



**Australian Government**

---

**Department of Health**

# **Pharmacy Location Rules**

## **Applicant's Handbook**

---

*For applications for approval to supply pharmaceutical benefits, to be considered by the  
Australian Community Pharmacy Authority*

**January 2021 – v1.6**

---

**TITLE:** Pharmacy Locations Rules - Applicant's Handbook

**ISBN:** 978-1-76007-384-8

**PUBLICATIONS APPROVAL NUMBER:** 12330

© 2018 Commonwealth of Australia as represented by the Department of Health

This work is copyright. You may copy, print, download, display and reproduce the whole or part of this work in unaltered form for your own personal use or, if you are part of an organisation, for internal use within your organisation, but only if you or your organisation:

- a) do not use the copy or reproduction for any commercial purpose; and
- b) retain this copyright notice and all disclaimer notices as part of that copy or reproduction.

Apart from rights as permitted by the *Copyright Act 1968* (Cth) or allowed by this copyright notice, all other rights are reserved, including (but not limited to) all commercial rights.

Requests and inquiries concerning reproduction and other rights to use are to be sent to the Communication Branch, Department of Health, GPO Box 9848, Canberra ACT 2601, or via e-mail to [copyright@health.gov.au](mailto:copyright@health.gov.au).

#### **DISCLAIMER**

This handbook is designed as a general guide for pharmacists seeking to relocate an existing pharmacy or establish a new pharmacy approved to supply pharmaceutical benefits under section 90 of the *National Health Act 1953* (the Act). It should not be used as a basis for legal interpretations or as a definitive reference on the roles and responsibilities of all parties.

For more precise and detailed information please consult section 90 and Division 4B of the Act, the determinations made under section 99L of the Act and the explanatory statements to those determinations.

The Australian Community Pharmacy Authority and the Commonwealth Government accept no responsibility arising from use of, or reliance on, this publication.

## Contents

Introduction .....	4
Contact Information.....	5
Background.....	6
<b>Approval to supply pharmaceutical benefits .....</b>	<b>6</b>
<b>The Australian Community Pharmacy Authority (Authority) .....</b>	<b>6</b>
<b>The Pharmacy Location Rules (Rules) .....</b>	<b>7</b>
The Application Process .....	8
1. When a pharmacist must seek approval from the Secretary .....	8
2. When is an application referred to the Authority .....	8
3. What constitutes an application.....	9
4. Quality of evidence .....	9
5. Providing further information.....	9
6. Different types of applications .....	9
7. Representation .....	10
8. Accuracy of information .....	10
9. Lodging an application .....	10
10. Receipt of an application .....	10
11. Opportunity for nearby pharmacists to provide comment.....	10
12. Length of the application process .....	11
13. Requests for additional information by the Authority .....	12
14. Provision of advice to applicants and nearby pharmacists regarding decisions of the Authority .....	12
15. Reasons for decisions .....	13
16. Review of decisions .....	13
17. Obtaining approval after a recommendation by the Authority.....	14
The Pharmacy Location Rules .....	15
Relocating an existing pharmacy.....	15
Establishing a new pharmacy .....	15
Practicalities of lodging an application .....	16
General requirements for all applications .....	18
Applications involving the relocation of an existing pharmacy .....	22
<b>Rule 121: Expansion or contraction .....</b>	<b>24</b>

<b>Item 122: Relocation within a designated complex.....</b>	<b>25</b>
<b>Item 123: Relocation within the same town (10 km).....</b>	<b>27</b>
<b>Item 124: Relocation up to 1 km.....</b>	<b>29</b>
<b>Item 125: Relocation of 1 to 1.5 km.....</b>	<b>32</b>
<b>Applications to establish a new pharmacy.....</b>	<b>35</b>
<b>Item 130: New pharmacy (at least 1.5 km).....</b>	<b>36</b>
<b>Item 131: New pharmacy (at least 10 km).....</b>	<b>39</b>
<b>Item 132: New additional pharmacy (at least 10 km).....</b>	<b>41</b>
<b>Item 133: New pharmacy in a designated complex (small shopping centre).....</b>	<b>45</b>
<b>Item 134: New pharmacy in a designated complex (large shopping centre with no approved premises).....</b>	<b>48</b>
<b>Item 134A: New additional pharmacy in a designated complex (large shopping centre with approved premises).....</b>	<b>50</b>
<b>Item 135: New pharmacy in a designated complex (large private hospital).....</b>	<b>53</b>
<b>Item 136: New pharmacy in a designated complex (large medical centre).....</b>	<b>55</b>
<b>Glossary.....</b>	<b>59</b>

# Introduction

**It is strongly recommended that all potential applicants consult this Handbook before lodging an application.**

The purpose of this Handbook is to provide information and guidance to pharmacists who wish to make an application to establish a new pharmacy or relocate an existing pharmacy, approved to supply pharmaceutical benefits. The requirements for approval are contained in the Pharmacy Location Rules, determined by the Minister for Health on 18 September 2018.

The Handbook provides pharmacists with comprehensive information about:

- the Rules and the Authority
- the application process, including the requirements that must be satisfied
- examples of the types of information that must be included in an application
- contact details for further information or assistance.

The Handbook is divided into the following sections:

**Background** provides general information about the Rules and the Authority.

**The Application Process** provides information about when it is necessary to seek approval, how to make an application and how an approval is granted.

**The Pharmacy Location Rules** sets out the requirements of each of the items in the Rules and the types of evidence which might address the requirements.

**Glossary** provides definitions for terminology used within the Rules.

Please note that the Applicant's Handbook will be revised and updated as necessary. Please refer to the [Authority's 'ACPA' webpage](#) for updates and information relating to the Handbook, the Authority and the Pharmacy Location Rules.

# Contact Information

## Department of Health

Queries regarding section 90 approvals, including enquiries relating to the lodgement of applications, should be directed to the PBS Approved Suppliers Team in the Department of Health:

Phone: 1800 316 389

Email: [pbsapprovedsupplier@health.gov.au](mailto:pbsapprovedsupplier@health.gov.au)

Visit the Health website for forms and further information –  
[www.health.gov.au/pbsapprovedsuppliers](http://www.health.gov.au/pbsapprovedsuppliers)

## Australian Community Pharmacy Authority

Queries regarding the Rules and applications should be directed by email to:  
[acpamail@health.gov.au](mailto:acpamail@health.gov.au)

Or by phoning: 1800 316 389

Visit the Authority's website – [www.health.gov.au/acpa](http://www.health.gov.au/acpa)

**Please note that while the Secretariat is able to provide some information regarding the Rules, it is unable to provide advice as to whether a particular scenario would be possible under the Rules or whether or not the Authority would accept particular evidence. There are a number of factors that may affect a particular scenario, and until the Authority has assessed an application against the requirements of the Rules, a definitive answer cannot be provided.**

**All applications for approval to supply pharmaceutical benefits under section 90 must be lodged with the Department of Health via the PBS Approved Suppliers Portal at <https://pbsapprovedsuppliers.health.gov.au/>**

**For more information contact the PBS Approved Suppliers team.**

# Background

## Approval to supply pharmaceutical benefits

Section 90 of the *National Health Act 1953* (Act) provides for the Secretary (of the Department of Health) to approve a pharmacist to supply pharmaceutical benefits at particular premises. Pharmaceutical benefits are drugs or medicinal preparations for which benefits will be paid by the Commonwealth.

The Secretary's responsibilities concerning the approval of pharmacists have been delegated to designated officers, within the Department of Health. Therefore, any references in this Handbook to the Secretary mean the delegate in the Department of Health.

The Secretary can generally only approve a pharmacist if the Authority has recommended approval, and the pharmacist is permitted under the relevant State or Territory law to carry on business as a pharmacist.

The Department of Health is also responsible for other matters associated with a pharmacy approval (for example, changes in pharmacy ownership, monitoring compliance, etc.). However, the Secretary does not require an Authority recommendation in order to make a decision to approve a change of pharmacy ownership or an expansion or contraction in the size of pharmacy premises.

## The Australian Community Pharmacy Authority (Authority)

The Authority is established under the Act to consider applications for approval to supply pharmaceutical benefits at particular premises as referred by the Secretary, and to make recommendations to the Secretary as to whether or not a pharmacist should be approved. In making its recommendations, the Authority must comply with the Rules determined by the Minister under section 99L of the Act.

### Membership

The Authority consists of the following part-time members:

- (a) a Chairperson
- (b) two pharmacists chosen from four pharmacists nominated by the Pharmacy Guild of Australia
- (c) one pharmacist chosen from two pharmacists nominated by the Pharmaceutical Society of Australia
- (d) an officer of the Department of Health
- (e) one person who, in the Minister's opinion, is an appropriate person to represent the interests of consumers.

All members, other than the officer of the Department, are appointed by the Minister for Health.

### Secretariat support

The Department of Health is responsible for providing secretariat services to the Authority. The Authority's Secretariat serves as the liaison between pharmacists and the Authority, and its duties include:

- forwarding applications to members referred by the Secretary for the Authority's consideration
- seeking comments from pharmacists in the vicinity of a proposed pharmacy

- providing assistance about the Rules and the application process to any interested persons
- communicating the Authority's recommendations to the Secretary and applicants.

## **The Pharmacy Location Rules (Rules)**

The Rules relate to the establishment of a new pharmacy, or the relocation of an existing pharmacy, approved to supply pharmaceutical benefits under section 90 of the Act. The Rules are agreed by the Australian Government and the Pharmacy Guild of Australia (Guild).

The Rules are legislated under the [National Health \(Australian Community Pharmacy Authority Rules\) Determination 2018 \(PB 46 of 2018\)](#) (Rules), made under section 99L of the Act.

The Rules set out location-based criteria which must be met in order for the Authority to recommend approval of a pharmacist. The Authority cannot override the requirements of the Rules. It can only recommend that an application be approved if it is satisfied that all of the requirements of the item of the Rules, under which the application was made, have been met. Similarly, the Authority is unable to recommend that an application be approved if it is not satisfied that each of the requirements has been met.

The Rules remain consistent with the overall objective of the National Medicines Policy<sup>1</sup> to improve the health outcomes of all Australians through access to and quality use of medicines.

---

<sup>1</sup> National Medicines Policy 2000, Commonwealth of Australia 1999; [www.health.gov.au/nationalmedicinespolicy](http://www.health.gov.au/nationalmedicinespolicy)



# The Application Process

## 1. When a pharmacist must seek approval from the Secretary

Whether simply taking on a new partner for an existing pharmacy, looking to relocate an existing pharmacy, or seeking to open a new pharmacy, a pharmacist must apply for approval under section 90 of the Act. If a pharmacist fails to obtain the necessary approval, they may not be eligible for payments from the Australian Government for the supply of pharmaceutical benefits and any payments received may need to be returned.

A pharmacist **MUST** apply for approval:

- to open a new pharmacy
- to relocate an existing pharmacy
- to expand or contract the size of an existing pharmacy
- to change the address of an existing pharmacy, even if the premises have simply been renumbered and the premises remain unchanged
- to change the ownership of an existing pharmacy, including changes resulting from the death of an owner.

Applicants are cautioned against using a 'just in time' approach for applying for approval. For applications referred to the Authority, the Authority must be satisfied that all criteria applicable to the item of the Rules under which an application has been made, are met. It is therefore not uncommon for a decision to be deferred to the next scheduled meeting to allow the Authority to seek further evidence.

A pharmacist **DOES NOT** need to apply for approval:

- to make internal changes to an existing pharmacy
- to alter the public access points of an existing pharmacy, or
- if pharmaceutical benefits will not be supplied from the pharmacy.

