REPUBLiC OF SOUTH AFRICA

CONSTRUCTION SECTOR CHARTER COUNCIL NPC

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1. BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT

The Broad-Based Black Economic Empowerment Act (Act 53 of 2003, the B-BBEE Act) was enacted by the RSA parliament, signed into law, and published in government gazette No 25899 on 9 January 2004; the Act sought to promote and monitor broad-based black economic empowerment within the Republic of South Africa. The preamble and objectives of the Act recognised the former role of apartheid and its use of race as a criterion in the control of access to South Africa’s productive resources and in controlling ownership of advanced skills. The B-BBEE Act recognised that the South African economy, at its date of promulgation, still excluded the vast majority of SA’s citizens when the ownership of productive assets and the possession of advanced skills were measured. The Act recorded that steps needed to be taken to increase the effective participation of all South Africans in the South African economy, thereby seeking to stabilise and grow the economy for the advantage of all South African irrespective of race. The Act sought to promote the constitutional right of all South Africans to equality, and to promote more equitable income and wealth distributions within the country. Finally, the Act provided for the establishment of a national policy on broad-based black economic empowerment (B-BBEE), seeking to promote economic unity within the South African nation, protect SA’s common market, and promote equal opportunity and access for all citizens to government services.

On the 24th of October 2014, the DTI Minister gazetted the B-BBEE Amendment Act (Act 46 of 2013). The B-BBEE Amendment Act defined and outlawed B-BBEE fronting practices, clarified interpretation of the Act, provided for B-BBEE incentive schemes, and created the B-BBEE Commission and Commissioner.

In this report the definitions included in the B-BBEE Act, as amended, and read together with, and supplemented by, the Amended Construction Sector Code, (the Amended Construction Code) apply. Where new definitions are included in the report text, the meaning thereof shall be determined from such text and the applicable context.

2. CONSTRUCTION SECTOR TRANSFORMATION CHARTER

Pursuant to Clause 12 of the B-BBEE Act, a Construction sector transformation charter was developed and published on 9 February 2007. The Construction Sector Charter was developed as a consensus between the major stakeholders in the SA construction industry, executed by a proliferation of construction sector associations, recorded the commonly acknowledged challenges facing the construction sector at the time, and provided the overarching objectives, elements, and legal basis for the future development of a SA construction sector code and scorecard (the Construction Code – section 3 below).

3. CODES OF GOOD PRACTICE ON BROAD-BASED BLACK ECONOMIC EMPOWERMENT

Clause 9 of the B-BBEE Act provided for the development and issue, after publication for public comment, by the DTI Minister of sectoral codes of good practice on black economic empowerment. The South African construction sector code (the Construction Code) was first gazetted by the DTI Minister on 5 June 2009 in terms of section 9 (1) of the BBBEE Act.

After the BBBEE Act was amended in 2013 (section 1 above), new generic Amended Codes of Good Practice were gazetted on 11 October 2013 (Phase I) and 6 May 2015 (Phase II). The Construction Sector Charter Council (representing industry – see section 4 below) was mandated to negotiate and prepare an Amended Construction Code aligned to the generic Amended Codes of Good Practice. This amendment was a challenging and lengthy process. During negotiation, approval and publication of the Amended Construction Code, transformation reporting by the CSCC was suspended. The Amended Construction Code was published on 1 December 2017 in government gazette 41287.
4. CONSTRUCTION SECTOR CHARTER COUNCIL

The Construction Sector Charter Council NPC (CSCC) was established on 8 October 2012 (registration No 2012/181277/08) pursuant to publication of the original Construction Code. In terms of SA law, the CSCC is the executive authority responsible for overseeing, monitoring, and reporting progress in implementing the SA Construction Code. The CSCC currently has a board of nine directors with its registered office in central Pretoria, Gauteng.

The Amended Construction Code, at paragraph 1.5.3 of Statement CSC000, requires that the CSCC perform and release annual reporting on progress towards transformation of the SA construction sector. After its 2014 B-BBEE Baseline Study (see section 6 below), and a reporting hiatus principally due to changing law and code, and then a lack of funding and administration capacity (section 5), the CSCC is now desirous to prepare, submit for approval, and publish its 2021 report on the state of transformation in the SA construction industry.

5. FUNDING AND ADMINISTRATION CONSTRAINTS

It is generally recognised that the BBBEE Construction Code of 5 June 2009 provided for the establishment of the CSCC to oversee, monitor, and report on progress against the Construction Code, as amended, without providing for funding of the statutory executive and administrative functions of the CSCC. This lack of funding arrangements has constrained the CSCC in properly performing its various oversight, monitoring, and reporting duties. Currently the CSCC is unfunded, without a permanent executive and administration, and reliant on volunteer resources and capacity from isolated construction industry entities to fulfil its functions. This lack of resources and capacity has required the CSCC to continue to rely on volunteer resources to prepare this 2021 Report on the State of Transformation in the South African Construction Industry.

6. SOUTH AFRICA CONSTRUCTION INDUSTRY: BBBEE BASELINE STUDY 2014

On 24 April 2014, a 5-year period after issue of the original Construction Code in June 2009, the CSCC released its Baseline Report on the state of transformation in the construction sector for the period 2009 to 2013. The 2014 Baseline Report was commissioned by the CSCC and outsourced for data management, analysis, and reporting by commercial bid. The 2014 B-BBEE Baseline Study on the South African construction industry can be found in full, and as an executive summary, under Reports on the CSCC website.

The CSCC had, through its voluntary associations, called for verified B-BBEE scoring data from construction industry members for the period 2009 to 2012 (a 4-year period). In submitting data toward the end of 2013, many (but not all) Measured Entities included their 2013 certificate data as well. Having received substantial 2013 data, the CSCC resolved to report these results as well in its 2014 Baseline Study. When reporting absolute numbers, the 2013 results naturally show a decrease; however, when reporting in percentage achievement towards overall and elemental B-BBEE targets, the 2013 results showed a general improvement against 2012.

The CSCC’s 2014 Baseline Report analysed 3530 certificates over the 5-year measurement period, representing 1770 Measured Entities. Eighteen (18) reports were disallowed due to various factors. The Measured Entities were dominated by EME (32%) and QSE (39%) entities, with only 29% Large Enterprises represented in the study. This was important to note as Large Enterprises enjoy most public and private construction spend. In the early years of the Construction Code, industry classification, annual revenue thresholds (EME, QSE, Large Enterprise), and industry sub-sector (Contractor, BEP) errors were detected. The total entity population within the construction industry was reported by the CIDB as 12 500, leading to the conclusion of a 14% sample reported by the CSCC under the Construction Code. However, Measured Entities under the Construction Code represented commercial groupings, and it was not clear if the CIDB supplied denominator did not also include subsidiaries.
If so, the representative sample would be higher, as would be expected given the statutory obligation to submit annual certificates to the CSCC. In any event, given the start-up nature of the Construction Code, certificate submission increased from 186 for the year 2009 to 1246 for 2012. By 2012/13, it was generally recognised by B-BBEE Measured Entities that B-BBEE rating was now an order-qualifier rather than an order-winner in public and private procurement.

The 2009 Construction Code, in an approach consistent with the industry commitment recorded in the Construction Sector Charter, measured transformation against seven (7) separate B-BBEE elements or pillars: (1) ownership; (2) management and control; (3) employment equity; (4) skills development; (5) enterprise development; (6) preferential procurement; and (7) socio-economic development. These B-BBEE measurement elements have been reduced to five (5) in the Amended Construction Sector Charter, a factor that has been treated for comparative purposes in this construction industry transformation Report by the methods described in section 10 below.

