Examiner’s Comments

Question 1

The majority of students were able to answer this question adequately.

They were able to discuss the merits review options available and their discussion indicated solid arguments involving the approval of the application by the Secretary.

Similarly, they were able to advise the proprietors of the nearby established pharmacies as to their position with regard to standing with overall discussion of relevant case law.

There was also good discussion of judicial review possibilities, including issues of standing. Issues which were covered included the request for and obtaining of statements of reasons, particularly in relation to the approval decision. The legislative requirements were also discussed appropriately. There was also discussion of the various possibilities of relevant courts. Procedural fairness issues were central to the answer, particularly in relation to obtaining copies of relevant documents and an opportunity to comment on these.

Finally, there was discussion of the possible available remedies, particularly from the pharmacists’ perspective. Lastly, there was more than adequate discussion, in most answers, as to the registration or otherwise on the Federal Register of Legislation.

Question 2

The majority of students chose this question as their second choice. Not all students who answered this question seemed sufficiently prepared.

There were various views with regards to whether information disclosure structures were sufficient in Australia and whether these structures adequately achieved the perceived purposes.

There was, in some cases, in-depth discussion as to the effectiveness or otherwise of administrative review processes and judicial review processes in this area. There was no right or wrong answer to this question. The views were varied, but as long as students backed up their arguments with well-reasoned
discussion, including case law and the views of specialist commentators, this question was overall answered adequately.

However, in many instances, students had clearly concentrated the majority of their time answering Question 1 and had not left sufficient time to answer this question. Otherwise, they had not sufficiently prepared, despite knowing that there was going to be a question on information disclosure.

**Question 3**

Only a handful of students chose this question as their second choice. Those that did choose this question, varied in their approach and their answers. For some, the traditional grounds of review were essential in the administrative law context. For others, there were questions about the overall effectiveness of the traditional grounds of review in the modern world.

There was interesting discussion about whether the traditional grounds of review should be abandoned and the effect this would have. The more traditional answer backed up the arguments that there should not be any abandonment at all, but rather, that there should be constant monitoring and tweaking of the grounds of review.