## 2. When is an application referred to the Authority

The Secretary is not required to refer all applications for approval to the Authority. The only applications which must be referred to the Authority are applications for the relocation of an existing pharmacy or the establishment of a new pharmacy.

Applications relating to an expansion or a contraction in the size of a pharmacy are not required to be referred to the Authority. However, in some circumstances the Secretary may consider it appropriate to do so. In this case, the application would be considered by the Authority against the relevant requirements of the Rules.

**This Handbook deals only with those applications for approval that are referred to the Authority, that is, applications to establish a new pharmacy, to relocate an existing pharmacy or (if applicable) to expand or contract the size of an existing pharmacy.**

All other applications for approval are dealt with by the Secretary and are not considered against the requirements of the Rules.

If any pharmacist is in any doubt as to whether they need to obtain approval for a certain change to their pharmacy, they should contact the Department of Health or the Authority's Secretariat.

**Please note:** If a pharmacist has failed to advise the Department of any change to their circumstances, there is a risk that the pharmacist will have to repay benefits paid to them.

### 3. What constitutes an application

The [National Health \(Pharmaceutical Benefits\) Regulations 2017](#) provide that an application for approval must be made using the **approved application form**. The approved application form includes certain documents and information, and a declaration that all required documentation has been provided.

**All required documentation must be provided with the application at the time of lodging the application through the PBS Approved Suppliers Portal.**

Before an application can be registered by the Department of Health, the application form must be completed in full and the declaration must be signed and dated by all applicants. This Handbook describes the documents to be included in an application.

**It is important to note that additional documentation submitted after the date of application will not be accepted. Therefore any information that an applicant wishes the Authority to consider must be provided at the time of lodging the application.**

It is strongly recommended that all potential applicants consult this Handbook before lodging an application.

### 4. Quality of evidence

To avoid unnecessary delay it is in the best interests of applicants to ensure the evidence provided is relevant to the criteria for which it is being provided, and that it is current and up to date. Care should also be taken to ensure consistency is maintained across submitted evidence for issues such as applicants' names and addresses of premises that may appear on several pieces of evidence.

### 5. Providing further information

If, after lodging an application, an applicant finds that there is additional information that they would like the Authority to consider, a new application will need to be lodged with the Department of Health through the PBS Approved Suppliers Portal. The new application will need to include all of the information that the applicant wishes the Authority to consider. The new application does not replace the original application and the usual cut-off dates would apply for the new application.

The original application will be considered based on the information submitted with the original application. If a new application is made it will not be considered at the same meeting as the original application regardless of whether it was received by the cut-off date for that meeting.

If the applicant no longer wishes the Authority to consider the original application, a request must be made, in writing, to the Department of Health to request that the application be withdrawn.

### 6. Different types of applications

It is up to the applicant to determine the specific item of the Rules under which they wish to apply. Each item of the Rules sets out different requirements and it is the applicant's responsibility to select the item which best suits their situation. In addition to the application form, an applicant will need to include evidence addressing the specific requirements of the nominated item of the Rules.

Please refer to the [Pharmacy Location Rules section](#) for specific items of the Rules.

## **7. Representation**

If another person, other than the applicant(s), is authorised to represent the applicant(s), the relevant section on the application form must be completed to indicate this, otherwise neither the Authority Secretariat nor the Department of Health will be able to discuss the application with that person.

## **8. Accuracy of information**

It is important to ensure that any information that is provided in relation to an application is accurate and up-to-date. Giving false or misleading information is a serious offence under Division 137 of the *Criminal Code Act 1995*, the maximum penalty for which is imprisonment for 12 months. If the Authority or the Department of Health suspects that evidence provided in support of an application is misleading or may be fraudulent, the application will be referred for possible investigation.

## **9. Lodging an application**

Complete applications should be lodged through the [PBS Approved Suppliers Portal](#).

For more information contact the Department of Health on 1800 316 389 or refer to the information available on the [PBS Approved Suppliers website](#).

## **10. Receipt of an application**

Upon receipt of an application, a Departmental Officer in the Department of Health will check that the application form is valid.

If the application form is not valid, the application will be returned to the submitter via the PBS Approved Suppliers Portal. The Department will send an email to the application contact nominee detailing the reasons why the application has been deemed invalid and returned for resubmission. Resubmitted applications will not incur another fee, and the submission date and time will be recorded as the date and time the application is resubmitted.

The Department of Health is unable to provide advice to an applicant as to whether all of the required documentation has been provided with the application. Rather, the onus is on the applicant to ensure that each of the requirements has been addressed for the particular item of the Rules under which the application has been made.

If the application form is valid, the Department of Health will advise the applicant of the application's registration number. The application will then be referred to the Authority.

## **11. Opportunity for nearby pharmacists to provide comment**

Once an application has been referred to the Authority, it is standard practice for the Authority to seek comments from other pharmacists in the vicinity of the proposed pharmacy. This practice applies to all types of applications to establish a new pharmacy.

The Authority does not, however, write to surrounding pharmacists for applications to relocate an existing pharmacy, as to do so would require the identification of the pharmacy to be relocated. This would constitute a breach of section 135A of the Act, which is a so called 'secrecy provision' and provides that it is a criminal offence for an officer of the Department of Health to disclose information that has been provided to the Department under a provision of the Act.

The Authority is not required or obliged to seek comments from nearby pharmacists, or to advise pharmacists that an application for approval has been made. However, this practice

of seeking comments allows other pharmacists the opportunity to comment on whether, in their opinion, the proposed pharmacy would meet the requirements of the Rules. It is also valuable for the Authority to obtain comments from persons other than the applicant, who have specialised knowledge of a particular area. Nearby pharmacists will generally be given two weeks to respond.

The Authority cannot guarantee that it will write to all pharmacists in the area of the application and therefore it may be in the interest of any pharmacist that receives an invitation for comment to make sure other pharmacists in the area are informed and have the opportunity to comment.

Any comments must be made in writing to the Authority, should be substantiated, and should relate to the relevant criteria of the Rules, as the Authority is unable to consider issues that are not within the Rules.

Pharmacists should ensure that when providing comments, they observe their obligations in regards to the collection, use or disclosure of personal and/or health information of individuals. These include ethical and legal obligations to protect the privacy of customers, who have a right to expect that their information will be held in confidence unless information is required to be released by law. There is no requirement for such information to be released in relation to commenting on an application for approval to supply pharmaceutical benefits.

Pharmacists should note that giving false or misleading information is a serious offence under Division 137 of the *Criminal Code 1995*, the maximum penalty for which is imprisonment for 12 months.

If either the Authority or the Department of Health suspects that evidence provided in support of an application is misleading or may be fraudulent, the matter will be referred for possible investigation.

Once the Authority has made a recommendation in respect of an application, the Authority will write to any pharmacist that provided comments on that application to advise the outcome. It should be noted that, if an Authority recommendation is subsequently the subject of an appeal to the Administrative Appeals Tribunal (AAT) or a Federal Court, the Authority will only advise pharmacists who provided comment on the application of the appeal.

The details of any comments, including the pharmacist that made the comments, will not be disclosed to the applicant or any other party. However, it is important to note that if the Authority's recommendation is the subject of a review by the AAT or a Federal Court, then any comments provided on that application will be released to the applicant and the AAT or court. Further, any comments provided on an application may be required to be released under the *Freedom of Information Act 1982*.

## **12. Length of the application process**

The Authority generally meets 10 times each year to consider applications. It is important to note that there are application cut-off dates in respect of each Authority meeting (approximately five weeks prior to the meeting). Each meeting deals with a large number of applications and this timeframe allows for the Authority Secretariat to process the application, invite nearby pharmacists to comment on the application where appropriate, and distribute the applications to Authority members prior to the meeting to allow for pre-assessment of applications. Formal consideration of each application at the meeting will precede the decision on a recommendation.

Scheduled meeting dates and relevant application lodgement dates are available on the [Authority's website](#). These dates are subject to change and applicants should consult the website for the most current meeting and application lodgement dates.

The Secretariat does not have any discretion to accept a late application received after the cut-off date for a particular meeting, or to accept additional information provided by or on behalf of an applicant after the application has been registered.

In considering an application, the Authority might find that certain information needs to be clarified, or that additional information is necessary. In this case, the Authority may defer making a recommendation on the application until a subsequent meeting and request, in writing, that the applicant or another party provide the requested information by a specified date.

If more than one application is received in respect of a particular area, the Authority will generally consider applications in the order in which they have been received by the Department of Health, and not at the same meeting. Also, the Authority will only consider the next application for a particular area once it has made a recommendation in respect of the first application for that area. This means that there might be a delay before a second application for a particular area is considered.

It is recommended that applicants allow sufficient time between the lodgement of their application and their proposed commencement date in case of any delays.

Applicants are cautioned against using a 'just in time' approach for applying to the Authority.

The Authority must be satisfied that all criteria applicable to the particular item of the Rules are met. It is therefore not uncommon for a decision on an application to be deferred to the next scheduled meeting to allow the Authority to seek further evidence from the applicant. Alternatively, the Authority may recommend that the application not be approved.

### **13. Requests for additional information by the Authority**

Where the Authority defers making a recommendation on an application and requests that the applicant or another party provide further information in support of an application, the Authority will specify the date by which that information needs to be provided. Where the Authority has requested additional information from an applicant, it is in the applicant's best interests to ensure that information provided in response is consistent with the Authority's request, rather than providing alternative information. In such circumstances, applicants should be aware that the late provision of information may result in the Authority further deferring its consideration of the application, or recommending that the application not be approved.

### **14. Provision of advice to applicants and nearby pharmacists regarding decisions of the Authority**

The following timeframes have been implemented in which the Secretariat endeavours to advise the Secretary's Delegate in the Department of Health, applicants and nearby pharmacists of decisions made by the Authority following a meeting.

These timeframes are intended to ensure consistency and accuracy of information and procedural fairness for all parties, and may vary depending on the number of applications considered at a meeting.

#### **Notification of ACPA meeting outcomes**

Meeting outcomes will be published on the PBS Approved Suppliers Portal within five working days after a meeting.

The Secretary's delegate in the Department of Health will be provided with the decisions of the Authority where a recommendation to approve or not approve an application has been made.

If the recommendation by the Authority is to approve an application, the relevant delegate in the Department of Health is responsible for granting the approval. However, the delegate may also reject the application even if approval has been recommended by the ACPA.

The Secretariat does not write to applicants when the Authority has recommended an application be approved. Once a recommendation to approve an application has been published on the [PBS Approved Suppliers Portal](#), the Department of Health will write to recommended applicants to advise of the decision and outline the requirements for obtaining approval.

### **Up to five working days after the meeting**

If the ACPA defers consideration of the application to the next meeting, the Secretariat will endeavour to advise the applicant of the reasons for the deferral within five working days after the meeting.

### **Up to ten working days after the meeting**

If the Authority has recommended that an application not be approved, the Applicant will be advised of the decision and their rights of review.

Where the Authority has made a decision to either recommend or not recommend that an application be approved, any pharmacist(s) who provided comments to the Authority will be advised of the Authority's decision. It should be noted that such advice will not be provided until the Authority has finalised correspondence to all applicants.

#### **Please note:**

- The Secretariat will not advise nearby pharmacists or their authorised representative of the Authority's decisions any earlier than ten working days after a meeting.
- Due to the secrecy provisions of the *National Health Act 1953* the Secretariat is unable to provide information to a third party about the reasons for a decision, or any details relating to the applicant or the application.
- The Secretariat does not advise nearby pharmacists if a decision has been made to defer an application.

## **15. Reasons for decisions**

Where the Authority recommends that an application not be approved, the applicant may seek from the Authority a statement of reasons outlining the reasons for the Authority's decision.

