator carried out the following key activities, including but not limited to:

- Considering and approving the entity's Annual Performance Plan for the 2023/2024 financial year;
- Confirming the entity's Strategic Plan 2020-2025;
- Constituting Ports Regulator Sub-Committees;
- Appointing Tribunal Hearing Panels to consider appeals/complaints; and
- Regulator and Committee meetings.

Quarterly reports on the performance (including financial performance) of the Entity were submitted timeously to the Executive Authority.

The Ports Regulator achieved 100% of its annual targets in terms of its Annual Performance Plan for the 2022/2023 financial year.

The Ports Regulator ensures that it has a transparent and open relationship with the Executive Authority and continuously informs the Authority of work undertaken, milestones and challenges the Entity faces.

New Appointments

All Regulator Members possess the necessary skills and experience to serve as Regulator members to determine the tariffs of the National Ports Authority; sit as full members of the hearing panels on appeal and complaints matters; oversee the compliance functions undertaken by the secretariat in monitoring the NPA's performance in line with the Act, and provide strategic direction and oversight on the various research and assessments projects implemented by the Secretariat in strengthening

regulatory economics, port pricing and efficiency research, as well as run an efficient and effective secretariat.

The Regulator appointed a suitably qualified, fit, and proper Independent Audit and Risk Committee (ARC) Chairperson in October 2022. Two Independent Audit and Risk Committee members were re-appointed in October 2022. The Audit and Risk Committee is bolstered by a further four members of the Regulator. The Company/Regulator Secretary was appointed in January 2023 and adequately supports and serves the Regulator. The Acting CEO was duly appointed by the Minister of Transport in February 2023, whose competence in leading the Secretariat resulted in the achievement of the quarter 4 targets for the financial year covered in the report.

The Ports Regulator is committed to continually striving to strengthen and improve its governance practices, processes, and procedures.





2. COMMITTEES

In accordance with Principle 8 of King IV, the Regulator delegates certain responsibilities to Regulator committees while remaining ultimately accountable.

The Ports Regulator has three standing committees:

- Audit and Risk Committee (“ARC”)
- Human Capital, Remuneration, Social and Ethics Committee (“HRSE”)
- Regulatory Committee (“RegCom”)

A Special Regulator Committee was also constituted by the Regulator as an ad-hoc Committee during the 2022/23 financial year.

These committees, are constituted to assist the Regulator to achieve the organisation’s objectives, enable the Regulator to make informed decisions based on their recommendations.

The chairperson and the members of these committees are appointed by the Regulator, which ensures that they have the necessary skills, expertise, knowledge, capacity, and experience to perform their functions and duties efficiently and effectively.

Each committee is governed by formal terms of reference or charter, which is reviewed annually and approved by the Regulator. The charters deal with the composition, roles, and responsibilities, meeting procedures and reporting for each Committee.

2.1 Audit and Risk Committee

The Audit and Risk Committee is a statutory committee that provides independent assurance, oversight and assistance in control, governance, and risk management.

The ARC comprised eight members and met on seven occasions during the period under review. The members of the committee are:

- Mr Tshepiso Poho (Independent Non-Executive Committee Chairperson, appointed on 1 October 2022 to 30 September 2025)
- Ms Desiree Siphwe Nage (Independent Non-Executive Committee Chairperson, appointed on 23 January 2020 to 31 May 2022, re-appointed on 1 October 2022 to 30 September 2025 as an Independent Non-Executive Committee Member)
- Mr Luyanda Mansfield Mangquku (Independent Non-Executive Committee Member, appointed on 23 January 2020 to 31 May 2022, re-appointed on 1 October 2022 to 30 September 2025 as an Independent Non-Executive Committee Member)
- Mr Junaid Bhayat (Independent Non-Executive Committee Member, appointed on 23 January 2020 to 31 May 2022)
- Mr Zola Luxolo Fihlani (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Zonica Leanda-Marsha Mtshali (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Kenosi Pearl Louisa Selane (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Zandile Matilda Kabini (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Joyce Sekgothadi Kabelo (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)

- Ms Mukondeleli Johanna Mulaudzi (Ex-Officio Committee Member, CEO), appointed on 1 January 2021 to 31 December 2025)
- Ms Nokuzola Nkowane (Ex-Officio Committee Member, Acting CEO), appointed on 8 February 2023 until further notice)

The Members of this committee collectively possessed the necessary financial skills, literacy, and experience to perform their functions effectively.

The Audit and Risk Committee operates in terms of an approved Committee Charter. The following are some of the Audit and Risk Committee's responsibilities:

- Review the Annual Financial Statements and annual report and make recommendations to the Ports Regulator;
- Oversight of risk management;
- Review and assess internal controls;
- Review compliance with performance management and reporting systems;
- Review and approve Internal Audit Plan;
- Review findings and recommendations of external auditors;
- Review effectiveness of compliance monitoring;
- Provide necessary reports and reporting;
- Assess the effectiveness of combined assurance; and
- Review Audit and Risk Committee Charter and Internal Audit Charter.

Evaluation of the Annual Financial Statements

The Audit and Risk Committee has considered the following:

- Internal Audit Reports;
- Delta lease extension;
- Salary benchmarking project submission;
- Legal opinion submission;
- Liability insurance submission;
- Adjustment of the budget;
- 2023/24 APP;
- Asset Management Policy;
- Quarterly Risk Management reports;
- IT Governance reports;
- Quarterly Contract Management reports;
- Quarterly Deviations/Variations reports; and
- Risk Maturity Assessment report.

AGSA Auditor's Report

The Audit and Risk Committee, on a quarterly basis, reviewed the PRSA's AGSA audit implementation plan for audit issues raised in the prior year.

The Audit and Risk Committee met with the AGSA to ensure that there were no unresolved issues that emanated from the regulatory audit. Corrective actions on the detailed findings raised by the AGSA were monitored by the Audit and Risk Committee on a quarterly basis and the majority of matters raised were resolved by financial year-end.

The Audit and Risk Committee concurs and accepts the conclusions of the AGSA on the annual financial statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the AGSA.



Enterprise Risk Management Governance

The Audit and Risk Committee is responsible for the oversight of the risk management function and has advised management continually on the best risk management practices. This would include monitoring the progress on the implementation of future mitigation strategies to provide assurance that PRSA is effectively managing their risks.

Management has designed and implemented controls to manage the risks faced by the PRSA and reports to the Audit and Risk Committee on the entity's management of risk. The PRSA conducted its Annual Risk Assessment, and the Annual Strategic and Operational Risk Registers were approved and adopted by the Ports Regulator. The Audit and Risk Committee has reviewed the strategic and operational risk registers, considered new and emerging risks, and has satisfied itself of the risk mitigating measures employed to ensure risks are within tolerable levels.

The Audit and Risk Committee is a statutory committee that provides independent assurance, oversight and assistance in control, governance, and risk management.

Mr Tshepiso Poho

Chairperson: Audit and Risk Committee

Date: 31 July 2023



2.2 Human Capital, Remuneration, Social and Ethics Committee

The Human Capital, Remuneration, Social and Ethics Committee was comprised of five members and met on five occasions during the period under review.

The members of the committee are:

- Mr Zola Luxolo Fihlani (Non-Executive Committee Chairperson, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Zonica Leanda-Marsha Mtshali (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Zandile Kabini (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Siphokazi Matolengwe (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Mukondeleli Johanna Mulaudzi (Ex-Officio Committee Member, CEO), appointed on 1 January 2021 to 31 December 2025)
- Ms Nokuzola Nkowane (Ex-Officio Committee Member, Acting CEO), appointed on 8 February 2023 until further notice)

The role of the Human Capital, Remuneration, Social and Ethics Committee is to assist the Regulator with:

- Governance and control of human resource and remuneration strategies, processes, procedures, and HR activities within the organisation;
- Ensuring fair and transparent conditions of services and employee benefits;
- Ensuring that effective human resource-related policies and procedures are in place;
- Overseeing the execution of the Human Resource Strategy;
- Conducting an annual review of policies, procedures and remuneration structures;
- Encouraging an ethical culture within the PRSA; and
- Ensuring that the PRSA is a good corporate citizen.

The Committee considered and recommended several instrumental documents and policies which the Regulator approved:

- Salary benchmarking project submission;
- Legal opinion submission; and
- 2023/24 APP.

Mr Zola Luxolo Fihlani

Chairperson: Human Capital, Remuneration,
Social and Ethics Committee

Date: 31 July 2023





2.3 Regulatory Committee

The Regulatory Committee is comprised of six members and met on five occasions during the period under review.

The Members of the Committee are:

- Dr Tshisikhawe Victor Munyama (Non-Executive Committee Chairperson, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Zonica Leanda-Marsha Mtshali (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Joyce Sekgothadi Kabelo (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Siphokazi Matolengwe (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Mr Mthunzi Madiya (Department of Transport Representative, appointed on 10 July 2020 until further notice, term of office was extended to 31 August 2023)
- Ms Mukondeleli Johanna Mulaudzi (Ex-Officio Committee Member, CEO), appointed on 1 January 2021 to 31 December 2025)
- Ms Nokuzola Nkowane (Ex-Officio Committee Member, Acting CEO), appointed on 8 February 2023 until further notice)

The role of the Regulatory Committee is to assist the Regulator with:

- Research report on the South African Steel and stainless-steel logistics chain;
- Implement the approved Tariff Methodology and Tariff Strategy through the annual Tariff Decision (i.e., NPA annual tariff determination);
- Report on bunkering industry in the South African Ports System;

- Annual Ports Regulator's Global Port Pricing Study;
- Report on market concentration and abuse of dominance in SACU;
- Revision of the Tariff Methodology for FY 2023/24-2026/27;
- Report on the revision of the Marine Revenue Strategy;
- Report on Lease Revenue Strategy;
- Implementation of WEGO - (WEGO Record of Decision);
- Port Benchmarking SA port performance and efficiencies;
- Revision of the PAIA Manual;
- Development of the Regulatory Compliance Management Framework;
- Development of the Compliance Policy, Compliance Manual and Compliance Charter;
- Development of the Compliance Risk Management Plan (CRMP) for the National Ports Act, Act No.12 of 2015;
- Development of the POPI Policy;
- Draft amendment of the National Ports Act, 2005;
- Draft amendment of the National Ports Act Regulations, 2007; and
- Draft amendment of the National Ports Act Directives, 2009.

Dr Tshisikhawe Victor Munyama
Chairperson: Regulatory Committee

Date: 31 July 2023

2.4 Special Regulator Committee

The Special Regulator Committee is comprised of four Members and met on one occasion during the period under review.

The members of the committee are:

- Ms Zandile Kabini (Non-Executive Committee Chairperson, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Mr Zola Luxolo Fihlani (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Zonica Leanda-Marsha Mtshali (Non-Executive Committee Member, appointed on 1 June 2020 to 31 May 2023, term of office was extended to 31 August 2023)
- Ms Siphokazi Matolengwe (Non-Executive Committee Member, appointed on 1 June 2020 to

31 May 2023, term of office was extended to 31 August 2023)

- The role of the Special Regulator Committee was to:
- Consider and approve the Request for Quotation for an Independent Forensic Investigation into HR related matters; and
- Attend the compulsory briefing session with the prospective service providers to provide them with the allegations listed on the letters addressed to the Regulator Acting Chairperson.

Ms Zandile Matilda Kabini

Chairperson: Special Regulator Committee

Date: 31 July 2023





3. EXECUTIVE AUTHORITY

The Minister of Transport is the Executive Authority of the Ports Regulator, as per the PFMA and Regulations. The Minister appoints the Ports Regulator Board members and the Chief Executive Officer, as per the National Ports Act, 2005.

The Ports Regulator is the Accounting Authority of the organisation and provides strategic direction to the entity. It is common governance practice for the Regulator to sign a performance agreement with the Minister of Transport, which outlines the responsibilities, delegations and expectations that the Regulator must respond to. The Minister appointed Regulator Board Members, representing the requisite mix of qualifications – competence and experience in accounting, economics, law, regulation, shipping and public and development administration – in June 2020 for a three-year term.

The Regulator Members signed a performance agreement for the 2022/2023 financial year which governs the relationship between the entity and the Executive Authority and articulates the respective parties' roles and responsibilities, undertakings and obligations whilst outlining planning, budgeting and reporting requirements and timelines for the entity.

The CEO is the Accounting Officer and ex-officio member of the Regulator; and is responsible for the management of the day-to-day affairs of the organisation.

During the year under review, 100% of the targets were achieved as set out in the organisation's 2022/2023 Annual Performance Plan.



