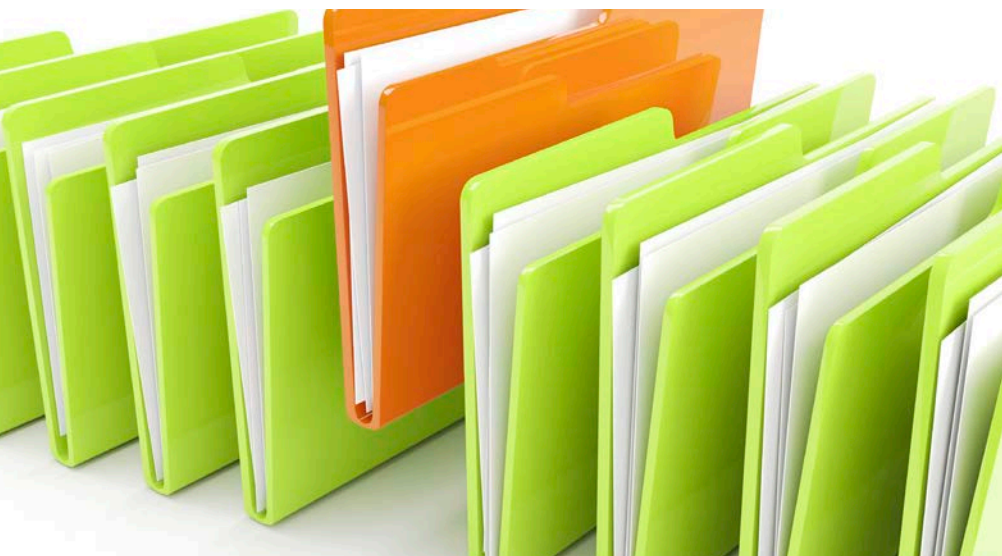




# POLICY AND LEGAL CONTEXT

## Chapter Two



PREPARING FOR A GREENER SOUTH AFRICA



## NFSD vision

*South Africa aspires to be a sustainable, economically prosperous and self-reliant nation State that safeguards its democracy by meeting the fundamental human needs of its people, by managing its limited ecological resources responsibly for current and future generations, and by advancing efficient integrated planning and governance through national, regional and global collaboration.*



## 2.1 Background

The NSSD builds on the National Framework for Sustainable Development (NFSD), which was adopted by Cabinet in 2011, taking the 2008 – 2009 global financial crisis, climate change and the international focus on the “green economy”, into account. The NSSD provides a roadmap for the development path required if South Africa is to achieve the vision outlined in the NFSD.

The Action Plan outlines five strategic priorities as follows:

- |                   |  |
|-------------------|--|
| <b>Priority 1</b> | Responding appropriately to climate change;                            |
| <b>Priority 2</b> | Working towards a green economy;                                       |
| <b>Priority 3</b> | Building sustainable communities;                                      |
| <b>Priority 4</b> | Sustaining our ecosystems and using natural resources efficiently; and |
| <b>Priority 5</b> | Enhancing government systems and capacity.                             |

Each strategic Action Plan Priority has been assigned key goals, interventions (mitigation) and targets. Strategic goals of particular relevance to the National Greening Framework (NGF) are listed below:

- Enhance security of energy supply (through energy efficiency and renewable energy infrastructure;
- Increase the contribution of environmental good and services sector to employment and GDP;
- Reduce resource intensity of the economy and promote cleaner technology;
- Invest in sustainable infrastructure;
- Promote sustainable livelihoods;
- Enhance spatial planning;
- Ensure universal access to basic and community services;
- Improve the quality of housing and other structure to optimise resource efficiency; and
- Establish a structure that has the power to ensure the integration of sustainability concerns into all policies, planning and decision-making.