Third parties who believe that they are aggrieved by a decision of the Authority to recommend that an application be approved, may be entitled to request a statement of reasons from the Authority outlining the reasons for the Authority's decision.

A request for a statement of reasons must be made, in writing, to the Authority within 28 days of the date of receiving notification of the Authority's recommendation. Upon receipt of a request, the Authority has 28 days in which to provide the statement of reasons to the applicant or third party.

## **16. Review of decisions**

### **Administrative Appeals Tribunal**

Applicants may be entitled to seek a review by the Administrative Appeals Tribunal (AAT) in relation to a recommendation by the Authority that the application not be approved.

An applicant seeking a review of an Authority recommendation has 28 days from the date of notification of the recommendation in which to seek a review of the decision.

If the applicant has requested a statement of reasons from the Authority outlining the reasons for the decision not to recommend approval, they have 28 days from the date they receive the statement in which to seek a review of the decision.

There are fees associated with seeking a review. For further information please contact the AAT in your relevant State or Territory. It is also recommended that independent legal advice be sought before proceeding. Information about the AAT is available on the [AAT's website](#).

Third parties are generally not entitled to seek a review by the AAT in relation to a recommendation by the Authority. If a third party believes that they are aggrieved by a decision of the Authority, it is recommended that they seek independent legal advice to discuss their options.

## **Federal Court**

Third parties, who believe that they are aggrieved by a decision of the Authority to recommend that an application be approved, may be entitled to seek a review of the decision by the Federal Court.

There are timeframes that apply in which review of the decision by the Federal Court may be sought. There are also fees associated with seeking a review. For further information please contact the Federal Court in the relevant State or Territory. It is also recommended that independent legal advice be sought before proceeding.

## **Ministerial discretion to approve**

Under subsection 90A(2) of the Act the Minister for Health has a discretionary power to approve a pharmacist to supply pharmaceutical benefits at particular premises. This discretionary power is only available in certain circumstances.

This is not an alternative to applying for approval under section 90 of the Act, and may only be sought after an application has been considered by the Authority and rejected by the delegate in the Department of Health.

For information about this discretionary power, please refer to the guidelines on the [Department of Health website](#).

## **17. Obtaining approval after a recommendation by the Authority**

A recommendation from the Authority for approval does not constitute an approval.

The applicant must still obtain final approval from the delegate in the Department of Health who is responsible for the issuing and cancellation of approvals. The delegate may reject the application even if approval has been recommended by the ACPA.

# The Pharmacy Location Rules

The Rules are divided into two general types – those for the relocation of an existing pharmacy and those for the establishment of a new pharmacy.

## Relocating an existing pharmacy

An existing pharmacy approval is required to relocate a pharmacy under these items of the Rules.

A pharmacist will need to relocate either their own approval or, by agreement, another pharmacist's approval.

An existing pharmacy is 'relocated' by cancelling the existing approval for the purpose of having another approval granted in respect of another site. An application to relocate an existing pharmacy must, therefore, demonstrate that either the applicant or another pharmacist has requested that their approval be cancelled before the approval under consideration is granted.

There are provisions in the Rules for relocating an existing pharmacy approval:

[Item 121: Expansion or contraction \(not usually referred to the Authority\)](#)

[Item 122: Relocation within a designated complex](#)

[Item 123: Relocation within the same town \(10 km\)](#)

[Item 124: Relocation up to 1 km](#)

[Item 125: Relocation of 1 to 1.5 km](#)

A pharmacist seeking to relocate an existing pharmacy approval must decide which item of the Rules is most appropriate to their circumstances.

## Establishing a new pharmacy

An existing pharmacy approval is not required in order to obtain a new approval. There are a number of provisions in the Rules for establishing a new approved pharmacy:

[Item 130: New pharmacy \(at least 1.5 km\)](#)

[Item 131: New pharmacy \(at least 10 km\)](#)

[Item 132: New additional pharmacy \(at least 10 km\)](#)

[Item 133: New pharmacy in a designated complex \(small shopping centre\)](#)

[Item 134: New pharmacy in a designated complex \(large shopping centre with no approved premises\)](#)

[Item 134A: New additional pharmacy in a designated complex \(large shopping centre with approved premises\)](#)

[Item 135: New pharmacy in a designated complex \(large private hospital\)](#)

[Item 136: New pharmacy in a designated complex \(large medical centre\)](#)



## Practicalities of lodging an application

The Authority must be satisfied that all criteria applicable to the selected item of the Rules are met. It is therefore advisable for applicants to present clear evidence for each criterion and to indicate the evidence provided for each.

Following these simple points will ensure that an application is processed as promptly as possible.

- Refer to the online information on and guides available to assist with the navigation of the PBS Approved Suppliers Portal.
- Make sure the online application has been completed and that the declaration, and authorisation form (if required) has been signed by all relevant persons. If the application involves another pharmacist's existing pharmacy approval, ensure that each approved pharmacist has also signed the relevant form and that this is uploaded with your application.
- Note that applicant details can no longer include reference to a trust. From 11 December 2020, trusts will no longer be considered or referenced when assessing and approving applications. (Note that if the Authority recommends approval of an application, evidence of the relevant state or territory pharmacy board approval will still be required prior to the Delegate of the Secretary considering whether or not to grant approval. The delegate will continue to confirm that the details on the relevant pharmacy board approval match those details on the application, with the exception of any reference to trusts on the pharmacy board approval).
- Make sure that you have selected the correct item of the Rules, and that the relevant documentation is uploaded for each requirement, noting that additional documents can be uploaded as required (refer to the online user guides).
- Include a covering letter or a summary of the application to clearly describe the documentation provided and any circumstances of the application that might be relevant. Documentation provided in support of each requirement should be clearly labelled as such.
- Clearly label any attachments, maps or photos.
- In providing marked-up maps or plans, use symbols rather than colours. This ensures that, if required, the Authority Secretariat can properly duplicate the application for the purposes of the Authority's consideration.
- Ensure that any maps provided are clearly scaled and the source of the map is cited.
- Ensure that any survey reports are undertaken in accordance with the requirements outlined in this Handbook. The survey report should be undertaken by a licenced or registered surveyor and should include a statement that the measurement has been undertaken in accordance with the requirements, be on the surveyor's letterhead, and be signed and dated by the surveyor.
- Ensure that any photographs include the date the photograph was taken.
- Provide any statutory declarations on a Commonwealth of Australia statutory declaration template<sup>2</sup>, and ensure that it has been signed in the presence of an authorised witness.

---

<sup>2</sup> As an application for a pharmacy approval is made to a Commonwealth Department, statutory declarations should be made on a Commonwealth of Australia statutory declaration template, and signed in the presence of an authorised witness. Information on Commonwealth statutory declarations, including templates and information on authorised witnesses, is available from the Attorney-General's Department's website at [www.ag.gov.au](http://www.ag.gov.au).

- Above all, ensure that the application clearly addresses each and every one of the relevant requirements of the item under which the application has been made.

**It is important to note that:**

- In providing evidence, it is the applicant's responsibility to summarise the material, draw conclusions from the material and clearly identify how the relevant requirements of the Rules are met by the evidence. It is not the Authority's responsibility to examine large volumes of information and identify how it satisfies the requirements.
- The Authority is unable to consider information provided by an applicant unless the information was provided at the time the application was lodged, or unless additional information has been requested by the Authority.

## General requirements for all applications

Part 2, Section 10 of the Rules sets out the circumstances when the Authority must recommend that an applicant be approved, including the general requirements that apply to every application, regardless of whether the application involves the cancellation of an existing approval or not. Every application for approval, whether it is for the establishment of a new pharmacy or the relocation of an existing pharmacy, must satisfy the Authority that each of the general requirements is met.

This section explains the general requirements which all applications must meet.

### Identification of particular premises

The Authority is required to have a clear understanding of the location of the proposed premises. Therefore, it is important to ensure that the proposed premises are clearly identified and accurately and consistently described, including full details of specific street names, numbers and suburbs as well as any relevant shop, floor, suite or lot numbers.

In addition, applicants should ensure that the address details on any evidence provided corresponds to the address nominated as the proposed premises on the application for approval to supply pharmaceutical benefits. If the proposed premises are known as more than one address, evidence must be provided to demonstrate that this is the case.

A scaled, drafted (not hand drawn sketch) site and floor plan of the proposed premises should be provided, clearly identifying the required details. Any adjacent or adjoining premises should also be identified.

### Evidence that the proposed premises are not approved premises

**Part 2, Section 10, subsection 3(a) of the Rules requires that:** the Authority is satisfied that at all relevant times the proposed premises are not approved premises

The meaning of approved premises includes premises:

- (a) in relation to which an approval granted under section 90 of the Act is in force (this, in most cases, includes deactivated approvals); or
- (b) in relation to which the Authority has recommended an applicant be approved under section 90 of the Act and the Secretary has not yet made a decision on the application.

The Applicant should provide a statement as to whether the proposed premises are currently occupied, and if so, by what type of business.

When referring an application to the Authority, the Department of Health will provide information to the Authority in relation to this requirement.

### Evidence of legal right to occupy the proposed premises

**Part 2, Section 10, subsection 3(b) of the Rules requires that the Authority is satisfied that: the applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day)**

To support this requirement, the application must include evidence which demonstrates that the applicant has a legal right to occupy the proposed premises on the date the application is lodged, and on the date on which the Authority makes a recommendation in respect of the application. Such evidence may include a lease or agreement to lease, which includes

agreed terms, a commencement date, and which has been executed (signed) and dated by both the lessor and lessee. **Please note that providing a copy of an unsigned lease or agreement to lease is not sufficient to demonstrate legal right, and may result in the Authority recommending that the application not be approved.**

If more than one pharmacist is making the application, evidence must be provided to demonstrate that the legal right is applicable to all applicants, that is, that the lease or agreement to lease includes all applicants named in the application.

### **Leasing premises**

If the proposed premises are to be leased by the applicant, the application should include a complete copy of the fully executed lease. Alternatively, other evidence may be sufficient provided that it demonstrates that agreement has been reached between the lessee and lessor on the terms and conditions of the lease, and which has been signed by both parties to indicate offer and acceptance.

### **Sub-leasing premises**

In the case of a sub-lease, evidence is also required to demonstrate that the sub-lease is permitted under the terms of the head lease, or that the head lessor has consented to the sub-lease.

### **Purchasing premises**

If the proposed premises are owned or are being purchased by the applicant, the application should include a copy of the title deed and/or relevant sales contract including any conditions to which it may be subject.

### **Leasing or purchasing premises in a company name**

If the applicant is leasing or buying the proposed premises in the name of a company, evidence must be provided to link the applicant(s) to that company, for example, a copy of an Australian Securities and Investments Commission (ASIC) company extract that indicates that the applicant(s) is/are director(s) of that company. If there are other directors of the company who are not applicants, evidence must be provided to demonstrate that agreement has been reached between the directors of the company and the applicant on the terms and conditions for the use of the premises by the applicant.

### **Leasing arrangements involving trusts**

Where a trust is involved, evidence must be provided of the relationship between the trust and the applicant (such as the trust deed for the Trust).

## **Evidence of council approval to use the proposed premises for the purposes of operating a pharmacy**

**Part 2, Section 10, subsection 3(c) of the Rules requires that the Authority is satisfied that:**

at all relevant times the proposed premises could be used for the operation of a pharmacy under applicable local government and State or Territory laws relating to land development

In support of this requirement, the application must include evidence to demonstrate that the proposed premises could be used for the purposes of operating a pharmacy. That is, that the relevant government authority, such as the local council, permits a pharmacy to operate at the proposed premises.

