



INVESTIGATION REPORT

WATER AND SANITATION CRISIS IN MAKANA MUNICIPALITY

An investigation by the South African
Human Rights Commission in the Eastern Cape

JUNE 2026

PROMOTING • PROTECTING • MONITORING HUMAN RIGHTS

1. EXECUTIVE SUMMARY

- 1.1. This investigative report examines systemic failures in the provision of water and sanitation services within Makana Local Municipality (Makana), acting in its capacity as the designated Water Services Authority within its area of jurisdiction. The investigation focuses primarily on conditions affecting Makhanda, Alicedale and surrounding communities, and assesses whether Makana has fulfilled its constitutional and statutory obligations relating to access to sufficient water, sanitation services, environmental protection, human dignity and accountable local governance.
- 1.2. The investigation was initiated following numerous complaints and stakeholder representations received by the South African Human Rights Commission (the Commission) from 2023 onwards concerning prolonged water outages, recurring sewage spillages, inadequate sanitation services, deteriorating infrastructure, unsafe environmental conditions and the continued use of the bucket system within certain informal settlements. The complaints reflected ongoing and widespread instability in the provision of basic municipal services affecting households, schools, healthcare facilities, businesses and vulnerable communities over an extended period.
- 1.3. Following receipt of the complaints, the Commission engaged Makana and relevant stakeholders through correspondence, requests for information and stakeholder processes. When these engagements did not produce adequate responses, measurable improvement or sustained remedial action, the Commission exercised its statutory powers by convening subpoena proceedings on 11 September 2024 and 27 August 2025. Through these proceedings, the Commission obtained evidence under oath from Makana, the Department of Water and Sanitation, the Department of Cooperative Governance and Traditional Affairs and the Office of the Premier. The Commission further considered written submissions and supporting documentation from affected stakeholders and institutions, including Rhodes University and the Auditor-General of South Africa.
- 1.4. The evidence obtained during the investigation demonstrates that the water and sanitation crisis within Makana is not primarily attributable to a lack of bulk raw water resources within the regional system. Rather, the evidence points to a sustained failure to operate, maintain, manage and govern existing water and sanitation infrastructure effectively. This failure is reflected in recurring pump failures, deteriorating reticulation infrastructure, wastewater treatment dysfunction, inadequate maintenance, weak technical capacity, poor accountability and ineffective implementation of corrective measures.

- 1.5. The investigation further established that repeated support and intervention measures, including technical secondments, infrastructure funding, emergency stabilisation initiatives, regulatory oversight and the implementation of a Financial Recovery Plan in terms of section 139(5) of the Constitution, have not resulted in sustained improvement. This is significant because these measures represent less intrusive cooperative governance interventions that were intended to restore financial stability, institutional capacity and basic service delivery within Makana.
- 1.6. The Commission finds that the cumulative effect of the conditions identified during the investigation has resulted in ongoing infringements of constitutional rights, including the rights of access to sufficient water, human dignity, an environment not harmful to health or well-being, and the rights of children. Considered cumulatively, the evidence demonstrates persistent governance failures, institutional incapacity and ineffective implementation of corrective measures which have materially impaired Makana's ability to provide basic municipal services in a sustainable, effective and accountable manner.
- 1.7. Having regard to the duration and persistence of the failures identified, the continued infringement of constitutional rights, and the limited effectiveness of previous cooperative governance and financial recovery measures, the Commission concludes that escalated structural intervention is now warranted for consideration by the relevant executive authorities. These include measures contemplated in section 139 of the Constitution, including section 139(1)(c) where appropriate, as well as the possible review or reassignment of Water Services Authority functions in accordance with applicable legislation. The Commission emphasises that the implementation of such measures remains within the constitutional and statutory discretion of the relevant executive authorities.

2. INTRODUCTION

- 2.1. The Commission is an independent constitutional institution established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996. In terms of section 184 of the Constitution and the South African Human Rights Commission Act 40 of 2013, the Commission is mandated to promote respect for human rights, monitor and assess the observance of human rights, investigate alleged violations of human rights and secure appropriate redress where rights have been infringed.
- 2.2. Access to sufficient water and adequate sanitation services is fundamental to the protection of human dignity, health, environmental safety and socio-economic well-being. Municipalities bear direct constitutional and statutory responsibilities in relation to

the provision, management and maintenance of basic municipal services, including water supply, sanitation and wastewater management infrastructure.

- 2.3. From 2023 onwards, the Commission received numerous complaints and stakeholder representations concerning ongoing water and sanitation challenges within Makana. The complaints raised recurring concerns relating to prolonged water outages, sewage spillages, inadequate sanitation services, unsafe environmental conditions, deteriorating municipal infrastructure and the continued use of the bucket system within certain informal settlements and vulnerable communities. Concerns were further raised regarding the impact of these conditions on households, schools, healthcare facilities, businesses and other public institutions within Makana.
- 2.4. In response to these complaints, the Commission initiated an investigation in terms of sections 13(3)(a), 14 and 15 of the South African Human Rights Commission Act 40 of 2013 (“the SAHRC Act”), read together with Chapter 7 of the Commission’s Complaints Handling Procedures (“CHP”). This provincial investigation was undertaken pursuant to the Commission’s constitutional mandate to promote, protect, monitor and assess the observance of human rights, including the rights to access to sufficient water, dignity, life, an environment not harmful to health or well-being, and accountable governance.
- 2.5. The investigation sought to assess whether Makana had complied with its constitutional and statutory obligations relating to water supply, sanitation services, wastewater management, environmental protection and accountable local governance. The investigation further sought to assess the effectiveness of measures implemented by relevant organs of state to address the reported conditions and stabilise service delivery within Makana.
- 2.6. In accordance with Chapter 7 of the CHP, the Commission utilised investigative mechanisms including requests for information, stakeholder engagements, documentary assessment, meetings with relevant organs of state and subpoena proceedings in order to obtain evidence relevant to the complaints before it.
- 2.7. The Commission initially engaged Makana and relevant stakeholders through correspondence, requests for information and stakeholder processes. Following continued complaints, inadequate engagement and the absence of sustained improvement in the reported conditions, the Commission exercised its statutory powers and convened subpoena proceedings in order to obtain sworn testimony and documentary evidence from Makana and relevant provincial and national departments.
- 2.8. The investigation considered information obtained through complaints received from affected residents and stakeholders, subpoena proceedings, stakeholder engagements, monitoring activities, written submissions and supporting documentation obtained from relevant institutions and stakeholders.

- 2.9. This report sets out the evidence obtained during the investigation, the applicable constitutional and legislative framework, the Commission's assessment of the information before it, and the findings and recommendations arising from the investigation.

3. BACKGROUND

- 3.1. Makana is a Category B municipality situated within the Sarah Baartman District Municipality in the Eastern Cape Province. Makana comprises Makhanda, Alicedale, Riebeeck East and surrounding rural settlements and farming areas. The administrative seat of the Municipality is Makhanda.
- 3.2. In terms of section 11(1) of the Water Services Act 108 of 1997 (the WSA), Makana is the designated Water Services Authority within its area of jurisdiction and bears responsibility for the planning, operation, maintenance and oversight of water supply and sanitation services and infrastructure. Section 11(2) of the WSA further requires Water Services Authorities, in taking reasonable measures to realise access to water services, to prioritise basic needs, public health and environmental protection.
- 3.3. Water supply to Makhanda is derived primarily from the James Kleynhans Water Treatment Works, supplemented by the Waainek Water Treatment Works. Water distribution within the municipal system is dependent on associated pump stations, reservoirs, reticulation infrastructure and operational pumping capacity. Wastewater services are linked primarily to the Belmont Valley and Mayfield Wastewater Treatment Works. Alicedale and Riebeeck East rely on separate abstraction, storage, pumping and wastewater systems.
- 3.4. Makana is characterised by significant socio-economic vulnerability, including high levels of unemployment and household dependence on municipal water and sanitation services. Statistics South Africa Census 2022 municipal profile data indicates that many households within Makana have limited capacity to secure reliable alternative water and sanitation arrangements during prolonged service delivery disruptions.
- 3.5. The evidence obtained during the investigation demonstrates that vulnerable groups, including children, older persons, persons living with disabilities and residents of informal settlements and high-lying areas, have been disproportionately affected by recurring water and sanitation service delivery failures within Makana.
- 3.6. Between 2023 and 2026, the Commission received recurring complaints and stakeholder representations concerning prolonged water outages, sewage spillages, sanitation failures, deteriorating infrastructure and unsafe environmental conditions affecting multiple areas within Makana. Information obtained during the investigation

further revealed longstanding concerns regarding the condition, operation and maintenance of water and sanitation infrastructure, including water treatment facilities, wastewater treatment works, pump stations and reticulation systems.

- 3.7. The investigation further established that Makana has been the subject of various support and intervention measures implemented by provincial and national government departments over a prolonged period, including technical support initiatives, infrastructure funding allocations, governance oversight measures and emergency stabilisation interventions.
- 3.8. The investigation further established that concerns regarding wastewater management, sewage pollution and infrastructure failures within Makana are longstanding. Documentation obtained by the Commission on 26 May 2026 from the DWS reflects that the DWS issued directives to Makana as early as 2013 in terms of sections 19 and 53 of the National Water Act relating to pollution arising from the Belmont Valley Wastewater Treatment Works and associated sewer infrastructure. The DWS subsequently considered court interdict proceedings following continued non-compliance and ongoing pollution of water resources. These measures demonstrate that regulatory concerns regarding wastewater management and environmental compliance within Makana have persisted over an extended period.

4. METHODOLOGY

- 4.1. The Commission adopted a mixed-method investigative approach in assessing the water and sanitation conditions within Makana. The investigation involved the consideration of documentary evidence, sworn testimony, stakeholder submissions, monitoring activities and institutional responses obtained during the course of the investigation.
- 4.2. The investigation process included the assessment of complaints and stakeholder representations received by the Commission between 2023 and 2026 relating to water outages, sewage spillages, sanitation failures, deteriorating infrastructure and the impact of these conditions on affected communities within Makana.
- 4.3. The Commission further considered written submissions, correspondence and supporting documentation obtained from Makana, the Department of Water and Sanitation (DWS), Department of Cooperative Governance and Traditional Affairs (COGTA), the Office of the Premier, the Sarah Baartman District Municipality, Amatola Water, Rhodes University and the Auditor-General of South Africa (AGSA).

- 4.4. The investigation further included stakeholder engagements and subpoena proceedings convened by the Commission during which oral testimony was obtained under oath from representatives of Makana and relevant government departments.
- 4.5. The Commission additionally conducted monitoring activities and community engagements within affected areas in order to assess the impact of the reported conditions on residents and surrounding communities.
- 4.6. The evidence obtained during the investigation was assessed collectively in light of the applicable constitutional, legislative and policy framework governing water services, sanitation, environmental protection, municipal governance and accountability.

