You are approached by a certain Johann Stassen who is a director of XYZ Petroleum (Pty) Ltd. The company is the process of establishing a new filling station in KwaZulu-Natal. The establishment of a filling station is an activity which requires scoping and an EIA in terms of the present NEMA regulations.

1.1 Describe the procedure which must be followed by XYZ Petroleum (Pty) Ltd in order to obtain the necessary authorisation. (12 marks)

1.2 Johann requires advice on what is meant by ‘basic assessment’ and whether it is possible to follow the basic assessment procedure to obtain the necessary authorisation instead of scoping and an EIA. (5 marks)

1.3 Assume that the development in question has already commenced without the necessary authorisation having been obtained. Advise Johann on whether it is possible to obtain authorisation ex post facto. (8 marks)
QUESTION 2  (25 marks)

2.1 Solomon’s Mines (Pty) Ltd; Kruger’s Gold (Pty) Ltd and Egoli (Pty) Ltd are three companies which own mines in Mpumalanga. Egoli (Pty) Ltd was subsequently liquidated and its mine has now become defunct. Concerned that water from the defunct mine might lead to severe water pollution problems in the area, the relevant environmental authority has issued a directive in terms of section 19 of the National Water Act requiring Kruger’s Gold (Pty) Ltd and Solomon’s Mines (Pty) Ltd to share the cost of pumping water from the defunct shafts of the defunct mine. Kruger’s Gold (Pty) Ltd and Solomon’s Mines (Pty) Ltd now want to challenge this decision on the basis that section 19 does not sanction the issuing of a directive requiring one to take measures to prevent pollution on property owned by another or to bear the cost of such preventative measures being taken. Explain the legal position in this instance with reference to any applicable case law.

(10 marks)

2.2 Critically discuss the provisions of the National Environmental Management: Integrated Coastal Management Act 24 of 2008 pertaining to dumping at sea and the discharge of effluent into coastal waters.

(15 marks)

QUESTION 3  (25 marks)

‘The most serious weakness in the Kyoto Protocol is not just that the target has been set too low, or that there is a reliance on sinks and flexible mechanisms. All of these are merely symptoms of the greater evil, namely that major policy decisions are influenced, first and foremost, by economic considerations rather than the health of the global community...’

D Tladi ‘What impact will the Kyoto Protocol have on global climate change?’ 2005 (49) Codicillus (2005) 42, 48-49.

In light of the above statement, critically discuss the Kyoto Protocol to the United Nations Framework Convention on Climate Change. Your answer must cover but, not necessarily, be limited to the following:

• An explanation of what you understand by the term ‘global warming’;
• An explanation as to whether South Africa has ratified the Kyoto Protocol and, if so, what obligations are imposed on South Africa;
• An analysis of the strengths and weaknesses of the Kyoto Protocol; and
• Suggestions on drafting an effective successor to the Kyoto Protocol.
QUESTION 4  (25 MARKS)

Critically discuss s 24 of the Constitution, with particular emphasis on how it provides for environmental justice in South Africa.

QUESTION 5  (25 MARKS)

Critically discuss the national environmental management principles in s 2 of NEMA with particular reference to the Constitutional Court cases of *Minister of Public Works and Others v Kyalami Ridge Environmental Association and Another* 2001 (3) SA 1151 (CC) and *Fuel Retailers Association of South Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province & others* 2007 (6) SA 4 (CC).