



December 2018

LLM ENVIRONMENTAL GOVERNANCE LAW – 2019 STUDENT MEMO

A word of welcome

Welcome on behalf of the Faculty of Law, NWU and the LLM Environmental Governance Law team. We are delighted that the NWU is your institution of choice for the pursuit of a post-graduate qualification in environmental law.

We trust that you will thoroughly enjoy all of the new information, learning experiences and exposure that this LLM programme has to offer in 2019. We would like to encourage you to provide us with constructive feedback and inputs on your experience with us throughout the year.

A short history

The interest in environmental law and governance intensified with the adoption of the environmental right in the *Constitution of the Republic of South Africa*, 1996 and the subsequent adoption of the *National Environmental Management Act 107* of 1998. The NWU's LLM in Environmental Governance Law celebrates its 13th year in 2019. It was initially developed by Proff Willemien du Plessis and Louis Kotzé. The programme has matured over the years and has grown into what can reasonably be described as one of the most comprehensive and sought-after learning programmes in the country. The programme is especially being lauded for its ability to blend learning, research and practical application of knowledge. It also has strong ties with some of the research conducted in the Faculty and elsewhere on campus, such as the Centre for Environmental Management.

What does this programme demand?

This programme will demand a lot from you as a student. It is time-consuming and, as the name of the qualification suggests, it is offered at a very high scholarly level. The programme requires devotion, commitment and sturdy endurance if it is to be completed in the prescribed timeframe.

This is a structured, course-based LLM. Seminar attendance on Fridays and Saturdays approximately once a month is compulsory, and students are expected to make the necessary arrangements at work and at home to ensure that they duly attend the seminars. In addition to a total of 5 modules (4 programme specific and research methodology) students must complete a mini-dissertation (an in-depth research report) of approximately 60 pages. The module component and the mini-dissertation count 50% each of the total mark. The general acceptable standard for this dissertation is that the research presented therein must be publishable in a respectable, peer reviewed scientific journal. It is therefore not a mere research report that could be done in a month. You are well-advised to plan carefully for this research component and to spend sufficient time, in collaboration with your research supervisor, to conduct high-level research.

How long do you have to complete this degree?

The programme may be completed in a minimum of 1 year, but must be completed in a maximum of 2 years. If you are a part-time student, budget for 2 years of study. If you are a full-time student, it may also take you two years to complete your study if you take on other responsibilities (marking, assistance, invigilation, etc.) at the Faculty or participate in the LEAD School. No further extensions are possible after the 2 year study period has lapsed.

The 2019 curriculum – LLMO and MPhil

Curriculum – LLM in Environmental Law and Governance

CODE: 6CL P01, R801P

CAMPUS: POTCHEFSTROOM, (ENGLISH)

DELIVERY MODE: CONTACT

The programme comprises the following compulsory and elective modules.

Choose three (3) elective modules presented in any of the two semesters.

Module Code	Name	Credits
Compulsory Modules		
LAWO 873	Research Methodology and Mini-dissertation AND	100
LLMO 811	South African Environmental Law (first semester) OR	20
LLME 811	International and African Regional Environmental	20

	Law (first semester)	
Choose three (3) elective modules presented in any of the two semesters		
Semester 1		
LLMO 811	South African Environmental Law	20
LLMO 884	Administrative Law	20
LLME 812	Natural Resource Management Law	20
LLME 811	International and African Regional Environmental Law	20
Semester 2		
LLMO 886	Occupational Health and Safety Law	20
LLMO 818	Climate Change and Energy Law	20
LLME 821	South African Mining Law	20
Credit total for modules		80
Credit total for curriculum		180

The modules South African Planning Law (LLMO 829) and Local Government and Environmental Law (LLMO 885) will not be offered in 2019. Those who wish to register for these module will have to do so in 2020.