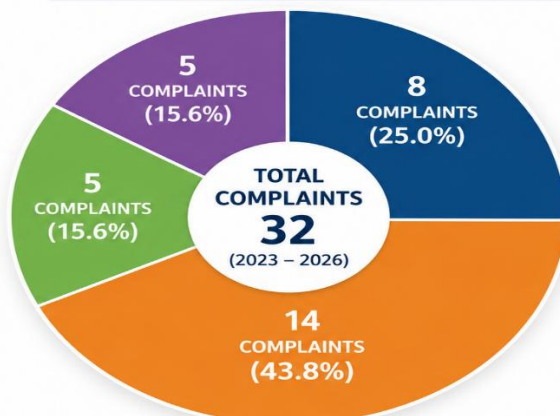
5. INVESTIGATIVE STEPS TAKEN BY THE COMMISSION

- 5.1. Between 2023 and 2026, the Commission received more than 30 complaints, follow-up submissions and stakeholder representations concerning recurring water and sanitation challenges within Makana. The complaints originated from multiple areas within Makana, including Makhanda, Alicedale, Riebeeck East and surrounding communities, and reflected prolonged and widespread instability in the provision of basic municipal services over an extended period.
- 5.2. The complaints and submissions raised recurring concerns relating to prolonged water outages, sewage spillages, inadequate sanitation services, deteriorating municipal infrastructure, alleged unsafe water conditions and the continued use of the bucket system within certain informal settlements and vulnerable communities.
- 5.3. The information received by the Commission further reflected concerns regarding the impact of the reported conditions on households, schools, healthcare facilities, correctional facilities, businesses and vulnerable groups, including children, older persons and residents residing in informal settlements and high-lying areas.
- 5.4. A summary of representative complaints and stakeholder submissions considered during the investigation appears below:

COMPLAINTS RECEIVED BY YEAR (2023 – 2026)



The complaints and stakeholder submissions received by the Commission between 2023 and 2026 reflect the persistence of water outages, sanitation failures and sewage spillages in the Makana Municipality.



YEAR	COMPLAINTS RECEIVED	
2023	8	(25.0%)
2024	5	(15.6%)
2025	14	(43.8%)
2026	5	(15.6%)
TOTAL	32	(100%)



Complaints have persisted across all years, with the highest number recorded in 2025 (43.8%), demonstrating ongoing service delivery challenges despite interventions.

No.	Date Received	Complainant	Summary of Complaint	Area
1.	29/04/2023	[REDACTED]	Alleged failure to maintain water infrastructure and municipal service delivery systems.	Makhanda
2.	29/04/2023	[REDACTED]	Prolonged water outages affecting households over extended periods.	Makhanda
3.	29/04/2023	[REDACTED]	Lack of water supply for approximately 13 days.	Makhanda
4.	29/04/2023	[REDACTED]	Recurring water outages, inadequate maintenance and alleged failure to address water supply interruptions.	Makhanda
5.	29/04/2023	[REDACTED]	Prolonged water shortages affecting residents, vulnerable communities and businesses, including concerns regarding inadequate emergency interventions.	Makhanda
6.	12/06/2023	[REDACTED]	Persistent lack of access to water, sewage flooding, continued reliance on the bucket system and the impact on dignity, health and the environment.	Makana; N Street, Tanti and surrounding informal settlements
7.	18/11/2023	[REDACTED]	Denial of access to water during municipal labour unrest.	Riebeeck East
8.	18/11/2023	[REDACTED]	Prolonged water outages affecting correctional facilities, hospitals, schools and residents, including inadequate emergency interventions.	Waainek Correctional Facility, Settlers Hospital and broader Makana

9.	27/01/2024	████	Ongoing water and service delivery challenges within Makana.	Makana
10.	16/08/2024	██████	Severe and longstanding water supply challenges affecting residents within Alicedale.	Alicedale
11.	28/08/2024	██████	Prolonged lack of water supply since 23 August 2024.	Makhanda
12.	28/08/2024	██████	Prolonged water and electricity outages during municipal labour unrest.	Makhanda
13.	28/08/2024	██████	Prolonged water outages, fire safety concerns and the impact of lack of water on dignity, sanitation and health.	Makhanda
14.	26/03/2025	██████	Sewage spillages, prolonged water outages, sanitation failures and associated environmental and health concerns.	Makhanda
15.	04/06/2025	██████	Prolonged water outage and lack of municipal response or communication.	Makhanda
16.	06/06/2025	██████	Recurring prolonged municipal water outages.	Makhanda
17.	09/06/2025	██████	Ongoing violations of the right of access to water arising from municipal failures.	Makhanda
19.	10/06/2025	██████	Widespread municipal service delivery failures including water, refuse, electricity and road infrastructure failures.	Makhanda
20.	27/08/2025	██████	Prolonged lack of water supply since May 2025.	Oatlands
21.	27/08/2025	██████	Unresolved sewage leakage and environmental contamination concerns.	Makhanda
22.	28/08/2025	██████	Prolonged water outages affecting elderly residents within a retirement village.	Cradock Heights
23.	29/08/2025	██████	Unresolved sewage flooding and environmental health concerns.	Glastonbury Road
24.	29/08/2025	██████	Systemic municipal failures affecting water, roads, refuse removal and public infrastructure.	Makhanda
25.	31/08/2025	██████	Prolonged water shortages in high-lying areas and inadequate emergency water interventions in informal settlements.	Makhanda, Nkanini, Military Base, State Vet, Miles Street and PJ Olivier School
26.	31/08/2025	██████	Prolonged water outages, billing concerns and alleged lack of accountability within the Municipality.	Makhanda

27.	05/09/2025		Deteriorating roads, prolonged water outages, inadequate street lighting and electricity supply failures.	Hillsview Road, Makhanda
28.	11/02/2026		Unsafe and discoloured municipal water allegedly unfit for drinking and cooking.	Makhanda
29.	16/02/2026		Prolonged absence of municipal water supply over several weeks.	Makhanda
30.	19/02/2026		Recurring failures in water, electricity, refuse removal and municipal infrastructure management.	Makhanda
31.	20/02/2026		Alleged discriminatory water supply arrangements and inadequate municipal service delivery.	Makhanda
32.	03/05/2026		Longstanding deterioration of municipal infrastructure, prolonged water outages and unsafe environmental conditions.	Makhanda

- 5.5. In addition to the complaints reflected above, the Commission received further follow-up correspondence and stakeholder representations concerning recurring water outages, sewage spillages, inadequate emergency water provision and ongoing infrastructure deterioration within Makana.
- 5.6. The Commission further conducted monitoring activities in Makhanda between 17 and 19 December 2024 as part of its ongoing investigation and oversight processes. During the monitoring visit, the Commission observed ongoing service delivery challenges relating to uneven water distribution, prolonged water shortages in high-lying areas, widespread leakages, sanitation concerns, illegal dumping and deteriorating municipal infrastructure.
- 5.7. The monitoring process included engagements with affected communities in Joza, Tanti, Fingo, Extension 6 and areas situated along the R350 route. Community

members raised concerns regarding prolonged water shortages, inadequate sanitation infrastructure, sewage spillages, illegal dumping and the continued deterioration of municipal services within affected communities.

- 5.8. Residents further raised concerns regarding inadequate communication from Makana, delayed responses to reported service delivery failures and diminished confidence in Makana's ability to implement effective and sustainable corrective measures.
- 5.9. The Commission notes that the complaints, stakeholder representations and monitoring observations obtained during the investigation reflected recurring and interconnected concerns affecting multiple areas within Makana over an extended period. The information before the Commission did not indicate isolated or short-term disruptions, but rather persistent instability in water and sanitation service delivery within Makana.

6. INVESTIGATION CONDUCTED BY THE COMMISSION

- 6.1. The Commission's investigation was informed by a series of complaints and stakeholder representations received from 2023 onwards concerning water and sanitation failures within Makana. A central complaint received from the Makana Civic Movement on 12 June 2023 raised concerns regarding persistent water shortages, sewage spillages, inadequate sanitation services and the continued use of the bucket system within certain informal settlements and vulnerable communities.
- 6.2. Following receipt of the complaint on 24 July 2023, the Commission addressed correspondence to Makana, the Sarah Baartman and the Amatola Water Board requesting information regarding the allegations raised and measures implemented to address the reported conditions.
- 6.3. Sarah Baartman responded on 16 October 2023, indicating that it is neither a Water Services Authority nor a Water Services Provider in respect of Makana, but that it had provided technical and capacity support to the Municipality, including training and technical secondments.
- 6.4. The Amatola Water Board responded on 18 October 2023, confirming that it had been appointed by the DWS as an implementing agent to support emergency interventions aimed at improving water supply infrastructure and production capacity within Makana.
- 6.5. Makana did not provide a response to the Commission's initial correspondence despite follow-up communications requesting engagement and information regarding the reported conditions.
- 6.6. On 1 August 2024, the Commission addressed further correspondence to the Executive Mayor and Municipal Manager of Makana requesting participation in a stakeholder engagement concerning the ongoing water and sanitation challenges within Makana.

- 6.7. The Commission subsequently convened a stakeholder engagement on 07 August 2024 involving various stakeholders and government departments. Notwithstanding the seriousness and ongoing nature of the issues raised, Makana did not formally respond to the invitation and failed to ensure meaningful senior level participation during the engagement.
- 6.8. In light of the continued complaints, inadequate engagement and the absence of measurable improvement in the reported conditions, the Commission exercised its statutory powers in terms of the SAHRC Act and issued a Notice to Appear compelling the Executive Mayor and Municipal Manager to provide evidence under oath.
- 6.9. The first subpoena hearing was convened on 11 September 2024 at Rhodes University in Makhanda. During the proceedings, the Executive Mayor and Municipal Manager provided oral testimony under oath concerning the state of water and sanitation services within Makana and the challenges affecting municipal service delivery.
- 6.10. Following the proceedings, the Commission directed Makana to provide written submissions addressing issues raised during the hearing. Makana subsequently submitted written responses concerning infrastructure challenges, operational constraints, technical capacity limitations and sanitation related concerns within Makana.
- 6.11. Following the September 2024 proceedings, the Commission continued monitoring developments within Makana and continued receiving complaints and stakeholder representations indicating ongoing water outages, sanitation failures and service delivery instability.
- 6.12. In light of the continued concerns and the absence of sustained improvement, the Commission acting in terms of the SAHRC Act issued a further Notice to Appear convening a second subpoena hearing on 27 August 2025.
- 6.13. During the proceedings, the Commission received sworn testimony from Makana, the DWS, COGTA and the Office of the Premier concerning water and sanitation infrastructure, operational challenges, support interventions and governance-related issues affecting Makana.
- 6.14. The Commission further considered written submissions, stakeholder representations, monitoring observations and supporting documentation obtained from relevant institutions and stakeholders, including Rhodes University and the AGSA.
- 6.15. The evidence obtained through these processes was assessed collectively to determine: the extent and persistence of water and sanitation failures; the impact of those failures on affected communities and institutions; the adequacy of Makana's response; the effectiveness of provincial and national support measures; and whether Makana

remained capable of fulfilling its constitutional and statutory obligations as a Water Services Authority.

