

## **EXPLANATORY STATEMENT**

**Issued by Authority of the Minister for Health and Ageing**

***National Health Act 1953***

### **National Health (Australian Community Pharmacy Authority Rules) Determination No. PB 23 of 2006**

Section 90 of the *National Health Act 1953* (“the Act”) provides that the Secretary may approve a pharmacist to supply pharmaceutical benefits at or from particular premises. The Secretary may only approve a pharmacist if the Australian Community Pharmacy Authority (“the Authority”) has recommended that approval, and the pharmacist is permitted under the relevant State or Territory law to carry on business as a pharmacist.

The Authority is established under Division 4B of Part VII the Act. The function of the Authority is to consider applications by pharmacists for approval to supply pharmaceutical benefits at or from particular premises, and to make recommendations to the Secretary as to whether or not such applications should be approved and, if so, any recommendations as to the conditions (if any) to which the approval should be subject.

In making its recommendations, the Authority must comply with the relevant rules determined by the Minister under section 99L of the Act (“the pharmacy location rules”).

Section 99L of the Act is located in Division 4B of Part VII of the Act. The operation of that Division will cease at the end of 30 June 2010 and, accordingly, the pharmacy location rules and their administration by the Authority will cease to have effect after that date.

This Determination sets out pharmacy location rules that will commence on 1 July 2006 that are based on arrangements agreed as part of the Fourth Community Pharmacy Agreement between the Australian Government and the Pharmacy Guild of Australia. These pharmacy location rules aim to improve community access to pharmacies and provide greater flexibility for relocating pharmacies.

The pharmacy location rules relate to the cancellation of an existing approval in respect of particular premises (and relocation of that approval) and the establishment of a new pharmacy approval in respect of particular premises. The pharmacy location rules describe the circumstances in which the Authority must recommend that a pharmacist be approved under section 90 of the Act in respect of particular premises. The Authority must not recommend approval if the relevant criteria in the pharmacy location rules are not met.

Applications for approval under section 90 of the Act that relate to a change of ownership of a pharmacy or to an expansion or contraction of a pharmacy can be approved by the Secretary without a recommendation by the Authority, therefore these kinds of applications are not subject to the pharmacy location rules. However, under subsection 90(3AF) of the Act the Secretary may, at his or her discretion, refer an application for an expansion or contraction of a pharmacy to the Authority for its recommendation (for example, if an expansion of pharmacy premises were likely to result in a pharmacy being directly accessible from within a supermarket, the Secretary may consider it necessary for the pharmacy location rules to be applied).

Part 1 of the Determination sets out provisions that deal with the names of the Determination, its commencement, the revocation of the current determination made under subsection 99L(1), application and transition provisions, interpretation of key terms and the measurement of distances between premises.

Part 2 of the Determination sets out the circumstances in which the Authority must recommend that an applicant be approved, and the circumstances in which the Authority must recommend that an applicant not be approved.

Schedule 1 to the Determination sets out the different kinds of applications that may be made and the requirements that must be met for each kind of application. Part 1 of Schedule 1 sets out the kinds of applications that involve the cancellation of an existing approval in relation to particular premises (that is, a 'relocation' or an expansion/contraction of approved premises), and Part 2 of Schedule 1 sets out the kinds of applications that do not involve the cancellation of an existing approval, instead these involve the granting of a new approval.

Schedule 2 to the Determination sets out the requirements that must be met for every kind of application. It provides that the Authority must be satisfied that the pharmacist making the application has a legal right to occupy the proposed premises, and that the proposed premises can be used for the purpose of operating a pharmacy. It also provides that the Authority must be satisfied that the applicant will be able to begin operating a pharmacy at the proposed premises within six months of the Authority's recommendation, and that the proposed premises are not directly accessible from within a supermarket.

Schedule 3 to the Determination sets out additional requirements that must be met by applications that involve the cancellation of an existing approval (these are known as relocations). Part 1 of Schedule 3 sets out requirements that apply to every application of this kind. 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 an approval has been in force at the existing premises for at least two years. It also sets out certain exceptions to this two year requirement, for example, to allow for temporary relocations resulting from refurbishment of premises, for relocations within the same large shopping centre, or if there are exceptional circumstances (such examples might include if the existing premises have been damaged by flood or fire).