4. THE ACCOUNTING AUTHORITY/BOARD

Introduction

The Ports Regulator is the Accounting Authority, and the governing body. The Regulator is responsible and accountable for the governance and the overall performance of the organisation, establishing good corporate governance and risk management. The role of the Ports Regulator includes but is not limited to:

- Providing effective leadership on an ethical foundation;
- Acting as the focal point for and custodian of corporate governance;
- Effectively performing the functions as more fully set out in section 30 of the National Ports Act, 2005;
- Considering and approving the strategic and business plans of the entity;
- Assuming responsibility for the performance of the entity;
- Ensuring that an effective and independent Audit and Risk Committee is in place;
- Assuming responsibility for the governance of risk and IT governance;
- Ensuring an effective risk-based Internal Audit;
- Ensuring compliance with all applicable laws and regulatory instruments; and
- Setting and evaluating the overall policy for the development, improvement and operation of the Ports Regulator.

The role of the Board is as follows:

Given the mandate of the Entity, as set out in the Eskom Conversion Act, the MOI and Shareholder Compact¹. In keeping with good corporate governance practices, the Board has identified its role as follows:

- Provision of strategic direction and leadership to build a sustainable entity;
- Approval of key policies. including:
 - a. risk management policies and plan;
 - b. information technology (“IT”) policies and strategy; and
 - c. adopting a formal dispute resolution process for internal and external disputes.
- Approval and monitoring compliance with corporate plans, financial plans and budgets (including setting objectives and targets);
- Focal point for and custodian of good corporate governance and ethics;
- Monitoring and reviewing performance and effectiveness of controls;
- Setting the values to which the Entity will adhere (including board and management);
- Monitoring and ensuring triple bottom line performance in the context of integrated sustainable economic, social, and environmental performance, and issuing the Board’s assessment of the company’s ability to continue as a going concern in respect thereof;
- Taking responsibility for information technology (IT) risk;
- Succession planning;
- Taking responsibility for the governance of risk;

¹ to be reviewed – shareholders’ compact will be void to the extent that it is in conflict with MOI



- Guiding restructuring and transformation;
- Considering business rescue proceedings or other turnaround mechanisms, if and when necessary;
- liaising with and reporting to the shareholders;
- promoting the stakeholder inclusive approach of governance;
- approval of transactions beyond the authority of management; and
- ensuring that the Entity complies with applicable laws to non-binding rules, codes and standards.

Board Charter

As recommended in Principle 6 of King IV Report, the Ports Regulator has a Charter in place, to ensure that it remains relevant. The Charter provides for the Board's composition, roles and responsibilities, as well as the requirements for its meeting procedures and its code of conduct. The Ports Regulator confirms that during the period under review, it satisfactorily discharged its duties and obligations as contained in the Charter. In line with the Board Charter, members of the Regulator act as the focal point for, and the custodian of, corporate governance by managing its relationship with the Executive Authority (the Minister of Transport), assuming responsibility as the link with the Secretariat and industry stakeholders in accordance with sound corporate governance principles set out in the King IV Codes and the PFMA.

Members of the Regulator perform the functions set out in section 30 of the National Ports Act, including:

- Exercising economic regulation of the ports system in line with the government's strategic objectives by considering and determining the overall port infrastructure, facilities and services tariffs raised by the National Ports from shipping lines, cargo owners, lessees and terminal operators in each of the country's

commercial ports based on the established tariff methodology and tariff strategy. It is the Regulator's responsibility to regulate the provision of adequate, affordable and efficient port services and facilities. To ensure the consistent application of the principles of the National Ports Act, the Regulator must promote regulated competition and negotiate and conclude an agreement with the Competition Commission.

- Promoting equity of access to ports and to services and facilities provided in ports, constituting hearing panels to hear and decide on complaints and appeals, to provide port users and parties who may be adversely affected by any decision, action or inaction of the Authority the necessary recourse.
- Monitoring the Authority to ensure that it complies with the National Ports Act.

The Members of the Regulator, as a collective and in the respective committees, are responsible for overseeing the development of the organisation's Strategic Plan and Annual Performance Plan, including budgets, pricing mechanisms, policies and financing arrangements and approval thereof. The members of the Regulator ensure that the organisational strategies will result in sustainable outcomes for the Secretariat as well as regulated industry; identify key performance and risk areas; must approve contracts for major works and purchases subject to section 54 of the PFMA; ensure that the Ports Regulator has an effective and independent audit committee; be responsible for the governance of risk and setting the tone for the values of the organisation including the principles of ethical business practice and of being a responsible corporate citizen. The Ports Regulator embraces, is governed by and aims to comply with the principles espoused in the King Codes of Good Practice IV, as summarised in the table starting on the next page.

The Board is responsible and accountable for the public entity's performance and strategic direction..

Table 18: Composition of the Board

Name	Designation (in terms of the Public Entity Board structure)	Date appointed	Date resigned	Qualifications	Area of Expertise	Board Directorships (List the entities)	Other Committees or Task Teams (e.g.: Audit committee/ Ministerial task team)	No. of Meetings attended
Mr Fihlani, Zola Luxolo	Non-Executive Regulator Member	1 June 2020	N/A	Chartered Accountant (CA) SA	Commerce, Economics, Public Management	Board member at the Ports Regulator of South Africa, South African Diamond and Precious Metals Regulator Audit Committee Member, National Department of Tourism, Special Investigating Unit	Audit and Risk Committee Member, Human Capital, Remuneration, Social and Ethics Committee Chairperson, Special Regulator Committee Member, Hearing Panellist	12/12
Ms Kabelo, Joyce Sekgothadi	Non-Executive Regulator Member	1 June 2020	N/A	Bachelor of Laws (LLB), practised as an Advocate at the JHB Society of Advocates, currently a Director at KWA Attorneys	Commercial Law	-	Audit and Risk Committee Member, Regulatory Committee Member, Hearing Panellist	11/12
Ms. Kabini, Zandile Matilda Kabini	Non-Executive Regulator Member	1 June 2020	N/A	BCom (Honours in Informatics)	ICT, Commerce, Corporate Strategy and Execution	Board Member at Road Traffic Management Corporation, SADC Groundwater Management Institute and Broadband Infraco.	Audit and Risk Committee Member, Human Capital, Remuneration, Social and Ethics Committee Member, Special Regulatory Committee Chairperson, Hearing Panellist	12/12



Name	Designation (in terms of the Public Entity Board structure)	Date appointed	Date resigned	Qualifications	Area of Expertise	Board Directorships (List the entities)	Other Committees or Task Teams (e.g.: Audit committee/ Ministerial task team)	No. of Meetings attended
Mr Madiya, Mthunzi	Department of Transport, Departmental Representative	1 June 2020	N/A	BCom (Honours), BPhil (Honours) (Maritime Economic Studies), Bachelor of Social Science (Honours) Post Graduate Diploma (Business Management), Commercial Capability Certificate (GIBS), Port Management Certificate (Antwerp Ports Authority, Belgium)	Maritime Transport Ports Authorities and Ports Operation, Liquid Bulk Business Ports Infrastructure & its Commerce, Stakeholder Management Project Development and Management	Member of SAMSA since 2015, member of SAMSA Board, Maritime Industry Development Sub-Committee, Head Operation Phakisa Ocean Economy-Maritime Transport and Manufacturing, Chairperson of National Ports Consultative Committee and Ports Consultative Committee	Regulatory Committee Member	8/12
Ms Matolegwe, Siphokazi	Non-Executive Regulator Member	1 June 2020	N/A	National Diploma in Maritime Studies, currently studying towards the Professional Qualifying Exams in Maritime	Shipping Industry, Commerce and Ports	-	Regulatory Committee Member, Human Capital, Remuneration, Social and Ethics Committee Member, Special Regulator Committee Member, Hearing Panellist	12/12

Name	Designation (in terms of the Public Entity Board structure)	Date appointed	Date resigned	Qualifications	Area of Expertise	Board Directorships (List the entities)	Other Committees or Task Teams (e.g.: Audit committee/ Ministerial task team)	No. of Meetings attended
Ms Mtshali, Zonica Leanda-Marsha	Non-Executive Regulator Member	1 June 2020	N/A	Bachelor of Laws (LLB), Post Graduate Diploma in Corporate Law, Admitted Attorney, Notary and Conveyancer of the High Court of SA and Director at Mtshali Chilwane Inc	Corporate Commercial Law, Road Transport, Logistics and Maritime Law, Corporate Governance, Regulatory Compliance, Property and Conveyancing Law, and Notarial Practice.	Board Member at Public Service Commission, Air Services Licensing Council, the National Radioactive Waste Disposal Institute	Human Capital, Remuneration, Social and Ethics Committee Member, Regulatory Committee Member, Special Regulator Committee Member, Hearing Panelist	12/12
Ms Mulaudzi, Mukondeleli Johanna	Ex-Officio Regulator Member (CEO),	1 January 2021	N/A	Bachelor of Administration, Honours Bachelor of Administration, Postgraduate Diploma in Management (Public Policy and Development Administration), Honours Bachelor of Philosophy (Sustainable Development Planning and Management), Certificate in Container Terminal Operations and Management	Administration, Public Policy and Development Administration, Sustainable Development Planning and Management	-	Regulatory Committee Ex-Officio Member, Human Capital, Remuneration, Social and Ethics Committee Ex-Officio Member, Audit and Risk Committee Ex-Officio Member	4/12



Name	Designation (in terms of the Public Entity Board structure)	Date appointed	Date resigned	Qualifications	Area of Expertise	Board Directorships (List the entities)	Other Committees or Task Teams (e.g.: Audit committee/ Ministerial task team)	No. of Meetings attended
Dr Munyama, Tshisikhawe Victor	Non-Executive Regulator Acting Chairperson	1 June 2020	N/A	PhD in Economics	Economics, Commerce, Ports, Shipping Industry, Public and Development Management	-	Regulatory Committee Chairperson, Hearing/Tribunal Chairperson	12/12
Ms Nkowane, Nokuzola	Ex-Officio Regulator Member (Acting CEO)	8 February 2023	N/A	PG Certificate in Business and Strategic Leadership Programme (UK), Senior Leadership Development Program, Diploma in Applied Supply Chain Management and Logistics Certificate, Certificate Program in Leadership Development, Senior Management Programme, Board Exam Certificate in Estate Agency, Bachelor of Arts Degree	Supply Chain Management and Logistics, Business and Strategic Leadership	-	Regulatory Committee Ex-Officio Member, Human Capital, Remuneration, Social and Ethics Committee Ex-Officio Member, Audit and Risk Committee Ex-Officio Member	1/12
Ms Selane, Kenosi Pearl Louisa	Regulator Member	1 June 2020	N/A	Chartered Accountant (CA) SA, MBA	Finance, Economics and Commerce	Chairperson of the Economic Regulating Committee at ACSA, and Air Traffic Navigation Services (ATNS)	Audit and Risk Committee Member, Regulatory Committee Member, Hearing Panellist	12/12

Table 19: Committees

Committee	No. of members	No. of meetings held	No. of meeting attended	Name of members
Audit and Risk Committee	7	8	1/7	Mr Bhayat Junaid (Independent Non-Executive Committee Member)
			7/7	Mr Fihlani, Zola Luxolo (Non-Executive Committee Member)
			7/7	Ms Kabelo, Joyce Sekgothadi (Non-Executive Committee Member)
			7/7	Ms Kabini, Zandile Matilda (Non-Executive Committee Member)
			5/7	Mr Mangquku, Luyanda (Independent Non-Executive Committee Member)
			3/7	Ms Mulaudzi, Mukondeleli Johanna (CEO, Ex-Officio Committee Member)
			6/7	Ms Nage, Desiree (Independent Non-Executive Committee Member)
			3/7	Ms Nkowane, Nokuzola (Acting CEO, Ex-Officio Regulator Member)
			5/7	Mr Poho, Tshepiso (Independent Non-Executive Committee Chairperson)
			4/7	Ms Selane, Kenosi Pearl Louisa (Non-Executive Committee Member)
Human Capital, Remuneration, Social and Ethics Committee	4	5	5/5	Mr Fihlani, Zola Luxolo (Non-Executive Committee Chairperson)
			5/5	Ms Kabini, Zandile Mathilda (Non-Executive Committee Member)
			4/5	Ms Matolegwe, Siphokazi (Non-Executive Committee Member)
			5/5	Ms Mtshali, Zonica Leanda-Mtshali (Non-Executive Regulator Member)
			3/5	Ms Mulaudzi, Mukondeleli Johanna (CEO, Ex-Officio Committee Member)
			2/5	Ms Nkowane, Nokuzola (Acting CEO, Ex-Officio Committee Member)



Committee	No. of members	No. of meetings held	No. of meeting attended	Name of members
Regulatory Committee	7	5	4/5	Ms Kabelo, Sekgothadi (Non-Executive Committee Member)
			4/5	Mr Madiya, Mthunzi (Department of Transport, Departmental Representative)
			5/5	Ms Matolegwe, Siphokazi (Non-Executive Committee Member)
			4/5	Ms Mtshali, Zonica Leanda-Marsha (Non-Executive Committee Member)
			3/5	Ms Mulaudzi, Mukondeleli Johanna (CEO, Ex-Officio Committee Member)
			5/5	Dr Munyama, Tshisikhawe Victor (Non-Executive Committee Chairperson)
			2/5	Ms Nkowane, Nokuzola (Acting CEO, Ex-Officio Committee Member)
			5/5	Ms Selane, Kenosi Pearl Louisa (Non-Executive Committee Member)
Special Regulator Committee	4	1	1/1	Mr Fihlani, Zola Luxolo (Non-Executive Committee Member)
			1/1	Ms Kabini, Zandile Mathilda (Non-Executive Committee Chairperson)
			1/1	Ms Matolegwe, Siphokazi (Non-Executive Committee Member)
			1/1	Ms Mtshali, Zonica Leanda-Mtshali (Non-Executive Committee Member)

Subject to section 31(7) of the National Ports Act, Members of the Ports Regulator are appointed on such terms and conditions and are entitled to such remuneration as the Minister of Transport may, with the concurrence of the Minister of Finance, determine.