7. RESPONSE RECEIVED FROM MAKANA

- 7.1. Makana advised the Commission during the subpoena proceedings held on 11 September 2024, and in its written response dated 25 September 2024, that it is the designated Water Services Authority within its area of jurisdiction and accordingly bears responsibility for the provision of water and sanitation services to Makhandla, Alicedale, Riebeeck East and surrounding areas.
- 7.2. Makana attributed ongoing instability in water and sanitation services to ageing infrastructure, recurring operational failures and shortages in technical and engineering capacity affecting the Municipality's Engineering and Infrastructure Services Directorate.
- 7.3. Makana indicated that water supply to Makhandla is derived primarily from the James Kleynhans Water Treatment Works, supplemented by the Waainek Water Treatment Works, and that Makana's estimated daily water demand is approximately 20 megalitres.
- 7.4. Makana advised that significant portions of the water reticulation network consist of ageing asbestos cement pipelines prone to recurring bursts and leakages and further indicated that water supply reliability had been affected by pump failures at the Howieson's Poort Pump Station and limitations in system redundancy, particularly in relation to supplying high-lying areas.
- 7.5. In relation to the procurement of a pump set, Makana stated under oath that there was no loss of a pump valued at approximately R4.9 million. Makana indicated that an advance payment had been made to a service provider who failed to deliver the equipment within the contractual period and that the matter was the subject of litigation and disciplinary processes. The Commission notes that, even on Makana's version, the advance payment for equipment that was not delivered within the contractual period raises serious concerns regarding procurement controls, contract management, consequence management and the safeguarding of public funds intended for critical water infrastructure.
- 7.6. With regard to wastewater services, Makana indicated that the Belmont Valley Wastewater Treatment Works is operating above design capacity, while the Mayfield and Alicedale Wastewater Treatment Works experienced operational failures associated with vandalism, infrastructure deterioration, mechanical breakdowns and damage to sewer infrastructure. Makana further advised that funding applications and refurbishment initiatives had been pursued in relation to wastewater infrastructure repairs and upgrades.

- 7.7. Makana further stated that certain informal settlements are situated on servitudes, wetlands and flood-prone areas, which complicates the installation of conventional waterborne sanitation infrastructure.
- 7.8. Makana advised the Commission that the Municipality has experienced vacancies and shortages within critical engineering and technical positions and has relied on support interventions from organs of state and entities including Amatola Water, the Sarah Baartman, the Municipal Infrastructure Support Agent and COGTA. Makana further indicated that labour related disputes had at times affected operational responsiveness and after-hours management of water systems. The Municipality also stated that measures had been implemented to reduce overtime expenditure, improve grant management and stabilise aspects of municipal operations.
- 7.9. Makana further advised the Commission that the Special Investigating Unit was investigating certain matters within the Municipality and indicated that it was cooperating with the investigation.
- 7.10. On 10 September 2025, Makana submitted a progress report to the Commission outlining measures aimed at improving water and sanitation services. These measures included pump repairs, pipe replacement programmes, valve separation projects, smart metering initiatives and applications for funding relating to wastewater treatment infrastructure refurbishment. Makana indicated that these interventions, together with ongoing oversight and support measures implemented by provincial and national government departments, were intended to improve stability within the municipal water and sanitation system.

8. SUBMISSIONS MADE BY STAKEHOLDERS

8.1. Sarah Baartman District Municipality

- 8.1.1. The Commission addressed correspondence dated 23 July 2023 to the Sarah Baartman District Municipality (Sarah Baartman) concerning water and sanitation challenges within Makana. In response, Sarah Baartman submitted written representations dated 16 October 2023 outlining its involvement in support measures implemented within Makana.
- 8.1.2. Sarah Baartman indicated that it is neither a Water Services Authority nor a Water Services Provider in respect of Makana and stated that its involvement has been limited to technical and institutional support measures.
- 8.1.3. Sarah Baartman indicated that support measures included capacity building initiatives, training of process controllers and plumbers, and the secondment of

technical personnel to support engineering and water services functions within Makana.

- 8.1.4. Sarah Baartman indicated that these measures were intended to support operational capacity and assist Makana in addressing water-related service delivery challenges.

8.2. Department of Water and Sanitation

- 8.2.1. The Department of Water and Sanitation (DWS) presented to the Commission during the stakeholder engagement held on 7 August 2024 and subsequently provided sworn testimony during the subpoena proceedings held on 27 August 2025.
- 8.2.2. The DWS indicated that the water challenges experienced within Makana are not attributable to a lack of bulk raw water resources within the regional system. The Department stated that sufficient water resources remain available through the Fish River system, Glen Melville Dam and the Orange-Fish River scheme.
- 8.2.3. The DWS advised that operational and infrastructure-related constraints have affected water production, distribution and wastewater management within Makana. The Department indicated that the James Kleynhans Water Treatment Works has a design production capacity of approximately 18 to 20 megalitres per day, while actual production levels were affected by operational and mechanical limitations associated with pumping infrastructure.
- 8.2.4. The DWS further advised that wastewater treatment infrastructure, including the Belmont Valley and Mayfield Wastewater Treatment Works, had experienced significant operational deterioration contributing to sewage spillages, wastewater management failures and environmental contamination risks.
- 8.2.5. In relation to Alicedale and Riebeeck East, the Department indicated that residents experienced intermittent water rationing and further stated that groundwater sources in these areas contain elevated iron levels affecting water quality and infrastructure performance.
- 8.2.6. The DWS advised that funding allocations and technical support interventions had been implemented within Makana through the Water Services Infrastructure Grant and related support mechanisms. The Department further indicated that certain expenditures could not be recognised due to non-compliance with grant conditions and reporting requirements.
- 8.2.7. The Department confirmed that regulatory directives and compliance measures had been issued to Makana in terms of its oversight and enforcement powers.
- 8.2.8. Following circulation of the draft report, the Commission received further written submissions and supporting documentation from the DWS on 26 May 2026. The

additional information provided by the Department included documentation relating to historical regulatory interventions undertaken by the DWS in respect of wastewater management and pollution concerns within Makana, as well as information concerning the implementation of the James Kleynhans Bulk Water Supply Scheme through the Regional Bulk Infrastructure Grant programme. The documentation reflects that the DWS has implemented regulatory, technical and funding interventions over an extended period aimed at improving water treatment, storage, pumping capacity and distribution infrastructure within Makana.

- 8.2.9. The documentation provided by the DWS indicates that concerns relating to wastewater treatment failures, sewage spillages and environmental pollution within Makana are longstanding and have previously been the subject of regulatory action by the Department, including directives and contemplated legal proceedings aimed at addressing non-compliance with applicable water legislation.
- 8.2.10. The documentation further reflects that substantial funding and technical support have been directed towards the augmentation and upgrading of the James Kleynhans Water Treatment Works and associated infrastructure through a phased implementation programme. The information provided by the Department indicates that Phases 1 and 2 of the project have been completed and that Phase 3 remains under implementation. The Department further indicated that additional funding has been approved to support completion of the remaining works associated with the project.

8.3. Department of Cooperative Governance and Traditional Affairs (COGTA)

- 8.3.1. The Department of Cooperative Governance and Traditional Affairs (COGTA) presented to the Commission during the stakeholder engagement held in Makhanda on 07 August 2024, where it outlined the challenges affecting Makana, as well as the support interventions implemented by the Department. COGTA subsequently provided sworn testimony during the subpoena proceedings held on 27 August 2025.
- 8.3.2. During the engagement, COGTA identified several challenges affecting the Municipality, including limited technical capacity, continued water and sewer spillages, ageing infrastructure, delays in the completion of the James Kleynhans Water Treatment Works upgrade, and wastewater treatment works operating above design capacity.
- 8.3.3. COGTA further indicated that Makana is subject to an intervention in terms of section 139(5) of the Constitution, under which a Financial Recovery Plan was developed with the involvement of National Treasury.

- 8.3.4. COGTA indicated that ongoing support measures implemented within Makana included governance oversight, institutional support programmes, technical interventions and monitoring of the Financial Recovery Plan in collaboration with Provincial and National Treasury. COGTA further advised that technical and specialist personnel, including engineers and senior technical officials, had been seconded to Makana in order to address capacity constraints and support infrastructure management and operational functions. Additional interventions included measures aimed at reducing non-revenue losses and improving service sustainability through smart metering initiatives.
- 8.3.5. In relation to emergency relief measures, COGTA indicated that government-owned water tankers had been deployed to mitigate the impact of supply disruptions and to reduce reliance on private water suppliers. Concern was raised regarding the emergence of informal profiteering dynamics described as “water mafias”, and the importance of maintaining transparency and accountability in emergency water provision.
- 8.3.6. Under questioning during the subpoena proceedings, COGTA stated that the departure of one of the engineers who had been seconded to support Makana was not linked to allegations of interference or the involvement of so-called “water mafias”, and indicated that the matter related to a labour issue. It was placed on record that no police report had been filed in relation to any alleged threats. COGTA further indicated that it had not conducted a formal investigation into the underlying reasons for the engineer’s departure.

8.4. Amatola Water Board

- 8.4.1. The Commission also forwarded an allegation letter dated 23 July 2023 to the Amatola Water Board (Amatola Water) concerning issues relating to water and sanitation services within Makana. In its response thereto, the Commission received a written submission from Amatola Water dated 18 October 2023 in response to the complaint concerning access to water within Makana.
- 8.4.2. In its submission, Amatola Water indicated that it is a public entity established in terms of the WSA and operates as a water board responsible for providing water services to other water services institutions.
- 8.4.3. Amatola Water further indicated that it was appointed by the DWS as the implementing agent for an emergency intervention in Makana with effect from 01 June 2023, initially for a period of six months, which was subsequently extended.

- 8.4.4. Amatola Water indicated that the purpose of the intervention was to improve water production and supply stability through operational, maintenance and management support. Amatola Water further advised that water production within Makana improved following the intervention, although operational challenges within the municipal reticulation network, including leaks and infrastructure failures, continued to affect overall system performance.
- 8.4.5. Amatola Water subsequently presented to the Commission during the stakeholder engagement held in Makhanda on 07 August 2024, where it outlined its role, scope of intervention and operational support provided in relation to water services within Makana.
- 8.4.6. During the presentation, Amatola Water indicated that its scope of work included the operation, maintenance and management of bulk water services infrastructure, including water treatment works, pump stations and distribution systems, covering the Waainek, James Kleynhans, Alicedale and Riebeeck East systems.
- 8.4.7. It was further indicated that Makana is supplied by two primary water sources, namely the Glen Melville Dam and the Settlers Dam system feeding the Howieson's Poort system, and that the systems are interconnected to allow operational flexibility.
- 8.4.8. In relation to infrastructure capacity, Amatola Water indicated that the Waainek Water Treatment Works has a design capacity of approximately 8 megalitres per day, while the James Kleynhans Water Treatment Works has a design capacity of approximately 20 megalitres per day.
- 8.4.9. Amatola Water further indicated that, in supporting bulk water operations, it undertakes water quality monitoring through regular sampling at multiple sites. According to Amatola Water, the testing showed that the water was chemically stable, although microbiological contaminants were detected in certain areas of the reticulation system, whereafter corrective measures were implemented.
- 8.4.10. Amatola Water stated that its interventions were aimed at improving system performance within the scope of its mandate and included infrastructure refurbishment, maintenance, repairs, and operational support to bulk water services.

8.5. Office of the Premier (OTP)

- 8.5.1. During the subpoena proceedings held on 27 August 2025, the Office of the Premier (OTP) addressed the Commission regarding provincial oversight measures implemented in respect of Makana.
- 8.5.2. The OTP acknowledged that prolonged water shortages and recurring sewage spillages within Makana constitute serious service delivery failures affecting dignity,

health and environmental safety. The OTP further advised that Makana remains subject to a Financial Recovery Plan in terms of section 139(5) of the Constitution and stated that oversight and monitoring continue in collaboration with COGTA and Provincial Treasury.

- 8.5.3. In response to questions concerning possible escalation under section 139(1)(c) of the Constitution, including dissolution of the municipal council, the OTP stated that such intervention constitutes a measure of last resort.