Transitional arrangements– LLM in Environmental Law and Governance

Recognition will be given for all subjects passed. Any outstanding modules must be taken in accordance with programme 6CL P01. LLMO 811 and LLMO 829 must be taken if LLMO 881 has not successfully been completed.

Compilation of curriculum – M Phil in Environmental Law and Governance

CODE: 6CJ P01, R801P

CAMPUS: POTCHEFSTROOM, (ENGLISH)

DELIVERY MODE: CONTACT

The programme comprises the following modules:

Module Code	Name	Credits
Compulsory Year modules		
LAWO 873	Research Methodology and mini-dissertation AND	100
LLMO 811	South African Environmental Law (first semester) OR	20
LLME 811	International and African Regional Environmental Law (first semester) AND	20
OMBO 878	Environmental Management	40
Choose one (1) of the following elective modules in any of the two semesters		
Semester 1		
LLMO 811	South African Environmental Law	20
LLME 811	International and African Regional Environmental Law	20
LLMO 884	Administrative Law	20
LLME 812	Natural Resource Management Law	20
Semester 2		
LLMO 886	Occupational Health and Safety Law	20
LLMO 818	Climate Change and Energy Law	20
LLME 821	South African Mining Law	20
Credit total for modules		80
Credit total for curriculum		180

The module Environmental Management (OMBO 878) is only offered every second year. The module is offered in 2019.

The modules South African Planning Law (LLMO 829) and Local Government and Environmental Law (LLMO 885) will not be offered in 2019. Those who wish to register for these modules will have to do so in 2020.

What to expect from the seminars

The seminars are exciting opportunities to engage with the subject content in collaboration with the expert lecturer(s) and your peers. They are demanding in terms of the depth of the discussion; preparatory reading in accordance with the module outline is highly recommended. The seminars offer the opportunity to ask questions, and the lecturers will typically lead case-study or scenario-based discussions on matters of special importance. During the seminars the lecturers will also provide feedback on students' assignments and will discuss preparation for the exam. These sessions depart rather dramatically from the lectures you would have had at the under-graduate level. Instead of only merely providing information, lecturers will actively encourage critical group discussions which will require from you to be very well-prepared before each session.

Every module has a basic study guide which covers the scope of the module's focus and contains information on the lecturer, the prescribed reading and assessments. Every module's study guide is available on the module-specific eFundi site.

Seminar attendance is compulsory. Only official excuses such as certified illness or death will be accepted. Such apologies, accompanied with the requisite documentation of proof such as a sick note, must be sent to the lecturer and Programme Coordinator prior to the start of the seminar. The seminar programme for both semesters is available online and on eFundi. Please check the exact seminar venue prior to every seminar series.

The seminars are often long and exhausting. Remember to drink your vitamins and to bring along a bottle of water!

Overview of the modules

Module code: LLME 812	Semester 1	NQF level: 9
Title: Natural Resources Management Law		
Module outcomes: On completion of this module, the student should be able to demonstrate:		
<ul style="list-style-type: none">• a comprehensive and systematic knowledge of theoretical and practical questions pertaining to the contents, application and execution of Natural Resources Management Law in the South African and regional context;• a coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the		

identification, analysis and solution of complex ill- defined real-world problems, issues and case studies;

- an advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on issues of natural resources management law in South Africa and the region from a personalised ethical system; the ability to give legally sound advice using the applicable law, defensible arguments and applying the applicable legal principles and available authority.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

Module code: LLME 821	Semester 2	NQF level: 9
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Title: **South African Mining Law**

Module outcome:

On completion of this module, the student should be able to demonstrate:

- a comprehensive and systematic knowledge of theoretical and practical questions pertaining to the contents, application and execution of South African Mining Law;
- a coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the identification, analysis and solution of complex ill- defined real-world problems, issues and case studies;
- an advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on Mining Law issues from a personalised ethical system; the ability to give legally sound advice using the applicable law, defensible arguments and applying the applicable legal principles and available authority.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