The 2014 Baseline Report found not only an upwards trend in the level of compliance with the Construction Code as reported above, but also in the degree of scoring against Construction Code targets. Over the reporting period, 82% of Measured Entities classified between Level 1 and Level 4. Two large enterprises achieved a Level 1 rating for the first time in 2013. All Construction Code elements showed an upwards trend except for preferential procurement which was static. As is the case in general economics, growth towards a target generally slows as the target is approached and other constraining factors come into play. The 2014 Baseline Study observed the ownership element to be polarised, with spikes at two extremes (0% black ownership and 100% black ownership). It was also clear from the 2014 Baseline Study that when presented with a choice (eg QSE’s had rating choices), Measured Entities favoured (or found easier targets in) certain of the available elements (socio-economic development, preferential procurement and supplier development).

A concerning finding in the 2014 Baseline Study was the lower performance against target (57% in 2013) of the skills development element. See discussion in section 27 below on capital ownership, STEM supply-side limitations, and other constraining factors.

7. OTHER REPORTING ON TRANSFORMATION IN THE CONSTRUCTION INDUSTRY

**CIDB Construction Monitor:** The Construction Industry Development Board reports at regular intervals, in its Q4 Construction Monitor, on B-BBEE transformation progress. The CIDB reports have tended to focus on ownership and control progress, whereas CSCC reporting covers all elements at their agreed weighting based on the Amended Construction Code and the industry consensus Construction Sector Charter. CIDB reporting is valuable as supplementary reporting on the CSCC gap years (see below) between 2013 and 2021.

**Other government institutions:** Other public institutions such as the NHBRC and IDC as well as verification agency organisations, report on B-BBEE progress at various times. This supplementary reporting, to the extent that it is supported by independently verified data, adds to public and private understanding of B-BBEE transformation progress within the South African construction industry.

**Sanlam Gauge:** The second Sanlam Gauge report was published in July 2022 and included the results of 10 336 companies across all SA sectors measured for BBBEE transformation. Although Sanlam Gauge has publicly declared its willingness to cooperate in national interest in transformation measurement and reporting, CSCC’s attempts to source and integrate the Sanlam Gauge data into this report at an affordable cost (given its current funding constraints) were unsuccessful. Accordingly, the Sanlam Gauge data is not integrated into this report.
From the July 2022 Sanlam Gauge second report, it can be concluded that the CSCC Report Data is more granular and that the CSCC’s 2021 Report on the State of Transformation in the South African Construction Industry makes more detailed findings than the Sanlam Gauge report could (which rather reported more widely across all industries falling under the BBBEE Act).

**Gap years:** The CSCC has not reported on transformation progress in the SA construction industry under the original 2009 Construction Code or the 2017 Amended Construction Code since its B-BBEE Baseline Study in April 2014 of the SA construction industry. During this reporting hiatus and intervening gap years, the CSCC also did not collect comprehensive industry transformation data due to various factors such as: (1) amended legislation, regulation and codes were under development; (2) industry classification, revenue threshold and industry sub-sector errors for Measured Entities exacerbated during this period of uncertainty; (3) collapse of the CSCC permanent administration; and (4) other effects of the CSCC’s funding constraints. The approach of this 2021 transformation Report on the construction industry, to the extent that direct or indirect comparison has proved possible (see section 10 below), has been to compare the final years (2012 and 2013) of the Baseline Report period to the current 2021 measurement without reporting on the intervening gap years. The CDB Construction Monitor and second Sanlam Gauge reports do refer to transformation progress during these intervening years but, in the absence of its own comprehensive data, the CSCC can only reference this reporting and is unable to verify same.

Volunteer resources were required to prepare this 2021 Report on the State of Transformation of the SA Construction Industry and to submit it to the CSCC as the responsible executive authority and other industry stakeholders for review in a process that is described below. The following project team was constituted:

The CSCC Steering Team (CST): Ingrid Campbell (IC), CSCC Acting Assistant CEO, was the CSCC responsible person for the Report. In this capacity IC liaised with Gregory Mofokeng (Acting CEO), the CSCC executive, CSCC’s sub-committees and, when required, the CSCC Board. The volunteer organisations making up the CSCC executive and board carried the cost of the resources steering the assignment.

The Operations Team (OT): The Operations Team received the Report Data under NDA from CSCC, implemented the Report Process steps (see below), and submitted a draft of the Report to the CSCC Steering Team for review, adjustment, and approval. The Operations Team comprised the following functions:

- Assignment management.
- Report Data interrogation and presentation.
- Report drafting.
- Graphic design of the Report.

The CSCC made the Report Data available to the Operations Team for interrogation and reporting. To protect the source data (which contains market sensitive commercial data of the Measured Entities) each member of the Operations Team executed a separate non-disclosure and confidentiality agreement with the CSCC. A construction sector member firm carried the cost of the resources that undertook the functions and duties of the Operations Team.
The following process was followed in preparing the Report:

- B-BBEE transformation data was collection by the CSCC (with support from a construction sector member firm).
- Data cleansing and formatting was executed with resource support from a construction sector member firm.
- Collection and reading of the relevant codes and previous reports was undertaken by the OT.
- An assignment plan was prepared and submitted by the OT indicating the proposed Report structure and scope.
- CST identified and fixed CSCC’s purpose and objectives for the Report and commented on the assignment plan.
- The OT amended and resubmitted the assignment plan.
- The assignment plan was formally approved by CST.
- The OT interrogated and graphed the Report Data.
- Initial Report drafting by the OT followed.
- The data tables and graphs were inserted by the OT.
- The draft 2021 Report was reviewed by the CST (an iterative process).
- The 2021 Report was edited and resubmitted by the OT (part of the iterative process).
- Graphic design and submission by the OT followed.
- Formal CSCC review and authorisation was the next step.
- Once approved, the 2021 Report was submitted to the line minister (DPWI) and to DTIC.
- Formal approval of the CSCC’s 2021 statutory reporting obligations was the penultimate step.
- Publication of the Report was the final step in the process.

9. Sub-sectors and categories of measured entities in the SA construction industry

Each of the Construction Sector Charter, the 2009 Construction Code, and the 2017 Amended Construction Code differentiates for purposes of B-BBEE transformation measurement between Measured Entities falling predominantly into the sub-sectors of:

Contractors: All construction sectors (commercial; industrial; infrastructure; utilities; institutional; and residential), sub-sectors and material, plant and equipment suppliers are included in this first category.

Built Environment Professionals: All built environment service entities delivering the professional services of architecture, landscape architecture, engineering (all its built environment disciplines), property valuation, project and construction management, quantity surveying, and relevant support professions such as construction accounting, construction legal, etc, fall into this second category.

Further to sub-sectors of the construction industry, Measured Entities are also classified into the following categories by annual revenue, subject to thresholds set by the DTIC Minister from time to time. The current thresholds set in the Amended Construction Code are described in section 10 below:

- EME under threshold (affidavits)
- Exempted Micro Enterprises (EME)
- Qualifying Small Enterprises (QSE); and
- Large Enterprises.
10. MEASURED B-BEEE ELEMENTS AND THEIR WEIGHTINGS

Measured Entities are separated under the Amended Construction Code for purposes of compliance and measurement in accordance with the total annual revenue thresholds published in paragraphs 4 to 6 of Statement CSC000, as may be amended by the Minister by notice in the Gazette. The current thresholds are:

**Contractors:** EME – below R10 million; QSE – R10 million to R50 million; and Large Enterprises – R50 million and above.

**BEP’s:** EME – below R6 million; QSE – R6 million to R25 million; and Large Enterprises – R25 million and above.

The B-BEEE measurement elements for Large Enterprises and measured QSE scorecards are set out in paragraph 7 of Amended Code Series and Statement CSC000: General Principles.