8.6. Submission by Rhodes University

- 8.6.1. On 26 January 2026, the Commission forwarded a questionnaire to Rhodes University (the University) seeking information regarding the impact of ongoing water supply challenges in Makana on the University and its students, as well as whether the University had provided any form of assistance or support to Makana in addressing the crisis. On 03 February 2026, the Commission received a written response from the University through its representatives.
- 8.6.2. The University describes the water supply challenges in Makhanda as longstanding and severe, characterised by intermittent or complete water outages experienced over several years. These disruptions extend beyond planned maintenance interruptions and affect different parts of the campus unevenly, with higher lying residences being particularly impacted due to unreliable pumping capacity.
- 8.6.3. The University confirmed that interruptions in water supply have been ongoing since at least 2013, with outages sometimes lasting up to a week. These conditions have had significant consequences, including student protests, illness arising from poor sanitation conditions, and students transferring to other institutions due to the ongoing lack of reliable water supply. The submission further notes that some academic staff have chosen to reside outside Makhanda due to the water situation, with broader negative implications for the local economy and the University's academic environment.
- 8.6.4. The impact on academic activities and residential life is described as severe. On the main campus, water shortages have affected scientific laboratories, sanitation facilities and fire hydrant systems, placing the institution at operational and safety risk. Within student residences, the absence of water has disrupted basic hygiene, food preparation and living conditions. The University reports that funds originally allocated for academic and institutional purposes have had to be redirected to water management interventions, including the procurement of water tankers and the establishment of emergency supply systems across campus facilities.

- 8.6.5. The University indicated that it has not conducted formal technical studies into the causes of the water crisis; however, based on its experience, it attributes the ongoing challenges to a combination of factors, including lack of infrastructure maintenance, insufficient capital investment in infrastructure, inadequate financial management and shortages of technical expertise within the municipality. The submission further highlights high staff turnover, capacity constraints and lack of sustained management oversight as contributing factors.
- 8.6.6. The University confirmed that it has consistently engaged with Makana regarding water supply challenges and has offered assistance in various forms, including technical expertise, equipment and operational support. The University has, on multiple occasions, assisted with repairs to municipal water infrastructure, including burst pipes both on and off campus, in order to stabilise water supply to the campus and surrounding areas. In addition, the University has procured water tankers to support both its own operations and, at times, the broader community, including assisting with fire response where municipal capacity was insufficient.
- 8.6.7. In relation to the Makana's response, the University indicated that while there is generally a positive working relationship at a technical level, there is a lack of follow through at the level of municipal leadership. Commitments made during engagements are reportedly not implemented, leading to a breakdown of trust between the parties.
- 8.6.8. Based on its experience, the University considers the primary causes of the ongoing water supply challenges to include inadequate management, lack of technical capacity, insufficient maintenance funding, and poor accountability mechanisms. While aging infrastructure is often cited as a contributing factor, the University submits that this does not sufficiently explain the extent of the failures, emphasising that infrastructure deterioration requires ongoing maintenance and investment, which has not been adequately undertaken.
- 8.6.9. The University further notes that, despite significant public funds having been allocated to address water infrastructure and emergency interventions, these efforts have not resulted in reliable or sustained water supply. The submission attributes this to a combination of financial mismanagement, lack of prioritisation, capacity constraints, and weak accountability, resulting in a continued deterioration of service delivery conditions.

8.7. Submission by the Auditor-General of South Africa

- 8.7.1. On 12 February 2026, the Commission addressed correspondence to the Auditor-General of South Africa in the Eastern Cape (AGSA) requesting information and

documentation relating to audit findings concerning Makana, including audit reports, management reports, material irregularities and environmental audit findings relating to water and sanitation services. On 19 March 2026, the Commission received a written response from AGSA together with supporting documentation.

- 8.7.2. The information provided included the audit report and management report for the 2024/25 financial year, together with supporting documentation on material irregularities, environmental audit findings and commitments made by municipal leadership.
- 8.7.3. Makana received a disclaimed audit opinion, reflecting the AGSA's inability to obtain sufficient and appropriate audit evidence to support the financial statements. This outcome is indicative of pervasive deficiencies in financial management, including weaknesses in recordkeeping, financial reporting, revenue management, expenditure control and asset management.
- 8.7.4. The audit report records that amounts disclosed in the financial statements were not supported by adequate underlying documentation, and in several instances could not be confirmed through alternative audit procedures. As a result, the accuracy, completeness and reliability of the financial statements could not be verified.
- 8.7.5. The audit further identified significant levels of financial mismanagement, including irregular expenditure exceeding approximately R316 million and unauthorised expenditure exceeding approximately R236 million, together with instances of fruitless and wasteful expenditure. These findings are noted to be repetitive in nature, reflecting a failure to implement effective corrective measures and consequence management.
- 8.7.6. The management report attributes these outcomes to systemic internal control deficiencies, including the absence of reliable financial systems, inadequate record management, failure to perform reconciliations, and weak oversight over financial reporting processes. These deficiencies have persisted over several audit cycles and continue to undermine financial accountability and governance.
- 8.7.7. The AGSA identified material weaknesses in performance management and reporting. Reported service delivery achievements were not consistently supported by verifiable evidence, and in several instances performance indicators could not be reliably assessed. This raises significant concerns regarding the credibility of reported progress in the delivery of basic municipal services.
- 8.7.8. The audit included an assessment of water and sanitation services, wastewater management, solid waste management and compliance with environmental legislation. Site visits conducted during the audit process identified conditions posing risks to the environment, health and well-being, resulting in the identification of material irregularities.

- 8.7.9. Wastewater treatment infrastructure within Makana was found to be non-functional and inadequately maintained. Facilities such as the Mayfield, Alicedale and Belmont Valley Wastewater Treatment Works were severely compromised, with observations including sewage spillages, infrastructure failure, and the discharge of untreated or poorly treated effluent into the environment.
- 8.7.10. In respect of the Mayfield Wastewater Treatment Works, the AGSA recorded that the facility was not functioning as intended due to infrastructure collapse and operational failures, resulting in untreated wastewater being discharged into the environment. This conduct was found to be in contravention of section 28(1) of the National Environmental Management Act and section 19(1) of the National Water Act and was noted as likely to cause substantial harm to affected communities.
- 8.7.11. Similarly, the Grahamstown landfill site was found to be inadequately managed, with the collapse of infrastructure and uncontrolled dumping leading to environmental degradation and risks to health and well-being. These conditions were found to be inconsistent with applicable environmental legislation and regulatory requirements.
- 8.7.12. The environmental audit further indicates that Makana has failed to develop and implement key planning and management instruments, including a Water Services Development Plan, infrastructure maintenance plans, and environmental management strategies. These failures are compounded by capacity constraints, including shortages of qualified technical personnel within critical infrastructure functions.
- 8.7.13. The AGSA identified material irregularities in terms of the Public Audit Act, including environmental non-compliance and the risk of harm to the public arising from failures in wastewater treatment and waste management infrastructure.
- 8.7.14. The AGSA formally notified the Accounting Officer of the material irregularity relating to the Grahamstown landfill site on 30 November 2024, identifying serious deficiencies including infrastructure collapse, uncontrolled dumping and non-compliance with environmental legislation.
- 8.7.15. The Municipality responded on 11 February 2025, outlining intended remedial actions. However, following an assessment of the response and subsequent follow-up procedures, the AGSA concluded that the actions taken were not appropriate or sufficient to address the material irregularity.
- 8.7.16. The AGSA further recorded that appropriate action was not being taken to prevent or remedy the identified environmental harm and indicated that further action in terms of the material irregularity process was under consideration.
- 8.7.17. The Commission regards this evidence as particularly significant. As at 30 November 2025, the conditions giving rise to the AGSA's material irregularities persisted,

including ongoing non-compliance with environmental legislation and continued risks to health, well-being and the environment. This demonstrates that the failures identified were not historical, isolated or already remedied, but remained current despite formal audit escalation and remedial processes.

8.7.18. In separate correspondence provided to the Commission, the AGSA indicated that the matter had progressed through escalation processes, including referral for investigation and notification to relevant authorities, following a determination that appropriate corrective action was not being taken.

8.7.19. Taken together, the information provided by the AGSA demonstrates a pattern of persistent, systemic and unremedied failures in financial management, governance, infrastructure management and service delivery.

8.7.20. These failures are characterised by:

8.7.20.1. The inability to produce credible financial statements;

8.7.20.2. Repeated and persistent non-compliance with applicable legislation;

8.7.20.3. Weak and ineffective internal controls;

8.7.20.4. Failure to implement corrective measures despite repeated audit findings and formal escalation processes;

8.7.20.5. Unreliable performance reporting; and

8.7.20.6. Ongoing environmental and health and well-being risks arising from infrastructure collapse and inadequate service delivery.

8.7.21. The Commission finds that these conditions are indicative of a sustained breakdown in governance, institutional accountability and administrative capacity. The cumulative effect of these failures has materially impaired the Municipality's ability to fulfil its constitutional and statutory obligations, particularly in relation to the provision of basic services in a sustainable, lawful and accountable manner.

8.8. Intervention by the Department of Employment and Labour

8.8.1. On 12 February 2026, the Commission addressed correspondence to the Department of Employment and Labour (DoL) requesting information relating to inspections conducted at Makana, including a formal request for the inspection report and related documentation following an inspection conducted on 04 November 2024 at the Engineering and Infrastructure Building.

8.8.2. The Commission requested copies of the inspection report, the Direction Notice(s) issued pursuant to the inspection conducted on 04 November 2024, and any subsequent compliance reports, updated findings, revocation notices or related correspondence arising from the inspection process.

- 8.8.3. No response had been received from the DoL at the time of finalising this report.
- 8.8.4. Notwithstanding the absence of a response from the DoL, the Commission obtained and considered a Direction Notice: Prohibition issued in terms of section 30 of the Occupational Health and Safety Act through written submissions received from interested parties during the investigation.
- 8.8.5. The Direction Notice, issued on 05 November 2024 under reference number GQ-0/11/24/02, directed Makana to cease permitting employees to occupy the Engineering and Infrastructure Building due to conditions found to pose a threat to health and safety.
- 8.8.6. The notice identified serious occupational health and safety concerns within the building, including a broken ceiling, roof leakages, absence of lighting and flooding caused by water ingress. The building was accordingly prohibited from occupation until the identified risks had been addressed.
- 8.8.7. The Commission notes that the Engineering and Infrastructure Directorate is responsible for critical municipal infrastructure and service delivery functions relating to water and sanitation services within Makana. The conditions identified in the Direction Notice therefore raise broader concerns regarding institutional deterioration, infrastructure management, operational stability and the Makana's capacity to maintain functional working environments necessary for the effective performance of essential service delivery functions.

8.9. Intervention by the Special Investigating Unit

- 8.9.1. The Special Investigating Unit (The SIU) has instituted an investigation into the affairs of Makana under Proclamation 207, GG 51328 of 2024, focusing on allegations of serious maladministration, corruption and systemic procurement irregularities.
- 8.9.2. The investigation includes the procurement of, and contracting for goods, works and services, as well as payments made by Makana, particularly in relation to Tender MLM/20-21/INFRA/010 (014) concerning Makana Bulk Sewer Upgrade Phase 1, and extends to goods and services procured above R200,000 without competitive bidding, as identified by the AGSA in its Management Report dated 30 June 2019.
- 8.9.3. The SIU investigation covers multiple projects, including groundwater development, water conservation and demand management initiatives, electrification infrastructure, municipal IT services, and landfill site operations, all of which relate directly to the delivery of essential municipal services.
- 8.9.4. Importantly, the investigation further includes allegations of undisclosed or unauthorised interests by municipal officials and employees of the State in service

providers doing business with the Municipality, as well as serious maladministration relating to the payment of standby allowances and overtime benefits contrary to applicable legal and policy frameworks.