Please note that:

- This is not the same as an approval to operate a pharmacy business at particular premises granted by the relevant pharmacy approval authority.
- Approval by the landlord within the lease to operate a pharmacy is not sufficient evidence to support this item.

This requirement would be satisfied if planning approval for the proposed pharmacy has been obtained or, if this is not necessary in the State or Territory where the pharmacy would be located, the proposed premises are on land that is zoned to enable the operation of a pharmacy. An application to obtain building works approval or a certificate of occupancy, or similar, is not required to satisfy this requirement. However, it may be needed for compliance with the requirement that the proposed premises will be ready to trade within six months depending on the operation of applicable State or Territory land development laws.

The type of evidence required will vary depending on the location of the proposed premises and the requirements of the particular local council. Some examples include:

- Evidence that relevant government or local Council planning approval for a pharmacy to operate at the proposed premises has been obtained, such as a decision notice approving a development application to vary or change the use of the proposed premises for the purpose of operating a pharmacy. (Please note that the lodgement of a development application on which a decision has not yet been made is not sufficient evidence to satisfy this Item.)
- Evidence that the land is suitably zoned to allow the operation of a pharmacy. This may include a letter from the local council confirming that the proposed premises are able to be used for the purpose of operating a pharmacy without the need for a development application, or print outs from the relevant council website of the Property Planning Report for the proposed premises, including all relevant schedules to the Report.
- Evidence that the relevant government authority has approved the site for a mix of retail shops and services that includes a pharmacy where the proposed premises are located within a shopping centre.

Applicants should provide succinct, clear information in support of this requirement, rather than 'dumping' large volumes of Council zoning information in an application, as it can be difficult for members of the Authority to determine the relevant sections of the information and how it might relate to an application. Applicants should also not refer the Authority to other sources or websites to obtain Council documents.

### **Evidence that the proposed premises would be accessible by the public**

#### **Part 2, Section 10, subsection 3(d) of the Rules requires that the Authority is satisfied that: the proposed premises would be accessible by the public**

Evidence is required to demonstrate that the proposed premises will be accessible by the public, not just certain classes of the public. For example, the local council may approve premises for the purpose of operating a medical centre and ancillary pharmacy or dispensary, with a restriction that the pharmacy or dispensary can only be used by patients of the medical centre. This would not satisfy the requirements of this item of the Rules as it does not support the purpose of the Pharmaceutical Benefits Scheme, which is to ensure that pharmaceutical benefits are available to the community and not restricted to certain members of the public. For this reason, where an 'ancillary' pharmacy or dispensary has been approved by the relevant council, applicants are required to provide evidence that the council allows the pharmacy or dispensary to service the public and not be limited to only patients of the medical centre or private hospital.

## **Proposed premises will be ready to trade within six months of a recommendation being made by the Authority**

**Part 2, Section 10, subsection 3(e) of the Rules requires that the Authority is satisfied that: within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.**

An applicant must demonstrate that they will be ready to begin operating a pharmacy at the proposed premises within six months of the date the Authority makes its recommendation. The intention of this provision is to improve timely access to the supply of pharmaceutical benefits by ensuring that pharmaceutical benefits will be supplied to the relevant community within six months of the Authority recommending approval of an applicant. It is also intended to prevent applications being made prematurely.

Evidence addressing this requirement may include:

- plans that have already been approved by the relevant local council
- a building or fit-out schedule that indicates works will be completed by a certain date
- photographs demonstrating that the proposed premises are already established and need little work in order to be made ready. Please note that the date the photograph was taken should be included on the photo.

## **Proposed premises are not accessible from a supermarket**

**Part 2, Section 10, subsection 3(f) of the Rules requires that the Authority is satisfied that: the proposed premises will not be directly accessible by the public from within a supermarket.**

The Rules defines a supermarket as meaning a retail store the primary business of which is the sale of a range of food, beverages, groceries and other domestic goods.

It is intended to mean a retail store, usually self-service, the primary business of which is the retail sale of a range of food, beverages, groceries and other domestic goods which can be purchased in a single transaction, and in which a person could do their weekly shopping for fresh food (e.g. dairy, meat, bread), pantry items, cleaning products, personal care items and other household staples (e.g. laundry pegs, plastic food wrap). Reference to the primary business means that the definition would not expand to a department or variety store that has a deli or café section, nor does it include a petrol station or market (retail/wholesale) selling a range of produce.

Where the primary business of the retail store is the sale of liquor or petrol, that retail store is not a supermarket. A liquor store can be included as part of a supermarket where items from the liquor store can be purchased along with items from the supermarket in a single transaction, or where a liquor aisle is contained within the supermarket footprint.

Evidence to address this requirement may include a plan of the proposed premises and any adjacent or joining shops, which highlights the public access points to the proposed pharmacy and information about the type of adjacent or joining shops.

## Applications involving the relocation of an existing pharmacy

This part of the Handbook sets out the requirements that must be met for all applications to relocate an existing pharmacy, including the types of evidence which might be provided to demonstrate that the requirements are met, and any restrictions associated with an approval granted under each item of the Rules. Schedule 1, Part 1 of the Rules sets out the requirements for applications involving the relocation of an existing pharmacy.

There are a number of provisions in the Rules for the relocation of an existing pharmacy:

Item 121: Expansion or contraction (not usually referred to the Authority)

Item 122: Relocation within a designated complex

Item 123: Relocation within the same town (10 km)

Item 124: Relocation up to 1 km

Item 125: Relocation of 1 to 1.5 km

The Handbook outlines the requirements that apply to all applications to relocate an existing pharmacy. It provides that the Authority must be satisfied:

- that an approved pharmacist has requested that his or her approval be cancelled immediately before approval in respect of the subject application is granted, and
- that, on the day the application is made, one or more approvals in respect of the existing premises, have been in force continuously for at least five years immediately before the day the application is made.

Where an approval is located within a designated complex or in a town where the pharmacy is at least 10 km from the nearest approved premises, the approval is taken to have been in force continuously from the time it is first granted in that facility or town, regardless of any subsequent relocation within that designated complex or town. This means that the five year time period that normally recommences after each relocation, will continue for as long as the approval remains in the same designated complex or town.

If the approval has been in force for a continuous period of less than five years, an applicant must provide evidence to demonstrate that the circumstances meets one of the exceptions specified in the Rules.

The exceptions are described below:

- the proposed premises are located within the same designated complex in which the existing premises are located and the application is made under Item 122 Relocation within a designated complex, or
- the existing premises are the only approved premises in a particular town and the proposed premises are located within the same town as the existing premises and the application is made under Item 123 Relocation within the same town (10 km), or
- the purpose of the application is to allow the pharmacy operated by the applicant at the existing premises to move to the proposed premises while the existing premises are renovated or refurbished and the application is not made under Item 125, or
- the proposed premises are renovated or refurbished premises that are the same, or substantially the same, premises previously occupied by the pharmacy operated by the applicant or by the previous owner of the pharmacy and the application is not made under Item 125, or
- because of a disaster or exceptional circumstances pharmaceutical benefits are unable to be supplied at the existing premises, and will not be able to be supplied at

the existing premises in the future, and the application is not made under Item 125,  
or

- the existing approval was granted following an application for an expansion or contraction of the premises and the existing and previous approvals at those premises have been in force continuously for a total of at least five years, or
- the application is for the expansion or contraction of approved premises and the application has been referred to the Authority.

Schedule 2, Part 2 of the Rules specifies the restrictions that apply to certain applications to relocate an existing approval. It is important to note that some of the restrictions under previous Rules continue to apply for the period specified in the restriction.

When referring an application to the Authority, the Department of Health will provide information to the Authority in relation to any relevant restrictions.



## Rule 121: Expansion or contraction

The Secretary has the power to approve or reject applications for an expansion or contraction in the size of a pharmacy, without a recommendation by the Authority. However, the Secretary has the discretion to refer such an application to the Authority if he/she considers it should be assessed against the Rules. For example, the Secretary may refer an application to the Authority if he/she is not satisfied that the expanded or contracted premises will not be directly accessible from within a supermarket.

### Requirements

An application for an expansion or contraction must meet all of the requirements listed below.

- (a) The application is for an expansion or contraction of pharmacy premises, in which the proposed premises will occupy any of the space occupied by the existing premises; and**
- (b) the application has been referred to the Authority**

### Evidence required

A floor plan highlighting the existing premises and the premises to be occupied following the expansion or contraction of the pharmacy must be provided.

### General requirements

Please note that it is important to clearly identify the proposed premises that are the subject of an application, as well as the existing premises. Evidence must also be provided in support of each of requirements below:

- At all relevant times, the proposed premises are not approved premises. (Note: Where there is a physical difference between the proposed expanded or contracted premises and the existing approved premises, the proposed premises are not deemed to be the approved premises for the purpose of this Rule.)
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

### Note:

An expansion or contraction of pharmacy premises is described in subsection 90(3AE) of the Act. It applies where an existing pharmacy is expanding or contracting its premises, and the expanded or contracted premises occupy any of the space occupied by the existing pharmacy premises. This does not include proposed and existing premises that share only a common wall - this would constitute a relocation (see Items 122, 124 or 125).

## Item 122: Relocation within a designated complex

### Requirements

An application made under this item of the Rules must meet all of the requirements, including all of the general requirements, listed below.

### **The proposed premises are in the same designated complex\* as the existing premises**

\* Please refer to the [Glossary](#) for the definition of 'designated complex'

### Evidence required

A designated complex is defined in the Rules to include a 'small shopping centre', a 'large shopping centre', a 'large medical centre', or a 'large private hospital'. Each of these are also defined in the Rules.

Evidence is required to demonstrate that both the proposed premises and the existing (current) premises are located within a designated complex.

Such evidence could include a floor plan of the complex, clearly marking the location of the existing and the proposed premises, and a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the centre management of the shopping centre, the governing body of the large private hospital or large medical centre, confirming that the designated complex meets the definition of a small shopping centre, a large shopping centre, a large medical centre, or a large private hospital, by providing relevant details, for example, information regarding the size of the shopping centre and the number of commercial establishments within the centre.

Single management, for a small shopping centre, a large shopping centre, or a large medical centre means:

- (a) an arrangement in which a single entity, or two or more entities working cooperatively under an agreement, is responsible for marketing, maintenance and administration for the centre as a whole, and
- (b) does not include independent owners or tenants of premises in a building or centre that cooperate on particular occasions, or that cooperate in relation to some, but not all, of the matters mentioned in paragraph (a) in relation to the building or the centre.

If the existing and proposed premises are located within a private hospital and an applicant is unsure as to whether the private hospital meets the required definition, they should contact the governing body of the hospital for advice.

The Authority has been required to recommend that a number of applications made under this item, not be approved. The common reason for applications not meeting the requirements of Item 122 has been that the existing and the proposed premises have not been in a designated complex as defined by the Rules.

If the small shopping centre or large shopping centre or large medical centre or large private hospital does not meet the definition in the Rules, the Authority is unable to recommend approval under this item. In such cases, applicants may wish to consider applying under Item 124.

### General requirements

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

## Item 123: Relocation within the same town (10 km)

### Requirements

An application made under this item of the Rules must meet all of the requirements, including all of the general requirements, listed below:

- (a) The proposed premises are in the same town as the existing premises; and**
- (b) The proposed premises are at least 10 km, by the shortest lawful access route, from the nearest approved premises, other than the existing premises**

### Evidence required for 123(a)

A map highlighting the location and addresses of the existing premises and the proposed premises is required to demonstrate that both premises are located within the same town.