The primary focus for the South African Government for its term in office ending in 2014 is on economic growth and development (The Presidency, 2009). This priority has to be seen in the context of South Africa's Vision 2025. The National Planning Commission (NPC) recognises the role that climate change mitigation and adaptation, integrated urban planning, food and water security, energy consumption and production (including the energy mix), modes of transportation and conservation have on shaping South Africa's development in the long term. Issues of sustainability and sustainable development are thus integral to South Africa's long-term vision.

The relevance of the NGF to the South African Government was confirmed in President Zuma's State of the Nation Address delivered to Parliament on 11th February 2011. Infrastructure development, the green economy and tourism were mentioned as key areas for job creation. In addition the speech indicated government's support and intent around the promotion and development of the tourism through the hosting of international gathering and events as well as the procurement of renewable energy.



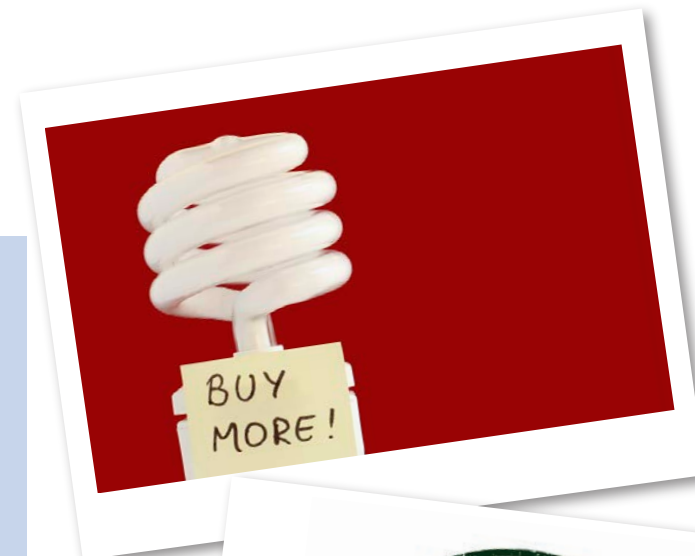
Working towards a green economy....



With the NSSD and government priorities as a backdrop, this chapter focuses on the international and national policy context for greening human settlements in general, and events greening in particular. The policy and legal context is informed by both overarching or cross-cutting issues (sustainable development; spatial planning, land use and integrated development; and environmental management and regulation) and sector-specific issues, namely:

-  *Human Settlements*
-  *Sustainable Energy*
-  *Water Management*
-  *Air Quality Management*
-  *Waste management*
-  *Biodiversity Protection and Enhancement*
-  *Sustainable Transportation*
-  *Responsible Tourism*
-  *Sustainable Procurement*

The international section focuses primarily on sustainable development and climate change issues as relevant to greening, while the national section focuses on cross-cutting legislation and policy, followed by a brief synopsis of sector-specific legislation and policy.



## 2.2 International Context

### 2.2.1 International sustainable development concerns

An understanding of the history of sustainable development in the international arena, and how priorities have changed over time, provide key to understanding of the function that greening can play in achieving sustainable development.

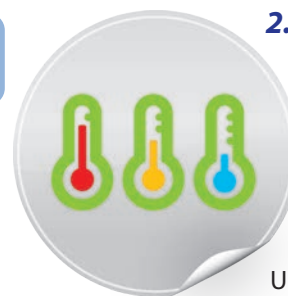
As early as 1972, the United Nations Conference on the Human Environment identified the state of the environment as a development concern. In 1983, the United Nations convened the Brundtland Commission, formally the World Commission on Environment and Development (WCED) to address the growing concern regarding "...the accelerating deterioration of the human environment and natural resources and the consequences of that deterioration for economic and social development" (UN, 1987).

Emerging from the Commission was the Brundtland Report (WCED, 1987), which, for the first time defined sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs."

Numerous issues relating to development and the environment came to international and public prominence in 1992 at the United Nations Conference on Environment and Development commonly known as the Earth Summit. This resulted in the adoption of agreements including the Rio Declaration on Environment and Development, Agenda 21, the Convention of Biological Diversity, Forest Principles and the United Nations Framework Convention on Climate Change (UNFCCC). It provided for the first time a comprehensive global blueprint of action to integrate environmental concerns into all levels of social and economic decision-making processes at local, national and global levels.