- 8.9.5. As reflected in the SIU 2024/25 Annual Report¹ at page 50, the scope of the investigation also extends to any improper or unlawful conduct by service providers and any other persons or entities implicated in the identified transactions.
- 8.9.6. As part of the investigation, the SIU reported on its media statement of 01 November 2024² that it obtained a search warrant and conducted a search and seizure operation at municipal offices, collecting documentation, electronic devices, and tender related records. This step followed Makana's failure to cooperate with requests for information, a challenge similarly encountered by the AGSA.
- 8.9.7. According to the Grocott's Mail online article³ of 15 February 2026, the investigation into Makana is nearing completion, with the Final Presidential Report expected in the second quarter of 2026 following delays caused by the expanding scope of the inquiry.

9. ASSESSMENT OF SUBMISSIONS AND IMPACT OF SERVICE DELIVERY FAILURES

- 9.1. The Commission considered the totality of the evidence obtained during the investigation, including complaints received from affected communities, sworn testimony presented during subpoena proceedings, written submissions from Makana and relevant government departments, monitoring observations, stakeholder representations and supporting documentation obtained from independent institutions and stakeholders.
- 9.2. Considered collectively, the evidence before the Commission demonstrates a sustained pattern of instability in the provision of water and sanitation services within Makana. While the submissions received differed in emphasis and institutional perspective, there was substantial consistency regarding the existence, duration and seriousness of the reported conditions affecting the Municipality.
- 9.3. The Commission accepts that Makana operates within a broader local government environment marked by financial, technical and infrastructure constraints. However, the evidence in this matter goes beyond ordinary resource limitations. It demonstrates a sustained failure to plan, maintain, operate, account and implement corrective measures in respect of essential water and sanitation infrastructure. The issue is therefore not

¹ <https://www.siu.org.za/wp-content/uploads/2025/11/SIU-2024-25-Annual-Report-Final-.pdf>

² <https://www.siu.org.za/wp-content/uploads/2024/11/MEDIA-STATEMENT-Makana-Local-Municipality-search-media-statement-01November-2024.pdf>

³ <https://grocotts.ru.ac.za/2026/02/15/siu-probe-of-makana-nears-completion/>

merely scarcity of resources, but the ineffective use, management and governance of available resources and support measures.

- 9.4. The evidence further demonstrates that critical infrastructure, including pump stations, water treatment works and wastewater treatment facilities, has repeatedly operated below functional capacity due to inadequate maintenance, operational instability, delayed repairs and institutional shortcomings affecting infrastructure management.
- 9.5. The evidence further demonstrates significant deterioration of wastewater treatment infrastructure within Makana, including recurring sewage spillages, operational failures at wastewater treatment facilities, infrastructure collapse and associated environmental contamination risks affecting surrounding communities and public spaces.
- 9.6. The Commission further notes that these conditions persisted notwithstanding extensive support, oversight and intervention measures implemented by provincial and national government departments over a prolonged period. These measures included regulatory directives issued by the DWS, contemplated court proceedings relating to wastewater pollution, technical secondments, infrastructure funding allocations, implementation of the James Kleynhans Bulk Water Supply Scheme, emergency water supply interventions, governance support initiatives, regulatory oversight measures and the implementation of a Financial Recovery Plan in terms of section 139(5) of the Constitution. The cumulative evidence demonstrates that although significant interventions, funding commitments and infrastructure upgrades were implemented, these measures have not translated into sustained, reliable and constitutionally compliant water and sanitation services throughout Makana.
- 9.7. While certain infrastructure projects achieved measurable outputs, including upgrades to water treatment infrastructure, increased treatment capacity and improvements to specific components of the municipal water system, the evidence before the Commission demonstrates that these interventions have not resulted in sustained institutional stability, reliable service delivery or the elimination of recurring water and sanitation failures affecting residents of Makana.
- 9.8. The information obtained from the AGSA further demonstrates persistent and systemic governance, financial management and administrative failures within Makana. These include repeated audit disclaimers, unreliable financial reporting, ineffective internal controls, persistent non-compliance with legislative obligations and failures to implement corrective measures despite repeated audit findings, escalation processes and oversight interventions.
- 9.9. The Commission further notes that the findings of the Department of Water and Sanitation's Green Drop Report 2025 reinforce the concerns identified during this investigation regarding wastewater infrastructure deterioration, operational instability,

inadequate maintenance, governance failures and environmental contamination risks within municipalities. The Green Drop Report identifies recurring sewage spillages, dysfunctional wastewater systems, weak technical capacity, inadequate preventative maintenance, poor asset management and persistent environmental non-compliance as key systemic risks affecting wastewater treatment systems nationally. The report further confirms that wastewater systems operating in a dysfunctional or critical state trigger regulatory concern and require urgent intervention and corrective action. These findings materially support the evidence obtained during this investigation regarding the condition and management of wastewater infrastructure within Makana.

- 9.10. The evidence obtained during the investigation further demonstrates sustained institutional instability materially impairing the Municipality's ability to maintain reliable service delivery systems, implement sustainable corrective measures and respond effectively to recurring infrastructure failures and operational disruptions.
- 9.11. The impact of these conditions on affected communities has been substantial and prolonged. Complaints received by the Commission, together with stakeholder submissions and monitoring observations, demonstrate that residents and institutions within Makana experienced recurring interruptions in access to water, exposure to sewage spillages and ongoing undignified and unsafe living conditions over an extended period.
- 9.12. The evidence obtained during the investigation demonstrates that vulnerable groups, including children, older persons, residents of informal settlements and persons residing in high-lying areas, were disproportionately affected by recurring service delivery failures due to their heightened dependence on reliable municipal services and limited access to alternative arrangements.
- 9.13. The Commission further notes evidence indicating the continued or recurring use of the bucket system and alternative emergency sanitation arrangements in certain affected areas during periods of prolonged sanitation infrastructure failure and water supply interruptions. The Commission is concerned that such conditions undermine human dignity, expose affected communities to unsafe and unhealthy conditions and reflect the severity and persistence of the sanitation challenges identified during the investigation.
- 9.14. The evidence further indicates that the instability in water and sanitation services affected schools, healthcare facilities, student residences, businesses and other public institutions, resulting in disruptions to educational activities, sanitation systems, hygiene standards, food preparation and ordinary economic and social activities.
- 9.15. The Commission further notes that the persistence of these conditions has significantly undermined public confidence in municipal governance and institutional accountability. Stakeholder engagements and complaints consistently reflected concerns regarding

inadequate communication, delayed responses to service delivery failures and the absence of sustained corrective measures.

- 9.16. Considered cumulatively, the evidence demonstrates persistent and interconnected failures affecting water supply, sanitation services, wastewater management, infrastructure maintenance, financial governance, technical capacity and institutional accountability. These failures are systemic in nature and have materially impaired Makana's ability to provide water and sanitation services in a sustainable, effective and constitutionally compliant manner.

10. APPLICABLE LEGISLATIVE FRAMEWORK

- 10.1. This investigation is grounded in the Constitution together with the legislative framework governing water services, environmental protection, local government administration and municipal financial management. As the designated Water Services Authority within its area of jurisdiction, Makana is required to comply with these constitutional and statutory obligations in the provision, management and maintenance of water and sanitation services.

10.2. Constitutional Framework

- 10.2.1. Section 27(1)(b) of the Constitution guarantees everyone the right of access to sufficient water. Section 27(2) further requires the state to take reasonable legislative and other measures, within available resources, to progressively realise this right. Municipalities bear direct operational responsibility for the provision and management of water and sanitation services within their areas of jurisdiction.
- 10.2.2. Section 24 of the Constitution guarantees everyone the right to an environment that is not harmful to their health or well-being and requires the State to take reasonable legislative and other measures to prevent pollution and ecological degradation. Failures in wastewater treatment, sewage management and environmental protection directly implicate these constitutional obligations.
- 10.2.3. Section 10 of the Constitution guarantees the right to human dignity. Prolonged water shortages, recurring sewage spillages and inadequate sanitation conditions undermine the ability of affected persons to maintain basic standards of hygiene, health and daily living consistent with constitutional dignity.
- 10.2.4. Section 28(1)(b) of the Constitution provides that every child has the right to basic nutrition, shelter, basic health care services and social services, while section 28(2) provides that a child's best interests are of paramount importance in every matter concerning the child. Persistent failures in water and sanitation services affecting

households, schools and early childhood development facilities may undermine these protections and expose children to unsafe, unhealthy and undignified conditions.

10.2.5. Section 152 of the Constitution identifies the objects of local government, including the provision of services to communities in a sustainable manner and the promotion of a safe and healthy environment. Reliable water and sanitation services are central to the fulfilment of these constitutional objectives.

10.2.6. Section 154 of the Constitution requires national and provincial government to support and strengthen the capacity of municipalities to manage their affairs, exercise their powers and perform their functions. This obligation forms part of the broader cooperative governance framework applicable to municipal support and intervention measures.

10.2.7. Section 139 of the Constitution provides for provincial intervention where a municipality cannot or does not fulfil an executive obligation. Section 139(5) provides for mandatory intervention where a municipality is in serious or persistent breach of its obligations to provide basic services or meet its financial commitments. Section 139(1)(c) further permits the dissolution of a municipal council where exceptional circumstances exist, less intrusive measures have failed and such intervention is necessary to restore effective governance and service delivery.

10.3. **National Legislative Framework**

10.3.1. **Water Services Act 108 of 1997**

10.3.1.1. Section 11(1) of the Act provides that:

“Every water services authority has a duty to all consumers or potential consumers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to water services.”

10.3.1.2. Section 63(1):

“If a water services authority has not effectively performed any function imposed on it by or under this Act, the Minister may, in consultation with the Minister for Provincial Affairs and Constitutional Development, request the relevant Province to intervene in terms of section 139 of the Constitution.”

10.3.1.3. These provisions place a continuing obligation on Water Services Authorities to maintain functional water and sanitation infrastructure and to ensure the sustainable provision of water services. Persistent operational failures, inadequate maintenance and the inability to ensure reliable access to water and sanitation services directly implicate these statutory duties.

10.3.2. **National Water Act 36 of 1998**

10.3.2.1. Section 19(1):

“An owner of land, a person in control of land or a person who occupies or uses the land must take all reasonable measures to prevent any pollution of a water resource.”

10.3.2.2. Section 20(1):

“Any person who causes a water resource to be polluted must take all reasonable measures to clean up such pollution.”

10.3.2.3. Section 151(2):

“Any person who contravenes any provision of subsection (1) is guilty of an offence and liable, on the first conviction, to a fine or imprisonment for a period not exceeding five years, or to both a fine and such imprisonment and in the case of a second or subsequent conviction, to a fine or imprisonment for a period not exceeding ten years or to both a fine and such imprisonment”.

10.3.2.4. Recurring sewage spillages, wastewater treatment failures and environmental contamination risks identified during the investigation directly implicate these statutory obligations relating to pollution prevention and environmental protection.

10.3.3. **Local Government: Municipal Systems Act 32 of 2000**

10.3.3.1. Section 4 (2)(d):

“The council of a municipality, within the municipality’s financial and administrative capacity and having regard to the practical considerations, has the duty to strive to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner.”

10.3.3.2. Section 73(1):

“A municipality must give effect to the provisions of the Constitution and give priority to the basic needs of the local community.”