Part 2 of Schedule 3 sets out additional requirements that apply only to certain kinds of relocations. It provides that an approval granted as a new rural approval cannot be relocated from the rural locality in which it was granted.

Part 2 of Schedule 3 also provides that an existing approval granted within a small or large shopping centre, a private hospital or a large medical centre, cannot be relocated from that facility through a short relocation (up to 1.5 km) unless the Authority is satisfied that there are exceptional circumstances. An example of exceptional circumstances might include if a shopping centre is being redeveloped and all tenants must be temporarily relocated to sites outside of the centre until the redevelopment is complete and new premises are available within the centre.

Finally, Part 2 of Schedule 3 also provides that an existing approval granted as a new approval (general) under this Determination cannot, for a period of five years, move further than 1.5 km from the site at which the approval was granted.

The Determination provides that the Authority will treat any site in respect of which it has recommended approval of a pharmacist as if it were an approved premises (see subsection 6(2)(a) of Part 1). It also provides that, in certain circumstances, if an approved pharmacist has ceased supplying pharmaceutical benefits at or from particular premises, the Authority will not treat that site as an approved premises (see subsection 6(2)(b) of Part 1).

Finally, the Determination defines the meaning of certain terms, such as “large shopping centre” and “commercial establishment”, and describes how distances are to be measured in relation to certain requirements (see section 8 of Part 1).

Further details of the Determination are provided in the **Attachment**.

The Determination commences on 1 July 2006. The Determination will only apply to applications for approval lodged on or after 1 July 2006. Any application lodged before this date will be considered by the Authority against Determination No. PB 8 of 2006 that was in force immediately before 1 July 2006.

The Pharmacy Guild of Australia, the body that represents a majority of pharmacy owners, has been consulted. Medicare Australia, which has the delegated responsibilities under section 90 of the Act, has also been consulted.

**Details of the *NATIONAL HEALTH (AUSTRALIAN COMMUNITY PHARMACY AUTHORITY RULES) DETERMINATION***

**PART 1 – PRELIMINARY**

**1. Name of Determination**

Subsection 1(1) provides that the Determination is called the *National Health (Australian Community Pharmacy Authority Rules) Determination 2006*.

Subsection 1(2) provides that the Determination may also be referred to as Determination No. PB 23 of 2006.

**2. Commencement**

Section 2 provides that the Determination will commence on 1 July 2006.

**3. Revocation**

Section 3 revokes the previous Determination that sets out the current pharmacy location rules, that is, Determination No. PB 8 of 2006.

**4. Application**

Section 4 provides that this Determination applies to an application for approval made on or after 1 July 2006.

**5. Transitional**

Section 5 provides that the Determination that sets out the current pharmacy location rules as in force before 1 July 2006 (Determination No. PB 8 of 2006) will apply to any application for approval made before 1 July 2006.

**6. Interpretation**

Subsection 6(1) defines the common terms used in the Determination. Some examples are set out below:

“PhARIA” – means the *Pharmacy Access/Remoteness Index of Australia* for 2006/07 prepared by the National Centre for Social Applications of Geographic Information Systems, University of Adelaide, current as at 1 July 2006. The PhARIA is available online at [www.gisca.adelaide.edu.au/projects/pharia.html](http://www.gisca.adelaide.edu.au/projects/pharia.html)

“rural locality” – means a locality classified by PhARIA as category 2, 3, 4, 5 or 6.

“single management” – means one or more managers that are cooperatively managing the centre (under an agreement) as a whole, for the purpose of facilitating customer use of the centre as a single integrated facility. It would include managing the security, pedestrian and vehicular access, cleaning, signage, trading hours, marketing and maintenance of buildings, common areas and utilities, for the centre.

Single management does not include owners or tenants that cooperate only on particular occasions or only in relation to some (not all) of the matters described above. For example, a group of shop owners in a shopping arcade might only cooperatively manage the promotion of the arcade over the Christmas shopping period or they may cooperatively manage the arrangements for cleaning and maintenance of the arcade, however, each owner individually manages the marketing and trading hours of their own shop. In these circumstances, the requirement of single management would not be met.