**Module code: LLMO
811**

Semester 1

NQF level: 9

Title: **South African Environmental Law**

Module outcome:

On completion of this module, the student should be able to

- demonstrate: a comprehensive and systematic knowledge of theoretical and practical questions pertaining to South African environmental legal principles, values and legislation;
- a coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the identification, analysis and solution of complex ill- defined real-world problems, issues and case studies;
- an advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on South African environmental law issues from a personalised ethical system;
- the ability to provide legally sound advice using defensible arguments and applying the applicable legal principles and available authority.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

Module code: LLME 811	Semester 1	NQF level: 9
Title: International and African Regional Environmental Law		
Module outcome:		
On completion of this module, the student should be able to demonstrate		
<ul style="list-style-type: none"> • Comprehensive and systematic knowledge of theoretical and practical questions pertaining to relevant international and African regional environmental norms, institutions and processes, including the historical development, contents, application and execution of international and African regional environmental law in an environmental governance context; • A coherent understanding of research theory and practice applicable to the field of international and African regional environmental law and governance, including the ability to reflect critical thinking in the identification, analysis and solution of complex ill-defined real-world problems that are represented by <i>capita selecta</i> issues including: environmental human rights, biological resources and protected areas and hazardous substances and activities. • Advanced ability to retrieve, critique, integrate and communicate information and research findings (both legal and where relevant, non-legal) to specialist and non-specialist audiences using resources on the prevalent academic and policy discourse and to participate in debates on topical international and African regional environmental law and governance questions; and • The ability to provide legally sound advice in the domain of both international and African regional environmental law and governance using well-structured and reasoned arguments and applying relevant legal principles and available authority. 		
Method of delivery: full-time/part-time		
Assessment modes:		
Formative assessment: 50%		
Summative assessment: 50%		
Module code: LLMO 818	Semester 2	NQF level: 9
Title: Climate Change and Energy Law		
On completion of this module, the student should be able to demonstrate:		
<ul style="list-style-type: none"> • a comprehensive and systematic knowledge of theoretical and practical questions pertaining to the contents, 		

- application and execution of climate change science, phenomena and governance in an international and South African environmental and energy law context;
- a coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the identification, analysis and solution of complex ill- defined real-world problems, issues and case studies;
- an advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on climate change science, phenomena and governance within the framework of environmental and energy law from a personalised ethical system;
- the ability to give legally sound advice in the domain of climate change and energy law and governance using defensible arguments and applying the applicable legal principles and available authority.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

Module code: LLMO 829

Semester 2

NQF level: 9

Title: **South African Planning Law**

Module outcomes:

On completion of this module, the student should be able to demonstrate:

- a comprehensive and systematic knowledge of theoretical and practical questions pertaining to the contents, application and execution of the South African Planning Law;
- a coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the identification, analysis and solution of complex ill- defined real-world problems, issues and case studies;

- an advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on planning law issues from a personalised ethical system;
- the ability to give legally sound advice using the applicable law, defensible arguments and applying the applicable legal principles and available authority.

Method of delivery: full-time/part time

**Module code: LLMO
884**

Semester 1

NQF level: 9

Title: **Administrative Law**

Module outcome:

On completion of this module, the student should be able to demonstrate

- Specialist knowledge of the following topics within and relating to the South African administrative law: the scope, nature and application of administrative law as discipline in the current constitutional dispensation; the forms of control over administrative action and remedies available to litigants in administrative matters; the legal provisions on state liability and enforcement of court orders against the state;
- Specialist knowledge of the emergence of international administrative law as a legal discipline;
- The ability to independently conduct a literature study (including current research) on the identified topics and then identify and analyse problem areas within the field, drawing systematically and creatively on the theory, primary legal sources and literature in the field before critically evaluating current opinions and research in the field;
- The ability to effectively present and communicate the findings referred to above to fellow students and lecturers;
- The ability to critically and with justification, evaluate own research results as well as that of fellow students and
- The ability to manage learning tasks autonomously, professionally and ethically.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