10.3.3.3. These provisions impose obligations on municipalities to ensure that basic municipal services are provided in a sustainable, accountable and effective manner consistent with constitutional obligations.

10.3.4. **Local Government: Municipal Finance Management Act 56 of 2003**

10.3.4.1. Section 62(1)(c) of the Act provides:

“The accounting officer of a municipality is responsible for ensuring that the municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal control.”

10.3.4.2. Section 171(1):

“An accounting officer commits an act of financial misconduct if that accounting officer deliberately or negligently fails to comply with a provision of this Act.”

10.3.4.3. The governance and financial management deficiencies identified during the investigation, including audit disclaimers, weak internal controls and repeated

failures to implement corrective measures, directly implicate these statutory obligations.

10.3.5. **National Environmental Management Act 107 of 1998 (NEMA)**

10.3.5.1. Section 28(1):

“Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring.”

10.3.5.2. Section 2(4)(a)(i):

“Sustainable development requires the consideration of all relevant factors including that the disturbance of ecosystems and loss of biological diversity are avoided.”

10.3.5.3. The environmental conditions identified during the investigation, including sewage spillages, wastewater failures and pollution risks, directly engage these statutory obligations.

10.4. **Policy and Strategic Framework on Sanitation**

10.4.1. **The National Sanitation Policy (2016)**

10.4.1.1. The Policy provides that:

“sanitation strategies will be devised to reach the most disadvantaged individuals and groups and remove discriminatory practices.”

10.4.1.2. The Policy further provides that local sanitation subsidy frameworks “must target the poor and must be equitable, sustainable, efficient and transparent.”

10.4.2. **The Strategic Framework for Water Services (2003)**

10.4.2.1. The Framework states that the sector vision for water services in South Africa is that “Water is life, sanitation is dignity.”

10.4.2.2. The Framework further states that:

“All people living in South Africa have access to adequate, safe, appropriate and affordable water supply and sanitation services...”

11. **Applicable Case Law**

11.1. The jurisprudence set out below provides guidance regarding the constitutional obligations of the State in relation to socio-economic rights, environmental protection, accountability and the provision of basic municipal services. These authorities inform the Commission’s assessment of the reasonableness, effectiveness and legality of measures implemented in relation to water and sanitation services within Makana.

High Court

11.2. **Unemployed Peoples’ Movement v Premier of the Eastern Cape and Others (Eastern Cape High Court, 2020)** – the High Court declared that Makana Local Municipality was in breach of its constitutional obligations, including its duties in terms

of sections 152 and 153 of the Constitution, relating to the provision of basic services and the management of its administration. The Court found that the extent and persistence of the failures justified intervention in terms of section 139 of the Constitution.

Supreme Court of Appeal

11.3. Premier, Eastern Cape v Unemployed Peoples' Movement and Others [2021]

ZASCA 111 – on appeal, the parties reached a settlement, which was subsequently made an order of the Supreme Court of Appeal. The settlement provided for the implementation of a Financial Recovery Plan aimed at restoring financial stability, governance and service delivery within the Municipality.

11.4. The settlement and subsequent Financial Recovery Plan reflected the implementation of a structured intervention process aimed at restoring financial stability, governance and service delivery within Makana. However, notwithstanding these remedial measures and ongoing provincial oversight interventions, the evidence obtained during the present investigation demonstrates that significant water and sanitation service delivery failures persisted within the Municipality.

11.5. Premier, Western Cape v Overberg District Municipality (801/2010) [2011] ZASCA

23 (18 March 2011) – confirmed that intervention under section 139 of the Constitution must be exercised in a manner that is proportionate and appropriate to the circumstances. The Court emphasised that dissolution of a municipal council constitutes a measure of last resort and may only be considered where less intrusive measures have proven ineffective and exceptional circumstances justify escalated intervention.

Constitutional Court

11.6. Government of the Republic of South Africa v Grootboom 2001 (1) SA 46 (CC) –

established that the State is required to adopt and implement reasonable measures to realise socio-economic rights. The Court emphasised that programmes must be effective in practice, and that failure of implementation renders an otherwise reasonable policy constitutionally deficient.

11.7. Mazibuko v City of Johannesburg 2010 (4) SA 1 (CC) –

confirmed that the reasonableness standard requires that measures adopted by the State must be responsive to context and capable of progressively realising access to services in practice. The enquiry focuses on effectiveness, not merely the existence of policies.

11.8. President of the Republic of South Africa v Modderklip Boerdery 2005 (5) SA 3

(CC) – held that the State bears a duty to ensure that constitutional rights are realised through effective relief. A failure to act in the face of systemic rights violations undermines the rule of law and constitutional supremacy.

- 11.9. **Economic Freedom Fighters v Speaker of the National Assembly 2016 (3) SA 580 (CC)** – affirmed that accountability is a foundational constitutional principle, requiring public institutions to act lawfully and to remedy failures where they occur.
- 11.10. **City of Cape Town v Robertson 2005 (2) SA 323 (CC)** – confirmed that municipalities bear direct responsibility for the performance of their statutory and constitutional functions and cannot evade obligations on the basis of capacity constraints.
- 11.11. **Fuel Retailers Association of Southern Africa v Director-General Environmental Management, Mpumalanga 2007 (6) SA 4 (CC)** – emphasised that section 24 of the Constitution requires the prevention of environmental harm and the integration of environmental protection with socio economic development. Decision-makers must ensure that development does not occur at the expense of environmental and health and well-being.

12. LEGAL ANALYSIS

- 12.1. The Constitution guarantees everyone the right of access to sufficient water and the right to an environment that is not harmful to their health or well-being and requires the state to take reasonable legislative and other measures, within available resources, to progressively realise these rights. These obligations extend directly to local government, which bears primary operational responsibility for the provision and management of basic municipal services, including water supply, sanitation and wastewater management.
- 12.2. The evidence obtained during the investigation demonstrates prolonged and recurring failures in the provision of water and sanitation services within Makana, including extended water outages, recurring sewage spillages, wastewater treatment failures, deteriorating infrastructure and inadequate sanitation conditions affecting households, schools, healthcare facilities, businesses and vulnerable communities over several years. These conditions materially impair access to sufficient water and undermine the rights to dignity, environmental protection and basic services guaranteed under the Constitution.
- 12.3. The Commission further finds that the conditions identified during the investigation are not isolated or temporary operational disruptions, but reflect systemic and sustained failures affecting infrastructure management, operational stability, governance oversight and institutional accountability within Makana. Considered cumulatively, the evidence demonstrates a persistent inability to maintain reliable and sustainable water and sanitation services consistent with constitutional obligations.

- 12.4. The statutory framework governing water services further reinforces these constitutional obligations. In terms of the WSA, Water Services Authorities are required to ensure the effective, sustainable and equitable provision of water and sanitation services and to perform these functions with the requisite institutional and technical capacity.
- 12.5. The evidence obtained during the investigation demonstrates recurring infrastructure failures, prolonged operational instability, inadequate maintenance, wastewater treatment failures and the inability to ensure reliable access to water and sanitation services, reflecting sustained non-compliance with the statutory duties imposed upon Water Services Authorities.
- 12.6. Section 63 of the WSA expressly contemplates intervention where a Water Services Authority has not effectively performed functions imposed upon it under the Act. The evidence before the Commission demonstrates prolonged and recurring failures in the provision and management of water and sanitation services notwithstanding repeated support and intervention measures implemented over an extended period.
- 12.7. The evidence further demonstrates significant deterioration in wastewater treatment infrastructure within Makana, including recurring sewage spillages, infrastructure collapse, operational failures at wastewater treatment works and the discharge or risk of discharge of untreated or inadequately treated effluent into the environment. These conditions create continuing risks to health, environmental safety and surrounding communities.
- 12.8. The Green Drop Report of 2025, the findings of the AGSA regarding the Mayfield, Alicedale and Belmont Valley Wastewater Treatment Works, together with the evidence obtained from complaints, monitoring activities and stakeholder submissions, demonstrate conditions inconsistent with section 24 of the Constitution, section 19 of the National Water Act 36 of 1998 and section 28 of the National Environmental Management Act 107 of 1998.
- 12.9. The evidence obtained during the investigation further demonstrates persistent governance, financial management and administrative failures within Makana. These include repeated audit disclaimers, unreliable financial reporting, ineffective internal controls, repeated failures to implement corrective measures, infrastructure deterioration and ongoing institutional instability affecting essential service delivery functions.
- 12.10. Considered cumulatively, the evidence demonstrates a sustained breakdown in governance, institutional accountability and administrative capacity within Makana. The persistence of these conditions materially impaired the Municipality's ability to fulfil its constitutional and statutory obligations relating to the provision and management of water and sanitation services in a sustainable, lawful and accountable manner.

- 12.11. The Commission further notes that multiple support, oversight and intervention measures have been implemented within Makana over a prolonged period. These measures included technical secondments, infrastructure funding allocations, governance support initiatives, emergency stabilisation interventions, regulatory oversight measures and the implementation of a Financial Recovery Plan in terms of section 139(5) of the Constitution.
- 12.12. Notwithstanding these measures, the evidence before the Commission demonstrates that significant water and sanitation service delivery failures persisted throughout the investigation period. Complaints concerning prolonged water outages, sewage spillages, deteriorating infrastructure and sanitation failures continued notwithstanding repeated provincial and national interventions and support measures.
- 12.13. The persistence of these conditions despite prolonged intervention measures raises serious concerns regarding the effectiveness of existing governance and institutional arrangements within Makana and the Municipality's continued capacity to fulfil its constitutional and statutory obligations in a sustainable and effective manner.
- 12.14. The Commission is particularly concerned that vulnerable groups, including children, older persons, residents of informal settlements and persons residing in high-lying areas, were disproportionately affected by prolonged service delivery failures due to their heightened dependence on reliable municipal services and limited access to alternative arrangements.
- 12.15. The evidence further indicates the continued or recurring use of the bucket system and alternative emergency sanitation arrangements within certain affected communities during periods of prolonged sanitation infrastructure failure and water supply interruptions. The Commission finds that such conditions undermine human dignity, expose affected communities to unsafe and unhealthy living conditions and reflect the severity and persistence of the sanitation challenges identified during the investigation.
- 12.16. The evidence further demonstrates that the instability in water and sanitation services materially affected schools, healthcare facilities, student residences, businesses and other public institutions, resulting in disruptions to educational activities, sanitation systems, hygiene standards, food preparation and ordinary economic and social activities.
- 12.17. In *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC), particularly at paras 42–44 and 59–60, the Constitutional Court confirmed that the State is required to adopt and implement reasonable measures capable of effectively realising socio-economic rights in practice. Similarly, in *Mazibuko v City of Johannesburg* 2010 (4) SA 1 (CC), particularly at paras 59–60, the Court emphasised that the reasonableness enquiry focuses not merely on the existence of policies or plans, but on

whether the measures implemented are effective in securing access to services in practice.