“Same town” is intended to mean where two towns share the same name, as well as the same postcode. The name of a town, in respect of particular premises, means the physical locality of those premises assigned by the local planning authority/council. Two towns that are in close proximity to one another and share the same postcode, but not the same name, are not considered to be in the “same town”.

### Evidence required for 123(b)

The shortest lawful access route is one generally available to be taken between premises that could reasonably be used by average persons travelling that route. It can be by car, walking, or other legal means of travel, or a combination of these. The route can include walking through public land such as parks and reserves, however the route must be one available to most members of the public rather than one catering to persons or groups with specialised needs.

The measurement of the shortest lawful access route must follow the shortest lawful access route between the two premises, from the centre, at ground level, of the public entrance of the first premises to the centre, at ground level, of the public entrance of the second premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 10 km, it may be sufficient to provide a clearly scaled map, highlighting the location and addresses two premises and the approximate shortest lawful access route distance using the scale on the map as the basis.

If the distance between the nearest approved pharmacy and the proposed premises is very near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the shortest lawful access route distance. Any surveyor’s report should include:

- the surveyor’s licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the shortest lawful access route distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

## General requirements

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

## Item 124: Relocation up to 1 km

### Requirements

An application made under this item of the Rules must meet all of the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are no more than 1 km, in a straight line, from the existing premises; and**
- (b) **one of the following applies:**
  - (i) **the existing premises are not in a designated complex;**
  - (ii) **the existing premises are in a large shopping centre and the proposed premises are at least 300 m, in a straight line, from all approved premises not in the large shopping centre;**
  - (iii) **the existing premises are in a small shopping centre, a large medical centre or a large private hospital and the proposed premises are at least 500 m, in a straight line, from all approved premises not in the small shopping centre, large medical centre or large private hospital**

### Evidence required for 124(a)

The Rules specify that the straight line distance must be taken from the mid-point at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the existing premises and the proposed premises is substantially less than 1 km, it may be sufficient to provide a scaled map, highlighting and clearly identifying the locations of the two premises, and the approximate straight line distance using the scale on the map as the basis.

If the distance between the existing premises and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the straight line distance between the two premises. Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the straight line distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises. and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

### Evidence required for 124(b)

- (i) **If the existing pharmacy premises, which are the subject of the relocation application, are not in a designated complex (small shopping centre, large shopping centre, large medical centre or large private hospital) evidence must be provided to demonstrate that this is the case.**

This may include a photograph of the existing and adjoining premises, or a letter from the manager / owner of the building in which the premises are located,

confirming that the premises are not located within a designated complex (small shopping centre, large shopping centre, large medical centre or large private hospital).

- (ii) **If the existing pharmacy premises, which are the subject of the relocation application, are within a large shopping centre, evidence that the proposed premises are at least 300 m, by straight line, from all other approved pharmacies other than those located within that same large shopping centre, is required.**
- (iii) **If the existing premises, which are the subject of the relocation application, are in a small shopping centre, a large medical centre or a large private hospital, evidence that the proposed premises are at least 500 m, in a straight line, from all approved premises not in the same small shopping centre, large medical centre or large private hospital, is required.**

Please refer to the evidence required for requirement (a) (above). If the distance separating the approved premises not located within the same large shopping centre, small shopping centre, large medical centre or large private hospital in which the existing premises which are the subject of the relocation application, are located, and the proposed premises is substantially more than the minimum distance requirement, it may be sufficient to provide a scaled map, highlighting and clearly identifying the relevant premises (the existing premises, the proposed premises, and the nearest approved premises if relevant) and the approximate straight line distance between the relevant premises using the scale on the map as the basis. However, if the distance is near to the minimum distance requirement, a surveyor's report should be provided (see (a) above).

### **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under ['General Requirements for all applications'](#) section.

### **Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under an item associated with a new rural approval under the previous Rules, or following an application under Item 131 or 132 (new pharmacy (at least 10 km) or a new additional pharmacy (at

least 10 km)), must demonstrate that the proposed premises are within the same town in which the approval was originally granted.

Applicants wishing to relocate an existing approval that was originally granted under Item 133, 134, or 134A, and for which the application to relocate is made within 10 years after the day the approval was granted as a result of an application under Item 133, 134 or 134A, must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

Applicants wishing to relocate an existing approval that was originally granted under Item 130, within the five years prior to the date of application, may only relocate to proposed premises that are not more than 1 km, by straight line, from those original premises.



## Item 125: Relocation of 1 to 1.5 km

### Requirements

An application made under this item of the Rules must meet all of the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are more than 1 km, but no more than 1.5 km, in a straight line, from the existing premises; and**
- (b) **one of the following applies:**
  - the existing premises are not in a designated complex and the proposed premises are at least 300 m, in a straight line, from the nearest approved premises;**
  - the existing premises are in a large shopping centre and the proposed premises are at least 300 m, in a straight line, from the nearest approved premises;**
  - the existing premises are in a small shopping centre, a large medical centre or a large private hospital and the proposed premises are at least 500 m, in a straight line, from the nearest approved premises.**

### Evidence required for 125(a)

The Rules specify that the straight line distance must be taken from the mid-point at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the existing premises and the proposed premises is substantially more than 1 km or substantially less than 1.5 km, it may be sufficient to provide a scaled map, highlighting and clearly identifying the locations of the two premises, and the approximate straight line distance using the scale on the map as the basis.

If the distance between the existing premises and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the straight line distance between the two premises. Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the straight line distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

### Evidence required for 125(b)

- (i) **If the existing pharmacy premises, which are the subject of the relocation application, are not in a designated complex (small shopping centre, large shopping centre, large medical centre or large private hospital) evidence must be provided to demonstrate that this is the case.**

This may include a photograph of the existing and adjoining premises, or a letter from the manager / owner of the building in which the premises are located,

confirming that the premises are not located within a designated complex (small shopping centre, large shopping centre, large medical centre or large private hospital).

- (ii) **If the existing pharmacy premises, which are the subject of the relocation application, are within a large shopping centre, evidence that the proposed premises are at least 300 m, in a straight line, from the nearest approved premises, is required.**
- (iii) **If the existing premises, which are the subject of the relocation application, are in a small shopping centre, a large medical centre or a large private hospital, evidence that the proposed premises are at least 500 m, in a straight line, from the nearest approved premises, is required.**

Please refer to the evidence required for requirement (a) (above). If the distance separating the approved premises not located within the same large shopping centre, small shopping centre, large medical centre or large private hospital in which the existing premises which are the subject of the relocation application, are located, and the proposed premises is substantially more than the minimum distance requirement, it may be sufficient to provide a scaled map, highlighting and clearly identifying the two premises and the approximate straight line distance using the scale on the map as the basis. However, if the distance is near to the minimum distance requirement, a surveyor's report should be provided (see (a) above).

### **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under ['General Requirements for all applications'](#) section.

### **Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under an item associated with a new rural approval under the previous Rules, or following an application under Item 131 or 132 (new pharmacy (at least 10 km) or a new additional pharmacy (at least 10 km)), must demonstrate that the proposed premises are within the same town in which the approval was originally granted.

Applicants wishing to relocate an existing approval that was originally granted under Item 133, 134, or 134A, and for which the application to relocate is made within 10 years after the day the approval was granted as a result of an application under Item 133, 134 or 134A, must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

Applicants wishing to relocate an existing approval that was originally granted under Item 130, within the five years prior to the date of application, may only relocate to proposed premises that are not more than 1 km, by straight line, from those original premises.

## Applications to establish a new pharmacy

This part of the Handbook sets out the requirements that must be met for all applications to establish a new pharmacy, including the types of evidence which might be provided to demonstrate that the requirements are met, and any restrictions associated with an approval granted under each item of the Rules.

Schedule 1 Part 2 of the Rules sets out the requirements that must be met for all applications to establish a new pharmacy.

There are a number of provisions in the Rules for establishing a new approval:

Item 130: New pharmacy (at least 1.5 km)

Item 131: New pharmacy (at least 10 km)

Item 132: New additional pharmacy (at least 10 km)

Item 133: New pharmacy in a designated complex (small shopping centre)

Item 134: New pharmacy in a designated complex (large shopping centre with no approved premises)

Item 134A: New pharmacy in a designated complex (large shopping centre with approved premises)

Item 135: New pharmacy in a designated complex (large private hospital) Item 136: New pharmacy in a designated complex (large medical centre)

## Item 130: New pharmacy (at least 1.5 km)

### Requirements

An application made under this item of the Rules must meet all of the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are at least 1.5 km, in a straight line, from the nearest approved premises; and**
- (b) **the Authority is satisfied that, at all relevant times\* there is, within 500 m, in a straight line from the proposed premises, either:**
  - (i) **both the equivalent of at least one full time\* prescribing medical practitioner; and a supermarket with a gross leasable area\* of at least 1,000 m<sup>2</sup>; or**
  - (ii) **a supermarket that has a gross leasable area of at least 2,500 m<sup>2</sup>**

\* Please refer to the [Glossary](#) for the definition of 'all relevant times', 'full-time', and 'gross leasable area'

### Evidence required for 130(a)

The Rules specify that the straight line measurement must be taken from the mid-point at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 1.5 km, it may be sufficient to provide a scaled map, highlighting and clearly identifying the location of the two premises and the approximate straight line distance using the scale on the map as the basis.

If the distance between the nearest approved pharmacy and the proposed premises is very near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the straight line distance between the two premises. Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the straight line distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

### Evidence required for 130(b)

- (i) **both the equivalent of at least one full time prescribing medical practitioner; and a supermarket with a gross leasable area of at least 1,000 m<sup>2</sup>; or**
- (ii) **a supermarket that has a gross leasable area of at least 2,500 m<sup>2</sup>**

When claiming that a full-time prescribing medical practitioner and a supermarket with a gross leasable area of at least 1,000 m<sup>2</sup> is within 500 m, in a straight line from the proposed premises, evidence must be provided, which could include:

- a statement or statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the relevant medical practitioner or practice manager stating the hours that the medical practice operates, the hours the medical practitioner(s) is available for appointments and for the issuing of prescriptions for pharmaceutical benefits, in addition to a practice information sheet and provider number(s) for the medical practitioner(s), and
- a clearly scaled map highlighting and clearly identifying the locations of the proposed premises and the medical practitioner's premises and / or supermarket and a statement of the distance between the premises using the scale on the map as the basis, and
- evidence of the gross leasable area of the supermarket, sourced from the relevant local Council (or relevant approval authority), or other public document such as retail strategies, activity centre strategies prepared by local governments or state government departments, or from proprietary databases.

When claiming that a supermarket with a gross leasable area of at least 2,500 m<sup>2</sup> is within 500 m, in a straight line from the proposed premises, evidence must be provided, which could include:

- a clearly scaled map highlighting and clearly identifying the locations of the proposed premises and the supermarket and a statement of the distance between the premises using the scale on the map as the basis, and
- evidence of the gross leasable area of the supermarket, sourced from the relevant local Council (or relevant approval authority), or other public document such as retail strategies, activity centre strategies prepared by local governments or state government departments, or from proprietary databases.

**Note:** *gross leasable area* of a supermarket is intended to mean the total floor area of the supermarket, and includes space approved by council (or the relevant development authority) to conduct a supermarket business, including supermarket trading floor area and minimal back of house (typically no more than 25-30% of the total floor area). It does not include portable storage units, such as shipping containers, used for the purpose of storing supermarket items; or separate tenancies rented by the supermarket proprietors to store supermarket items, unless those tenancies are approved for the purpose of operating a supermarket business.