In terms of Principle 6 of King IV report, the Regulator has adopted a Remuneration policy for members which is underpinned by principles of transparency, accountability, and fairness; sets the tone for ethical behaviour by Regulator members, and an Independent Audit Committee ensures that remunerative practices are in accordance with the provisions of the National Ports Act,

the PFMA, National Treasury Regulations and periodic instructions that National Treasury issues. Members are remunerated for attendance of Board, Committee, and ad-hoc or special meetings and the time spent preparing for the meetings. Members are also reimbursed for any travel/ business expenses incurred in undertaking the work of the Regulator. Remuneration is disclosed in the Annual Financial Statements. There is no other remuneration paid to the members except for meetings attended. Mr Mthunzi Madiya is an employee of the Department of Transport and in line with section 31(7) of the National Ports Act, is not remunerated.

Table 20: Remuneration of board members

Name	Remuneration	Other Allowances	Other reimbursements	Total
Mr Fihlani, ZL	333	0.00	0.00	333
Ms Kabelo, JS	312	0.00	0.00	312
Ms Kabini, ZM	417	0.00	0.00	417
Ms Matolengwe, S	283	0.00	0.00	283
Ms Mtshali, ZLM	374	0.00	0.00	374
Dr Munyama, TV	748	0.00	0.00	748
Ms Selane, KPL	245	0.00	0.00	245
Total	2 712	0.00	0.00	2 712

5. RISK MANAGEMENT

During the period under review, the 2022/23 risk register was approved and a Strategic Planning Session was held in January 2023, which resulted in the formulation of the 2023/24 risk register.

Risk management is a standing item on the EXCO agenda as well as on the Audit and Risk Committee agenda. The CFO, in his capacity as Chief Risk Officer, reports to both these committees on the actions taken to mitigate known risks, new potential risks,

and past risks that have been mitigated. The CFO is assisted by Risk Champions who are members of a Committee Chaired by the CFO.

The entity's Risk Management plans have been very effective in that it has managed to achieve 100% of its planned targets on the annual performance plan. All the risks facing the organisation were managed effectively and did not affect the entity's ability to attain its planned achievements.

6. INTERNAL CONTROL UNIT

The Ports Regulator does not have an internal control unit, as the entity size does not allow for it. However, this is expected to change in future as the entity has revised its organogram in preparation for the STER..



7. INTERNAL AUDIT AND AUDIT COMMITTEES

The Ports Regulator appointed Bonakude Consulting as the outsourced Internal Audit firm for a three-year period starting in May 2021.

Internal Audit assists the entity to accomplish its objectives by assisting in evaluating and improving risk management, internal control and governance processes.

The work of Internal Audit is guided by the Internal Audit Charter, and Internal Audit is required to be present at all meetings of the Audit and Risk Committee (ARC). Internal Audit reports administratively to the Chief Executive Officer. The Accounting Authority/ARC reviews the work of Internal Audit on a quarterly basis.

Internal Audit undertakes independent reviews, including organisational compliance with policies, processes and codes and assessing how the entity is performing in terms of its internal controls and organisational performance as set out in the Annual Performance Plan.

A risk-based three-year coverage plan as well as an internal audit plan for the 2022/23 financial year was developed and approved by the ARC.

Internal Audit executed and completed all the audits as per the approved Internal Audit Plan. Audit Reports were issued for each completed assignment.

Findings from audit Reports were presented to management and tracked to determine progress by

management in attending to findings. At the end of the financial year, some findings except for a few had been resolved/closed by management. The unresolved findings will be tracked using the audit outcomes action plan.

The internal audit assignments that were performed during the year are listed below:

- Strategic Risk Assessment;
- Performance Information;
- Human Resource Management;
- Operations Review and Stakeholder Management Review;
- Governance;
- AG and IA Follow-up Review;
- Supply Chain and Expenditure Management;
- Annual Financial Statements Review;
- Fraud and Corruption Review;
- Budget Management; and
- Cybersecurity.

Consulting Engagements include:

- Executive Management Incentive Review;
- Determination Test; and
- Probity Reviews.

Table 21: Audit committees

Name	Qualifications	Internal or external	If internal, position in the public entity	Date appointed	Date Resigned	No. of Meetings attended
Mr Bhayat, J	Bachelor of Commerce, Bachelor of Commerce (Honours)(Accounting), Master of Business Administration (MBA), Chartered Accountant (SA), Registered Auditor (IRBA)	External (Independent Non-Executive Committee Member)	N/A	23 January 2020	31 May 2022 (Expiry of term)	1/7
Mr Fihlani, ZL	Chartered Accountant (CA) SA	External (Non-Executive Committee Member)	N/A	1 June 2020	N/A	7/7
Ms Kabelo, JS	Bachelor of Laws (LLB), practised as an Advocate at the JHB Society of Advocates, currently a Director at KWA Attorneys	External (Non-Executive Committee Member)	N/A	1 June 2020	N/A	7/7
Ms Kabini, ZM	BCom (Honours in Informatics)	External (Non-Executive Committee Member)	N/A	1 June 2020	N/A	7/7



Name	Qualifications	Internal or external	If internal, position in the public entity	Date appointed	Date Resigned	No. of Meetings attended
Mr Mangquku, L	BCompt Bachelor of Accounting Sciences (Honours) Master in Business Leadership (MBL) B.Com (Honours) (Accounting) Chartered Accountant (SA)	External (Independent Non-Executive Committee Member)	N/A	23 January 2020, re-appointed 1 October 2022	N/A	5/7
Ms Mulaudzi, MJ	Bachelor of Administration, Honours Bachelor of Administration, Postgraduate Diploma in Management (Public Policy and Development Administration), Honours Bachelor of Philosophy (Sustainable Development Planning and Management), Certificate in Container Terminal Operations and Management	Internal (CEO, Ex-Officio Committee Member)	CEO	01 January 2021	N/A	3/7
Ms Nage, DS	BCom (Accounting) CIA – Certified Internal Auditor CCSA – Certified Control Self Assessor	External (Independent Non-Executive Committee Member)	N/A	23 January 2020, re-appointed 1 October 2022	N/A	6/7

Name	Qualifications	Internal or external	If internal, position in the public entity	Date appointed	Date Resigned	No. of Meetings attended
Ms Nkowane, N	PG Certificate in Business and Strategic Leadership Programme (UK), Senior Leadership Development Program, Diploma in Applied Supply Chain Management and Logistics Certificate, Certificate Program in Leadership Development, Senior Management Programme, Board Exam Certificate in Estate Agency, Bachelor of Arts Degree	Internal (Acting CEO, Ex-Officio Committee Member)	Acting CEO	8 February 2023	N/A	3/7
Mr Pohoh, T	B.Compt Bachelor of Accounting Sciences (Honours) Chartered Accountant (SA) Registered Auditor	External (Independent Non-Executive Committee Chairperson)	N/A	1 October 2022	N/A	5/7
Ms Selane, KPL	Chartered Accountant (CA) SA, MBA	External (Non-Executive Committee Member)	N/A	1 June 2020	N/A	4/7



8. COMPLIANCE WITH LAWS AND REGULATIONS

Quarterly reports are submitted to the ARC and Regulator in respect of compliance with the Public Finance Management Act, 1999. The secretariat submits the Governance and Compliance checklist to the ARC which highlights the entity's compliance status as well as flagging areas that need the attention of the ARC and Regulator.

9. FRAUD AND CORRUPTION

There were no incidents of fraud, corruption, or irregularity committed by employees and/or Regulator members during the period under review. Employees are also required to submit annual declaration of interests. In addition, each year employees are provided with a copy of the PRSA Code of Ethics and Business Code Policy and required to sign an annual declaration. These declarations are submitted to the HR Department. Regulator members are required to declare any conflict of interest at every meeting, and written declarations are submitted to the Company/Regulator Secretary annually who maintains a Declaration of Interest Register. Management provides quarterly reports to the Regulator and the Executive Authority on matters of fraud and corruption, if any. The Compliance Framework, Fraud Prevention Policy and Whistleblowing Policy are designed to allow early detection of fraud and corruption as well as steps to be taken should any fraud be identified.

10. MINIMISING CONFLICT OF INTEREST

The Ports Regulator follows Treasury Guidelines on Supply Chain Management (SCM) to reduce and minimise conflict of interest in SCM. In particular, the prescripts of three committee systems are followed to ensure separation between the Bid Specification Committee and Bid Evaluation Committee from the Bid Adjudication Committee and ultimate approval of procurement of goods and services. Due to the size of the organisation and the multiple functions performed by the CFO and the former HR, IT & SCM specialist, the lack of separation of functions creates a potential for conflict of interest. This was addressed through the appointment of two employees additional to the establishment. The two employees were at Specialist level for IT and HR. This is an interim measure while the entity is awaiting the approval of the revised structure. The Regulator has approved and adopted a SCM Policy which is annually reviewed to ensure alignment with the latest National Treasury updates as well as best practice in SCM. The SCM policy also has a provision for managing conflict of interest and the guidelines that need to be followed should any conflict be identified.

All employees who are involved in the SCM processes are trained annually as required by Treasury Regulations. The training is aimed at highlighting the significance, amongst other things, of managing conflicts of interest on all bids. All employees involved in SCM are required to submit annual declaration of interests and to declare their interest when evaluating bids. The internal auditors as well as external auditors perform tests during the SCM audit to check if all employees have declared their interest and also perform a Companies and Intellectual Property Commission check for any possible link between the Ports Regulator suppliers and the employees at the Ports Regulator. There were no conflicts of interest that were detected and/or declared during the financial year and the audit processes did not identify any such conflicts.

11. CODE OF CONDUCT

The Ports Regulator has adopted a Code of Conduct and Business Ethics Policy. The Code applies to both Regulator Members and employees. The spirit of the Code is to support the highest standards of ethical and good business conduct. The purpose of the Code is to provide guidelines to the Members and employees as to what is expected from them from an ethical point of view, both in their individual conduct and their relationships with both internal and external stakeholders. The CEO ensures that all employees sign an annual declaration as required by the Code. Any employee who contravenes the Code shall be dealt with in accordance with the provisions of the PRSA Disciplinary and Grievance Policy. The Company/Regulator Secretary ensures that Members sign an annual declaration that they have read and will abide by the Code of Conduct and Business Ethics. Any Member who contravenes the Code shall be dealt with in accordance with their appointment in terms of the National Ports Act, 2005.

12. HEALTH, SAFETY AND ENVIRONMENTAL ISSUES

With a small and young staff complement, the Ports Regulator places a high premium on the wellness of its employees, which is addressed in the Health, Safety and Environmental Policy and through its preferred employee wellness provider, ICAS. The Ports Regulator has employees appointed as Health and Safety Officers and capacitated them to execute their respective functions and duties efficiently by providing them with externally facilitated training on the responsibilities of the Health and Safety Officer in the workplace as well as procurement of relevant resources. Their skills were tested during the two fire drills that were performed during the financial year. There were no on-duty incidents to report for the period under review. The National State of Disaster relating to COVID-19 came to an end in April 2022, the Regulator still followed safety protocols even though not as strict as during the lockdown periods.