**Ownership element:** code series CSC100 (large) and CSC601 (QSE)

**Management control element:** code series CSC200 (Large Enterprise) and CSC602 (QSE)

**Skills development element:** code series CSC300 (Large Enterprise) and CSC603 (QSE)

**Preferential procurement and supplier development element:** code series CSC400 (Large Enterprise) and CSC604 (QSE)

**Socio-economic development and sector-specific contributions element:** code series CSC500 (Large Enterprise) and CSC605 (QSE)

Elemental weightings for Large Enterprises are indicated in the table in paragraph 8.1 of Statement CSC000 and in the table in paragraph 8.2 for Qualifying Small Enterprises (QSE).

B-BEEE status and recognition levels based on the overall scorecard performance of a Measured Entity, and before enhanced recognition for certain categories of black persons, are listed in the table in paragraph 8.3 of Statement CSC000.

11. ENTITY POPULATION IN THE SA CONSTRUCTION INDUSTRY

A comparable Measured Entity population in the SA Construction industry is difficult to establish. For contractors the CIDB Register of Contractors is used as a source. These registrations perhaps include all tendering entities including subsidiaries, special purpose vehicles, and joint ventures. Conversely, the CSCC 2021 Report Data only includes holding companies of construction sector groups. Accordingly, the data is not directly comparable.

For built environment professional companies, data is held by built environment professional voluntary associations (see section 9 above).
12. METHODOLOGY AND MEASURED ENTITY DATA

2021 Report Data: Collection and verification: The 2021 Report Data was collected during early 2021 by CSCC and its volunteer member organisations from Measured Entities and from BBBEE verification professionals/rating agencies accredited by SANAS. The 2021 Report Data is for B-BBEE certificates issued by verification professionals and agencies under the Amended Construction Code and valid on the 1st of January 2021. Accordingly, the Report Data reflects independent verification of each of the various Code elements (except for below threshold EME) included in the Amended Construction Code for the most recent measurement date and measurement period of the included Measured Entities up to 1 January 2021. Under section 10 (4) of the B-BBEE Amendment Act, 2013, read together with paragraph 1.5.4 of Statement CSC000 of the Amended Construction Code, all Measured Entities to whom the Amended Construction Code applies are legally required to supply their independently issued B-BBEE certificates annually to the CSCC. The Report Data can thus be expected to be reasonably comprehensive and well representative of the SA construction industry. See also Table 13.1 below, which shows statistics from the CIDB and built environment associations of Measured Entities and enterprises active in the SA construction sector.

Incorporation of 2014 Baseline Study data: It was CSCC’s intention from the outset to include a comparison of the 2021 Report Data with the results and findings of CSCC’s 2014 Baseline Study. Due to the loss of administrative records and the elapse of time (see section 5 above), the 2014 Baseline Study data could not be digitally sourced, and the study team had to proceed using a PDF version of the 2014 Baseline Study. This did not prove to be a serious constraint. A 2021 Data Workbook was prepared and shared under secure password incorporating the 2021 Report Data as its input sheet. Thereafter, a tab was created for each reporting element or criterion and numbered consistently with the sections of this Report.

Where graphs in the 2014 Baseline Study did not include actual values (numbers or percentages), these values were read off the graphs by the study team to a suitable degree of accuracy.

Consolidation, interrogation, and reporting of transformation data: Once the 2014 Baseline Study data had been input under the appropriate tab of the 2021 Data Workbook, the 2021 Report Data was imported to the relevant tab by deploying one or more pivot tables. The 2014 and 2021 Report Data was then consolidated into a single table and graphed, both for the period 2009 to 2021 and for the period 2012 to 2021. As reported in section 7, no data exist, or report was made by CSCC for the intervening gap years of 2014 to 2020. After due consideration, it was resolved to only report the period 2012 to 2021 in the text portion of this 2021 Report on the state of transformation of the SA construction industry. The reasoning behind this decision was: (1) the years 2009 to 2011 were early years of the Construction Code, with limited sample data and immature findings; (2) transformation performance under the 2009 Construction Code and the 2017 Amended Construction Code are not directly comparable due to differences in the elements, thresholds, and weightings in the respective codes; and (3) future comparison and reporting under the Amended Construction Code should be emphasised; it will get messy in future with too much early data that is not directly comparable. Never-the-less, despite the period 2012 to 2021 being selected for inclusion in the text portion of this 2021 Report, graphing of the full 2009 to 2021 period has been prepared and is available for viewing in the 2021 Data Workbook, which is one of the output documents of the 2021 Report.

Data weighting: As instructed by the CSCC, for Large Enterprise and measured QSE scorecards the Report Data was represented and reported, per category, on an equal and unweighted basis between Measured Entities (ie independent of CIDB grading).
As stated previously, it was always the intention of the 2021 Report to present the best possible comparison of the 2014 Baseline Study results with the 2021 Report results. In the intervening period, the 2009 Construction Code has been replaced by the 2017 Amended Construction Code. Various code elements from 2009 do not match the 2017 code. The 2009 Construction code had two human resource elements, management control and employment equity; the 2017 Amended Construction code only had one management control element, but it covers largely the same sub-elements. In the 2021 Data Workbook, the two 2009 elements were properly weighted and consolidated to compare to the 2017 element for purposes of this 2021 Report. In a similar method, the two 2009 elements preferential procurement and enterprise development were weighted and consolidated to match the 2017 element procurement and supplier development.

**Subsidiaries:** The Report Data includes only holding companies in the event of commercial construction or built environment professional groups, and not subsidiaries that also fall within the construction sector. Where a holding company falls within another sector and under another sector code, a subsidiary is represented in the Report Data to the extent that the subsidiary is required by law to report under the Amended Construction Code.

**Black designated groups:** Black designated groups include woman, workers, youth, persons with disabilities, and people living in rural areas. Transformation objectives and targets for black designated groups are (this is not the case for most other sector codes) included in the Amended Construction Code as sub-elements. As part of the verification process, B-BBEE verification professionals and rating agencies accredited by SANAS measure and score Measured Entity performance against these individual sub-element objectives and targets. However, B-BBEE certificates, as required by the code and the Act, only reflect overall status and recognition levels, and the bottom-line score for each measured construction sector B-BBEE element, omitting how they were constructed.

The CSCC therefore does not have access to the detail data to report performance against each of these Amended Construction Code sub-elements. B-BBEE verification professionals and rating agencies do have the detailed data, but it is fragmented; consideration can be given to further amending the code in future to require such reporting. Black woman ownership data is reported on individual B-BBEE certificates of Measured Entities and for this reason black woman ownership has been reported in section 19 of this report.

**Data output document:** Once the 2014 and 2021 Report Data had been consolidated and graphed under the appropriate tab in the 2021 Data Workbook, the output graphs and tables were exported to an Output Tab in the 2021 Data Workbook and pasted to the Word document master of this 2021 Report. As mentioned, the 2021 Data Workbook is also a 2021 Report output document.

