



**2019 Annual Conference**

**25 Years of Environmental Law  
under a  
New Constitution**

**DRAFT PROGRAMME**

Salt Rock Hotel, Salt Rock, KwaZulu-Natal

27-28 September 2019



## 27 SEPTEMBER 2019

### 08:00-09:00 Registration

#### 09:00 Welcome

Peter Kantor (Chair: ELA)  
Michael Kidd/Patrick Forbes/Vicki King (UKZN; KZN representatives)

09:15 Parusha Bachan (Legal Content Manager, LexisNexis)

#### 09:30 Session 1: Keynote Address

Chair: Peter Kantor

09:30-09:50 Alexander Paterson  
*Environmental and spatial planning in the post-Constitutional era – from the desert to the swamp*

09:50-10:00 Discussion

#### 10:00 Session 2: 25 years of water law

Chair: tba

10:00-10:20 Germarié Viljoen (North-West University, ELA North-West representative)  
*Re-interpreting the concept of public trusteeship in South Africa's water law: a commons theory approach*

10:20-10:40 Amanda Makhonza (IMEL, University of Cape Town)  
*Recalling the ebbs and flows in the journey towards protecting principal mountain catchments in the first 25 years of the 'new' South Africa*

10:40-11:00 Jacolette Adam  
*Towards a legal introduction of wetland mitigation banking in South Africa*

11:00-11:20 Discussion

### 11:20-11:45 Tea Break

**11:45            Session 3: Minerals, gas and petroleum**

Chair: tba

11:45-12:05 Kirsten Youens (Youens Attorneys) and Adrian Pole (Adrian Pole Attorneys)

*The adequacy of marine legislation in response to the current and anticipated oil and gas activities in our oceans*

12:05-12:25 Noel Smit (North-West University)

*Environmental legal compliance through self-regulation in the petrochemical industry in South Africa*

12:25-12:45 Jacques Harris (CIGroup Environmental Operations Manager)

*Financial Closure Liability: A risk to mining operations*

12:45-13:05 Discussion

**13:05-14:00 Lunch**

**14:00            Session 4: Environmental and social justice**

Chair: tba

14:00-14:20 Janice Tooley (All Rise Attorneys for Climate & Environmental Justice)

*EIA legislation over past 25 years and whether it achieves environmental justice, especially for poor communities*

14:20-14:40 Elmien du Plessis (North-West University)

*Property rights of communities and the MPRDA*

14:40-15:00 Oliver Fuo (North-West University)

*The pursuit of social justice in peril? The usefulness of a procedural rights-based approach to minimising city capture in South Africa*

15:00-15:20 Discussion

**15:20-15:35 Comfort break**

15:35            Environmental Law Association Annual General Meeting

## 28 SEPTEMBER 2019

### 08:30 Session 5: Climate change law

Chair: tba

- 08:30-08:50 Willemien du Plessis (North-West University)  
*Environmental framework law, climate change and the SDGs*
- 08:50-09:10 Olivia Rumble (IMEL, University of Cape Town)  
*Carbon taxes and budgets: climate change mitigation fifteen years on*
- 09:10-09:30 Tharien van der Walt and Ademola Jegede (University of Venda)  
*Constructing the law of criminal negligence as a climate change intervention in South Africa*
- 09:30-09:50 Discussion

### 09:50 Session 6: 25 years of jurisprudence

Chair: tba

- 09:50-10:10 Tracy-Lynn Humby (University of the Witwatersrand)  
*Using the right to environment in South Africa? A developing theory*
- 10:10-10:20 Kesolofetse Lefenya (North-West University)  
*Public interest litigation as an instrument to advance environmental justice under the new Constitution*
- 10:20-11:00 Bronwen Qumbu (North-West University)  
*A critical analysis of the courts' role in promoting water security in South Africa*

### 11:00-11:15 Tea break

### 11:15 Session 7: Wetlands and protected forests

- 11:15-11:35 Peter Kantor  
*Do the means justify the end?*
- 11:35-11:55 Michael Kidd (University of KwaZulu-Natal)  
*Seeing the wood for the trees: two recent cases involving protected forests – or should that be protected trees?*
- 11:55-12:15 Discussion

### 12:15 Conclusion