- 12.18. Considered in light of these principles, the evidence before the Commission demonstrates that, notwithstanding various intervention measures, support programmes and infrastructure initiatives implemented over a prolonged period, the conditions affecting water and sanitation services within Makana persisted and continued to materially affect affected communities and institutions. The constitutional concern is therefore not only that Makana has experienced service delivery failures, but that repeated plans, support measures and interventions have not translated into sustained practical improvement. On the reasonableness standard articulated in *Grootboom* and *Mazibuko*, the existence of plans and interventions is insufficient where implementation remains ineffective and affected communities continue to experience prolonged rights infringements.
- 12.19. The Commission recognises that intervention under section 139 of the Constitution constitutes an exceptional constitutional measure. However, the evidence obtained during the investigation demonstrates prolonged and systemic failures affecting the provision of basic municipal services notwithstanding repeated support and intervention measures implemented over several years.
- 12.20. In *Premier, Western Cape v Overberg District Municipality* (801/2010) [2011] ZASCA 23, particularly at paras 28–30, the Supreme Court of Appeal confirmed that section 139 of the Constitution confers a wide discretion on the provincial executive to take appropriate steps to address a municipality's failure to fulfil its obligations. The Court further held at paras 36–37 that dissolution constitutes a measure of last resort and that less intrusive measures must first be considered and assessed for effectiveness.
- 12.21. The Commission finds that multiple less intrusive support and intervention measures have already been implemented within Makana over an extended period. These include governance oversight, technical secondments, emergency interventions, financial recovery measures, regulatory directives and infrastructure support initiatives. The persistence of water and sanitation failures despite these measures provides a rational basis for the relevant executive authorities to consider whether escalated intervention under section 139 of the Constitution is now necessary and proportionate.
- 12.22. The Commission accordingly finds that the evidence obtained during the investigation demonstrates persistent and systemic failures affecting water supply, sanitation services, wastewater management, infrastructure maintenance, governance oversight, financial accountability and institutional capacity within Makana over a prolonged period. These failures materially impaired the Municipality's ability to fulfil its constitutional and

statutory obligations relating to the provision of basic municipal services in a sustainable, effective and constitutionally compliant manner.

13. FINDINGS

Based on the evidence placed before the Commission, including complaints received from affected communities, written submissions, sworn testimony received during subpoena proceedings held on 11 September 2024 and 27 August 2025, and submissions made by government departments, the Commission makes the following findings:

13.1. Systemic and Prolonged Failure in Water and Sanitation Services

- 13.1.1. The Commission finds that the failures affecting water and sanitation services within Makana are structural and systemic in nature rather than isolated or temporary disruptions. These failures have resulted in recurring water outages, unreliable supply and sanitation breakdowns affecting households, public institutions, businesses and vulnerable communities within Makana.
- 13.1.2. The evidence demonstrates persistent operational instability affecting critical infrastructure, including recurring pump failures, reduced production levels at the James Kleynhans Water Treatment Works and prolonged dysfunction at wastewater treatment facilities notwithstanding repeated support and intervention measures.
- 13.1.3. The Commission further finds that these conditions persisted over an extended period and affected multiple areas within Makana, with water outages in certain communities lasting for days and, at times, weeks, while sanitation failures impacted residential areas, public institutions and community facilities.
- 13.1.4. Independent oversight and investigative processes, including findings by the AGSA and investigations instituted by the Special Investigating Unit under Proclamation 207 of 2024, further corroborate the existence of entrenched governance, financial and operational deficiencies affecting the Municipality.
- 13.1.5. The Commission finds that these governance and operational failures materially contributed to infrastructure deterioration, delays in implementing remedial measures and the inability to maintain reliable and sustainable service delivery systems within Makana.

13.2. Failure of Implementation Rather than Scarcity of Resources

- 13.2.1. The Commission finds that the instability in water supply within Makana is not primarily attributable to the absence of bulk raw water resources within the regional system. Sworn testimony and submissions received during the investigation confirmed the continued availability of sufficient bulk water resources.

- 13.2.2. The evidence before the Commission demonstrates that operational deficiencies, recurring pump failures, inadequate maintenance and infrastructure management failures have materially affected water production and distribution within Makana.
- 13.2.3. The Commission further finds that reduced production levels at the James Kleynhans Water Treatment Works and recurring supply interruptions were linked primarily to operational instability and infrastructure related failures rather than the unavailability of raw water resources.
- 13.2.4. The inability to maintain and operate existing infrastructure effectively has resulted in reduced water production, low reservoir levels and inconsistent supply to affected communities, including high-lying areas within Makana.

13.3. Recurring Wastewater Treatment Dysfunction and Environmental Harm

- 13.3.1. The Commission finds that wastewater treatment infrastructure within Makana has deteriorated significantly and that certain wastewater treatment facilities are either operating beyond design capacity or remain non-functional.
- 13.3.2. The evidence obtained during the investigation confirmed that the Belmont Valley Wastewater Treatment Works operates above design capacity, while the Mayfield Wastewater Treatment Works remains non-operational due to infrastructure failure and vandalism.
- 13.3.3. The Commission further finds that these conditions contributed to recurring sewage spillages, wastewater overflows and environmental contamination affecting residential areas, public spaces and surrounding communities.
- 13.3.4. The evidence further demonstrates that untreated or inadequately treated effluent was discharged into the environment, creating ongoing risks to health, dignity and environmental safety.
- 13.3.5. These conditions constitute prima facie non-compliance with section 152(1)(d) of the Constitution which enjoins the promotion of a safe and healthy environment, section 19(1) of the National Water Act 36 of 1998, which requires reasonable measures to prevent pollution of water resources, and section 28(1) of the National Environmental Management Act 107 of 1998, which imposes a duty to prevent environmental degradation.
- 13.3.6. The Commission further finds that the continued reliance on the bucket system within parts of Makana, including areas identified during the investigation such as N Street, Upper Mnandi, Sun City and Ronas Kraal, reflects a prolonged failure to provide adequate and dignified sanitation services to affected communities.
- 13.3.7. The evidence before the Commission demonstrates that residents within certain affected communities continued to experience inadequate sanitation conditions,

delays in bucket collection services, exposure to sewage spillages and unsafe living environments notwithstanding ongoing intervention and eradication measures.

13.3.8. The Commission finds that the persistence of these conditions raises serious concerns relating to human dignity, environmental safety, health and the rights of vulnerable groups, including children.

13.3.9. The Commission further notes that the continued reliance on the bucket system more than two decades after the introduction of national bucket eradication measures reflects prolonged failure to realise sustainable and constitutionally compliant sanitation services within affected communities.

13.4. Financial Mismanagement and Governance Failures

13.4.1. The Commission finds that Makana has experienced persistent failures in financial management, governance oversight and administrative control.

13.4.2. This finding is supported by the disclaimed audit opinion issued by the Auditor-General of South Africa (AGSA), together with recurring findings relating to irregular expenditure, unauthorised expenditure and fruitless and wasteful expenditure. The persistence and repetitive nature of these findings raise serious concerns regarding compliance with section 32 of the Local Government: Municipal Finance Management Act 56 of 2003, which requires municipalities to investigate such expenditure and, where appropriate, recover losses and institute disciplinary or other appropriate proceedings. The Commission further finds that these findings are repetitive in nature and demonstrate failures in financial controls, record management, oversight and consequence management mechanisms and the implementation of effective corrective measures.

13.4.3. The referral of matters concerning Makana to the Special Investigating Unit further reflects the existence of serious allegations relating to maladministration, procurement irregularities and the misuse of public resources associated with municipal operations and infrastructure projects.

13.5. Institutional Capacity and Governance Failures

13.5.1. The Commission finds that prolonged instability within technical and engineering functions materially impaired Makana's ability to discharge its responsibilities as a Water Services Authority.

13.5.2. The evidence before the Commission demonstrates that vacancies and instability affecting senior technical positions contributed to operational deficiencies, delayed

maintenance interventions and weaknesses in infrastructure management and planning.

- 13.5.3. Although measures were subsequently implemented to strengthen technical leadership and support capacity within the Municipality, the evidence demonstrates that institutional instability and capacity constraints persisted over an extended period.
- 13.5.4. The Commission further finds that support measures implemented by provincial and national government departments, including technical secondments, emergency interventions and regulatory oversight initiatives, did not result in sustained institutional reform or stable service delivery outcomes within Makana.

13.6. Prior Judicial and Financial Interventions

- 13.6.1. The Commission finds it significant that Makana has previously been the subject of judicial and financial intervention processes arising from failures relating to governance and the provision of basic municipal services.
- 13.6.2. The Eastern Cape High Court previously found that Makana had failed to fulfil constitutional obligations arising under sections 152 and 153 of the Constitution, including obligations relating to sustainable service delivery and municipal administration.
- 13.6.3. Although the matter was subsequently resolved through a settlement agreement made an order of the Supreme Court of Appeal, the resulting Financial Recovery Plan was specifically aimed at restoring governance, financial stability and service delivery within the Municipality.
- 13.6.4. The Commission finds that, notwithstanding these court-sanctioned intervention measures, the evidence obtained during the present investigation demonstrates continued governance instability, infrastructure deterioration and recurring failures in water and sanitation service delivery within Makana.

13.7. Limited Effectiveness of Cooperative Governance and Financial Recovery Measures

- 13.7.1. The Commission finds that extensive support and intervention measures have been implemented within Makana over a prolonged period through cooperative governance and regulatory mechanisms.
- 13.7.2. These measures included written engagements and monitoring processes, technical secondments, emergency stabilisation interventions, regulatory directives issued by the DWS and the implementation of a mandatory Financial Recovery Plan in terms of section 139(5) of the Constitution.

- 13.7.3. The Commission further finds that, notwithstanding these interventions and support measures, instability in water and sanitation service delivery persisted within Makana over an extended period.
- 13.7.4. The evidence before the Commission demonstrates that ordinary support, oversight and cooperative governance measures have not resulted in sustained institutional reform or stable constitutional compliance within Makana.

13.8. Ongoing Violations of Constitutional Rights

- 13.8.1. The Commission finds that the cumulative effect of prolonged water outages, recurring sewage spillages and inadequate sanitation conditions has impaired the ability of affected residents to access sufficient water, maintain basic hygiene and live in conditions consistent with human dignity.
- 13.8.2. The Commission finds that these conditions resulted in infringements of:
- 13.8.2.1. the right of access to sufficient water in terms of section 27 of the Constitution;
 - 13.8.2.2. the right to human dignity in terms of section 10 of the Constitution;
 - 13.8.2.3. the right to an environment not harmful to health or well-being in terms of section 24 of the Constitution; and
 - 13.8.2.4. the rights of children protected in terms of section 28 of the Constitution.
- 13.8.3. The Commission further finds that the conditions documented during the investigation are inconsistent with sustainable, reliable and constitutionally compliant municipal service delivery.

13.9. Systemic Failure and Lack of Accountability

- 13.9.1. The Commission finds that the failures identified during the investigation reflect broader weaknesses in institutional accountability, consequence management and governance oversight within Makana.
- 13.9.2. Despite repeated audit findings, stakeholder engagements, oversight processes and regulatory interventions, the evidence before the Commission demonstrates limited implementation of sustainable corrective measures addressing infrastructure management, operational stability and governance failures.
- 13.9.3. The Commission further finds that the persistence of these conditions reflects deficiencies in accountability mechanisms and institutional responsiveness within the Municipality.
- 13.9.4. These conditions are inconsistent with the principles of accountable, responsive and transparent public administration contemplated in section 195 of the Constitution and affirmed in *Economic Freedom Fighters v Speaker of the National Assembly*.

13.10. Inability to Fulfil Executive Obligations

- 13.10.1. In light of the totality of the evidence, the Commission finds that Makana has been unable, over a prolonged period, to fulfil its executive obligations relating to the provision of water and sanitation services in a sustainable, effective and constitutionally compliant manner. Thereby violating section 152(1)(b) of the Constitution which obliges municipalities to ensure the provision of services to communities in a sustainable manner.
- 13.10.2. The persistence of service instability despite prior undertakings, external support, regulatory interventions and a formal section 139(5) financial recovery process demonstrates that incremental and cooperative measures have not remedied the systemic failures identified.
- 13.10.3. The Commission accordingly finds that the continued deterioration and instability of water and sanitation services raise serious concerns regarding Makana's institutional capacity to restore and maintain sustainable constitutional compliance without further structural intervention.