13. COMPANY/REGULATOR SECRETARY

Ports Regulator members were supported by a Company/Regulator Secretary, Ms Andile Mhlongo, who was appointed in January 2023 and assisted the Regulator Members in carrying out their functions and duties and strengthened the governance structures and practices of the organisation. Prior to Ms Mhlongo's appointment, the PRSA's Company Secretary function was outsourced. The Company/Regulator Secretary assists the Regulator in providing guidance and support with regards to the Members' roles and responsibilities. The Members have full access to the services and advice of the Company/Regulator Secretary. The Company/Regulator Secretary carries out the following duties which includes, but is not limited to: reviewing Charters/Terms of Reference annually; advising the Regulator on governance issues; ensuring the Regulator receives adequate information to make informed decisions; maintaining registers; acting as secretary to all meetings; overseeing induction and training; monitoring and communication of Regulator decisions; facilitating the Annual General Meeting and liaising with the Executive Authority regarding Regulator matters.

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POPIA CONSENT NOTICE: Consent was duly obtained from all data subjects appearing in photographs contained in this Annual Report.



14. SOCIAL RESPONSIBILITY

The Ports Regulator did not undertake any social responsibility activities during the financial year because of funding constraints. As transfers from the fiscus finance the Ports Regulator's operations, the cost containment measures adopted by government limit the Regulator's ability to stretch its budget to perform social responsibility activities. In previous years, staff volunteered time and resources to implement identified social responsibility projects. As funding normalises and the Regulator defines appropriate social responsibility projects that would advance social and developmental goals in the maritime sector, allocations will be made.

15. AUDIT COMMITTEE REPORT

We are pleased to present our report for the financial year ended 31 March 2023.

Audit Committee Responsibility

The Audit Committee reports that it has complied with its responsibilities arising from Section 77 of the Public Finance Management Act, Treasury Regulation 3.1.13 and Principle 8 of the King IV Report on Corporate Governance. The Audit Committee also reports that it has executed its functions as guided in the approved terms of reference/Audit Committee Charter. The Committee has regulated its affairs in compliance with this charter and has discharged all its responsibilities as contained therein, except that the TOR were not revised during the year under review.

The Effectiveness of Internal Control

Our review of the findings of the Internal Audit work, which was based on the risk assessments conducted in the public entity revealed certain weaknesses, which were then raised with the public entity.

The following internal audit work was completed during the year under review:

- Strategic Risk Assessment;
- Performance Information Review;
- Human Resource Management Review;
- Operations Review;
- Stakeholder Management Review;
- Governance Review;
- AG and IA Follow-up Review;
- Supply Chain and Expenditure Management Review;
- Annual Financial Statements Review;
- Fraud and Corruption Review;
- Budget Management Review;
- Cyber Security Review;

- Consulting Engagements:
 - Executive Management Incentive Review;
 - Determination Test; and
 - Probity Reviews.

The following was an area of concern:

- Fruitless and Wasteful Expenditure as ascertained after a determination test conducted by the Internal Auditors at the request of the Audit and Risk Committee, the recovery process of which is still under consideration by the Accounting Authority.

In-Year Management and Monthly/ Quarterly Report

The public entity has submitted monthly and quarterly reports to the Executive Authority.

Evaluation of Financial Statements

We have reviewed the annual financial statements prepared by the public entity.

Auditor’s Report

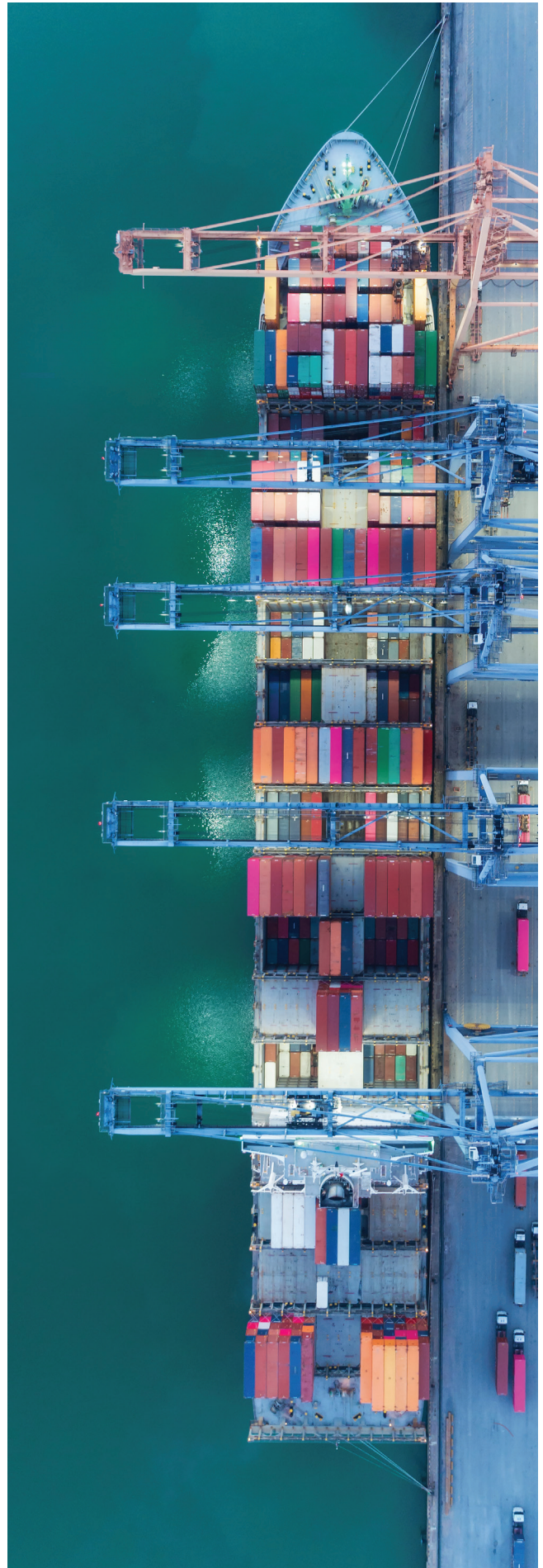
We have reviewed the public entity’s implementation plan for audit issues raised in the prior year and we are satisfied that the matters have been adequately resolved.

The Audit Committee concurs and accepts the conclusions of the external auditor on the annual financial statements and is of the opinion that the audited annual financial statements be accepted and read together with the report of the auditor.

Mr Tshepiso Poho

Chairperson of the Audit and Risk Committee
Ports Regulator of South Africa

Date: 31/July 2023



16. B-BBEE COMPLIANCE PERFORMANCE INFORMATION

The following table has been completed in accordance with the compliance to the BBEE requirements of the BBEE Act of 2013 and as determined by the Department of Trade, Industry and Competition.

Table 22: B-BBEE compliance

Has the Department / Public Entity applied any relevant Code of Good Practice (B-BBEE Certificate Levels 1 – 8) with regards to the following:		
Criteria	Response Yes / No	Discussion (Include a discussion on your response and indicate what measures have been taken to comply)
Determining qualification criteria for the issuing of licences, concessions or other authorisations in respect of economic activity in terms of any law?	No	The Ports Regulator does not issue licenses, concessions or authorisation in respect of economic activity as part of its functions nor in the port system.
Developing and implementing a preferential procurement policy?	No	The Regulator’s procurement processes are in line with the Preferential Procurement Policy Act, and its Regulations which have been internalised in the Supply Chain Management Policy.
Determining qualification criteria for the sale of state-owned enterprises?	No	The Ports Regulator is not involved in the sale of state-owned enterprises.
Developing criteria for entering into partnerships with the private sector?	No	The Ports Regulator’s functions and scope of work does not include partnerships with the private sector.
Determining criteria for the awarding of incentives, grants and investment schemes in support of Broad Based Black Economic Empowerment?	No	The Ports Regulator does not award incentives, grants or investment schemes in support of B-BBEE. The organisation follows the SCM prescripts and criteria for scoring of tenders and price quotes in procurement of goods and services.



PART D:

HUMAN RESOURCE MANAGEMENT



1. INTRODUCTION

The Regulator's organisational structure, which has been in place since the 2007/2008 financial year when the entity started operations, currently has only 27 positions from the highest to the lowest level. This structure is limiting; it limits the Regulator's ability to serve its mandate to its fullest requirements; it is not aligned to the entity's growth strategy, and it does not provide for career path planning. Consequently, the staffing structure/organogram has been revised to increase positions from 27 to 60.

Despite its limited resources, both financial and human capital, the Regulator delivered a 100% achievement of targets on the annual performance plan. This is because of the high-performance culture that has been embedded in the entity's business operations.

The Regulator reviewed its Human Resource (HR) policies, with special focus on Leave and Working Hours Policy. The revision ensured that the policies are aligned to the latest legislative updates.

During the financial year under review employees underwent training and development in line with the Regulator's belief in developing its workforce. Although its financial resources were insufficient to address all the entity's training needs, management did its best to ensure that employees received training that allowed them to advance their technical knowledge in their area of speciality.

The Regulator's revised the organogram when it is approved, it will allow the Regulator to appoint and enhance employee complement on core programmes and the administration department to ensure proper segregation of portfolios. The revised organogram will allow the Regulator to better prepare itself for the Single Transport Economic Regulator.

The Regulator appointed five interns for all the four units as per the organogram including one intern for office of the CEO. There are two more interns

who will be appointed before the end of May 2023, the two interns will be for Company/Regulator Secretary as well as for Information Technology. These appointments are made with the view to strengthen the capacity of the Regulator.

The filling of vacant management positions was prioritised during the year. The recruitment process for the positions of Executive Manager for Industry Development (ID), Manager: Corporate Services were finalised during the year under review and the Executive Manager Policy, Strategy and Research (PSR) was finalised in May 2022. Candidates from outside of the organisation filled these positions.

These management positions are critical as these employees are responsible for executing the annual performance plan as well as the mandate of the entity under the leadership of the CEO.

The CEO appointed two employees additional to the establishment after obtaining approval from the Regulator. The appointment was in the Corporate Services department in order to ensure segregation of duties for the functions of IT, HR and SCM. Previously, one employee performed all these functions, and this presented challenges from an good internal control point of view and affected efficient performance within each function.

The Chief Executive Officer (Mukondeleli Johanna Mulaudzi) was suspended effective 03 February 2023 until 07 August 2023. The Executive Manager: Industry Development (Nokuzola Nkowane) was appointed by the Minister as the Acting Chief Executive Officer.

Employee Performance Management Framework

The Regulator has an employee performance management framework in place to manage employee performance. The framework is designed in such a way that it encourages a high-performance culture. At the beginning of the financial year, employees completed their performance agreement which are informed by the



output from the annual performance plan. Half-year performance assessments are undertaken in October as a monitoring tool to ensure that all employees are on track to achieve the set targets for the financial year. Final performance assessments are undertaken in March. Employee performance is critical as it affects an employee's ability to progress on the salary scales. An employee who achieves a score above 4.5 qualifies for a salary progression which is then implemented in May at the start of the new financial year. The objective of this clause is to encourage employees to deliver high quality output in their respective area of work.

Employee Wellness Programme

The Regulator complies with the country's labour practices, which include providing a wellness service to employees. To this end an employee wellness service provider, ICAS, was appointed ensure that the employees had an independent party that they could engage on needs, which could not be immediately solved by the Regulator. During the year, ICAS gave presentations on issues, which affect employees, including finances, mental health in workplace, balancing work and family matters among other topics. These presentations along with engaging with individual employees assisted in ensuring that factors that may affect employee workplace performance are mitigated. The Regulator found that wellness services were adequate for its needs.

The Regulator also has an employee wellness programme in place. This service is completely independent, and the outcomes of employee one-on-one engagements are not shared with management; but rather the service provider provides advice on what needs to be done to improve working conditions at the Regulator.

Policy Development

The Regulator has a set of approved policies and procedures in place. These policies were reviewed to ensure alignment with any legislative updates, and

changes in the business environment. The policy review is the responsibility of Human Resources and recommended by the Human Resource and Remuneration, Social and Ethics Committee to the Regulator for final approval. The internal audit which is outsourced also assisted in the review of the policies to ensure that they complied with current legislation and are aligned to each other where necessary.

Challenges Faced by the Regulator

The Regulator embarked on a salary benchmarking project with a view to respond to issues and concerns raised by staff on the benefits and salary structure offered by the Regulator. The benchmarking project started in April 2022. The Regulator also obtained a legal opinion on the implementation of the salary structure with the view to ensure that the results of the benchmarking could follow the recommendations of the legal opinion.

Future HR Plans and Goals

Goal 1: The Regulator plans to increase its capacity to expand its delivery on its mandate. As the functions of the regulator largely administrative they require investment in human capital. The organogram has been revised to increase the number of positions from 27 to 60. The revised organogram has been submitted to the Minister of Transport for approval. The revised organogram will also assist the Regulator in preparing for the Single Transport Economic Regulator.

Goal 2: The Regulator will continue to perform salary benchmarking exercise every five years in order to ensure that it offers attractive remuneration to employees.

Goal 3: Performance of employees will also be carefully monitored to ensure that 100% achievement of targets in the annual performance plan is maintained.