Module code: LLMO 885	Semester 2	NQF level: 9
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Title: **Local Government and Environmental Law**

Module outcome:

On completion of this module, the student should be able to demonstrate

- comprehensive and systematic knowledge of theoretical and practical questions pertaining to the contents, application and execution of the South African Local Government Law in an environmental context.
- coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the identification, analysis and solution of complex ill-defined real-world problems, issues and case studies.
- advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on local government issues within the framework of environmental law from a personalised ethical system.
- the ability to give legally sound advice in the domain of local government and environmental law using defensible arguments and applying the applicable legal principles and available authority.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

Module code: LLMO 886	Semester 1	NQF level: 9
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Title: **Occupational Health and Safety Law**

Module outcome:

On completion of this module, the student should be able to demonstrate

- comprehensive and systematic knowledge of theoretical and practical questions pertaining to the contents, application and execution of the South African Occupational, Health and Safety law with emphasis on mining.
- coherent understanding of research theory and practice applicable to this field and reflect critical thinking in the identification, analysis and solution of complex ill-defined real-world problems, issues and case studies.
- advanced ability to retrieve, critique, integrate and communicate information and research findings to specialist and non-specialist audiences using the resources of academic discourse and to participate in debates on Occupational, Health and Safety law issues from a personalised ethical system.
- the ability to give legally sound advice using the applicable law, defensible arguments and applying the applicable domestic and international legal principles and available authority

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

**Module code: OMBO
878**

Year module

NQF level: 9

Title: **Environmental Management**

Module outcome:

On completion of this module, the student should be able to demonstrate

- Demonstrate an advanced knowledge of environmental management techniques within the Deming management cycle of plan, do, check, remedy and reporting of environmental achievements within the private and public sectors to enable him/her to find innovative solutions for sustainable issues.

Method of delivery: full-time/part-time

Assessment modes:

Formative assessment: 50%

Summative assessment: 50%

What to expect from assessment at this level

You are expected to complete and pass two research assignments per module. These assignments will be made available at the beginning of every semester. The module lecturer is responsible for the assessment of these assignments. Feedback can be expected with two to three weeks after submission. You must pass both assignments with a mark of 50% or more in order to obtain permission to write the exam.

Exam papers may be take-home or 3 to 4-hour long closed-book examinations. Exam papers are marked by lecturers and are internally and externally moderated. Final marks are published only once the entire moderation process has been completed.

Study supervisors do not assess their own students' dissertations. The mini-dissertation is marked by an internal and external examiner as appointed by the Post-Graduate Committee of the Faculty.

How does the mini-dissertation process work?

Because it is mostly an individual activity, the mini-dissertation is the loneliest part of the LLM programme, as it were, and it demands exceptional self-discipline from the student. The dissertation itself is an in-depth research report that must convince the reader (and two examiners) of your ability to conduct independent, sound and scientifically valid legal research. It is not a mere legal opinion and it is not a 'report' of the kind you would write in legal practice. It can be compared to a scholarly law article published in an esteemed law journal. In fact, we actively encourage all our students to publish research from their dissertation once it is finalised.

The preparation of the dissertation itself is preceded by the submission of a research proposal which the student drafts with the assistance of his / her supervisor. The student must approach a suitable supervisor once an area of interest has been identified.

Once the supervisor and student are satisfied with the proposal it is sent to the LLM Programme Coordinator, who reviews it with the input of a second environmental law colleague. The student gets to opportunity to finalise the proposal on the basis of the additional comments, where-after the Programme Coordinator submits the proposal to the Research Unit for official approval. All research proposals must be approved in the first year of study!

The writing of the dissertation should commence as early as possible. Remember that the writing requires extensive preparatory reading and research. It consumes a tremendous amount of time. Arrange your study schedule in such a way as to make enough time for the combination of both course work and research towards the writing of the mini-dissertation.