**Future transformation reports on the SA construction industry:** Future CSCC annual reports on the state of the SA construction industry (see section 28) can easily expand on the current study by importing future annual data into the 2021 Data Workbook and proceeding from there.
13. MOVEMENT IN THE POPULATION OF MEASURED ENTITIES: 2014 TO 2021

The population of Measured Entities submitted to the CSCC and assessed for each of the years reported in this 2021 Report on the state of transformation in the SA construction industry is shown in Table 13.1 below. Table 13.1 separates Measured Entities by sub-sector (BEP or Contractor) and annual revenue category (EME, QSE and Large Enterprises). Non-compliant scorecards are excluded:

Table 13.1

<table>
<thead>
<tr>
<th>Sub sector</th>
<th>Annual revenue category</th>
<th>Total scorecards captured</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2009</td>
<td>2010</td>
</tr>
<tr>
<td>EME</td>
<td></td>
<td></td>
</tr>
<tr>
<td>BEP</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>CONTRACTOR</td>
<td>69</td>
<td>103</td>
</tr>
<tr>
<td>EME TOTAL</td>
<td>71</td>
<td>105</td>
</tr>
<tr>
<td>QSE</td>
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</tr>
<tr>
<td>BEP</td>
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<td>6</td>
</tr>
<tr>
<td>CONTRACTOR</td>
<td>49</td>
<td>97</td>
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<tr>
<td>QSE TOTAL</td>
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<td>103</td>
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<tr>
<td>LARGE</td>
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<td></td>
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<tr>
<td>BEP</td>
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<td>21</td>
</tr>
<tr>
<td>CONTRACTOR</td>
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<td>83</td>
</tr>
<tr>
<td>LARGE TOTAL</td>
<td>44</td>
<td>104</td>
</tr>
<tr>
<td>GRAND TOTAL</td>
<td>167</td>
<td>312</td>
</tr>
</tbody>
</table>

Table 1: Number of scorecards per sub sector and annual revenue category

As: (1) the revenue thresholds and other measurement criteria in the 2009 Construction Code vs the 2017 Amended Construction Code; (2) the level of submission to the CSCC as required by law; and (3) the level of compliance with the minimum requirement of 40 points on the QSE and Large Enterprise scorecards, varies at different times and often each year, the absolute number (as opposed to percentage) of Measured Entities at any B-BBEE status or recognition level cannot be directly compared.
14. OVERALL B-BBEE SCORING AND RECOGNITION LEVELS:

B-BBEE level scoring for all entities in the SA construction sector is shown in Diagram 14.1 below for the period 2012 to 2021. From Diagram 14.1 it may be observed that good progress appears to have been made in movement to Level 1 and Level 2 contributor status. This is expected to be strongly driven by the direct link between independently verified B-BBEE status/recognition level and public procurement by organs of state (that are required by Clause 10(1) of the B-BBEE Amendment Act to include specific B-BBEE goals in their public procurement policies). The absolute number of Measured Entities assessed per year must also be considered as described in section 13 and shown in Table 13.1 above. Despite good progress to status Levels 1 and 2, increases are also seen at Level 5 and Level 6 contributor status, with concurrent reductions at Level 3 and Level 4. The expected reason for this outcome is a combination of transformation progress and code change, especially in the automatic rating of EME entities. Readers are referred to the detail of EME, QSE and Large Enterprise scoring below to better isolate these principal causes:

Diagram 14.1

Summary of BEE level status: All Entities (2012-2021)

Figure 1: Summary of BEE level status: All Entities (2012-2021)
Diagram 14.2 reports the overall average performance for each individual code element. Reporting can only be for Large Enterprises and measured QSE’s. All B-BBEE certificates or affidavits issued with automatic B-BBEE status and recognition levels exclude scoring results against the individual code elements. Accordingly, it is uncertain if the consolidated construction sector results properly reflect the code elements, excepting for ownership where steady progress has been made, helped principally by automatic and enhanced status and recognition of smaller EME and QSE entities. A conclusion that can be made is that EME’s and QSE’s recognition levels have generally avoided discounting (section 25) and that the minimum targets for the priority elements have been achieved. Good progress has been made against the skills development element which was reported as disappointing and problematic in the 2014 Baseline report. However, the management control element remains sticky, probably impacted by supply-side constraints as discussed in section 27.3 below:

Diagram 14.2

**Average element score - Large enterprises & QSEs (2012-2021)**

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th>2013</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Ownership Score</td>
<td>78%</td>
<td>81%</td>
<td>85%</td>
</tr>
<tr>
<td>Average Management Control</td>
<td>71%</td>
<td>76%</td>
<td>72%</td>
</tr>
<tr>
<td>Average Skills Development</td>
<td>55%</td>
<td>57%</td>
<td>77%</td>
</tr>
<tr>
<td>Procurement and Supplier</td>
<td>77%</td>
<td>79%</td>
<td>85%</td>
</tr>
<tr>
<td>Average Socio-economic</td>
<td>84%</td>
<td>86%</td>
<td>99%</td>
</tr>
</tbody>
</table>

*Figure 2: Average element score - Large enterprises & QSEs (2012-2021)*
15. MOVEMENT IN EME SCORING: 2014 TO 2021:

The reader is referred to Table 13.1 above for the total number of EME Measured Entities per year as well as the BEP/Contractor sub-sector split in EME Measured Entities. The number of EME Measured Entities under the Amended Construction Code increased significantly between 2013 and 2021. EME status and recognition levels are shown for the measurement period in Diagram 15.1 below:

Diagram 15.1

Summary of BEE Level status: EME Entities (2012-2021)

Figure 3: Summary of BEE level status: EME Entities (2012-2021)

EME’s appear to have made strident progress in the period up to 2021 when compared to the 2012 and 2013 results. However, the results appear to be largely a result of two separate factors: (1) registration of new EME wholly or majority black owned EME’s seeking to participate in public construction and professional services; and (2) the effect of the Amended Construction Code (paragraph 4.2), where deemed recognition has been amended from Level 3 and Level 4 to stretch from Level 1 to Level 5 (with discounting to Level 6). The table now appears more polarised and to show more strongly racial separation of owners into black and white dominated EME’s rather than cross-race and non-racial companies. Discounting of white majority-owned entities appear more prevalent than enhancement (see also sections 24 and 25 below).

Progress made in the EME category, must be interpreted in terms of the value of public procurement that is accessed by this category when compared to QSE and Large Enterprises. The CIDB should be able to report on this matter.
16. MOVEMENT IN QSE SCORING: 2014 TO 2021:

The reader is referred to Table 13.1 above for the total number of QSE Measured Entities per year as well as the BEP/Contractor sub-sector split in QSE Measured Entities. As for the EME category, QSE Measured Entities under the Amended Construction Code increased in number significantly between 2013 and 2021. QSE status and recognition levels are shown for the measurement period in Diagram 16.1 below:

Diagram 16.1

Summary of BEE Level status: QSE Entities (2012-2021)

As for EMEs, QSE Measured Entities appear to have made strong progress in Level 1 and Level 2 status and recognition. This progress can be largely ascribed to deemed recognition attributed to wholly or majority black owned QSE Measured Entities, with enhancement as provided for in paragraph 5.3 of Statement CSC000. This advantage also spurred QSE numbers, which are significantly up in 2021 versus 2013. The automatic recognition option is not available for QSE entities with less than 51% black ownership and the full QSE scorecard as detailed in Statement CSC600 must be complied with. The strong increase in Level 3 QSE status and recognition is probably due to this compliance and B-BBEE efforts under other elements of the Amended Construction Code. Polarisation is now less pronounced due to the substantial impacts on public procurement of a low recognition level. Never-the less a blip occurs at Level 8 and non-compliant (less than 40% score) categories. Here it would appear the QSE entities are avoiding any form of public related procurement.