“supermarket” – means a retail store or market, the primary business of which is the sale of a range of food, beverages, groceries and other domestic goods. Reference to a *range* of food, beverages, groceries and domestic goods means that it is the type of store 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 extend to include a department or variety store that has a deli or café section, nor does it include a farmer’s market selling a range of produce.

The *Note* in relation to the definition of “approved premises” makes clear that any reference to premises in respect of which a pharmacist is approved under section 90 of the Act, includes premises in respect of which a pharmacist has been approved by the Minister under subsection 90A(2) of the Act, or a person that has been granted permission by the Secretary under subsection 91(1) of the Act.

*Note 1* and *Note 2* provide that certain terms that are not defined in this Determination, such as “Authority” and “private hospital”, have the same meaning as in either the Act or the *Health Insurance Act 1973*.

Subsection 6(2) expands on the meaning of “approved premises” as including premises in respect of which the Authority has recommended a pharmacist be approved, although the pharmacist may not yet be supplying pharmaceutical benefits from those premises (see paragraph 6(2)(a) of the Determination). It **does not** include premises in respect of which a pharmacist is approved if:

- the pharmacy has ceased trading, with the permission of the Secretary (that is, the Secretary has decided not to cancel the approval under section 98 of the Act); and
- that approval is the subject of an application which has been recommended for approval by the Authority (the approval is being relocated). (See paragraph 6(2)(b).)

In some instances, a pharmacist may cease trading from their pharmacy (original premises) in preparation for a relocation to a new site. If the original premises continue to be treated as approved premises, and an application for approval is made in respect of those original premises or other premises nearby, it may cause delays in the timely delivery of pharmaceutical benefits in that particular area (that is, an application would be unlikely to meet certain distance requirements if the original premises are still considered to be approved premises).

Paragraph 6(2)(b) will ensure that if a pharmacist has ceased trading for the purpose of a relocation, and that relocation has been recommended for approval by the Authority, the original premises will not impact on other applications for approval in that area.

Subsection 6(3) provides that, for the purposes of calculating how many commercial establishments a shopping centre contains, multiple premises that are occupied (or likely to be occupied) by the same business are only counted as one commercial establishment. That is, each commercial establishment must be independent of another.

***Example of how subsection 6(3) operates:***

If a mobile phone business operates (or is likely to operate) from Shop12 on the ground floor of a shopping centre, and the same business also operates (or is likely to operate) from Kiosk 2C on the 2<sup>nd</sup> floor, this will only be considered to be one commercial establishment.

Alternatively, two separate coffee shops of the same company that are operated separately (by different franchisees) would be considered to be independent and therefore be counted as two commercial establishments.

Subsection 6(4) provides that, for the purposes of the restriction on pharmacies relocating more often than every two years (Item 302 of Part 1 of Schedule 3), an approval in a large shopping centre, private hospital or rural locality is taken to have been in force continuously from the time it is first granted within that facility or locality, regardless of any subsequent relocation within that facility or locality. That is, the two year clock that is normally reset after each relocation will continue for as long as the approval remains within that facility or locality.

***Example of how subsection 6(4) operates:***

A pharmacy relocates into a large shopping centre (in accordance with item 110 of Part 1, Schedule 1) and over the next two years relocates to various alternate sites within that shopping centre (in accordance with item 101 of Part 1, Schedule 1). Subsection 6(4) provides that the time the pharmacy has been approved in that shopping centre is cumulative, regardless of relocations within that shopping centre. Therefore that pharmacy may (subject to other relevant rules) relocate out of that shopping centre once it has been in the shopping centre (not necessarily at the same premises) for at least two years.

## **7. Commercial establishments**

Subsection 7(1) makes clear that the meaning of “commercial establishments” is intended to include those premises from which businesses will provide goods and/or services to consumers. It is intended that these types of businesses would attract consumers to a shopping centre.

Paragraph 7(1)(b) provides that those businesses described do not need to be operating in order to be considered a “commercial establishment” for the purpose of the Authority considering an application.

Subsection 7(2) specifies those types of businesses which the term “commercial establishments” does **not** include. For example, it does not include commercial office space such as that used by accountants, architects, insurance companies (other than insurance company shopfronts such as NRMA/RACV and Medibank Private) and the like, government offices or shopfronts (other than Australia Post or ABC shops or Medicare shopfronts), libraries, child care facilities (unless they regularly provides services to shoppers while they shop at the centre), space used for storage, temporary selling points such as those used for sales or promotions, or ATMs and vending machines.