It is not sufficient to provide evidence stating the gross leasable area is greater than the required size of either 1,000 m<sup>2</sup> or 2,500 m<sup>2</sup>. The actual gross leasable area, that is the total floor area of the supermarket, excluding loading docks and car parks, should be stated, and supported by the evidence outlined above.

As outlined in requirement (a) above, the Rules specify that the straight line measurement must be taken from the midpoint at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance between the proposed premises and the medical practitioner's premises and/or supermarket is very near to the required distance, applicants should provide a surveyor's report of the measurement of the straight line distance as outlined in requirement (a) above.

## **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

## **Restrictions**

To ensure that new approvals that are granted to address community need remain in that area of need, an approval granted following an application made under Item 130 must stay within a 1 km radius of the premises in respect of which the approval was originally granted, for a period of 5 years.

## Item 131: New pharmacy (at least 10 km)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

**The proposed premises are at least 10 km, by the shortest lawful access route, from the nearest approved premises**

### Evidence required

The shortest lawful access route is one generally available to be taken between premises that could reasonably be used by average persons travelling that route. It can be by car, walking, or other legal means of travel, or a combination of these. The route can include walking through public land such as parks and reserves; however the route must be one available to most members of the public rather than one catering to persons or groups with specialised needs.

The measurement of the shortest lawful access route must follow the shortest lawful access route between the two premises, from the centre, at ground level, of the public entrance of the first premises to the centre, at ground level, of the public entrance of the second premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 10 km, it may be sufficient to provide a clearly scaled map, highlighting the location and addresses of the two premises and the approximate shortest lawful access route distance using the scale on the map as the basis.

If the distance between the nearest approved pharmacy and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the shortest lawful access route distance between the two premises.

Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the shortest lawful access route distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

### General requirements

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).



- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under ['General Requirements for all applications'](#) section.

### **Restrictions**

New approvals that are granted following an application made under Item 131 cannot under any circumstances relocate from the town in which the approval was originally granted. It may only be relocated within the same town.

## Item 132: New additional pharmacy (at least 10 km)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are:**
- (i) **in the same town as an approved premises; and**
  - (ii) **at least 200 m, in a straight line, from the nearest approved premises; and**
  - (iii) **at least 10 km, by the shortest lawful access route, from any approved premises other than the approved premises mentioned at (ii) above; and**
- (b) **the Authority is satisfied that, at all relevant times\*, in the same town as the proposed premises are:**
- (i) **the equivalent of at least 4 full-time\* prescribing medical practitioners\* practising; and**
  - (ii) **one or 2 supermarkets that have a combined total gross leasable area\* of at least 2,500 m<sup>2</sup>**

\*Please refer to the [Glossary](#) for the definition of 'all relevant times', 'full-time', 'prescribing medical practitioner' and 'gross leasable area'.

### Evidence required for 132(a)

- (i) **in the same town as an approved premises; and**
- (ii) **at least 200 m, in a straight line, from the nearest approved premises**

A map highlighting and clearly identifying the location and addresses of the existing approved premises within the town, and the proposed premises is required to demonstrate that both premises are located within the same town.

The Rules specify that the straight line measurement must be taken from the mid-point at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 200 m, it may be sufficient to provide a scaled map, highlighting and clearly identifying the location and addresses of the two premises and the approximate straight line distance using the scale on the map as the basis.

If the distance between the nearest approved pharmacy and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the straight line distance between the two premises. Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the straight line distance measured
- the margin for error in the measurement

- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

**Note:** when counting the number of approved premises in the town (Item 132(a)(i)), if approved premises have been recommended to be relocated to new premises, but have not yet been approved, the new premises are not counted as approved premises, but are included for distance measurements.

**(iii) at least 10 km, by the shortest lawful access route, from any approved premises other than the approved premises mentioned at (ii) above**

A map highlighting and clearly identifying the location and addresses of the proposed premises and the next nearest approved premises is required.

The shortest lawful access route is one generally available to be taken between premises that could reasonably be used by average persons travelling that route. It can be by car, walking, or other legal means of travel, or a combination of these. The route can include walking through public land such as parks and reserves, however, the route must be one available to most members of the public rather than one catering to persons or groups with specialised needs. The measurement of the shortest lawful access route must follow the shortest lawful access route between the two premises, from the centre, at ground level, of the public entrance of the first premises to the centre, at ground level, of the public entrance of the second premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 10 km, it may be sufficient to provide a scaled map, highlighting and clearly identifying the location of the two premises and the approximate shortest lawful access route distance using the scale on the map as the basis

If the distance between the nearest approved pharmacy and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the shortest lawful access route distance between the two premises.

Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the shortest lawful access route distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

### **Evidence required for 132(b)**

- (i) the equivalent of at least 4 full-time prescribing medical practitioners practising; and**
- (ii) one or 2 supermarkets that have a combined total gross leasable area of at least 2,500 m<sup>2</sup>**

When claiming that, on the day the application was made, and the day the Authority considers the application, in the same town as the proposed premises are at least the equivalent of four full-time prescribing medical practitioners practising, and one or 2 supermarkets with a combined total gross leasable area of at least 2,500 m<sup>2</sup>, evidence must be provided, which could include:

- a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the relevant medical practitioners or practice manager stating the hours that the medical practice operates, the hours the medical practitioner(s) are available for appointments and for the issuing of prescriptions for pharmaceutical benefits, in addition to a practice information sheet and provider number(s) for the medical practitioner(s). The statutory declaration should also state whether or not the time includes times spent consulting at other medical centres not within the same town, working at a hospital on rostered duties, attending nursing homes and undertaking administration work for the medical centre or practice, and
- a clearly scaled map highlighting and clearly identifying the locations of the proposed premises and the medical practitioner's premises and the supermarket(s) and a statement of the distance between the premises using the scale on the map as the basis, and
- evidence sourced from the relevant local Council (or relevant approval authority), or other public document such as retail strategies, activity centre strategies prepared by local governments or state government departments, or from proprietary databases, to demonstrate the gross leasable area of the supermarket or of the combined total gross leasable area of the two supermarkets in the same town as the proposed premises.

It is not sufficient to provide evidence stating the gross leasable area is greater than 2,500 m<sup>2</sup>. The actual gross leasable area, that is the total floor area of the supermarket, excluding loading docks and car parks, should be stated, and supported by the evidence outlined above.

The gross leasable area of a supermarket is intended to mean the total floor area of the supermarket, and includes space approved by council (or the relevant development authority) to conduct a supermarket business, including supermarket trading floor area and minimal back of house (typically no more than 25-30% of the total floor area). It does not include portable storage units, such as shipping containers, used for the purpose of storing supermarket items; or separate tenancies rented by the supermarket proprietors to store supermarket items, unless those tenancies are approved for the purpose of operating a supermarket business.

The Authority will not be satisfied if a medical practitioner lives in the relevant town but operates their medical practice outside that town. The medical practitioner must be practising in the same town as the proposed premises.

## **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

## **Restrictions**

New approvals that are granted following an application made under Item 132 must stay within the same town in which the approval was originally granted.

## Item 133: New pharmacy in a designated complex (small shopping centre)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

#### The proposed premises:

- (a) are in a small shopping centre\*; and
- (b) are at least 500 m, in a straight line, from the nearest approved premises, other than approved premises in a large shopping centre or private hospital; and
- (c) there are no approved premises in the small shopping centre

\* Please refer to the [Glossary](#) for the definition of 'small shopping centre'.

#### Evidence required for 133(a)

A floor plan of the shopping centre should be provided in addition to a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the shopping centre manager to confirm the shopping centre:

- is under single management\*. That is, that one or more managers working cooperatively under an agreement are responsible for marketing, maintenance and administration for the centre as a whole, and
- has a gross leasable area\*, meaning the total floor area of the shopping centre excluding loading docks and car parks, of at least 5,000 m<sup>2</sup>, and
- contains a supermarket that has a gross leasable area of at least 2,500 m<sup>2</sup>, and
- contains at least 15 other commercial establishments\* (note that a current tenancy schedule listing the name and type of each tenancy, and its leasing and trading status should be provided), and
- has customer parking facilities.

\* Please refer to the [Glossary](#) for the definition of 'single management', 'gross leasable area', and 'commercial establishment'.

Single management, for a small shopping centre, means:

- an arrangement in which a single entity, or two or more entities working cooperatively under an agreement, are responsible for marketing, maintenance and administration for the centre as a whole, and
- does not include independent owners or tenants of premises in a building or centre that cooperate on particular occasions, or that cooperate in relation to some, but not all, of the matters mentioned above in relation to the building or the centre.

The gross leasable area of a supermarket is intended to mean the total floor area of the supermarket, and includes space approved by council (or the relevant development authority) to conduct a supermarket business, including supermarket trading floor area and minimal back of house (typically no more than 25-30% of the total floor area). It does not include portable storage units, such as shipping containers, used for the purpose of storing supermarket items; or separate tenancies rented by the supermarket proprietors to store supermarket items, unless those tenancies are approved for the purpose of operating a supermarket business.

It is not sufficient to provide evidence stating the gross leasable area is greater than 2,500 m<sup>2</sup>. The actual gross leasable area, that is the total floor area of the supermarket, excluding loading docks and car parks, should be stated, and supported by evidence sourced from the relevant local Council (or relevant approval authority), or other public document such as retail strategies, activity centre strategies prepared by local governments or state government departments, or from proprietary databases, to demonstrate the gross leasable area of the supermarket.

In considering an application to establish a pharmacy in a small shopping centre, the Authority need not be satisfied that the requisite number of commercial establishments are operating within that centre. Rather, the Authority must be satisfied that the centre is, or is likely to be, occupied by the requisite number of commercial establishments. The term *likely to be occupied by* is intended to include premises in a shopping centre where a lease has been entered into to operate such a business and that business has not yet commenced operating at those premises. A vacant tenancy at premises in a shopping centre that is not occupied and/or leased is not considered a “commercial establishment”.

### **Evidence required for 133(b)**

The Rules specify that the straight line measurement must be taken from the mid-point at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 500 m, it may be sufficient to provide a scaled map, highlighting the location and addresses of the two premises and the approximate straight line distance using the scale on the map as the basis.

If the distance between the nearest approved pharmacy and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the straight line distance between the two premises. Any surveyor’s report should include:

- the surveyor’s licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the straight line distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

If any approved premises are within 500 m by straight line of the proposed premises, and the applicant is claiming that they are in a large shopping centre or private hospital, the applicant must provide supporting evidence to demonstrate that this is the case.

### **Evidence required for 133(c)**

The statutory declaration from the shopping centre manager should include information to confirm whether there are any other pharmacies within the centre.

## **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.;
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

## **Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under Item 133 and for which the application to relocate is made within 10 years after the day the approval was granted as a result of an application under Item 133, must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

The pharmacy can move within the same shopping centre at any time (please note that an application is still required to be made to the Authority – see Item 122).



## Item 134: New pharmacy in a designated complex (large shopping centre with no approved premises)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

- (a) the proposed premises are in a large shopping centre\*;** and
- (b) there are no approved premises in the large shopping centre.**

\* Please refer to the [Glossary](#) for the definition of 'large shopping centre'.

### Evidence required for 134(a) and (b)

A floor plan of the shopping centre should be provided in addition to a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the shopping centre manager to confirm that the shopping centre:

- is under single management\*. That is, that one or more managers working cooperatively under an agreement are responsible for marketing, maintenance and administration for the centre as a whole, and
- has a gross leasable area\*, meaning the total floor area of the shopping centre excluding loading docks and car parks, of at least 5,000 m<sup>2</sup>, and
- contains a supermarket that has a gross leasable area of at least 2,500 m<sup>2</sup>, and
- contains at least 50 other commercial establishments\* (note that a current tenancy schedule listing the name and type of each tenancy, and its leasing and trading status should be provided), and
- has customer parking facilities.