Figure 4: Summary of BEE level status: QSE Entities (2012-2021)
When considering the average performance per Amended Construction Code element (Code CSC600) of QSE entities (Diagram 16.2 below), performance against all elements except skill development (which improved markedly) appears to have regressed. It is understood that this regression is due to the automatic recognition of majority black owned Measured Entities, which are not required to undergo full measurement under Code CSC600. Diagram 16.2 therefore shows the performance for Level 3 to Level 8 QSE Measured entities:

Diagram 16.2

Figure 5: Average performance per element: QSE entities (2012-2021)
17. MOVEMENT IN B-BBEE LARGE ENTERPRISE SCORING: 2014 TO 2021:

The reader is referred to Table 13.1 above for the total number of Large Enterprise Measured Entities per year as well as the BEP/Contractor sub-sector split in Large Enterprise Measured Entities. Contrary to the movement in EME and QSE Measured Entities, the number of Large Enterprises (especially BEP enterprises) measured under the Amended Construction Code in 2021 reduced significantly when compared to 2013. This reducing trend in the total number of Large Enterprise Measured Entities per year is indicative of the distressed condition of the SA construction industry. Large Enterprise status and recognition levels are shown for the measurement period in Diagram 17.1 (both sub-sectors) below:

Diagram 17.1

Summary of BEE level status: Large Enterprises (2012-2021)

Unlike EME’s and QSE’s, all Large Enterprises are measured against, and must comply with the sub-minimum of 40% of Priority elements in the Large scorecard. Best efforts against all scorecard elements are necessary. An examination of the combined Contractor/BEP Large Enterprise scorecard shows substantial improvement in Level 1 status and recognition level; Level 1 is now the predominant level (an order qualifier), as opposed to 2012/13 when Level 3 and Level 4 predominated. This trend is good in realising value for money in higher value public procurement activities. Level 4 remains a substantial sticking point and hurdle, clearly for those enterprises unable to achieve majority black owned status using flow though principles.
The Large Enterprise consolidated scorecard also still shows some degree of polarisation; some hold-out entities appear to just meet sub-minimum levels on priority elements. Again, it is assumed these entities do not seek to do business with the state. Separate inspection of the BEP and Contractor average scorecards (Diagrams 17.2 and 17.3) clearly shows both the Level 4 sticking point and the exhibited polarisation are attributable to the Large Contractor sub-sector. Large BEP entities do not show these attributes:

Diagram 17.2

**Summary of BEE level status: Large Enterprises BEPs (2012-2021)**

![Diagram 17.2: Summary of BEE level status - Large Enterprises BEPs (2012-2021)](image)

**Figure 7:** Summary of BEE level status - Large Enterprises BEPs (2012-2021)

Diagram 17.3

**Summary of BEE level status: Large Enterprises Contractors (2012-2021)**

![Diagram 17.3: Summary of BEE level status - Large Enterprises Contractors (2012-2021)](image)

**Figure 8:** Summary of BEE level status - Large Enterprises Contractors (2012-2021)

Diagrams 17.4 and 17.5 indicate the performance of Large BEP and Large Contractor Measured Entities against each of the Large Enterprise scorecard elements. Good improvement in ownership is achieved by both sub-sectors; all Large Enterprises are required to measure and report the ownership element, and there is no automatic level assisting this element as is the case for black QSE Measured Entities.
Significant improvement in skills development is shown by both sub-sectors, especially by Large BEP entities (which approach the stretch target). Suitable progress was also made against each of procurement and supplier development. The management control element, however, is starting to prove sticky at around 75% of target. This resistance is probably due to supply-side constraints as discussed in section 27.3 below.

**Diagram 17.4**

Average performance score - Large BEPs (2012-2021)

**Figure 9: Average performance by element - Large BEPs (2012-2021)**

**Diagram 17.5**

Average performance by element - Large Contractors (2012-2021)

**Figure 10: Average performance by element - Large Contractors (2012-2021)**
18. MOVEMENT IN THE BLACK OWNERSHIP ELEMENT: 2012 TO 2021:

The reader is referred to Diagrams 18.1, 18.2 and 18.3 which graphically depict the movement in the black ownership element:

**Diagram 18.1**

*Scorecards with Black Ownership (2012-2021)*

![Bar chart showing percentage of black ownership from 2012 to 2021 for different sub-sectors and revenue categories.]

**Figure 11: Scorecards with Black Ownership (2012-2021)**

**Diagram 18.2**

*Black Ownership > 50% per sub sector and annual revenue category (2012-2021)*

![Bar chart showing percentage of black ownership in different sub-sectors and revenue categories from 2012 to 2021.]

**Figure 12: Black Ownership > 50% per sub sector and annual revenue category (2012-2021)**
Figure 13: Black Ownership % (2012-2021)

A large performance improvement in 50/51% owned enterprises is obvious from the diagrams. Polarisation has also largely disappeared from the 2021 measurement, and a measure of mixed ownership is evident in most Measured Entities. The 51% black ownership hurdle is evident as the point many mixed ownership enterprises believe they can currently achieve with stretch. Thereafter, ownership numbers fall back again until 100% wholly owned black enterprises where the numbers again spike. The latter spike, however, is clearly predominated by EME and QSE Measured Entities. For Large Enterprises, the substantial capitalisation requirements associated with black ownership start to play a role.

Listed enterprises also emerge in the Large Enterprise revenue category. All EME and QSE entities are fully private. See section 27 below for discuss of this matter.
19. MOVEMENT IN WOMAN OWNERSHIP: 2014 TO 2021:

The reader is referred to Diagrams 19.1, 19.2 and 19.3 which graphically depict the movement in the black woman ownership element:

Diagram 19.1

Scorecards with Black Woman Ownership (2012 - 2021)

Figure 14: Scorecards with Black Women Ownership (2012-2021)

Diagram 19.2

Black Woman Ownership % (2012 - 2021)

Figure 15: Black Women Ownership % (2012-2021)
As for black ownership overall, a large performance improvement in black woman ownership percentages as well as in over-30/35% black woman owned enterprises is obvious from the inserted diagrams. Polarisation has again largely disappeared from the 2021 measurement (the 0-10% ownership measurement reducing by a factor of 10 between 2013 and 2021), and a significant measure of black woman ownership is evident in most Measured Entities in the 2021 results.

Fifty-one percent (51%) black woman ownership appears as a hurdle many enterprises have targeted. Thereafter, the numbers fall back until wholly black woman owned enterprises where the numbers again spike. Over-30/35% black woman owned status is shared reasonably between the EME, QSE and Large Enterprise Measured Entities. In respect of the sub-sectors, contractors generally outperform BEP’s in respect of the black woman ownership element.
20. THE BLACK MANAGEMENT CONTROL ELEMENT 2021:

The measured results for the 2021 black management control element under the Amended Construction Code are somewhat puzzling; various interpretations and conclusions are possible. See Diagrams 20.1, 20.2 and 20.3 below for the graphical results:

Diagram 20.1

Average Black Management Control per Black Ownership and BEE level (2021)

Figure 17: Average Black Management Control per Black ownership and BEE level (2021)

Diagram 20.2

Average Black Management Control % (2021)

Figure 18: Average Black Management Control % (2021)
The 2021 black management control results are better than would be expected given current construction sector overall supply-side constraints (section 27.3) in experienced black STEM professionals who, it may be argued for long-term construction sector sustainability, should have management control of the sector. The results appear to rather show management control by persons with generic sector governance skills as opposed to construction sector technical and strategic expertise. This arrangement is partially permitted by the Amended Construction Code and Measured Entities appear to have taken advantage of the opportunities afforded by the Code under this element. The domination of black management control in Contractors can be seen to reduce sharply between QSE and Large Contractors for reasons as argued above. Also, black management control is seen to spike around the 50% black ownership mark and not at the highest black ownership levels as would have been expected. Cynically, it could be speculated that in certain Measured Entities true management control does not lie where actually measured.