## **8. Measurement of distance between premises**

Subsection 8(1) describes how a straight line distance is to be measured in respect of two premises. Measurements are to be taken at ground level, at the centre of the public entrance door of each relevant premises.

Subsection 8(2) describes how the distance of the shortest lawful access route is to be measured in respect of two premises. Measurements are to be taken at ground level, at the centre of the public entrance door of each relevant premises.

Subsection 8(3) provides that if either (or both) of the premises has more than one public entrance, the distance is a reference to the shortest distance measurement in relation to the two premises.

### ***Note: measuring distances***

All measurements in this Determination are to be taken from the mid point at ground level of the public access door nearest to the other specified premises. The method by which measurements must be taken is specified in the relevant items, and is either straight line or shortest lawful access route.

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 any other legal means of travel, or a combination of these. The route can include travelling through public land such as parks and reserves. It must be one available to most members of the public rather than one catering to persons or groups with specialised needs.

## **PART 2 – RECOMMENDATIONS BY THE AUTHORITY**

### **9. When Authority must recommend approval of applicant**

Section 9 provides that the Authority must recommend approval of an applicant in respect of particular premises if the application meets the requirements specified in either paragraph 9(a) or 9(b).

Paragraph 9(a) applies to an application involving the cancellation of an existing approval (that is, a relocation or an expansion/contraction of existing premises).

Subparagraph 9(a)(i) provides that the application must be one of the kinds of application set out in column 2 of Part 1 of Schedule 1 to the Determination. These items are:

Item 101 – *Relocation within shopping centre or private hospital*

Item 102 – *Relocation within rural locality*

Item 103 – *Expansion or contraction*

Item 104 – *Short distance relocation (1 km)*

Item 105 – *Short distance relocation (more than 1 km)*

Item 106 – *Long distance relocation*

Item 107 – *Relocation to rural locality (additional pharmacy)*

Item 108 – *Relocation to urban locality (additional pharmacy)*

Item 109 – *Relocation to small shopping centre*

Item 110 – *Relocation to large shopping centre*

Item 111 – *Relocation to private hospital*

Item 112 – *Relocation to large medical centre*

Subparagraph 9(a)(ii) provides that the application must meet the requirements associated with that kind of application, as set out in column 3 of Part 1 of Schedule 1. For example, if the application is a *Short distance relocation (1 km)*, the proposed premises must be no more than 1 km, in a straight line, from the existing premises.

Subparagraph 9(a)(iii) provides that the application must meet the requirements of Schedule 2 and Part 1 of Schedule 3. Schedule 2 requires that the Authority be satisfied that the applicant has a legal right to occupy the proposed premises, the proposed premises can be used for the purpose of operating a pharmacy, the applicant will be able to begin operating a pharmacy at the proposed premises within six months of the Authority's recommendation, and the proposed premises are not directly accessible from within a supermarket. Part 1 of Schedule 3 relates to the existing approval and requires that a pharmacist has requested their approval be cancelled for the purpose of the subject application. It also requires that the existing approval has been in force at the existing premises for at least two years or, if not, that the application meets one of the exceptions described.

Subparagraph 9(a)(iv) provides that if the application is of a kind described in Part 2 of Schedule 3 it must meet the associated requirements set out in column 3 of that Part. This relates to the relocation of certain kinds of approvals which have specific restrictions on them. For example, an approval granted as a *Relocation to large shopping centre* (see item 110 of Part 1 of Schedule 1) cannot subsequently relocate out of that centre using a *Short distance relocation* (see item 104 and 105 of Part 1 of Schedule 1) unless the Authority is satisfied that there are exceptional circumstances.

Paragraph 9(b) applies to an application that does not involve the cancellation of an existing approval (that is, a new approval).

Subparagraph 9(b)(i) provides that the application be one of the following kinds of application set out in column 2 of Part 2 of Schedule 1 to the Determination. These items are:

Item 113 – *New pharmacy (general)*

Item 114 – *New pharmacy (rural)*

Subparagraph 9(b)(ii) provides that the application must meet the requirements associated with that kind of application, as set out in column 3 of Part 2 of Schedule 1. For example, if the application is a *New pharmacy (rural)*, the proposed premises must be in a rural locality and at least 10 km, by the shortest lawful access route, from the nearest approved premises.