The design of the research proposal and other relevant details are dealt with in the Research Methodology module. You are advised to carefully attend to the presentations and information shared during the Research Methodology seminar in February 2018.

Specific deadlines apply once you are ready for the final submission of your dissertation e.g. the official Notice of Submission (an official form) that must be submitted to the NWU three months prior to submission. Please carefully peruse all correspondence you receive from the university to ensure that you comply with all of the prescribed processes.

You are also expected to submit your final manuscript to Turnitin on eFundi to ensure that no form of plagiarism has been committed. The manuscript that is submitted for examination must be officially language edited beforehand – please ensure to budget for this as language editing can be quite expensive.

Lecturers and study supervisors: who's who?

A number of faculty members are involved with the LLM in Environmental Governance Law. This does not mean that faculty members working in other areas of the law (e.g. criminal law or the law of delict) will not be able to assist with supervision. Please consult the faculty website for lecturers and potential study supervisors that may not have been included below:

Lecturer: Prof Willemien du Plessis

willemien.duplessis@nwu.ac.za

Areas of supervision:

Aspects of interface between environmental management and environmental law

Energy law

Mining law

Environmental impact assessment

Environmental governance instrumentation

Any other aspect of South African Environmental law (to be discussed with her)

Module responsible for: LLMO 811 (South African Environmental Law)

Lecturer: Prof Louis Kotzé

louis.kotze@nwu.ac.za

Areas of supervision:

Anthropocene studies

Environmental rights

Judicial functions in environmental governance

International environmental law

Environmental ethics

Module responsible for: LLME 811 (International and African Regional Environmental Law)

Lecturer: Prof Elmarie van der Schyff

Elmarie.vanderschyff@nwu.ac.za

Areas of supervision:

Mining law

Water law

Interface between environmental law and the law of damages

Module responsible for: LLME 821 (South African Mining Law)

Lecturer: Dr Niel Lubbe

niel.lubbe@nwu.ac.za

Areas of supervision:

Biodiversity law and governance

Natural resources management law

Transboundary environmental governance

African regional environmental law

Module responsible for: LLME 811 (International and African Regional Environmental Law) and LLME 812 (Natural Resources Management Law)

Lecturer: Ms Rolien Roos

rolien.roos@nwu.ac.za

Areas of supervision:

Interface between environmental law and administrative law

State liability

Review of administrative and executive action

Module responsible for: LLMO 884 (Administrative Law)

Lecturer: Prof Anél du Plessis

anel.duplessis@nwu.ac.za

Areas of supervision:

Constitutional environmental law

Environmental rights

Sustainable cities studies

Urban and development law and governance

Local government law

Module responsible for: LLMO 885 (Local Government and Environmental Law)

Lecturer: Prof Michelle Barnard

michelle.barnard@nwu.ac.za

Areas of supervision:

International climate change law (mitigation and adaptation)

Sustainable Development Goals 7 and 13

National climate change law

Energy law and policy

Module responsible for: LLMO 818 (Climate Change and Energy Law)

Lecturer: Prof Piet Myburgh

pietm@causa.co.za

Areas of supervision:

Aspects of labour law

Aspects of occupational health and safety law

Module responsible for: LLMO 886 (Occupational Health and Safety Law)

Lecturer: Prof Susan Bouillon

susan@delacon.co.za

Areas of supervision:

Aspects of spatial planning law and governance

Aspects of strategic planning law and governance

Cultural heritage law and governance

Module responsible for: LLMO 829 (South African Planning Law)

Lecturer: Prof Oliver Fuo

oliver.fuo@nwu.ac.za

Areas of supervision:

Social and environmental justice

Sustainable Development Goal 11

Local government law in South Africa and SADC

Human rights and environmental management interface

Environmental law and development financing

Lecturer: Prof Elmien du Plessis

elmien.duplessis@nwu.ac.za

Areas of supervision:

Commons and conservation (management of conservation areas)

Indigenous rights and conservation

Land reform and land grabbing

Constitutional property law

Planning law

Lecturer: Dr Anél Gildenhuis

anel.gildenhuis@nwu.ac.za

Areas of supervision:

Aspects of agricultural law

Aspects of food security

Land rights

Land reform

Lecturer: Prof Christa Rautenbach

christa.rautenbach@nwu.ac.za

Areas of supervision:

Cultural heritage law

Legal pluralism in the environmental law context

Lecturer: Dr Germarié Viljoen

germarie.viljoen@nwu.ac.za

Areas of supervision:

Water law

Public trusteeship / custodianship and natural resources management

Environmental rights

Property, constitutional and administrative law in environmental context

Lecturer: Dr Kesolofetse Olivia Lefenya

Kesolofetse.Lefenya@nwu.ac.za

Areas of supervision:

Constitutional law and environmental law

Biodiversity, Protected Areas and heritage resource protection

Air Quality protection

Lecturer: Mr Ngwako Raboshakga

Ngwako.Raboshakga@nwu.ac.za

Areas of supervision:

Administrative Law

Info on the library and research support infrastructure

The Ferdinand Postma Library of the NWU offers wonderful infrastructure such as physical working space and research support. Make an effort to introduce yourself and your field of study to the information specialist responsible for the Law Faculty, Mrs. Christine Bronkhorst – christine.bronkhorst@nwu.ac.za

Also explore the library website for useful sources such as information on inter-library loans, reference letters for research in other academic libraries in South Africa, and the depository (*Boloka*) that hosts LLM dissertations and LLD theses that have already been completed. Please note in this respect that a central requirement for your research dissertation is that the research must be original. This means that you cannot write on the topic if anyone else has already done so. It is up to you to check that you do not conduct research that has already been done.

Note that your student registration entitles you to the use of several electronic data bases that the NWU subscribes to. Some are password protected in which event Mrs Bronkhorst will be able to assist. It is important though to rely on several sources of law in the writing of your dissertation; including books and journal articles which are often only available in hard copy.

Research Unit projects on aspects of environmental law

Faculty members are engaged in a number of research projects that denote the focus of research in the Faculty of Law. The focus is on "Law, Justice and Sustainability". Familiarise yourself with the existing research projects and determine where your research best fits in. You are advised to introduce yourself and your research topic to relevant research project leaders. See: <http://law.nwu.ac.za/law-justice-and-sustainability/Home1>. Often these project leaders are perfectly placed to act as your supervisor as well.

Environmental Law Association membership

You are invited to join the Environmental Law Association of South Africa (ELA). Special membership rates apply to students. One of the benefits of being a member is that you are invited to environmental law events (e.g. an annual post-graduate student conference) and receive a weekly electronic newsletter containing notification of the most recent developments in the field. The NWU hosts the Secretariat of the ELA. Visit the webpage of the ELA at: <http://www.elasa.co.za/> and like the organisation's Facebook page.

LegalBrief Environmental

The NWU annually requests that all of its registered LLMO students be sent copies of Juta's email-based, weekly LegalBrief Environmental. This is a very valuable source of information and is a courtesy arrangements per the license agreement between Juta and the NWU.

CONTACT US

Subject and curriculum-related matters:

Prof Michelle Barnard – michelle.barnard@nwu.ac.za

Administrative matters:

Mrs Cynthia Dabhelia – cynthia.dabhelia@nwu.ac.za / 018 299 1037

Mrs Clarina Vorster – clarina.vorster@nwu.ac.za / 018 299 1952

Module-related matters (e.g. preparation, seminars and marks):

Lecturers (see the detail above)

Higher degree administration of the NWU:

Mr Randy Kakudji - randy.kakudji@nwu.ac.za / 018 299 4759

Finance-related matters:

018 299 2667-2673

Puk-studyfees@nwu.ac.za