However, given the independent and generally thorough nature of the B-BBEE verification process, perhaps the projectized nature of construction industry Measured Entities allows senior STEM professionals, independent of race and gender, to rather manage the projects of a Measured Entity and for generic or more junior STEM professionals to have governance control. It can be observed that such trends, encouraged by the Code, may not promote the long-term sustainability and globally competitive objectives of the construction industry as set out in its Transformation Charter. The remuneration policy of Measured Entities will also play a role here and impact the return on capital realised by private companies. For listed entities the necessary separation of ownership and management control provide forces countering high remuneration and low profit strategies.

Diagram 20.3

Average Black Management Control % per sub sector and annual revenue category (2021)

Figure 19: Average Black Management Control per sub sector and annual revenue category (2021)
21. SKILLS DEVELOPMENT PROGRESS: 2014 TO 2021

From Diagram 21.1 below, in-industry black skills development has made perhaps the greatest advance of all elements measured under the Amended Construction Sector Code. This element was reported in the 2014 Baseline Report as sticky and underperforming. The element has been targeted especially by Measured Entities seeking to improve their B-BBEE scoring under the Amended Construction Sector scorecard. Overall performance against target improved from 57% (2013) to 86% (2021).

Diagram 21.1

![Average Skills Development score - Large Enterprises & QSEs (2012 - 2021)](image)

*Figure 20: Average Skills Development score - Large enterprises & QSEs (2012-2021)*

Diagram 21.2 shows increasing black skills development effort and achievement with improved B-BBEE status and recognition levels. Although there has been an overall improvement at all levels, marked black skills development jumps occur between Level 5 and Level 4, and then again between Level 3 and Level 2. The extra black training effort applied during the period 2013 to 2021 has had a clear effect on construction sector B-BBEE scoring.
When interrogating whether the Contractor or BEP sub-sectors are most concentrating on black training, there appears to be no clear leader. In the QSE category, Contractors train more; and in the Large Enterprise category BEP’s appear to train the most.

Diagram 21.4 seeks to interrogate whether there is any correlation between black ownership, black management control, and black skills development. However, from Diagram 21.4, no such trend is evident. Black skills training appears to be undertaken at project and operational level, and less driven by the governance structures of the Measured Entities.
22. PREFERENTIAL PROCUREMENT AND SUPPLIER DEVELOPMENT: PROGRESS BETWEEN 2014

Diagram 22.1 shows that preferential procurement from and supplier development of black entities has continued to make progress between 2013 and 2021 under the Amended Construction Sector Code. The element has also been targeted by Measured Entities seeking to improve their B-BBEE scoring under the Amended Construction Sector scorecard. Overall performance against target improved from 79% (2013) to 85% (2021).
Diagram 22.2 shows a continuous increase in preferential procurement from and supplier development of black entities with improved B-BBEE status and recognition levels of Measured Entities. The improvement is even, with no marked hurdles or thresholds. The extra black preferential procurement and supplier development effort during the period 2013 to 2021 has contributed to the upwards trend in construction sector B-BBEE scoring. At the upper B-BBEE status and recognition levels, it is clear that the set stretch targets are realistic, with 95% of target achieved on average at Level 1.

**Diagram 22.2**

*Average Preferential procurement and supplier development score per BEE level (2021)*

When interrogating whether the Contractor or BEP sub-sectors are most concentrating on preferential procurement and supplier development of black entities, the poor Contractor sub-sector performance in the QSE revenue category stands out. QSE Contractors do not appear to concentrate on this element of the Code.
Figure 26: Average Preferential procurement and supplier development score per sub sector and annual revenue category (2021)

Diagram 22.4 seeks to interrogate whether there is any observable correlation between black ownership, black management control, and black preferential procurement/supplier development. From Diagram 22.4, marked correlation between black ownership and preferential procurement/supplier development is evident. However, similar correlation between black management control and preferential procurement/supplier development does not appear.

Figure 27: Average Management Control score & Preferential procurement and supplier development score per Black Ownership % (2021)
23. SOCIO-ECONOMIC DEVELOPMENT AND SECTOR-SPECIFIC CONTRIBUTIONS: 2014 TO 2021

Diagram 23.1 shows that socio-economic development and sector-specific contributions have continued to make substantial progress between 2013 and 2021 under the Amended Construction Sector Code. The element is the best performing overall and is clearly viewed by Measured Entities as the most achievable in seeking to improve their B-BBEE scoring under the Amended Construction Sector scorecard. However, the lower weighting dilutes the easier achievement of this target. Overall performance against this element improved from 86% (2013) to 99% (2021) of target.

Diagram 23.1

Average Socio-economic Development - Large Enterprises & QSEs (2012 - 2021)

<table>
<thead>
<tr>
<th>Year</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>84%</td>
</tr>
<tr>
<td>2013</td>
<td>86%</td>
</tr>
<tr>
<td>2021</td>
<td>99%</td>
</tr>
</tbody>
</table>

Figure 28: Average Socio-economic Development - Large enterprises & QSEs (2012-2021)

Diagram 23.2 shows good performance against this element for almost all B-BBEE status and recognition levels (Level 7 being an exception), with no discernible trends or correlations. For example, Level 8 average scoring against this element target is higher than Level 5, while Level 4 outscores Level 2. The set stretch targets appear easily achievable, with 113% of target achieved on average at Level 1 status.
When interrogating whether the Contractor or BEP sub-sectors are most concentrating on socio-economic development and sector-specific contributions, the poorer Contractor sub-sector performance in the QSE revenue category again stands out. QSE Contractors appear to concentrate less on this element of the Code.
Diagram 23.4 seeks to interrogate whether there is any observable correlation between black ownership, black management control, and socio-economic development and sector-specific contributions. From Diagram 23.4, no such correlations are evident. For example, the socio-economic development and sector-specific contributions element score for 90–100% black ownership is the same (99%) as for 20-30% black ownership.

### Average Management Control score & Socio-economic Development score per Black Ownership % (2021)

<table>
<thead>
<tr>
<th>Black Ownership % (2021)</th>
<th>Management Control %</th>
<th>Socio-economic Development %</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10%</td>
<td>55%</td>
<td>88%</td>
</tr>
<tr>
<td>10-20%</td>
<td>61%</td>
<td>81%</td>
</tr>
<tr>
<td>20-30%</td>
<td>71%</td>
<td>99%</td>
</tr>
<tr>
<td>30-40%</td>
<td>63%</td>
<td>102%</td>
</tr>
<tr>
<td>40-50%</td>
<td>85%</td>
<td>95%</td>
</tr>
<tr>
<td>50-60%</td>
<td>78%</td>
<td>112%</td>
</tr>
<tr>
<td>60-70%</td>
<td>86%</td>
<td>101%</td>
</tr>
<tr>
<td>70-80%</td>
<td>73%</td>
<td>114%</td>
</tr>
<tr>
<td>80-90%</td>
<td>79%</td>
<td>103%</td>
</tr>
<tr>
<td>90-100%</td>
<td>86%</td>
<td>99%</td>
</tr>
</tbody>
</table>

*Figure 31: Average Management Control score & Socio-economic Development score per Black Ownership % (2021)*
24. ENHANCEMENT CLAIMS 2021:

Under paragraphs 4.3 and 5.3 of Statement CSC000, EME and QSE Measured entities that are not measured against the full Amended Construction Code, but because of high black ownership receive automatic status and recognition, are permitted to advance their B-BBEE status and recognition by one or two levels should they score full marks under the respective skills development and/or supplier development elements. Table 24.1 shows numbers and percentages of EME’s and QSE’s that appear to have taken advantage of this enhancement opportunity during 2021 verifications.