2. HUMAN RESOURCE OVERSIGHT STATISTICS

1.1 Personnel Related expenditure

Table 23: Personnel Cost by Programme/Activity/Objective

Programme/activity/objective	Total Expenditure for the entity (R'000)	Personnel Expenditure (R'000)	Personnel exp. as a % of total exp. (R'000)	No. of employees	Average personnel cost per employee (R'000)
Administration	20 316	11 898	58.56%	12	991.5
Economic Regulation	5 972	5 566	93.20%	5	1113.2
Legal Services	10 848	5 235	48.26%	6	872.5
Industry Development	8 560	4 770	55.72%	4	1192.5
Governance	4 175	391	9.37%	1	391
TOTAL	49 871	27 860		30	

Table 24: Personnel Cost by Salary Band

Level	Personnel Expenditure (R'000)	% of personnel exp. to total personnel cost (R'000)	No. of employees	Average personnel cost per employee (R'000)
Top Management	13 460	48.31%	5	2 692
Senior Management	6 298	22.61%	5	1259.60
Professional qualified	6 086	21.84%	7	869.43
Skilled	1 503	5.39%	6	250.50
Semi-skilled	275	0.99%	2	137.50
Unskilled	238	0.86%	2	119
TOTAL	27 860	100%	27	

Table 25: Performance Rewards

Programme/activity/objective	Performance rewards	Personnel Expenditure (R'000)	% of performance rewards to total personnel cost (R'000)
Top Management	0.00	13 460	0.00%
Senior Management	0.00	6 298	0.00%
Professional qualified	0.00	6 086	0.00%
Skilled	0.00	1 503	0.00%
Semi-skilled	0.00	275	0.00%
Unskilled	0.00	238	0.00%
TOTAL	0.00	27 860	0.00%



Table 26: Training Costs

Programme/ activity/ objective	Personnel Expenditure (R'000)	Training Expenditure (R'000)	Training Expenditure as a % of Personnel Cost.	No. of employees trained	Average training cost per employee
Administration	11 898	118	0.99%	6	19.67
Economic Regulation	5566	20	0.36%	4	5
Legal Services	5235	176	3.36%	6	29.33
Industry Development	4770	24	0.50%	3	8
Governance	391	0	0%	0	0
TOTAL	27 860	338		0	0

Table 27: Employment and Vacancies

Programme/ activity/objective	2021/2022 No. of Employees	2022/2023 Approved Posts	2022/2023 No. of Employees	2022/2023 Vacancies	% of vacancies
Administration	10	11	10	1	10%
Economic Regulation	4	7	5	2	40%
Legal	3	6	5	1	20%
Industry Development	3	6	6	0	0
Governance	1	1	1	0	0
TOTAL	21	31	27	4	

Programme/ activity/objective	2021/2022 No. of Employees	2022/2023 Approved Posts	2022/2023 No. of Employees	2022/2023 Vacancies	% of vacancies
Top Management	4	5	5	0	0
Senior Management	3	5	5	0	0
Professional qualified	7	8	7	1	14.29%
Skilled	5	8	6	2	33%
Semi-skilled	1	3	2	1	50%
Unskilled	1	2	2	0	0
TOTAL	21	31	27	4	

The secretariat advertised posts for senior management as soon as they became vacant but due to the COVID-19 pandemic from 2021/22 financial year, which had an impact on the recruitment process, led to significant delays in filling these vacant funded positions.

All interviews took place in person and the positions were filled by appropriately qualified candidates.

The Regulator does a salary benchmarking exercise every five years with the intention to ensure that its employees remuneration packages are as competitive as possible in order retain and to attract scarce skills. The salary benchmarking

project due in the 2023/24 FY was brought forward embarked upon on a 3-year contract which started in April 2022. Annually, employees undertake a performance assessment to ensure that employees performance is aligned with organisational performance.

The Regulator also has an employee wellness programme in place. This service is completely independent, and the outcomes of employee one-on-one engagements are not shared with management; but rather the service provider provides advice on what needs to be done to improve working conditions at the Regulator.

Table 28: Employment Changes

Information on changes in employment over the financial year. Turnover rates provide an indication of trends in employment profile of the public entity.

Salary Band	Employment at beginning of period	Appointments	Terminations	Employment at end of the period
Top Management	4	0	0	4
Senior Management	3	1	0	4
Professional qualified	8	2	0	10
Skilled	6	4	1	9
Semi-skilled	1	2	2	1
Unskilled	1	0	0	1
Total	23	9	3	29

Table 29: Reasons for Staff Leaving

Reason	Number	% of total no. of staff leaving
Death	0	0%
Resignation	3	100%
Dismissal	0	0%
Retirement	0	0%
Ill health	0	0%
Expiry of contract	0	0%
Other	0	0%
Total	3	100%

Three employees resigned to pursue different career aspirations.



Table 30: Labour Relations: Misconduct and Disciplinary Action

Nature of disciplinary Action	Number
Verbal Warning	0
Written Warning	0
Final Written warning	0
Dismissal	0

Table 31: Equity Target and Employment Equity Status

Levels	MALE							
	African		Coloured		Indian		White	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	0	0	0	0	0	0	0	0
Senior Management	3	2	0	1	0	0	0	0
Professional qualified	1	0	0	0	0	0	0	0
Skilled	3	2	0	0	0	0	0	2
Semi-skilled	1	3	0	0	0	1	0	1
Unskilled	0	0	0	0	0	0	0	0
TOTAL	8	7	0	1	0	1	0	3

Levels	FEMALE							
	AFRICAN		COLOURED		INDIAN		WHITE	
	Current	Target	Current	Target	Current	Target	Current	Target
Top Management	1	1	0	0	0	0	0	0
Senior Management	1	0	0	0	0	1	0	0
Professional qualified	4	4	0	0	0	0	0	1
Skilled	4	0	0	0	2	0	0	2
Semi-skilled	4	4	1	2	0	0	0	1
Unskilled	2	2	0	2	0	0	0	1
TOTAL	16	11	1	4	2	1	0	5

Levels	Disabled Staff			
	Male		Female	
	Current	Target	Current	Target
Top Management	0	0	0	0
Senior Management	0	0	0	0
Professional qualified	0	0	0	0
Skilled	0	0	0	0
Semi-skilled	0	0	0	0
Unskilled	0	0	0	0
TOTAL	0	0	0	0



PART E:

FINANCIAL INFORMATION



GENERAL INFORMATION

Country of incorporation	South Africa
Nature of the business	Economic Regulation
Business address	11 th Floor, The Marine Building 22 Dorothy Nyembe Street Durban 4001
Postal address	Private Bag X54322 Durban 4000
Website	www.portsregulator.org
Bankers	Standard Bank Limited South African Reserve Bank
Auditors	Auditor-General South Africa
Controlling entity	Department of Transport



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The Ports Regulator of South Africa ANNUAL FINANCIAL STATEMENTS

for the year ended 31 March 2023

The Regulator Members are responsible for the maintenance of adequate accounting records and the preparation and integrity of the financial statements and related information. The auditors are responsible for reporting on the fair presentation of the financial statements. The financial statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP) issued by the Accounting Standards Board in accordance with Section 91 of the Public Finance Management Act, 1999, as amended (Act No.1 of 1999)(PFMA).

The Regulator Members are also responsible for the system of internal financial control. These are designed to provide reasonable, but not absolute,

assurance as to the reliability of the financial statements, and to adequately safeguard, verify and maintain accountability of the assets, and prevent and detect misstatements and loss. Nothing has come to the attention of the members to indicate any material breakdown in the functioning of these controls, procedures and systems during the year under review.

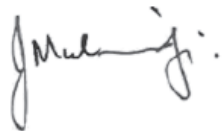
Approval

The Annual Financial Statements for the period ended 31 March 2023 set out on pages 104 to 130 was considered and approved by the Regulator on 30 May 2023

**Name: Ms. Mukondeleli Johanna
(Jowie) Mulaudzi**

Acting Chief Executive Officer

Date: 31 July 2023



Dr Tshisikhawe Victor Munyama

Accounting Authority

Date: 31 July 2023





THE REPORT OF THE AUDITOR-GENERAL to Parliament on the Ports

Report on the audit of the annual financial statements

Opinion

1. I have audited the financial statements of the Ports Regulator of South Africa set out on pages 104 to 130, which comprise the statement of financial position as at 31 March 2023, statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison to budget for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Ports Regulator of South Africa as at 31 March 2023, and its financial performance and cash flows for the year then ended in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and the requirements of the Public Finance Management Act of South Africa, 1999 (Act No.1 of 1999) (PFMA).

Basis for opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the responsibilities of the auditor-general for the audit of the financial statements section of my report.
4. I am independent of the entity in accordance with the International Ethics Standards Board for Accountants' International code of ethics for professional accountants (including International Independence Standards) (IESBA code) as well as other ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Responsibilities of the accounting authority for the financial statements

6. The accounting authority is responsible for the preparation and fair presentation of the financial statements in accordance with the SA Standards of GRAP and the requirements of the PFMA, and for such internal control as the accounting authority determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
7. In preparing the financial statements, the accounting authority is responsible for assessing the entity's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.

Responsibilities of the auditor-general for the audit of the financial statements

8. My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.
9. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

10. In accordance with the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for the selected programme presented in the annual performance report. The accounting authority is responsible for the preparation of the annual performance report.
11. I selected the following programme presented in the annual performance report for the year ended 31 March 2023 for auditing. I selected programme that measure the entity's performance on its primary mandated functions and that is of significant national, community or public interest.

Programme	Page numbers	Purpose
Economic Regulation	33-37	Programme is responsible for the development of policy, strategy, research and implementation instruments with respect to the economic regulation of the ports including tariff-setting and tariff-research.



12. I evaluated the reported performance information for the selected programme against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the entity's planning and delivery on its mandate and objectives.

13. I performed procedures to test whether:

- the indicators used for planning and reporting on performance can be linked directly to the entity's mandate and the achievement of its planned objectives
- the indicators are well-defined and verifiable to ensure that they are easy to understand and apply consistently and that I can confirm the methods and processes to be used for measuring achievements
- the targets can be linked directly to the achievement of the indicators and are specific, time-bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated.
- the indicators and targets reported on in the annual performance report are the same as what was committed to in the approved initial or revised planning documents.
- the reported performance information is presented in the annual performance report in the prescribed manner.
- there is adequate supporting evidence for the achievements reported and for the reasons provided for any over- or underachievement of targets.

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

15. I did not identify any material findings on the reported performance information for the selected programme.

Report on compliance with legislation

16. In accordance with the PAA and the general notice issued in terms thereof, I must audit and report on compliance with applicable legislation relating to financial matters, financial management and other related matters. The accounting authority is responsible for the entity's compliance with legislation.

17. I performed procedures to test compliance with selected requirements in key legislation in accordance with the findings engagement methodology of the Auditor-General of South Africa (AGSA). This engagement is not an assurance engagement. Accordingly, I do not express an assurance opinion or conclusion.

18. Through an established AGSA process, I selected requirements in key legislation for compliance testing that are relevant to the financial and performance management of the entity, clear to allow consistent measurement and evaluation, while also sufficiently detailed and readily available to report in an understandable manner. The selected legislative requirements are included in the annexure to this auditor's report.

19. I did not identify any material non-compliance with the selected legislative requirements.

Other information in the annual report

20. The accounting authority is responsible for the other information included in the annual report. The other information referred to does not include the financial statements, the auditor's report and the selected programme presented in the annual performance report that has been specifically reported in this auditor's report.
21. My opinion on the financial statements, the report on the audit of the annual performance report and the report on compliance with legislation, do not cover the other information included in the annual report and I do not express an audit opinion or any form of assurance conclusion on it.
22. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the financial statements and the selected programme presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
23. I did not receive the other information prior to the date of this auditor's report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected this will not be necessary.

Internal control deficiencies

24. I considered internal control relevant to my audit of the financial statements, annual performance report and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
25. I did not identify any significant internal control deficiencies.

Pietermaritzburg

Date: 31 July 2023

Auditor-General



Annexure to the auditor's report

The annexure includes the following:

- the auditor-general's responsibility for the audit
- the selected legislative requirements for compliance testing.

Auditor-general's responsibility for the audit

Professional judgement and professional scepticism

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for selected programme and on the type of entity's compliance with selected requirements in key legislation.

Financial statements

2. In addition to my responsibility for the audit of the financial statements as described in this auditor's report, I also:
 - identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
 - obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control
 - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made
 - conclude on the appropriateness of the use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the entity to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause an entity to cease operating as a going concern

- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

Communication with those charged with governance

3. I communicate with the accounting authority regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.
4. I also provide the accounting authority with a statement that I have complied with relevant ethical requirements regarding independence and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.



Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Public Finance Management Act No.1 of 1999 (PFMA)	Section 51(1)(a)(iv); 51(1)(b)(i); 51(1)(b)(ii); 51(1)(e)(iii) Section 53(4) Section 54(2)(c’); 54(2)(d) Section 55(1)(a); 55(1)(b); 55(1)(c)(i) Section 56(1); 56(2) Section 57(b);
Treasury Regulations for departments, trading entities, constitutional institutions and public entities (TR)	Treasury Regulation 8.2.1; 8.2.2 Treasury Regulation 16A 3.1; 16A 3.2; 16A 3.2(a); 16A 6.1; 16A6.2(a) & (b); 16A6.2(e);16A 6.3(a); 16A 6.3(a)(i); 16A 6.3(b); 16A 6.3(c); 16A 6.3(d); 16A 6.3(e); 16A 6.4; 16A 6.5; 16A 6.6; TR 16A.7.1; 16A.7.3; 16A.7.6; 16A.7.7; 16A 8.2(1); 16A 8.2(2); 16A 8.3; 16A 8.3(d); 16A 8.4; 16A9.1 16A9; 16A9.1(b)(ii); 16A9.1(c); 16A 9.1(d); 16A 9.1(e); 16A9.1(f); 16A 9.2; 16A 9.2(a)(ii); TR 16A 9.2(a)(iii) Treasury Regulation 30.1.1; 30.1.3(a); 30.1.3(b); 30.1.3(d); 30.2.1 Treasury Regulation 31.1.2(c’) Treasury Regulation 31.2.1 Treasury Regulation 31.3.3 Treasury Regulation 33.1.1; 33.1.3
Public service regulation	Public service regulation 13(c);18; 18 (1) and (2);
Prevention and Combating of Corrupt Activities Act No.12 of 2004 (PRECCA)	Section 34(1)
Construction Industry Development Board Act No.38 of 2000 (CIDB)	Section 18(1)
CIDB Regulations	Regulation 17; 25(1); 25 (5) & 25(7A)

Legislation	Sections or regulations
PPPFA	Section 1(i); 2.1(a); 2.1(b); 2.1(f)
PPR 2017	Paragraph 4.1; 4.2 Paragraph 5.1; 5.3; 5.6; 5.7 Paragraph 6.1; 6.2; 6.3; 6.5; 6.6; 6.8 Paragraph 7.1; 7.2; 7.3; 7.5; 7.6; 7.8 Paragraph 8.2; 8.5 Paragraph 9.1; 9.2 Paragraph 10.1; 10.2 Paragraph 11.1; 11.2 Paragraph 12.1 and 12.2
PPR 2022	Paragraph 3.1 Paragraph 4.1; 4.2; 4.3; 4.4 Paragraph 5.1; 5.2; 5.3; 5.4
PFMA SCM Instruction no. 09 of 2022/2023	Paragraph 3.1; 3.3 (b); 3.3 (c); 3.3 (e); 3.6
National Treasury Instruction No.1 of 2015/16	Paragraph 3.1; 4.1; 4.2
NT SCM Instruction Note 03 2021/22	Paragraph 4.1; 4.2 (b); 4.3; 4.4; 4.4 (a); 4.4 (c) - (d); 4.6 Paragraph 5.4 Paragraph 7.2; 7.6
NT SCM Instruction 4A of 2016/17	Paragraph 6
NT SCM Instruction Note 03 2019/20	Paragraph 5.5.1(vi); 5.5.1(x)
NT SCM Instruction Note 11 2020/21	Paragraph 3.1; Paragraph 3.4(a); 3.4(b) Paragraph 3.9 Paragraph 6.1; 6.2; 6.7



Legislation	Sections or regulations
NT SCM Instruction note 2 of 2021/22	Paragraph 3.2.1; 3.2.2; 3.2.4(a) and (b) ; 3.3.1; 3.2.2 Paragraph 4.1
PFMA SCM Instruction 04 of 2022/23	Paragraph 4(1) Paragraph 4(2) Paragraph 4(4)
Practice Note 5 of 2009/10	Paragraph 3.3
PFMA SCM instruction 08 of 2022/23	Paragraph 3.2 Paragraph 4.3.2; 4.3.3
Competition Act	Section 4(1)(b)(ii)
NT instruction note 4 of 2015/16	Paragraph 3.4
NT instruction 3 of 2019/20 - Annexure A	Section 5.5.1 (iv) and (x)
Second amendment of NTI 05 of 2020/21	Paragraph 4.8; 4.9 ; 5.1 ; 5.3
Erratum NTI 5 of 202/21	Paragraph 1
Erratum NTI 5 of 202/21	Paragraph 2
Practice note 7 of 2009/10	Paragraph 4.1.2
Practice note 11 of 2008/9	Paragraph 3.1 Paragraph 3.1 (b)
NT instruction note 1 of 2021/22	Paragraph 4.1
Public Service Act	Section 30 (1)

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000
ASSETS			
Non-current assets		1 995	2 277
Property, plant and equipment	8	1 498	1 762
Intangible asset	9	151	169
Loans and receivables	10	346	346
Current assets		26 606	37 112
Trade and other receivables	11	396	64
Cash and cash equivalents	12	26 210	37 048
TOTAL ASSETS		28 601	39 389
LIABILITIES			
Current liabilities		3 205	2 241
Trade and other payables	13	1 800	1 502
Provisions	15	1 405	739
TOTAL LIABILITIES		3 205	2 241
NET ASSETS			
CAPITAL AND RESERVES			
Accumulated surplus		25 396	37 148
TOTAL NET ASSETS		25 396	37 148
TOTAL NET ASSETS AND LIABILITIES		28 601	39 389



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000
REVENUE			
<i>Revenue from non-exchange transactions</i>	2	42 995	40 966
Government grants and subsidies		42 995	40 966
<i>Revenue from exchange transactions</i>	3	3	280
Sale of goods and rendering of services		3	9
Other income		-	271
TOTAL REVENUE		42 998	41 246
EXPENDITURE			
Administration expenses	5	2 050	1 114
Amortisation and depreciation	8 & 9	308	334
Staff costs	6	27 871	19 719
Audit fees	26	488	434
Legal fees	27	5 119	6 157
Operating Lease	14	1 430	1 812
Other operating expenses	7	9 845	4 614
Regulator members' remuneration	17	2 712	1 666
TOTAL EXPENDITURE		49 823	35 850
Finance income	4	2 084	1 387
OTHER GAINS/ (LOSSES)			
Gain / (loss) on disposal of assets		(11)	(11)
SURPLUS/ (DEFICIT) FOR THE PERIOD		(4 752)	6 772

STATEMENT OF FINANCIAL PERFORMANCE
at 31 March 2023

	Notes	2023 R'000	2022 R'000
Opening balance at 1 April 2021			37 206
Other adjustment movements	28		(6 830)
Surplus/(Deficit) for the period			6 772
Balance on 1 April 2022			37 148
Other adjustment movements	28		(7 000)
Surplus/(Deficit) for the period			(4 752)
Closing balance as at 31 March 2023			25 396



STATEMENT OF CHANGES IN NET ASSETS
For the year ended 31 March 2023

	Notes		Accumulated Surplus R'000
CASH FLOWS FROM OPERATING ACTIVITIES			
Receipts		42 998	41 246
Transfers received	2	42 995	40 966
Sale of goods and services	3	3	9
Other income		-	271
Payments		(55 883)	(41 853)
Employee cost	6	(27 871)	(19 719)
Suppliers and other payments		(28 012)	(22 134)
Net cash flows from operations		(12 885)	(607)
Interest paid		-	-
Finance income		2 084	1 387
Net cash flow available from operating activities	16	<u>(10 801)</u>	<u>780</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Property, plant and equipment	8	(37)	(306)
Intangible assets	9	-	(165)
Proceeds from De-recognition of Property, plant and equipment		-	15
Other movements		-	-
Net cash flows from investing activities		<u>(37)</u>	<u>(456)</u>
Net increase/(decrease) in cash and cash equivalents		(10 838)	324
Cash and cash equivalents at beginning of the year		37 048	36 724
Cash and cash equivalents at end of year		<u>26 210</u>	<u>37 048</u>

STATEMENT OF CASH FLOW
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000		
Economic Classification	Approved Budget	Adjustments	Final Approved Budget	Actual	Variance
	R'000	R'000	R'000	R'000	R'000
Revenue					
Transfers	42 995	0	42 995	42 995	0
Interest Received	1 490	0	1 490	2 084	594
Sale of good and services	0	0	0	3	3
Other income	0	0	0	0	0
Reserves	0	10 000	10 000	0	(10 000)
Gain on disposal	0	0	0	0	0
	44 485	10 000	54 485	45 082	(9 403)
Expenses					
Depreciation & Amortisation	418	0	418	308	110
Compensation of employees	29 435	0	29 435	27 871	1 564
Goods & Services	14 632	10 000	24 632	21 644	2 988
Loss on disposal of assets	0	0	0	11	(11)
	44 485	10 000	54 485	49 834	4 651
Surplus/(Deficit)	0	0	0	(4 752)	(4 752)
Capital Budget	0	0	0	37	(37)
	0	0	0	0	0

*Please refer to Note 21 of the Annual Financial Statements for detailed variance analysis between budget and actual amounts.

Please refer to Note 16 of the Annual Financial Statements for a reconciliation of budget and actual Cash Flow Statement.



STATEMENT OF COMPARISON TO BUDGET For the year ended 31 March 2023

1 Accounting Policies

1.1 Basis of preparation

The Annual Financial Statements have been prepared on an accrual basis of accounting and are in accordance with historical cost convention unless specified otherwise.

These Annual Financial Statements have been prepared in accordance with Generally Recognised Accounting Practice (GRAP), issued by the Accounting Standards Board in accordance with Section 91 of the Public Finance Management Act, 1999, as amended (Act No.1 of 1999) (PFMA).

The principal accounting policies, applied in the preparation of these Annual Financial Statements, are set out below. These accounting policies are consistent with those applied in the preparation of the prior year Annual Financial Statements, unless specified otherwise. Details of any changes in the accounting policies are provided in notes.

When the presentation or classification of items in the Annual Financial Statements is amended, prior period comparative amounts are also reclassified and restated, unless such comparative reclassification and / or restatement is not required by a Standard of GRAP. The nature and reason for such reclassifications and restatements are also disclosed.

Assets, liabilities, revenues, and expenses have not been offset except when offsetting is required or permitted by a Standard of GRAP.

The accounting policies applied are consistent with those used to present the previous year's financial statements, unless explicitly stated. The details of any changes in accounting policies are explained in the relevant policy.

The statement of cash flow has been prepared in accordance with the direct method.

Management has made judgements when applying the useful life and residual values for the PPE, Books and Intangible Assets. These judgements were made based on management's view of the future use of each class of assets as well as carrying amounts for each class of assets. This has resulted in the Accounting Policies being applied similar to financial year except where separate disclosure has been made for the effect of the change in the useful lives.

The Ports Regulator, when finalise, did not have any class of assets and/or liabilities that had a significant risk attached to it, which may cause material adjustment to the carrying amount of the assets or liabilities in the following financial year.

STATEMENT OF FINANCIAL POSITION

For the year ended 31 March 2023

1.2 Presentation currency

All amounts have been presented in the currency of the South African Rand (R), which is also the functional currency of the Ports Regulator.

1.3 Rounding

Unless otherwise stated all financial figures have been rounded up to the nearest one thousand Rand (R'000).

1.4 Standards, Amendments to standards and interpretations issued but not yet effective

The following Standards of GRAP and/or amendments thereto have been issued by the Accounting Standards Board but will only become effective in future periods or have not been given an effective date by the Minister of Finance: GRAP 104 financial instruments is effective 1 April 2025, GRAP 25 employee benefits and GRAP 7 on the limit on a defined benefit asset, minimum funding requirements and their interaction (revised) are not yet given an effective date. GRAP 21 on the effect of past decisions on materiality and Guideline on Accounting for landfill sites are effective 1 April 2023.

1.5 Property, plant, and equipment

Property, plant and equipment are tangible non-current assets that are held for use in the production or supply of goods or services, rental to others, or for administrative purposes and are expected to be used during more than one year.

Items of property, plant and equipment are initially recognised as assets on acquisition date and are initially recorded at cost were acquired through exchange transactions. However, when items of property, plant and equipment are acquired through non-exchange transactions, those items are initially measured at their fair values as at the date of acquisition.

The cost of an item of property, plant and equipment is the purchase price and other costs directly attributable to bring the asset to the location and condition necessary for it to be capable of operating in the manner intended by the entity. Trade discounts and rebates are deducted in arriving at the cost at which the asset is recognised. The cost also includes the estimated costs of dismantling and removing the asset and restoring the site on which it is operated.