Over the course of the last ten years (since 2000), international attention has shifted towards addressing the world's main developmental challenges and the increased recognition of the interdependence between growth, poverty reduction and sustainable development. The Millennium Development Goals (MDGs) agreed to by world countries and leading developmental institutions in September 2000 include eradicating extreme hunger and poverty as well as ensuring environmental sustainability by 2015.

The World Summit on Sustainable Development (WSSD) popularly referred to as Rio+10, held in Johannesburg in 2002, agreed to both the Johannesburg Declaration on Sustainable Development and the Johannesburg Plan of Implementation (JPOI), which in turn reaffirmed the commitment to work towards Agenda 21 and to meeting targets for achieving sustainable development inclusive of the MDGs.



### 2.2.2 Greening and climate change

The necessity for moving towards a greener low carbon, resource efficient economy has become increasingly apparent as the projected impacts of human induced climate change become increasingly imminent and more severe.

On the global stage, the concerns of anthropogenic climate change first featured strongly at the Earth Summit resulting in the UN Framework Convention on Climate Change (UNFCCC), signed and subsequently ratified by 193 Country Parties (UNFCCC, 2010).

The primary objective of the UNFCCC is to stabilise **"greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system"** (UN, 1992).

The Convention itself sets no mandatory limits on greenhouse gas (GHG) emissions for individual countries and contains no enforcement mechanisms. Instead, the Convention provides for "protocols" that would set mandatory emission limits. Adopted in 1997 and entered into force in February 2005, the Kyoto Protocol for the first time sets binding targets for reducing GHG emissions. While the Protocol places a heavier burden on developed nations to reduce GHG emissions, all countries that have signed and ratified the Convention make general commitments. These include **"the need to promote sustainable development by implementing policies and measures to, amongst others, enhance energy efficiency, protect and enhance sinks and reservoirs of greenhouse gases, promote sustainable forms of agriculture, increase the usage of new and renewable forms of energy and of advanced and innovative environmentally sound technologies"** (DEAT, 2003).

At an international level, the South African Government has participated in all key sustainable development Summits and is a signatory of all declarations, goals and action plans that emerged from these summits (including the Rio Declaration, Agenda 21, the UNFCCC, the MDGs, Johannesburg Declaration, JPOI).

### 2.2.3 Green economies as the future developmental path

Whilst the NGF is not the Green Economy Plan, the green economy policy is also important for locating this framework in context.



The Marrakech Process, resulting directly from the JPOI, was established by the United Nations in 2003 as a global multi-stakeholder process to support the elaboration of a 10-Year Framework of Programs (10YFP) on sustainable consumption and production. One of its three goals is "to assist countries in their efforts to green their economies" (UNDESA, 2008) and there is increasing consensus that the current natural resource constraints



*There is increasing consensus that the current natural resource constraints and ecosystem pressures demands a shift from conventional economic growth trajectories towards greener alternatives.*



efforts to green their economies" (UNDESA, 2008) and there is increasing consensus that the current natural resource constraints and ecosystem pressures demands a shift from conventional economic growth trajectories towards greener alternatives.

However, it is only since the 2008 economic crisis that the Green Economy is being seriously considered as the developmental path for the future. In 2008, at the height of the world financial meltdown, the United Nations Environmental Programme (UNEP) called for a Global Green New Deal (GGND) according to which governments are encouraged to support economic transformation to a greener economy.

The GGND promotes sustainable and inclusive growth to address global development challenges through achievement of MDGs, while simultaneously reducing carbon dependency and ecosystem degradation. With this call, the international stage has finally been set for greening to take up the central position in economic and sustainable development.

South Africa is also in the process of developing a Green Economy Plan as the greening of South Africa's economy is regarded as a critical lever to bring about the structural transformation required to achieve a more equitable and inclusive economy. Co-ordinated activity is required to achieve the envisaged economic shifts towards managing the transition to a low carbon and greener economy, with the ultimate objective of a carbon neutral economy by 2050.



