

Real Estate Law & Conveyancing

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SOUTH AFRICA

- Green building and the way forward for developments



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Green building and the way forward for developments

As environmental considerations and their long-term implications continue to receive increased attention, participants in the property development industry are increasingly required to consider and address their environmental impact. In South Africa, this shift is reinforced by a growing regulatory and policy framework aimed at improving the sustainability of the built environment.

This development must be understood within the broader legal landscape governing construction and development in South Africa, including the Constitution of the Republic of South Africa, 1996 and the National Building Regulations and Building Standards Act 103 of 1977. Together, these instruments empower municipalities to regulate building standards and development within their jurisdictions, including through the introduction of policies addressing environmental performance.

Against this backdrop, the City of Johannesburg (CoJ) introduced the City of Johannesburg Green Building Policy: New Buildings, June 2021 (Policy), which provides a framework for guiding the development and refurbishment of buildings in a manner that promotes reduced carbon emissions and improved resource efficiency. Importantly, the Policy requires compliance at the earliest stages of the building plan approval process, thereby embedding sustainability considerations into development planning from inception.

The City of Johannesburg Green Building Policy: New Buildings

The Policy applies to all new buildings, as well as major refurbishments that require building plan approval by the CoJ, and is integrated directly into the building plan approval process. Recognising the material contribution of the built environment to carbon emissions and resource consumption, the CoJ has prioritised the transition towards more sustainable building practices within its jurisdiction.

The Policy establishes a compliance target of 2030 and an ultimate objective of achieving net-zero carbon performance by 2050. It guides developments towards improved performance across four key areas: energy efficiency, water efficiency, waste management and low-carbon transport.

The CoJ is not alone in this regard. Other metropolitan municipalities, including Cape Town, eThekweni and Tshwane, are participating in broader initiatives aimed at transitioning to low-carbon buildings, including the C40 South Africa Buildings Programme. This reflects a broader national trend towards embedding sustainability considerations into urban development frameworks.

While the Policy establishes a clear direction of travel, its implementation remains an evolving process, particularly in relation to the integration of sustainability requirements into existing approval systems and the monitoring of building performance over time. This underscores the importance of proactive engagement with the Policy at an early stage of the development process.

Non-compliance

Full compliance with the Policy is a prerequisite for building plan approval. The consequences of non-compliance are significant and include the following:

- Building plan approval may be refused, resulting in delays and increased development cost.
- Where a building has been completed, the occupation certificate may be withheld until compliance is demonstrated, which may delay occupation by tenants or end users.
- Where incentives were granted as part of the land use application process, and the required performance is not achieved at approval or occupation stage, penalties may be imposed.

From a development perspective, these risks have direct implications for project timelines, financing arrangements and commercial outcomes. Compliance with the Policy should therefore be addressed as a core component of project planning, rather than as a secondary or technical consideration addressed later in the process.

From a legal and transactional perspective, compliance with the Policy is increasingly a core development risk consideration. It may affect not only building plan approval and occupation certification, but also financing arrangements, development conditions, leasing timelines and, in some cases, ESG-linked funding or tenant requirements.

Green building certification: Going beyond compliance

While compliance with the CoJ Policy is mandatory for applicable developments, many developers elect to go further by pursuing formal green building certification. Certification provides a structured framework for measuring sustainability performance, assessing outcomes against recognised benchmarks and demonstrating environmental credentials to tenants, investors and other stakeholders.

What is a green building?

In the South African context, the Green Building Council South Africa (GBCSA) defines a “green building” as a building that, in its design, construction or operation, reduces or eliminates negative environmental impacts and can create positive impacts for the natural environment and building users.

At the forefront of green building design are energy efficiency, responsible resource use, environmental sustainability, improved occupant well-being and long-term asset performance. These factors contribute to reduced environmental impact as well as improved operational resilience and asset quality. Importantly, green buildings are not limited to a particular type or scale of development.

Common rating tools in South Africa

Several tools are used in South Africa to assess whether a building qualifies as a green building. The most commonly applied are Green Star, Net Zero and Excellence in Design for Greater Efficiencies (EDGE), each of which is typically administered or facilitated through the GBCSA.

- **Green Star:** Green Star is the primary South African rating system administered by the GBCSA, assessing buildings across multiple sustainability categories and lifecycle stages.
- **Net Zero:** Net Zero certification recognises buildings achieving net zero environmental outcomes based on measured or modelled performance.
- **EDGE:** EDGE requires minimum resource efficiency thresholds, typically including at least a 20% reduction in energy, water and embodied carbon in materials.



Commercial and operational advantages of certification

Green building certification offers a range of commercial, operational and sustainability-related advantages, which may be categorised as follows:

Alignment with regulatory frameworks

Certification frameworks assist developers in aligning projects with evolving environmental legislation, building standards and municipal requirements. In the context of the CoJ Policy, this alignment can support compliance with applicable performance standards and facilitate engagement with approval authorities, although certification does not replace the requirement to comply with mandatory standards.

Enhanced reputation and market value

Certification signals a demonstrable commitment to sustainability, which is increasingly valued by tenants, investors and other stakeholders. This contributes to enhanced market perception and may strengthen long-term asset performance, with certified buildings often benefiting from improved positioning within an increasingly sustainability-conscious market.

Reduced operating costs and tax efficiency

Green buildings are designed to reduce energy and water consumption, resulting in lower operating costs over the life of the asset. In South Africa, these efficiencies may be supported by section 12L of the Income Tax Act 58 of 1962, which provides a tax deduction for verified energy efficiency savings achieved. The extension of this incentive to 31 December 2030 underscores continued governmental support for energy-efficient development. Together, these financial benefits may enhance overall project returns and improve lifecycle value.

Health, environmental and broader sustainability benefits

Green buildings deliver benefits that extend beyond the asset itself to its occupants, surrounding communities and the broader environment. Improvements in indoor environmental quality, including enhanced air quality, natural lighting and thermal comfort, contribute to healthier and more productive spaces. At the same time, reduced energy consumption, emissions and waste generation support climate-change mitigation objectives and reduce pressure on municipal infrastructure, including water, electricity and waste systems.

The way forward

Sustainability considerations are becoming increasingly embedded within the legal, regulatory and commercial framework governing property development in South Africa. The CoJ Green Building Policy represents a clear example of this shift, demonstrating how municipalities are integrating environmental performance requirements into the development approval process.

Developers, investors and industry stakeholders are encouraged to approach sustainability as a fundamental component of development strategy. This includes early engagement with applicable policies, careful distinction between mandatory and promoted standards, and consideration of whether formal certification may add strategic and commercial value to a project.

In the South African context, green building is no longer merely a matter of best practice. It is increasingly a component of regulatory compliance, development feasibility and long-term asset performance. Developers who engage with these requirements proactively are likely to be better positioned to manage approval risk, meet evolving market expectations and future-proof their developments in an increasingly sustainability-driven environment.

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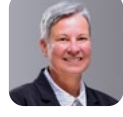
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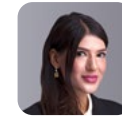
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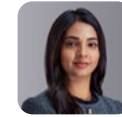
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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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