14. RECOMMENDATIONS

- 14.1. Having regard to the evidence obtained during the investigation, including complaints, stakeholder submissions, sworn testimony and documentary material, together with the assessment and legal analysis set out above, the Commission makes the following recommendations.
- 14.2. The Commission considered whether direct remedial recommendations directed solely at Makana would be sufficient to address the failures identified during the investigation. However, having regard to the prolonged and systemic nature of the failures, the persistence of these conditions notwithstanding repeated interventions and support measures, and the Municipality's inability to implement sustainable corrective measures, the Commission is of the view that directives directed solely at Makana are unlikely to secure sustainable constitutional compliance.
- 14.3. **Department of Co-operative Governance and Traditional Affairs**
 - 14.3.1. The Commission recommends that COGTA, under the authority of the Provincial Executive and in consultation with the DWS, consider appropriate intervention measures in terms of section 139 of the Constitution and section 63 of the Water Services Act to ensure effective, sustainable and accountable water and sanitation service delivery within Makana, including consideration of whether specific water services functions should be performed by another appropriately capacitated water services institution where necessary.

- 14.3.2. The Commission's findings demonstrate that:
- 14.3.2.1. instability in water supply is attributable primarily to operational, governance and infrastructure management failures rather than the absence of bulk raw water resources;
 - 14.3.2.2. critical water and sanitation infrastructure is not consistently operated or maintained at functional capacity;
 - 14.3.2.3. wastewater treatment facilities remain non-functional or operate beyond design capacity; and
 - 14.3.2.4. repeated support measures, regulatory interventions and oversight processes have not resulted in sustained or effective service delivery outcomes.
- 14.3.3. In these circumstances, the Commission is concerned that the continued designation of Makana as a Water Services Authority materially undermines the effective, sustainable and accountable provision of water and sanitation services within its area of jurisdiction.
- 14.3.4. In considering appropriate institutional arrangements, consideration may be given to whether certain water services functions should be performed through alternative governance or operational mechanisms, including arrangements involving the Sarah Baartman District Municipality or another suitably capacitated water services institution, in order to strengthen technical capacity, coordination and sustainable service delivery.
- 14.3.5. The Commission notes that, within the Eastern Cape, water services authority functions are exercised at district level in the majority of districts, and that such an arrangement is consistent with existing governance models aimed at consolidating technical capacity and improving service delivery outcomes.
- 14.4. The Commission requests that COGTA consider the recommendations set out above and provide a written report to the Commission **within sixty (60) days of receipt of this report.**
- 14.5. **Eastern Cape Provincial Executive**
- 14.5.1. The Commission recommends that the Eastern Cape Provincial Executive, acting within its constitutional discretion, urgently assess whether the jurisdictional requirements for intervention in terms of section 139(1)(c) of the Constitution are met, including whether dissolution of the Makana Municipal Council and appropriate consequential measures are necessary to restore effective governance and ensure the continued provision of essential services.
 - 14.5.2. This recommendation is made recognising that dissolution constitutes a measure of last resort and may only be considered where less intrusive interventions have been

implemented and have failed to restore effective governance and constitutional compliance.

- 14.5.3. In assessing the appropriateness of this recommendation, the Commission carefully considered whether existing supervisory, financial recovery and cooperative governance measures remained capable of securing sustainable reform within Makana.
- 14.5.4. The evidence before the Commission demonstrates that extensive interventions have already been implemented over a prolonged period, including:
 - 14.5.4.1. the implementation of a mandatory Financial Recovery Plan in terms of section 139(5) of the Constitution;
 - 14.5.4.2. sustained governance oversight and support by COGTA;
 - 14.5.4.3. technical support interventions and secondments of skilled personnel;
 - 14.5.4.4. emergency stabilisation and operational support measures;
 - 14.5.4.5. regulatory directives and compliance measures issued by the DWS;
 - 14.5.4.6. repeated audit interventions and escalation processes by the AGSA; and
 - 14.5.4.7. investigations instituted by the SIU into allegations of maladministration and financial misconduct.
- 14.5.5. Notwithstanding these interventions, the evidence demonstrates continued instability in water and sanitation service delivery, including recurring water outages, reduced operational capacity at critical infrastructure, wastewater treatment failures and ongoing sewage spillages affecting communities within Makana.
- 14.5.6. The Commission considered the position advanced by the Office of the Premier that Makana should be afforded additional time to implement recovery measures. However, the evidence demonstrates that substantially similar interventions, undertakings and support measures have already been implemented over several years without producing sustained institutional reform, reliable service delivery or measurable constitutional compliance.
- 14.5.7. The Commission further considered the potential risks associated with dissolution, including possible disruption to governance and municipal administration. However, these considerations must be weighed against the continued infringement of constitutional rights arising from prolonged water shortages, inadequate sanitation conditions and recurring environmental and health related risks affecting communities within Makana.
- 14.5.8. The Commission notes that, should the Provincial Executive resolve to dissolve the municipal council in terms of section 139(1)(c) of the Constitution, it may implement such lawful measures as are necessary to ensure continuity in governance, administration and the provision of essential services within Makana.

- 14.5.9. Any intervention measures implemented following dissolution should be directed at restoring lawful, accountable and sustainable governance, strengthening institutional and technical capacity, and ensuring the effective provision of basic municipal services.
- 14.5.10. The Commission requests that the Provincial Executive consider the recommendations contained in this report and provide a written report to the Commission **within ninety (90) days of receipt of this report** indicating:
- 14.5.10.1. whether the recommendations have been considered;
- 14.5.10.2. the outcome of such consideration; and
- 14.5.10.3. any intervention or oversight measures implemented or contemplated in response to the findings contained in this report.

14.6. Department of Water and Sanitation (DWS)

Completion of Phase 3: James Kleynhans Water Treatment Works

- 14.6.1. The Commission recommends that the DWS prioritise and urgently ensure completion of Phase 3 of the James Kleynhans Water Treatment Works upgrade project.
- 14.6.2. Where a service provider has not yet been appointed at the time of release of this report, the Department should take immediate steps to appoint a suitably qualified service provider to undertake the works and ensure implementation without unreasonable delay.
- 14.6.3. The Department must, **within thirty (30) days of receipt of this report**, provide the Commission with:
- 14.6.3.1. the appointment letter(s) of the service provider(s);
- 14.6.3.2. the approved scope of work;
- 14.6.3.3. the allocated or approved project budget; and
- 14.6.3.4. implementation timelines, including anticipated commencement and completion dates for Phase 3.
- 14.6.4. The Department should further provide quarterly progress reports to the Commission regarding implementation of Phase 3, including any delays, operational challenges or enforcement measures associated with the project.
- 14.7. Enforcement of Compliance Notices and Directives**
- 14.7.1. The Commission recommends that the DWS continue exercising its regulatory and enforcement powers where there is evidence of continued or wilful non-compliance with compliance notices, directives or regulatory obligations applicable to Makana.

- 14.7.2. Where the available evidence demonstrates persistent or wilful non-compliance, the Commission recommends that the DWS consider appropriate enforcement measures available in law, including enforcement action contemplated in section 151(2) of the National Water Act where applicable.
- 14.7.3. The Commission notes that persistent non-compliance with regulatory measures undermines effective environmental governance, public accountability and the protection of communities from conditions harmful to health, dignity and environmental safety.
- 14.7.4. The Commission requests that the DWS provide a written report **within thirty (30) days of the date of this report**, indicating:
- 14.7.4.1. the compliance notices and directives issued to Makana;
 - 14.7.4.2. the current status of compliance with such notices and directives; and
 - 14.7.4.3. any enforcement measures taken or under consideration in response to non-compliance.

14.8. Department of Employment and Labour (the Department)

- 14.8.1. The Commission recommends that the Department of Employment and Labour continue monitoring and enforcing compliance with the Direction Notice: Prohibition issued in respect of the Engineering and Infrastructure Building within Makana.
- 14.8.2. The Department should conduct follow-up inspections and implement appropriate enforcement measures where non-compliance or ongoing occupational health and safety risks are identified.
- 14.8.3. The Commission further recommends that the Department provide updates concerning compliance status, remedial measures implemented and any enforcement action taken in relation to the Direction Notice.
- 14.8.4. A written compliance status report should be submitted to the Commission within **sixty (60) days of receipt of this report**, with follow-up inspections conducted within **ninety (90) days** and further updates provided thereafter where necessary.

15. CONCLUSION

- 15.1. This investigation has revealed prolonged and entrenched failures in the provision of water and sanitation services within Makana, resulting in ongoing infringements of constitutional rights affecting affected communities over an extended period. The evidence obtained during the investigation, including sworn testimony, documentary material and institutional submissions, demonstrates that these conditions arise from

persistent governance, operational and institutional deficiencies affecting the Municipality's ability to provide sustainable and reliable basic services.

- 15.2. Despite sustained oversight, financial support, technical interventions and regulatory measures implemented by provincial and national government departments, Makana has not achieved stable or sustainable water and sanitation service delivery outcomes. While certain interventions yielded temporary improvements, the underlying causes of infrastructure instability, governance failure and institutional dysfunction remain unresolved.
- 15.3. The evidence before the Commission demonstrates that existing supervisory, cooperative governance and recovery measures have not secured sustainable constitutional compliance within Makana. The prolonged persistence of water outages, wastewater treatment failures, sewage spillages and inadequate sanitation conditions indicates continuing structural weaknesses affecting municipal administration, infrastructure management and accountability systems.
- 15.4. In these circumstances, further intervention is necessary to restore lawful, accountable and effective governance, prevent continued deterioration of essential services and protect the constitutional rights of affected communities, including the rights of access to sufficient water, human dignity and an environment not harmful to health or well-being.
- 15.5. The recommendations contained in this report are rationally connected to the evidence obtained during the investigation, proportionate to the nature and duration of the failures identified, and directed at securing appropriate redress through lawful, constitutionally recognised mechanisms. The Commission makes these recommendations within its constitutional and statutory mandate, while recognising that the implementation of section 139 of the Constitution and Water Services Authority related measures remains within the discretion of the competent executive authorities.

16. Appeal

Any department, institution or stakeholder that is the subject of adverse findings or recommendations contained in this report and who wishes to challenge the accuracy, fairness, or completeness of the information presented herein is entitled to lodge an appeal. The appeal must be submitted in writing to the Office of the Chairperson of the South African Human Rights Commission within 45 (forty five) calendar days from the date of publication of this report. Appeals should be addressed to:

The Chairperson

South African Human Rights Commission

Sentinel House, Sunnyside Office Park

32 Princess of Wales Terrace

Parktown

Johannesburg

2001

Telephone: 011 877 3600

Email: nkhumalo@sahrc.org.za; odithejane@sahrc.org.za

Signed at East London on this 4th day of June 2026

A handwritten signature in black ink, appearing to be 'E. Carter', written over a horizontal line.

Dr Eileen Carter

Provincial Manager South African Human Rights Commission: Eastern Cape

A handwritten signature in black ink, appearing to be 'H. Boshoff', written over a horizontal line.

Dr Henk Boshoff

Focal Area Commissioner South African Human Rights Commission