\* Please refer to the [Glossary](#) for the definition of 'single management', 'gross leasable area', and 'commercial establishment'.

Single management, for a large shopping centre, means:

- an arrangement in which a single entity, or two or more entities working cooperatively under an agreement, are responsible for marketing, maintenance and administration for the centre as a whole, and
- does not include independent owners or tenants of premises in a building or centre that cooperate on particular occasions, or that cooperate in relation to some, but not all, of the matters mentioned above in relation to the building or the centre.

The gross leasable area of a supermarket is intended to mean the total floor area of the supermarket, and includes space approved by council (or the relevant development authority) to conduct a supermarket business, including supermarket trading floor area and minimal back of house (typically no more than 25-30% of the total floor area). It does not include portable storage units, such as shipping containers, used for the purpose of storing supermarket items; or separate tenancies rented by the supermarket proprietors to store supermarket items, unless those tenancies are approved for the purpose of operating a supermarket business.

It is not sufficient to provide evidence stating the gross leasable area is greater than 2,500 m<sup>2</sup>. The actual gross leasable area, that is the total floor area of the supermarket, excluding loading docks and car parks, should be stated, and supported by evidence sourced from the relevant local Council (or relevant approval authority), or other public document such as retail strategies, activity centre strategies prepared by local governments or state

government departments, or from proprietary databases, to demonstrate the gross leasable area of the supermarket.

In considering an application to establish a pharmacy in a large shopping centre, the Authority need not be satisfied that the requisite number of commercial establishments are operating within that centre. Rather, the Authority must be satisfied that the centre is, or is likely to be, occupied by the requisite number of commercial establishments. The term *likely to be occupied by* is intended to include premises in a shopping centre where a lease has been entered into to operate such a business and that business has not yet commenced operating at those premises. A vacant tenancy at premises in a shopping centre that is not occupied and/or leased is not considered a “commercial establishment”.

### **Evidence required for 134(b)**

The statutory declaration from the shopping centre manager should include information to confirm whether there are any other pharmacies within the centre.

**Note** – when counting the number of approved premises, if approved premises in the large shopping centre have been recommended to be relocated to new premises in the large shopping centre but have not yet been approved, the new premises are not counted as approved premises.

### **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

### **Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under Item 134 and for which the application to relocate is made within 10 years after the day the approval was granted as a result of an application under Item 134, must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

The pharmacy can move within the same shopping centre at any time (please note that an application is still required to be made to the Authority – see Item 122).

## Item 134A: New additional pharmacy in a designated complex (large shopping centre with approved premises)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are in a large shopping centre\***; and
- (b) **if the large shopping centre contains:**
  - (i) **at least 100, but fewer than 200, commercial establishments\* – there is only one approved premises in the large shopping centre; or**
  - (ii) **at least 200 commercial establishments – there are at least one but no more than 2 approved premises in the large shopping centre; and**
- (c) **no approved premises have relocated out of the large shopping centre in the 12 months immediately before the day the application was made**

\* Please refer to the [Glossary](#) for the definition of 'large shopping centre' and 'commercial establishment'.

### Evidence required

A floor plan of the shopping centre should be provided in addition to a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the shopping centre manager to confirm that the shopping centre:

- is under single management\*. That is, that one or more managers working cooperatively under an agreement are responsible for marketing, maintenance and administration for the centre as a whole, and
- has a gross leasable area\*, meaning the total floor area of the shopping centre excluding loading docks and car parks, of at least 5,000 m<sup>2</sup>, and
- contains a supermarket that has a gross leasable area of at least 2,500 m<sup>2</sup>, and
- contains at least 50 other commercial establishments (note that a current tenancy schedule listing the name and type of each tenancy, and its leasing and trading status should be provided), and
- has customer parking facilities.

\* Please refer to the [Glossary](#) for the definition of 'single management' and 'gross leasable area'.

Single management, for a large shopping centre, means:

- an arrangement in which a single entity, or two or more entities working cooperatively under an agreement, are responsible for marketing, maintenance and administration for the centre as a whole, and
- does not include independent owners or tenants of premises in a building or centre that cooperate on particular occasions, or that cooperate in relation to some, but not all, of the matters mentioned above in relation to the building or the centre.

The gross leasable area of a supermarket is intended to mean the total floor area of the supermarket, and includes space approved by council (or the relevant development authority) to conduct a supermarket business, including supermarket trading floor area and minimal back of house (typically no more than 25-30% of the total floor area). It does not include portable storage units, such as shipping containers, used for the purpose of storing supermarket items; or separate tenancies rented by the supermarket proprietors to store

supermarket items, unless those tenancies are approved for the purpose of operating a supermarket business.

It is not sufficient to provide evidence stating the gross leasable area is greater than 2,500 m<sup>2</sup>. The actual gross leasable area, that is the total floor area of the supermarket, excluding loading docks and car parks, should be stated, and supported by evidence sourced from the relevant local Council (or relevant approval authority), or other public document such as retail strategies, activity centre strategies prepared by local governments or state government departments, or from proprietary databases, to demonstrate the gross leasable area of the supermarket

In considering an application to establish a pharmacy in a large shopping centre, the Authority need not be satisfied that the requisite number of commercial establishments are operating within that centre. Rather, the Authority must be satisfied that the centre is, or is likely to be, occupied by the requisite number of commercial establishments. The term *likely to be occupied by* is intended to include premises in a shopping centre where a lease has been entered into to operate such a business and that business has not yet commenced operating at those premises. A vacant tenancy at premises in a shopping centre that is not occupied and/or leased is not considered a “commercial establishment”.

The statutory declaration from the shopping centre manager should include information to the number of pharmacies currently within the centre, and if known, whether or not any pharmacies have relocated out of the large shopping centre in the previous 12 months.

The Authority’s Secretariat will also provide the Authority with information on this item.

**Note** – when counting the number of approved premises, if approved premises in the large shopping centre have been recommended to be relocated to new premises in the large shopping centre but have not yet been approved, the new premises are not counted as approved premises.

### **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

## **Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under Item 134A and for which the application to relocate is made within 10 years after the day the approval was granted as a result of an application under Item 134A, must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

The pharmacy can move within the same shopping centre at any time (please note that an application is still required to be made to the Authority – see Item 122).

## Item 135: New pharmacy in a designated complex (large private hospital)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are in a large private hospital\***; and
- (b) **there are no approved pharmacies in the large private hospital**

\* Please refer to the [Glossary](#) for the definition of 'large private hospital'.

### Evidence required

Applicants should provide a letter or, preferably, a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the management of the private hospital to confirm that it meets the definition of 'large private hospital' as defined in the glossary to mean a private hospital that can admit at least 150 patients at any one time in accordance with the private hospital's licence or registration under the law of the State or Territory in which the private hospital is located. This should also confirm whether there is currently a pharmacy located within the private hospital.

A floor plan of the private hospital clearly identifying the location of the proposed premises, and a copy of the private hospital's license or registration certificate to confirm the number of patients that can be admitted at any one time under State/Territory law, should also be provided.

"Admit" is intended to mean where a patient is admitted to hospital for treatment as a private patient and includes same-day admitted patients, as well as overnight admitted patients. That is, not patients attending the hospital for general treatment as outpatients.

### General requirements

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.
- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under '[General Requirements for all applications](#)' section.

**Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under Item 135 must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

The pharmacy can move within the same private hospital at any time (please note that an application is still required to be made to the Authority – see Item 122).

## Item 136: New pharmacy in a designated complex (large medical centre)

### Requirements

An application made under this item of the Rules must meet the requirements, including all of the general requirements, listed below.

- (a) **the proposed premises are in a large medical centre\***; and
- (b) **there are no approved premises in the large medical centre; and**
- (c) **if the large medical centre is:**
  - (i) **in a small shopping centre, a large shopping centre or a private hospital – the proposed premises are at least 300 m, in a straight line, from any approved premises, other than approved premises in a different large shopping centre or private hospital; or**
  - (ii) **not in a small shopping centre, a large shopping centre or a private hospital – the proposed premises are at least 300 m, in a straight line, from the nearest approved premises, other than an approved premises in a large shopping centre or private hospital; and**
- (d) **the Authority is satisfied that, during the 2 months before the day on which the application is made and until the day the application is considered by the Authority, the number of PBS prescribers\* at the medical centre is equivalent to at least 8 full-time\* PBS prescribers, of which at least 7 PBS prescribers must be prescribing medical practitioners\*; and**
- (e) **the Authority is satisfied that the applicant will make all reasonable attempts to ensure that the operating hours of the proposed premises will meet the needs of the patients of the medical centre**

\* Please refer to the [Glossary](#) for the definition of 'large medical centre', 'full-time', 'PBS prescriber', and 'prescribing medical practitioner'.

### Evidence required for 136(a) and (b)

Applicants should provide a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the manager or owner of the medical centre to confirm: that the centre is under single management, that is, that one or more managers working cooperatively under an agreement are responsible for marketing, maintenance and administration for the centre as a whole; the opening hours of the centre on each of the days that the centre is open; and the hours during which an appointment with a prescribing medical practitioner, for a general practice consultation, may be made on each of the days that the centre is open.

Single management for a large medical centre means:

- an arrangement in which a single entity, or two or more entities working cooperatively under an agreement, are responsible for marketing, maintenance and administration for the centre as a whole, and
- does not include independent owners or tenants of premises in a building or centre that cooperate on particular occasions, or that cooperate in relation to some, but not all, of the matters mentioned above in relation to the building or the centre.

A floor plan of the medical centre clearly identifying the location of the proposed premises should be provided.



The intention of having a pharmacy in a large medical centre is primarily to meet the needs of medical centre patients. A large medical centre must open for at least 70 hours each week, and irrespective of the hours that the medical centre operates or the number of medical practitioners rostered on during those hours, general practice services must be provided at the medical centre for at least 70 hours each week. If the medical centre closes for an hour over lunchtime then that hour is not counted towards the time that the medical centre is providing general practice services, as patients are unable to obtain a consultation with a medical practitioner during that hour. Where more than one medical practitioner's hours overlap, the total hours that the medical centre is open and providing general practice services is not the combined hours of the medical practitioners, it is instead the total hours that the centre is providing general practice services.

The statutory declaration (as referred to above) should also confirm whether there is an approved pharmacy currently located within the medical centre.

### **Evidence required for 136(c)**

The Rules specify that the straight line measurement must be taken from the mid-point at ground level of the public access door of each of the premises. If there is more than one public access door for either or both of the premises, the measurement must be taken from the public access door nearest to the other premises, that is, the shortest measurement that can be taken.

If the distance separating the nearest approved pharmacy and the proposed premises is substantially greater than 300 m, it may be sufficient to provide a scaled map, highlighting the location and addresses of the two premises and the approximate straight line distance using the scale on the map as the basis.

If the distance between the nearest approved pharmacy and the proposed premises is near to the required distance, applicants should provide a report from a licenced or registered surveyor, of the measurement of the straight line distance between the two premises. Any surveyor's report should include:

- the surveyor's licence or registration number
- a clearly scaled map
- a description of the methodology and equipment used in the measurement
- the straight line distance measured
- the margin for error in the measurement
- detailed information about the public access doors to each of the premises, and
- confirmation that the measurement has been undertaken from the mid-point at ground level of the public access door of each of the premises.