Depreciation is calculated on the depreciable amount, using the straight-line method over the estimated useful lives of the assets. Components of assets that are significant in relation to the whole asset and that have different useful lives are depreciated separately. The depreciable amount is determined after taking into account an asset's residual value, where applicable for the entity

Office furniture and fittings - 20 years

Computer equipment - 10 years



STATEMENT OF FINANCIAL POSITION

For the year ended 31 March 2023

Motor vehicles - 7 years

The depreciation method used reflects the pattern in which the asset's future economic benefits or service potential are expected to be consumed by the entity. The depreciation method applied to an asset is reviewed at least at each reporting date and, if there has been a significant change in the expected pattern of consumption of the future economic benefits or service potential embodied in the asset, the method is changed to reflect the changed pattern. Such a change is accounted for as a change in an accounting estimate.

The entity assesses at each reporting date whether there is any indication that the entity expectations about the residual value and the useful life of an asset have changed since the preceding reporting date. If any such indication exists, the entity revises the expected useful life and/or residual value accordingly. The change is accounted for as a change in an accounting estimate.

The depreciation charged for each period is recognised in surplus or deficit unless it is included in the carrying amount of another asset.

Items of property, plant and equipment are derecognised when the asset is disposed of or when there are no further economic benefits or service potential expected from the use of the asset.

The gain or loss arising from the derecognition of an item of property, plant and equipment is included in surplus or deficit when the item is derecognised. The gain or loss arising from the derecognition of an item of property, plant and equipment is determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item.

Property, Plant & Equipment (PPE) carrying amount is reviewed at each balance sheet date to ensure that the estimated useful life and depreciation method is still relevant for the future use of PPE. The carrying amount of PPE is also tested if it is still above the recoverable amount to ensure

that there are no impairment losses that need to be recognized in the Statements of Financial Performance. The impairment losses are tested as per the requirements of GRAP 21. The PPE is not a Cash Generating Assets in terms of GRAP 26 and this is referenced when testing for impairments.

1.6 Books

Books consist of library material that is used by the entity for the research, legal and economic regulation activities. Books are recognised at cost upon acquisition. There are subsequent measurements that occur every year for each book until the book has reached its useful life. Subsequent measurements are done using the cost model. Reviews are carried out at the end of each financial year. Upon derecognition, the gain/loss is included in the surplus or deficit for the period.

Books -20 years

The books carrying amount is reviewed at each balance sheet date to ascertain if the estimated useful life and depreciation method is still relevant for the future use of the books. The carrying amount of the books is also tested if it is still above the recoverable amount to ensure that there are no impairment losses that need to be recognized in the Statements of Financial Performance. The impairment losses are tested in reference to GRAP 21.

STATEMENT OF COMPARISON TO BUDGET For the year ended 31 March 2023

1.7 Intangible assets

An intangible asset is an identifiable non-monetary asset without physical substance. The entity recognises an intangible asset in its Statement of Financial Position only when it is probable that the expected future economic benefits or service potential that are attributable to the asset will flow to the entity and the cost or fair value of the asset can be measured reliably.

Intangible assets are initially recognised at cost.

Where an intangible asset is acquired by the entity for no or nominal consideration (i.e., a non-exchange transaction), the cost is deemed to be equal to the fair value of that asset on the date acquired.

The cost of an intangible asset is amortised over the useful life where that useful life is finite. The amortisation expense on intangible assets with finite lives is recognised in the Statement of Financial Performance in the expense category consistent with the function of the intangible asset.

Amortisation is charged to write off the cost of intangible assets over their estimated useful lives using the straight-line method.

Computer Software - 10 years

The carrying amount of the intangible asset is reviewed at each balance sheet date to determine if the amortization period and the amortization method is still applicable and relevant to the entity's foreseeable future. The carrying amount is also reviewed to determine if any impairment losses should be recognized in the statement of financial performance. The impairment would be recognized if there's evidence to suggest that the carrying amount is lower than the recoverable amount for the intangible asset. The impairment losses are tested in reference to GRAP 21.

1.8 Provisions

Provisions are recognised when:

- An entity has a present obligation as a result of a past event;
- It is probable that an outflow of resources embodying economic benefits will be required to settle the obligation; and
- A reasonable estimate can be made of the obligation.

1.9 Leases

The Ports Regulator is a lessee for the office accommodation.

Assets subject to operating leases, i.e., those leases where substantially all of the risks and rewards of ownership are not transferred to the lessee through the lease, are not recognised in the Statement of Financial Position. The operating lease expense is recognised over the course of the lease arrangement.



STATEMENT OF COMPARISON TO BUDGET For the year ended 31 March 2023

Operating lease payments are recognised in the statement of financial performance on a straight – line basis over the term of the lease.

1.10 Financial instruments

Financial instruments are initially recognised at cost.

1.10.1 Trade and other receivables

Trade and other receivables are categorised as financial assets: loans, and receivables and are initially recognised at fair value and subsequently carried at amortised cost. Amortised cost refers to the initial carrying amount, plus interest, less repayments, and impairments. Amounts that are receivable within 12 months from the reporting date are classified as current.

1.10.2 Trade and other payables

Financial liabilities consist of trade payables and borrowings. They are categorised as financial liabilities held at amortised cost, are initially recognised at fair value and subsequently measured at amortised cost, which is the initial carrying amount, less repayments, plus interest.

1.11 Budget information

The budget of the entity is prepared on a cash basis while the Annual Financial Statements are prepared on an accrual basis. The budget covers the period from 1 April at the beginning of each period until 31 March being the end of the period.

The budget is prepared based on the appropriations from Parliament and a reconciliation is included in the statement of comparison to budget.

1.12 Going concern

The financial statements of the entity are presented on a going concern basis. This is as a result that the assets of the entity exceed its liabilities as at 31 March 2023. Based on this, there is no uncertainty regarding the continued existence of the entity for the foreseeable future. It must be noted that the entity relies on transfers from the appropriation to fund its operations, therefore there is no doubt regarding the funding of the future operations of the entity and the ability to realise its assets and settle its liabilities.

The Executive Authority is in the process to establish Single Transport Economic Regulator, it must be noted that, in terms of the gazetted Economic Regulation of Transport (ERT) Bill (February 2018), the Ports Regulator will be the core of the STER when it is formed. This eliminates any uncertainty regarding the continued existence of the Ports Regulator, beyond the winding up and dissolution of the Ports Regulator in terms of section 55 of the National Ports Act.

STATEMENT OF COMPARISON TO BUDGET For the year ended 31 March 2023

1.13 Cash and cash equivalents

Cash includes cash with banks. Cash equivalents are short-term highly liquid investments, readily convertible into known amounts of cash, which are held with registered banking institutions and are subject to an insignificant risk of changes in value. The Ports Regulator has some cash and cash equivalents invested with the Corporation for Public Deposit at the Reserve Bank as per the requirements of National Treasury.

1.14 Fruitless and wasteful expenditure

Fruitless and wasteful expenditure is expenditure that was made in vain and would have been avoided had reasonable care been exercised. Fruitless and wasteful expenditure is accounted for as expenditure in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

1.15 Revenue recognition

Revenue from non-exchange transactions arise when the entity either receives value from another entity without directly giving approximately equal value in exchange or gives value to another entity without directly receiving approximately equal value in exchange.

An asset that is recognised as a result of a non-exchange transaction is recognised at its fair value at the date of the transfer. Consequently, revenue arising from a non-exchange transaction is measured at the fair value of the asset received, less the amount of any liabilities that are also recognised due to conditions that must still be satisfied.

Revenue from exchange transactions refers to revenue that accrues to the entity directly in return for services rendered or goods sold, the value of which approximates the consideration received or receivable, excluding indirect taxes, rebates and discounts.

Revenue from exchange transactions is only recognised once all of the following criteria have been satisfied:

- a. The entity retains neither continuing managerial involvement to the degree usually associated with ownership nor effective control over the goods sold;
- b. The amount of revenue can be measured reliably; and
- c. It is probable that the economic benefits or service potential associated with the transaction will flow to the entity and the costs incurred or to be incurred in respect of the transaction can be measured reliably.



STATEMENT OF COMPARISON TO BUDGET
For the year ended 31 March 2023

Notes	2023 R'000	2022 R'000
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1.16 Related Parties

The entity has processes and controls in place to aid in the identification of related parties. A related party is a person or an entity with the ability to control or jointly control the other party, or exercise significant influence over the other party, or vice versa, or an entity that is subject to common control, or joint control. Related party relationships where control exists are disclosed regardless of whether any transactions took place between the parties during the reporting period.

1.17 Irregular expenditure

Irregular expenditure is expenditure that is contrary to the Public Finance Management Act and the Public Office Bearers Act (Act No. 20 of 1998) or is in contravention of the entity's supply chain management policies. Irregular expenditure excludes unauthorised expenditure. Irregular expenditure is accounted for as expenditure in the Statement of Financial Performance, and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

1.18 Employee Costs

The employee costs represent the actual expenditure for basic salaries, employer contributions, allowances and performance bonuses. The pension benefits are administered by the Government Pensions Administrations Agency; the Ports Regulator contributes to the agency with the balance coming from employees as per the rules governing pension. Medical aid benefits are administered by Discovery Medical Aid and the Ports Regulator contributes towards the medical aid service provider. The group life benefits are administered by Liberty Life, all benefits as per the conditions of service are available to employees.

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes	2023 R'000	2022 R'000
2 Transfers and subsidies		
Department of Transport	42 995	40 966
3 Revenue from exchange of transaction		
Sale of goods & services	3	9
Other income	-	271
Other income for prior year consists of R 267 221 received by the entity for a favourable judgement by the court. R 3 350 was received by the entity from Discovery Insure for the claim of lost car keys.		
4 Finance income		
Interest income	2 084	1 387
5 Administrative expenses		
Bank charges	27	22
Internal audit	351	385
Stationery and printing	309	230
Stakeholder engagement	632	289
Subscriptions	26	1
Training and staff development	337	81
Venues and facilities	368	106
	2 050	1 114
6 Staff costs		
Salaries and wages	26 589	18 251
Employer contributions	1 282	1 468
	27 871	19 719



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	2023 R'000	2022 R'000
7 Other operating expenses		
Advertising	234	364
Audit committee fees	176	161
Catering	165	30
Communication costs	290	353
Computer expenses	1 114	1 279
Consultants	4 597	923
Consumables	18	18
Couriers and delivery charges	8	11
Data and information storage	9	8
Movement in leave pay provision	666	40
Insurance	150	131
Maintenance and repairs	63	65
Motor vehicle expenses	11	25
Municipal services	285	252
Parking	216	217
Security	9	7
Training & development - Members	134	-
Travel, subsistence and disbursements staff	1 241	687
Travel, subsistence and disbursements Regulator members	459	43
	9 845	4 614

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000
8 Property, plant and equipment			
2023	Cost	Accumulated depreciated	Carrying value
Computer equipment	1 832	(976)	856
Office furniture and fittings	1 067	(815)	252
Books	76	(62)	14
Motor vehicle	987	(611)	376
	<u>3 962</u>	<u>(2 464)</u>	<u>1 498</u>
2022	Cost	Accumulated depreciated	Carrying value
Computer equipment	1 873	(886)	987
Office furniture and fittings	1 036	(794)	242
Books	76	(60)	16
Motor vehicle	987	(470)	517
	<u>3 972</u>	<u>(2 210)</u>	<u>1 762</u>

Reconciliation of Property, Plant and Equipment for 31 March 2023

	Opening carrying value	Derecognition Derecognition	Additions	Depreciation	Closing carrying value
	R'000	R'000	R'000	R'000	R'000
Computer equipment	987	(11)	6	(126)	856
Office furniture & fittings	242	-	31	(21)	252
Motor Vehicle	517	-	-	(141)	376
Books	16	-	-	(2)	14
	<u>1 762</u>	<u>(11)</u>	<u>37</u>	<u>(290)</u>	<u>1 498</u>



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000		
Reconciliation of Property, Plant and Equipment 31 March 2022					
	Opening carrying value	Derecognition	Additions	Depreciation	Closing carrying value
	R'000	R'000	R'000	R'000	R'000
Computer equipment	855	(21)	270	(117)	987
Office furniture & fittings	279	(5)	36	(68)	242
Motor Vehicle	658	-	-	(141)	517
Books	21	-	-	(5)	16
	1 813	(26)	306	(331)	1 762

GRAP 17 requires the entity to review the useful life for all classes of Property, Plant and Equipment (PPE). The Regulator reviewed the useful lives and changed the estimates for furniture and fittings and books. The reason for the change of the estimate was as a result that the assets are kept beyond their initial estimated useful lives. The Regulator did not revise the residual values since majority of assets are kept up until the end of their useful lives and there is no intention to sell the assets at the end of their useful lives. The Regulator also could not reliably estimate the value of the sale to be realised at the end of the asset's useful life.

