

## **DEVELOPING NEW ENVIRONMENTAL BY-LAWS FOR THE POTCHEFSTROOM LOCAL MUNICIPALITY**

*Wessels, Jan-Albert, Le Roux, Eben, Myburg, Adri and Lefenya, Olivia*

*Centre for Environmental Management and Faculty of Law*

*Potchefstroom University for Christian Higher Education*

*2520 Potchefstroom*

*Tel: 018 299 4068*

*Fax: 018 299 4266*

*E-mail: [eobjaw@puknet.puk.ac.za](mailto:eobjaw@puknet.puk.ac.za), [eobelr@puknet.puk.ac.za](mailto:eobelr@puknet.puk.ac.za),*

*[drtham@puknet.puk.ac.za](mailto:drtham@puknet.puk.ac.za),*

*[12398748@puknet.puk.ac.za](mailto:12398748@puknet.puk.ac.za)*

### **ABSTRACT**

**Local government is the sphere of governance that is closest to the people and hence local environmental issues. The principle of subsidiarity dictates that governance should take place at the most appropriate and effective level. It is often argued that local governments are best positioned to identify and respond to environmental issues. This argument is supported by the legal framework that directs environmental co-operative governance and management in South Africa. The Constitution of the Republic of South Africa 108 of 1996 provides in section 24 for the fundamental right of individuals to an environment that is not detrimental to their health and well-being and charges the government to enact reasonable legislative measures to ensure this right. Schedule 5 Part B and section 156(2) of the Constitution mandates local governments to enact legislation to realise this aim. This mandate to promulgate legislation at the local level is strengthened by several national acts clearly delegating this duty to local governments. Local governments are thus mandated to act locally to promote sustainability and to protect the environment. A very effective instrument used by local authorities to give effect to their constitutional and legal duties is the development and implementation of by-laws. Recently the Potchefstroom local municipality and the Potchefstroom University embarked**

**The research question is to ascertain the extent of local authorities' power to legislate on matters affecting the environment. This paper explores the current dispensation of by-laws of the city of Potchefstroom in terms of: 1) what is currently not provided for and 2) to what extent do current arrangements address modern environmental management challenges. This paper concludes with an analysis of the performance potential of the city's current arrangements and the way forward in the project, while progress made with the process to distil policy issues on key environmental issues, including the generation of new by-laws and upgrading of existing ones, are also reported.**