Often there is no evidence provided by the applicant to allow the Authority to determine whether there are any pharmacies within 300 m, by straight line, of the proposed premises, and if so, whether any such pharmacies are located in a large shopping centre, or a private hospital. In circumstances where there is an existing approved pharmacy within 300 m, by straight line, of the proposed premises, applicants should ensure that they provide sufficient evidence to demonstrate that the existing approved pharmacy is located in a large shopping centre, or a private hospital. It is not sufficient to simply make a statement that this is the case.

### **Evidence required for 136(d)**

Evidence to be provided could include a statutory declaration (made on a Commonwealth of Australia statutory declaration template) from the owner or manager of the medical centre confirming the hours the medical centre operates and the hours that each PBS prescriber

practises, copies of any advertisements regarding the hours the medical centre operates, and a practice information sheet. In addition, copies of rosters or timesheets of the actual times and total number of hours worked by each PBS prescriber for each and every week of the 2 months before the day on which the application was made should be provided. A summary of the information on the rosters or timesheets should also be provided. The start and finish times for each prescriber should be included on the roster or timesheets, including the times of any breaks, and should be of the actual times that the prescribers were available at that medical centre rather than anticipated roster times.

The statutory declaration should also confirm whether or not any of the rostered time includes time spent consulting at other medical centres, working at a hospital (rostered duties), attending nursing homes and undertaking administration work for the medical centre/practice, such as staff rosters, which is not counted towards the time spent practising at the medical centre/practice.

The minimum number of hours required to meet the equivalent of at least 8 full-time PBS prescribers, of which at least 7 PBS prescribers must be prescribing medical practitioners, is 304 hours a week, of which a maximum of 38 hours a week can be attributed for the provision of services at the medical centre by a PBS prescriber, as defined in section 84(1) of the Act, other than a medical practitioner. That is, services provided by a participating dental practitioner, an authorised optometrist, midwife or nurse practitioner.

Please note that the Secretariat, on behalf of the Authority, will contact the medical centre directly in the week leading up to the meeting, to request information in relation to the hours worked from the day the application was made and up until the day the Authority considers the application.

If the application is deferred to allow further evidence to be sought, this process will be repeated.

Full-time PBS prescriber (including medical practitioner) means providing the services of a PBS prescriber for 38 hours in a week. For example, for a medical practitioner, time spent consulting with patients at their home or in hospital is included when calculating the hours that a medical practitioner practises at a medical centre. Time spent consulting at other medical centres, working at a hospital (rostered duties), attending nursing homes and undertaking administration work for the medical centre/practice, such as staff rosters, is not counted towards the time spent practising at the medical centre/practice.

The equivalent of a full-time PBS prescriber means any number of PBS prescribers who provide the equivalent services of one full-time PBS prescriber. For example, if one part-time PBS prescriber practises 20 hours each week and another practises 18 hours each week, then they will be considered the equivalent of one full-time PBS prescriber (i.e. their combined practice hours equal 38 hours). Similarly, if one PBS prescriber practises 57 hours each week then they are considered the equivalent of one and half full-time PBS prescribers.

### **Evidence required for 136(e)**

Evidence addressing this requirement might include evidence of an agreement between the applicant and the management of the medical centre which indicates that the proposed pharmacy's hours will largely reflect those of the medical centre, or that the applicant will endeavour to open the pharmacy outside of normal hours if there is sufficient need.

### **General requirements**

Please note that it is important to clearly identify the proposed premises that are the subject of an application. Evidence must also be provided in support of each of the requirements below:

- At all relevant times, the proposed premises are not approved premises.

- The applicant has, at all relevant times, a legal right to occupy the proposed premises (whether the right is to occupy the premises on the day the application is made or after that day).
- At all relevant times the proposed premises could be used for the purpose of operating a pharmacy under applicable local government and State or Territory laws relating to land development.
- The proposed premises would be accessible by the public.
- Within 6 months after the day on which the Authority makes a recommendation in relation to the application, the applicant will be able to begin operating a pharmacy at the proposed premises.
- The proposed premises will not be directly accessible by the public from within a supermarket.

The evidence required for the above is outlined under [‘General Requirements for all applications’](#) section.

### **Restrictions**

Applicants wishing to relocate an existing approval that was originally granted under Item 136 must satisfy the Authority that there are exceptional circumstances if the proposed premises are not located within the same facility in which the approval was originally granted.

The pharmacy can move within the same large medical centre at any time (please note that an application is still required to be made to the Authority – see Item 122).

## Glossary

Term	Definition
Act	National Health Act 1953
all relevant times	(a) on the day on which the application was made; and (b) the day on which the application is considered by the Authority.
Application	An application under section 90 of the Act that is referred to the Authority
approved premises	(a) premises in relation to which an approval granted under section 90 of the Act is in force, and which are not redundant (see redundant premises); or (b) premises in relation to which the Authority has recommended an applicant be approved under section 90 of the Act
Authority	Australian Community Pharmacy Authority
commercial establishment	<p>Premises in a small shopping centre or a large shopping centre occupied or likely to be occupied by a:</p> <ul style="list-style-type: none"> <li>(a) shop where goods, food or beverages are sold retail; or</li> <li>(b) bar, café, restaurant or takeaway; or</li> <li>(c) business that provides services to customers</li> </ul> <p>Commercial establishment does not include:</p> <ul style="list-style-type: none"> <li>(a) commercial office space; or</li> <li>(b) premises occupied by an accountant, analyst, architect, engineer, lawyer, planner, stockbroker or surveyor, unless the premises are occupied by a shopfront; or</li> <li>(c) premises occupied by a real estate agent or an insurance company, agent or broker, unless the premises are occupied as a shopfront for the real estate agent or insurance company; or</li> <li>(d) a council office or government or statutory corporation office or shopfront, other than an Australia Post shopfront, an Australian Broadcasting Corporation shop or a Medicare or Centrelink shopfront; or</li> <li>(e) a car wash or car parking facilities; or</li> <li>(f) a library; or</li> <li>(g) a kindergarten or preschool; or</li> <li>(h) a child care centre or child minding facility, unless the centre or facility is available exclusively for use by customers of the small shopping centre or the large shopping centre while the customers are shopping at the small shopping centre or the large shopping centre; or</li> <li>(i) a storeroom or storage area; or</li> <li>(j) a temporary selling point; or</li> <li>(k) an automatic teller machine or automatic dispensing machine</li> </ul>

Term	Definition
	<p>In working out the number of commercial establishments in a shopping centre:</p> <ul style="list-style-type: none"> <li>(a) 2 or more commercial establishments occupied by, or likely to be occupied by, one business are counted as one commercial establishment; and</li> <li>(b) the maximum number of shopfronts for accountants, analysts, architects, engineers, lawyers, planners, stockbrokers or surveyors that can be counted towards the total number of commercial establishments in a shopping centre is: <ul style="list-style-type: none"> <li>(i) for a small shopping centre – one; or</li> <li>(ii) for a large shopping centre – two</li> </ul> </li> </ul>
designated complex	<ul style="list-style-type: none"> <li>(a) a small shopping centre; or</li> <li>(b) a large shopping centre; or</li> <li>(c) a large medical centre; or</li> <li>(d) a large private hospital.</li> </ul>
full-time	<ul style="list-style-type: none"> <li>(a) for a prescribing medical practitioner - providing the services of a prescribing medical practitioner for 38 hours in a week; or</li> <li>(b) for a PBS prescriber - providing the services of a PBS prescriber for 38 hours in a week</li> </ul>
gross leasable area	<ul style="list-style-type: none"> <li>(a) for a group of shops and associated facilities – the total floor area of the small shopping centre or the large shopping centre excluding loading docks and car parks; and</li> <li>(b) for a supermarket – the total floor area of the supermarket, excluding loading docks and car parks.</li> </ul>
large medical centre	<p>A medical centre that:</p> <ul style="list-style-type: none"> <li>(a) is under single management; and</li> <li>(b) operates for at least 70 hours each week; and</li> <li>(c) has one or more prescribing medical practitioners at the centre for at least 70 of the hours each week that the medical centre operates</li> </ul>
large private hospital	<p>A private hospital that can admit at least 150 patients at any one time in accordance with the private hospital's license or registration under the law of the State or Territory in which the private hospital is located.</p>
large shopping centre	<p>A group of shops and associated facilities that:</p> <ul style="list-style-type: none"> <li>(a) is under single management; and</li> <li>(b) has a gross leasable area of at least 5,000 m<sup>2</sup>; and</li> <li>(c) contains a supermarket that occupies a gross leasable area of at least 2,500 m<sup>2</sup>; and</li> <li>(d) contains at least 50 other commercial establishments; and</li> <li>(e) has customer parking facilities.</li> </ul>
PBS prescriber	<p>Has the same meaning as in Part VII of the Act: a medical practitioner, or a participating dental practitioner, or an authorised</p>

Term	Definition
	optometrist, or an authorised midwife, or an authorised nurse practitioner
pharmaceutical benefit	Has the same meaning as in Part VII of the Act
pharmacy	Has the meaning given by subsection 90 (3AB) of the Act: a business in the course of the carrying on of which pharmaceutical benefits are supplied
Pharmacy Location Rules	National Health (Australian Community Pharmacy Authority Rules) Determination 2018
prescribing medical practitioner	A medical practitioner who provides general practice services to the community in which he or she practises, including the issuing of prescriptions for pharmaceutical benefits
private hospital	Is defined in subsection 3(1) of the Health Insurance Act 1973 and means a hospital in respect of which there is in force a statement under subsection 121-5(8) of the Private Health Insurance Act 2007 that the hospital is a private hospital
proposed premises	The premises at which an applicant proposes to supply pharmaceutical benefits
redundant premises	<p>Premises to which all of the following apply:</p> <ul style="list-style-type: none"> <li>(a) the premises are existing premises in relation to an application;</li> <li>(b) the Authority has recommended that the applicant who made the application be approved under section 90 of the Act in relation to the proposed premises;</li> <li>(c) the pharmacist approved in relation to the existing premises has requested, in writing, that if the applicant is to be approved in relation to the proposed premises, the existing approval will be cancelled immediately before the approval in relation to the proposed premises is granted;</li> <li>(d) the pharmacist approved in relation to the existing premises has ceased to carry on business as a pharmacist at the approved premises;</li> <li>(e) the Secretary: <ul style="list-style-type: none"> <li>(i) is aware of the cessation and of the reason for it;</li> <li>(ii) has agreed to cancel the existing approval only in accordance with a request of the kind mentioned in paragraph (c)</li> </ul> </li> </ul>

Term	Definition
same town	<p>(a) in relation to approved premises – proposed premises are in the same town as approved premises if the proposed premises are in the same town and postcode as the approved premises; and</p> <p>(b) in relation to existing premises – proposed premises are in the same town as existing premises if the proposed premises are in the same town and postcode as the existing premises</p>
single management	<p>For a small shopping centre, a large shopping centre or a large medical centre:</p> <p>(a) means an arrangement in which a single entity, or 2 or more entities working cooperatively under an agreement, are responsible for marketing, maintenance and administration for the centre as a whole; and</p> <p>(b) does not include independent owners or tenants of premises of a building or centre that cooperate:</p> <p>(i) on particular occasions; or</p> <p>(ii) in relation to some but not all of the matters mentioned in subparagraph (a) in relation to the building or centre</p>
small shopping centre	<p>A group of shops and associated facilities that:</p> <p>(a) is under single management; and</p> <p>(b) has a gross leasable area of at least 5,000 m<sup>2</sup>; and</p> <p>(c) contains a supermarket that occupies a gross leasable area of at least 2,500 m<sup>2</sup>; and</p> <p>(d) contains at least 15 other commercial establishments; and</p> <p>(e) has customer parking facilities</p>
supermarket	<p>A retail store the primary business of which is the sale of a range of food, beverages, groceries and other domestic goods</p>