<table>
<thead>
<tr>
<th>Sub sector</th>
<th>Enhanced</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>EME</td>
<td>19</td>
<td>626</td>
<td>3%</td>
</tr>
<tr>
<td>QSE - Non disclosing</td>
<td>49</td>
<td>515</td>
<td>10%</td>
</tr>
</tbody>
</table>

Table 2: Number of scorecards where enhancements were applied per sub sector (2021)

25. DISCOUNTING EFFECTS 2021:

Code Statement CSC000 requires that a minimum score of 40% be achieved for all specified priority elements by each Measured Entity in the EME, QSE, and Large Enterprise revenue categories. Failure to meet the minimum threshold in respect of a priority element leads to discounting of B-BBEE status and recognition by one level. Table 25.1 records numbers and percentages for each revenue category of Measured Entities that were subject to such discounting effects during the 2021 scoring.

<table>
<thead>
<tr>
<th>Sub sector</th>
<th>Discounted</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>EME</td>
<td>186</td>
<td>626</td>
<td>30%</td>
</tr>
<tr>
<td>QSE</td>
<td>260</td>
<td>577</td>
<td>45%</td>
</tr>
<tr>
<td>LARGE</td>
<td>33</td>
<td>229</td>
<td>14%</td>
</tr>
</tbody>
</table>

Table 3: Number of scorecards where discounting were applied per sub sector (2021)
26. FACTORS PROMOTING COMPETITIVENESS AND SUSTAINABILITY OF THE SOUTH AFRICAN CONSTRUCTION INDUSTRY

1. *Infrastructure:* The backbone of a stable society: A robust, inclusive, and competitive South African construction industry is in the interest of all SA citizens. Investment into, efficient operation, and effective governance of the industry are widely acknowledged by economists as prerequisites for reliable service delivery, sustainable job creation, and healthy national accounts, the backbone of a stable society.

26.2 *Capabilities of the State:* It is generally accepted by the current government and in South African society that the capabilities and capacity of the SA State have been eroded in all its spheres during the last decade and that this weakened State has impacted on reliable service delivery to SA citizens. The announced policy of the governing party, as highlighted by the President in his state of the nation address and in other communications from the Presidency, is to re-professionalise the public service, including the built-environment professions within the State. This intention is included in various policy papers and integrated into recent board notices issued by the various SA built environment professional councils. A re-professionalised public service, especially in the built environment professions, will have a marked effect on the efficiency and effectiveness of public spending and improve the health and viability of South Africa’s construction industry.

26.3 *Public safety, technical standards, and return on investment:* South Africa’s built environment professionals councils have been created by national legislation intended to promote and enforce professional standards and behaviour within the SA construction industry in respect of:

- Occupational health and safety, both during construction and post-commissioning for the users of social and economic infrastructure created by the industry.
- For example, a building or a bridge must comply with stipulated safety standards and living in a proclaimed township must protect against flooding and geotechnical risk.
- Functional, serviceable, and durable building and engineering standards for infrastructure assets, compliant with national technical codes and specifications and aligned with applicable international standards, protecting the public and the interests of public and private investors in SA’s social and economic infrastructure.
- Competitive, efficient, and effective spending of public and private capital, delivering both affordable services and a competitive return to invested capital. These expenditure optimisation and management obligations endure throughout the lifecycle of an infrastructure asset, from early feasibility to the end of the design lifetime of the asset.

South African built environment professionals are required to have the academic and experiential knowledge required to deliver the outcomes listed above with a high level of assurance. Professional work in the built environment has been identified in South Africa by built environment council board notice and codes of professional practice have been issued for the delivery of such professional work. Advanced academic qualifications and appropriate professional experience on suitably graded built-environment projects are not easily gained; it takes time to advance to these professional practice standards and behaviours irrespective of race, gender, social or political pressure. These standards and behaviours are the backbone of a sustainable construction industry. The CSCC must ensure that B-BBEE empowerment at all times complies with these national standards and delivers these long-term outcomes to the industry and to SA society.
26.4 Industry size, trends and forecast:
The South African construction industry, due to Covid-19, to eroded State capabilities and capacities, debt quality downgrading, ongoing poor SA economic growth, and inadequate fixed capital formation (section 26.5), has shrunk during recent years, lost substantial capacity, and will remain weak during 2023, hoping for a gradual recovery in the years that follow. See for example the recent report titled South Africa Construction Market Size, Trend Analysis by Sector, and Forecasts 2022 to 2026 issued by Research and Markets during February 2023. Both the SA Construction Sector Charter and its Amended Construction Sector Code record the national need to create a globally competitive construction sector that serves South Africa society and attracts new entrants to a viable and attractive industry. The CSCC must factor these objectives into its B-BBE transformation strategies.

26.5 Fixed capital formation:
South Africa’s ratio of gross fixed capital formation to GDP is below 14% at present against a National Development Plan (NDP) target of 30%. The United Nations estimates that solving current global social problems and meeting its SDG goals and targets will require an additional global annual investment of USD 2.5 trillion. These levels of investment in infrastructure have not been forthcoming in South Africa over recent years as is exhibited by the current weak state of the SA construction industry.

26.6 Private capital and constraining PPP policy:
Private capital investment into SA infrastructure is constrained both by slow SA economic growth and by the inhibiting nature of SA PPP policy and its public finance management law. This low level of both public and private investment in infrastructure makes the construction industry somewhat unattractive to new entrants and to secondary school graduates with the necessary STEM knowledge (section 27.3).

26.7 Rise of the African continent:
It is generally recognised, due to sustained Eastern economic growth, that the rule of the West is passing and that the global centre of economic activity has already moved from the mid-Atlantic (where it was as recently as 1980) to east of Helsinki and Bucharest. Given the right factors and sound AU policies and leadership, a 21st century African rise is both possible and probable. The African Union has adopted its Agenda 2063 (The Africa we want) and the African Continental Free Trade Area (AfCFTA) has been launched as an ambitious trade pact to form the world’s largest free trade area, creating a single market for goods and services of almost 1.3 billion people across Africa and deepening the economic integration of Africa. It is imperative for the SA construction industry to claim its stake in this African rise. CSCC transformation policy should seek to promote SA competition and participation in this predicted continental development and growth rather than just dividing up the limited SA cake.

26.8 Evolution of SA procurement law:
The SA Constitution at Clause 217 sets out the high-level requirements for procurement by SA organs of state. The Constitution requires a national framework to be prescribed for all public procurement. This framework is the national Public Procurement Framework Act of 2000 (the PPPFA) and its various regulations of 2000, 2011, 2017 and, most recently, 4 November 2022. The most senior SA courts have proclaimed on the PPPFA and its regulations. The PPPFA and is regulations must be read together with SA public finance management law and the combination of this legislation and regulation is often complex to interpret and comply with. Section 217 of the Constitution provides for organs of state to award procurement preferences (while excluding no party) to persons or groups of persons disadvantaged by discrimination, to achieve specific goals that the organ of state may identify in its procurement policy.
These specific goals have been linked by both the B-BBEE Act (as amended) and by the Amended Construction Code to broad-based black economic empowerment. The B-BBEE score of a Measured Entity under the Amended Construction Code is thus important and is recognised as such by Measured Entities as is evident from the analysis of scoring results earlier in this report.

27. FACTORS INHIBITING TRANSFORMATION OF THE SOUTH AFRICAN CONSTRUCTION SECTOR

27.1 CSCC funding constraints:
As reported in section 5 above, a general lack of funding has constrained the CSCC in properly performing its various oversight, monitoring, and reporting duties since its establishment. Currently, the CSCC is unfunded, without a permanent executive and administration, and reliant on volunteer resources and capacity. The CSCC has made various self-funding proposals to the DTIC, but still awaits formal response from DTIC to its proposals. Early resolution of these funding constraints is key to the future effective and efficient functioning of the CSCC and better achievement of the purposes and objectives of the Construction Sector Charter.