9 Intangible asset			
2023	Cost	Accumulated amortisation	Carrying value
Computer software	497	(346)	151

Intangible assets			
2022	Cost	Accumulated amortisation	Carrying value
Computer software	497	(328)	169

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

Reconciliation of Intangible assets

Computer software at 31 March 2023

	Opening carrying value	Derecognition	Additions	Amortisation	Closing carrying value
	R'000	R'000	R'000	R'000	R'000
Computer software	169	-	-	(18)	151
	169	-	-	(18)	151

Reconciliation of Intangible assets Computer software at 31 March 2022

	Opening carrying value	Derecognition	Additions	Amortisation	Closing carrying value
	R'000	R'000	R'000	R'000	R'000
Computer software	7	-	165	(3)	169
	7	-	165	(3)	169

GRAP 31 requires the useful life and the amortisation method to be reviewed at the end of each period. The Regulator did not change the estimate of useful life of intangible assets after realising that the previously estimated useful life remains relevant as assets will be kept for longer periods than initially estimated. It was noted that these assets are still in use and incorporates future economic benefit that can still be recognized by the Regulator through the use of each asset as per the accounting policy of the entity.



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000
10 Loans and receivables			
Non-current			
Deposit for car parking and office lease		346	346
11 Trade and other receivables			
Prepaid expenditure		278	64
Accrued income		118	-
		396	64
12 Cash and cash equivalents			
Bank balances			
Standard bank cheque account		285	157
Standard bank Investment account		5 131	36 891
Reserve bank Investment account		20 794	-
		26 210	37 048
13 Trade and other payables			
Accruals		1 783	1 478
Discovery medical aid		17	24
		1 800	1 502

The entity has considered payables discounting as required by the standards of GRAP, the entity has a policy and is required by legislation to pay all outstanding invoices within the 30 days period. This has resulted in the payables discounting not being necessary to be applied.

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

14 Operating lease commitments

The Ports Regulator entered into a two-year operating lease agreement with Delta Property Fund that commenced on 1 October 2022 for R 116 265.52 per month including VAT with an escalation clause of 8% annually. The lease expires on 30 September 2024.

Minimum lease payments due

- not later than one year	1 342	976
- later than one year and not later than five years	697	-
- later than five years	-	-
	2 039	976
Expenditure for the year	1 430	1 812

15 Provisions

Carrying amount at the beginning of the period	739	699
Additional provisions made in the current period	666	40
Amount utilised in the current period	-	-
Carrying amount at the end of period	1 405	739

Provisions comprises the value of leave days owing to employees as at 31 March 2023.

16 Cash generated from operations

Surplus/(Deficit) for the period	(4 752)	6 772
Non-cash items	(6 049)	(5 992)
Depreciation	290	331
Amortisation	18	3
(Gain) / Loss on sale of assets	11	11
Working capital changes		
Increase / (Decrease) in payables	298	389
(Decrease) / Increase in provisions	666	40
(Increase) / Decrease in receivables	(332)	64
(Increase) / Decrease in inventory	-	-
Other working capital movements	(7 000)	(6 830)
Net cash flow from operating activities	(10 801)	780



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

Reconciliation of Cash Flow Statement

Item	Budget	Actual	Variance
Cash flows from Operating Activities	(1 462)	(10 801)	(9 339)
Cash flows from Investing Activities	0	37	37
Cash flows from Financing Activities	0	0	0

Reasons for Variance:

Cash flows from investing activities were budgeted at R0.00 since the actual transfers from the appropriation to the Regulator are not sufficient to fund operations and capital expenditure.

Cash flows from operating activities are higher compared to the budget as a result of a difference in actual interest income for the period ended March 2023 being higher than budgeted for. The increase in interest rate had an impact on finance income generated. Cash flow from operating activities is also affected by R7 million that was surrendered back to National Treasury.

17 Regulator Members' Remuneration

Regulator Members' Remuneration	No of individuals		
Members	8	2 712	1 666
There is a current total of 8 Regulator Members. A total number of 33 meetings were held during the year.			
Member			
Z Fihlani		333	196
V Munyama		748	354
Z Kabini		417	243
S Matolengwe		283	203
K Selane		245	180
M Madiya		-	-
Z Mtshali		374	307
S Kabelo		312	183
Total		<u>2 712</u>	<u>1 666</u>

Regulator Members' Remuneration

Mr M Madiya did not receive any remuneration from the Ports Regulator, since he is a state employee, employed by the Department of Transport.

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

18 Executive Member's Remuneration

	No. of individuals		
	5	<u>13 210</u>	<u>8 826</u>

Johanna Mulaudzi (Chief Executive Officer)

Basic Salary	3 149	2 041
Taxable allowance	1 225	1 175
Medical Aid Allowance	45	43
Long Service reward	3	-
Total	<u>4 422</u>	<u>3 259</u>

Thokozani Mhlongo (Chief Financial Officer)

Basic Salary	1 810	1 332
Taxable allowance	640	607
Medical Aid Allowance	94	79
Long Service reward	3	-
Total	<u>2 547</u>	<u>2 018</u>

Lesedi Boihang (Legal Executive Manager)

Basic Salary	2 343	1 822
Total	<u>2 343</u>	<u>1 822</u>

Chris Lotter *(Policy, Strategy & Research Executive Manager)

Basic Salary	-	1 531
Leave paid out	-	67
Total	<u>-</u>	<u>1 598</u>

*Mr C Lotter resigned effective 1 December 2021

Nokuzola Nkowane **(Industry Development Executive Manager)

Basic Salary	2 002	129
Acting Allowance	216	-



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

	Notes	2023 R'000	2022 R'000
Total		2 218	129

**Ms N Nkowane was appointed as the Executive Manager ID effective 1 March 2022.

Ms N Nkowane was appointed as the Acting Chief Executive Officer effective 8 February 2023.

Pule Mothiba *** (Policy, Strategy & Research Executive Manager)			
Basic Salary		1 527	-
Relocation costs		153	-
Total		1 680	-

***Mr P Mothiba was appointed as the Executive Manager PSR effective 19 July 2022.

The Executive Management is regarded as Key Management Personnel in terms of GRAP 20 Related Parties. This disclosure must be read as part of Note 25 on Related Party Transactions.

19 Contingent liabilities

In terms of section 53(3) of the PFMA, a public entity may not accumulate surplus funds without approval from the National Treasury. National Treasury Instruction Note No. 12 of 2020/2021 paragraph 5.2 requires entities listed in Schedule 3A and 3C to submit to National Treasury a request to accumulate surplus funds by 30 September of each financial year. Approval to retain surplus funds amounting to R 23 401 000 will be submitted to National Treasury before the due date for consideration and approval.

The Regulator's Tribunal Records of Decision have been taken on judicial review, being:

- I. TNPA // PRSA, Avedia Energy, Sunrise Energy et al (20 September 2020 Record of Decision); and
- II. Great Afro Trading Cc // PRSA (November 2021 Record of Decision)

PKX Attorneys are the Ports Regulator's Attorneys of Record for the TNPA // PRSA, Avedia Energy, Sunrise Energy et al matter; and

Mamatela Attorneys are the Ports Regulator's Attorneys of Record for the Great Afro Trading Cc // PRSA and matter.

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

The cases are taken on judicial review by the Applicants challenging the issued Tribunal Record of Decision on each case. The merits of each case cannot be disclosed in this note since all matters are before the courts and such disclosure may jeopardize the position of the Ports Regulator when presenting its merits before the courts.

Set down dates for the two (2) matters have not been determined by the Registrars of the Durban High Courts.

At the time of finalising the Annual Financial Statements ("AFS"), the outcome of court cases was unknown and therefore the below estimation of amounts per case has been disclosed in the AFS as a contingent liability.

Matter	Contingent liability
TNPA // PRSA, Avedia Energy, Sunrise Energy et al	R 500 000
Great Afro Trading Cc // PRSA	R 300 000

20 Recognized subsequent events

There were no post balance sheet date events as of 31 March 2023 that required amendment to the neither annual financial statements nor disclosure on the notes to the financial statements.



STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

21 Reconciliation of budget surplus/deficit with Statement of Financial Performance

Ports Regulator presents its approved budget on a cash basis and the financial statements on the accrual basis.

Economic Classification	Reason for Variance
Revenue	
Transfers	N/A
Interest Received	Interest is based on the investment balance kept by the entity as well as the interest rate provided by the bank.
Sundry income	N/A
Sale of goods & services	One complaint/appeal was submitted to the entity during year.
Expenses	
Depreciation & amortisation	Difference was caused by some planned purchases that did not take place.
Staff costs	Unspent expenditure arose due to resignations and delays in appointment of funded vacancy posts.
General expenses	The entity was allowed to retain unspent surplus funds; therefore majority of expenditure was on projects that were partly funded by the unspent funds.
Capital Budget	
Property Plant and equipment	Telephone UPS, fridge and air coolers were procured during the year.

Irregular expenditure and Fruitless and Wasteful Expenditure

Irregular expenditure	-	-
Fruitless and Wasteful Expenditure	100	-
Closing balance	100	-

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

23 Taxation

No provision is made for taxation as the entity is exempt from taxation as per Section 10 (1) of the Income Tax Act, No. 58 Of 1962.

24 Risk management

Interest rate risk

As the entity has no significant interest-bearing assets, the entity's income and operating cash flows are substantially independent of changes in market interest rates.

Liquidity risk

The entity's risk to liquidity is a result of the funds available to cover future commitments. The entity manages liquidity risk through an ongoing review of future commitments and credit facilities.

Cash flow forecasts are prepared, and adequate utilised borrowing facilities are monitored.

The entity relies solely on transfers from the parent Department of Transport. These transfers are transferred by the department to the entity at the beginning of each quarter to fund the cash flows for that specific quarter. Any delays in transfers may cause cash flow risks to the entity. The table below analyses the entity's financial liabilities into relevant maturity groupings based on the remaining period at the Statement of Financial Position to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows

Not later than one month

Payables

1 800

1 502

Maximum credit risk exposure

Credit risk consists mainly of cash deposits, cash equivalents. The entity only deposits cash with major banks with high quality credit standing and limits exposure to any one counterparty.



STATEMENT OF FINANCIAL POSITION

For the year ended 31 March 2023

Notes	2023 R'000	2022 R'000
The financial assets carried at amortised cost expose the entity to credit risk. The value of the maximum exposure to credit risk are as follows for each of classes of financial assets at amortised cost:		
Cash and cash equivalents	26 210	37 048
Trade and other receivables from exchange transactions	396	64

The entity has sufficient insurance cover and sufficient funds to service its financial liabilities.

25 Related party transactions

There were related party transactions relating to the transfers of funds from the Department of Transport to Ports Regulator as per the voted funds in the appropriation statement:

Description of transaction		
Transfers from the Department of Transport	42 995	40 966

26 Audit Fees

Audit fees relates to the payments made to Auditor General for the Regularity audit.	488	434
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27 Legal Fees

Legal fees constitute of Tribunal proceedings	5 119	6 157
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28 Other adjustment movements

In terms of section 53(3) of the PFMA, a public entity may not accumulate surplus funds without approval from the National Treasury. The entity received approval from the National Treasury to surrender unspent surplus funds for 2020/21 and a portion of unspent surplus funds for 2021/22 financial year that amounted to R6.83 million and R7 million, respectively.

STATEMENT OF FINANCIAL POSITION
For the year ended 31 March 2023

Notes

2023
R'000

2022
R'000

The above listed adjustments were implemented and effected as follows:

Statement of Financial Position

Cash and Cash equivalent - Transfer to National Revenue Fund	(7 000)	(6 830)
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Statement of Changes in Net assets

Accumulated surplus - Transfer to National Revenue Fund	7 000	6 830
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29 Change in accounting estimates

As required by GRAP standards, the useful lives of all assets were reassessed by the management at year end. The Regulator changed the accounting estimates for office furniture and fittings and books from the previous estimates which resulted to the extension of the useful lives, as it is probable that these assets incorporate future economic benefit that can still be recognized by the Regulator.

The effect of the change in accounting estimates is as follows:

Statement of financial performance

Office furniture and fittings – Depreciation	(48)
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Books – Depreciation	(3)
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Statement of Financial position

Office furniture and fittings - Accumulated depreciation	48
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Books - Accumulated depreciation	3
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Future periods

Future Effect on Statement of Financial Performance

Office furniture and fittings – Depreciation	23
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Books – Depreciation	2
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Future Effect on Statement of Financial Position

Office furniture and fittings - Accumulated depreciation	(23)
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Books - Accumulated depreciation	(2)
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