#### 2.2.4 Relevant International Environmental Conventions

South Africa has acceded, signed or ratified 15 international conventions relating to natural and cultural resources. Of particular significance to the NGF are the following conventions:

- Convention relative to the prevention of Fauna and Flora in their natural state (1933);
- International Plant Protection Convention (1951);

- International Convention on The Protection for New Varieties of Plants (1961);
- Convention on Wetlands of International Importance especially as Waterfowl Habitat ("Ramsar") (1971);
- Convention Concerning the Protection of the Worlds Cultural and Natural Heritage (1972); and
- Convention on Biological Diversity (1992).

In addition, South Africa has acceded or ratified 8 international conventions relating to hazardous substances, pollution and waste management (excluding conventions on the marine environment, Antarctica, nuclear conventions and military-related conventions). Of particular significance to the NGF are the following conventions:

- United Nations Framework Convention on Climate Change (1992);
- Framework Convention on Climate Change: Kyoto Protocol (1997); and
- Cartagena Protocol on Biosafety to the Convention on Biodiversity (2000).



## Constitution, Bill of Rights, Chapter 2, Section 24

Everyone has the right

- a. to an environment that is not harmful to their health or well-being; and
- b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that:
  - i. prevent pollution and ecological degradation;
  - ii. promote conservation; and
  - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.



## 2.3 The National Context

*The South African Constitution forms the cornerstone of all South Africa's laws and policies post-1994. The Constitution affords every person with the right to an environment which is not harmful to their health and well-being and places a constitutional mandate on government to protect the environment through reasonable legislative and other measures that prevent pollution, ecological degradation, promote conservation and secure ecological sustainable development and the use of natural resources while promoting justifiable economic and social development.*

There are numerous Acts, regulations, and policies relevant to this Framework. Section 2.3.1 outlines the legislative and policy environment as it pertains to the cross cutting issues of sustainable development, spatial and land-use management and environmental management and planning, while section 2.3.2 provides a legislative and policy overview of the specific sectors relevant for this Framework. Only the most relevant legislation and policies are highlighted.

*Appendix A provides a more comprehensive list of Acts and Regulations relevant to this Framework, indicating their relevance to the cross-cutting and sector-specific issues.*



### 2.3.1 Crossing-cutting Legislation and Policies

This section provides a separate overview of the legislative and policy context for each of the following cross-cutting issues:

- Sustainable development;
- Spatial Planning and Land use Management; and
- Environmental Management and Planning.



### • Sustainable development

Sustainable development is well entrenched in South African legislation and supported by frameworks, strategies and action plans. Since the advent of democracy in South Africa, there has been a steady progression towards mainstreaming sustainable development and this trend has

been consolidated in the fourth Term of Office. In all key areas, from national priorities to planning and implementation, the principles of sustainable development and greening the economy feature prominently.

The key national legislation and policies of relevance to sustainable development are contained in Table 2.1, below. Provincial legislation and municipal bylaws are not included in this table.

**Table 2.1:** Overview of relevant sustainable development legislation and policies

Name	Type	Date	Version
Constitution of the Republic of South Africa, (Act 108 of 1996)	Act	1996	N/A
National Environmental Management Act (NEMA) (Act No. 107 of 1998)	Act	1998	N/A
Framework for considering market-based instruments to support environmental fiscal reform in South Africa	Framework	2006	Draft
Policy Framework for the Government-wide Monitoring and Evaluation System Africa	Framework	2007	Final
National Framework for Sustainable Development (NFSD)	Framework	2008	Final
Medium Term Strategic Framework (MTSF)	Framework	2009	Final
Environmental Sector Plan	Plan	2009	Final
National Climate Change Response Green Paper	Green Paper	2010	Draft
National Strategy Sustainable Development (NSSD)	Strategy, Action Plan	2011	Final
Vision 25			