27.2 The nature of capital:
The nature of capital is often misunderstood even in capital societies. It is accepted political economy and prevailing law that labour (including all highly skilled labour) in a capitalistic society (which South Africa constitutionally is) works for capital until labour has saved sufficiently to invest and may change its status. Labour-created capital may be inter-generational, via inheritance, but the primary source remains labour. The only other sources of capital are serendipity (at very low chances of success), crime with its attendant criminal risk, and disruptive innovation where innovation can be exchanged for capital participation and geared by borrowing.

On occasion, applied procurement preferences are reported in the press to be narrow- rather than broad-based. The CSCC should ensure that it always acts in terms of the purposes and objectives of the B-BBEE Act and for the overall benefit of the industry and the South African nation. The SA Public Procurement Act has been in development for some time and gazetting of this revised law is expected to go a long way to rationalizing and simplifying SA public procurement.

Capital seeking to grow in real terms (even with legislative preference) attracts substantial risk. Being awarded BEP or construction tenders does not generate the required working capital for the contracts nor guarantee capital returns. It takes advanced academic knowledge and substantial experience to properly manage such risk and its converse opportunity, especially within the STEM dominated construction industry. Capital, due to its power and scarcity, always demands at least a market-related return (as dividends and/or capital growth), which has been internationally measured to be between 4 and 5% real rate of return (after adjusting for inflation) at a national level in developed economies (Piketty – Capital in the 21st Century). But dividends and capital growth are not like labour income that is derived from employment with low risk. Once accumulated, capital has both power and ultimate control. For a private enterprise, this ultimate control is with the owner of the capital which is at risk, not with the executive or board (which can be removed by shareholders at any time). An examination of the Report Data shows that an overwhelming majority of the Measured Entities are proprietary and unlisted. The Amended Construction Code elements of ownership and management control are sometimes misinterpreted as avoiding the essential nature of capital. But this is seldom possible in a free market economy.
Not all technically qualified labour, irrespective of race and gender, is suited for the ownership and control of capital risk and opportunity. The right skills and personalities need to manage capital risk and opportunity.

27.3 Weak SA supply of advanced STEM skills:
Steering education with foresight of the future will set a society up for success. Such foresight is important for changing the trajectory of underprivileged communities. To create a more employable workforce, young people are better off studying science, technology, engineering, and mathematics subjects (World Economic Forum 2017). SA’s Medium-Term Strategic Framework for the period ending 2017 recorded a need for 57 000 new engineering graduates to be delivered to the industry. It is a measured fact, and generally accepted, that South Africa lags developed and many developing nations in advanced science, technology, engineering, and mathematics (STEM) knowledge and skills. This truth is evident from a global comparison of basic education outcomes. South Africa rated 92nd out of 124 countries (2015) and 61st out of 137 countries (2017/2018) in its Human Capital Index. SA university graduation in STEM-related qualifications is only around 20%. This rating shows how well (or poorly) countries leverage their human capital and establish workforces for the demands of competitive economies (World Economic Forum). A globally competitive and sustainable SA construction industry (one of the primary objectives of the SA Construction Sector Charter) has a particular demand for advanced STEM skills amongst its population. STEM skills are essential to protect public safety and the commercial interests of investors (section 26.3 above) and to manage and control own capital risk within the construction industry. Currently, as is evident from basic and higher education outcomes, and from the registration statistics of built environment professionals, that the distribution of SA STEM skills does not remotely match the economically active population in terms of race nor gender.

Across social groups, there is also a discrepancy in the consistency and quality of STEM education. Severe supply-side shortages of suitably qualified and professionally experienced black and female candidates appear in SA construction sector recruitment processes. Where human capital STEM supply seriously lags adopted targets, scarce resources will be unsustainably recycled while employment equity, ownership and control targets mostly remain unmet. Alternatively, formal control of the construction industry must be entrusted to out-of-industry generic governance resources, or to in-industry but probably insufficiently experienced persons. The 2021 management control results described in section 20, suggest a conclusion that this approach has been adopted by the industry to comply with the Amended Construction Code. The current disparity between the economically active population and registered and experienced black and female professionals in SA’s construction sector probably stems from early childhood education backlogs and extends to secondary school subject choices and classroom/laboratory environments that do not build solid primary and secondary foundations in STEM knowledge. There appears to be a strong need for a cross-institutional (basic education, higher education, and built environment councils) and inter-generational approach to building a sustainable and competitive SA construction sector. See for example the work being done by the SAME FOUNDATION in secondary school education in South Africa.

27.4 Root cause vs outcome elements:
As detailed in section 10 above, there are five separate transformation measurement elements in the Amended Construction Sector Code. See paragraph 7 of amended code series and Statement CSC000: General Principles. Based on the discussion in sections 27.2 and 27.3 above, it may be observed that the skills and enterprise development elements are clearly root cause factors.
If these elements are more effectively addressed by cooperative action across race and gender, elements such as transformed ownership and control will be natural outcomes, creating a globally competitive and sustainable SA construction sector.

27.5 **Focus on ownership and control:**
Although each of the Amended Construction Sector Code elements are important, over-focus on ownership and control in the absence of proper attention to the skills and enterprise development elements will result in unprofitable and unsustainable black and female ownership and control and a weaker and uncompetitive SA construction sector. Furthermore, limited focus on ownership and control at the expense of more gearing and long-term focussed sector elements such as skills development, can be expected to compromise short- and medium-term rub off empowerment multiplier effects on families, relatives, and communities and to be lost to future black generations. In essence, philosophical ‘lift as you rise’ opportunities will be compromised.

27.6 **Short-term vs long-term common interests:**
As reported in section 26.4, the South African construction industry has shrunk over the past decade and is seriously challenged by its current conditions. The CSCC should seek to avoid merely transferring ownership and control of the industry to previously disadvantaged persons at the expense of building a globally competitive and sustainable industry. Short-term transformation of ownership and control without properly addressing other fundamental root cause factors will not benefit black and female transferees nor the SA economy in the medium- and long-term. The CSCC should rather seek to promote non-racialism and avoid patriarchy. Partnerships, including joint ownership and control, across race and gender should be promoted as should economic unity of the nation and its common market, as envisaged and recorded in the South African Construction Sector Charter jointly adopted by the major stakeholders in the sector.

28. **FUTURE MEASUREMENT AND REPORTING**
Subject to successful resolution of its funding constraints, it is the CSCC’s express intention that its 2021 Report on the State of Transformation of the South African Construction Industry will be followed each subsequent year by a further report of progress in transforming the SA construction industry under the Amended Construction Code and in line with the Construction Sector Charter. This regular future annual reporting will follow the methodology and format established by the 2021 Report (see section 12 above), allow progressive achievement of the Amended Construction Code elements to be properly tracked and interrogated, and allow the CSCC to make further firm proposals for sustainable and permanent transformation of the South African construction sector, creating a sector that is globally competitive and serves the economic interest of the entire South African nation.

29. **CSCC: TOWARDS A WELL RESOURCED, GOVERNED AND FINANCED ORGANISATION**
The South African construction industry seeks to return to a growing, globally competitive, profitable, and sustainable position, serving the South African economy and its citizens irrespective of race, gender, or other differentiation. To this end, the SA Construction Sector Charter Council, in cooperation with public institutions such as the Construction Industry Development Board, needs to advance to becoming a visionary, well-resourced, governed and financed organisation, leading the national advance to a transformed and more equal society. As a first step its current funding constraints need to be resolved.

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End of Report

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Chairperson  
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