Subparagraph 9(a)(iii) provides that the application must meet the requirements of Schedule 2. Schedule 2 requires that the Authority be satisfied that the applicant has a legal right to occupy the proposed premises, the proposed premises can be used for the purpose of operating a pharmacy, the applicant will be able to begin operating a pharmacy at the proposed premises within six months of the Authority's recommendation, and the proposed premises are not directly accessible from a supermarket.

## **10. When Authority must recommend applicant not be approved**

Section 10 provides that the Authority must recommend that an applicant not be approved if an application does not meet the requirements specified in paragraph 9(a) or (b).

## **SCHEDULE 1 – KINDS OF APPLICATIONS, AND REQUIREMENTS IN RELATION TO THOSE APPLICATIONS**

Schedule 1 sets out the different kinds of applications that may be made in relation to an existing approval (see Part 1) or a new approval (see Part 2). It also sets out the requirements relevant to each kind of application. As required by section 9 of Part 2 of the Determination, the Authority must recommend that an applicant be approved if it, among other things, meets the relevant requirements set out in column 3 of Schedule 1.

### **SCHEDULE 1, PART 1 – Applications involving cancellation of existing approval**

Part 1 of Schedule 1 applies to applications involving the cancellation of an existing approval, that is, applications to ‘relocate’ an existing approval or to expand or contract existing premises.

#### ***Relocation within shopping centre or private hospital***

Item 101 applies to the relocation of an approval within the same small or large shopping centre or private hospital.

Sub-item 1 requires that the proposed premises are situated within the same small or large shopping centre or private hospital in which the existing premises are situated.

Paragraph 2(a) requires that the existing approval was granted following a recommendation by the Authority in relation to the provisions set out in items 109, 110 or 111 (that is, relating to small or large shopping centres or private hospitals) of this Determination (see subparagraph (i)), or in accordance with the relevant provisions of previous determinations of the pharmacy location rules (see subparagraphs (ii)-(x)). This ensures that, at the time the existing approval was granted, the application satisfied the requirements relevant to that kind of application.

The Determinations detailed at subparagraphs (ii)-(viii) include provisions that relate only to large shopping centres and private hospitals, and those at subparagraphs (ix)-(x) include provisions that relate only to shopping centres (known at that time as regional centres or community centres).

Paragraph 2(b) requires that, if the existing approval was granted as a result of an application of the kind mentioned in subsection 90(3AA) or 90(3AE) of the Act (that is, resulting from a change of ownership or an expansion/contraction respectively), the previous approval was granted following a recommendation by the Authority as described in paragraph 2(a).

#### ***Relocation within rural locality***

Item 102 applies to the relocation of an approval within the same rural locality.

Sub-item 1 requires that the proposed premises are situated in the same rural locality, that is a location classified by PhARIA as category 2, 3, 4, 5 or 6, in which the existing premises are situated.

Sub-item 2 requires that the proposed premises are at least 10 km, by the shortest lawful access route, from the nearest approved premises (not including the existing premises).

#### ***Expansion or contraction***

Item 103 applies to the expansion or contraction of approved premises. It requires that the application is of the kind mentioned in subsection 90(3AE) of the Act, and that it has been referred to the Authority under subsection 90(3AF) of the Act.

Under subsection 90(3AE) of the Act, the Secretary is not required to refer an application to the Authority for consideration where it relates to an expansion or contraction of approved premises. However, under subsection 90(3AF), the Secretary may do so at his or her discretion. For example, the Secretary may decide to refer an application for an expansion of premises to the Authority for consideration if the expansion might result in the premises being directly accessible from within a supermarket, and thereby not meet the requirements set out at paragraph (d) of Item 201 of Schedule 2.

### ***Short distance relocation (1 km)***

Item 104 applies to the short distance relocation of an approval. It requires that the proposed premises are no more than 1 km, in a straight line, from the existing premises. It aims to ensure flexibility for pharmacists to relocate their pharmacies within their local area.

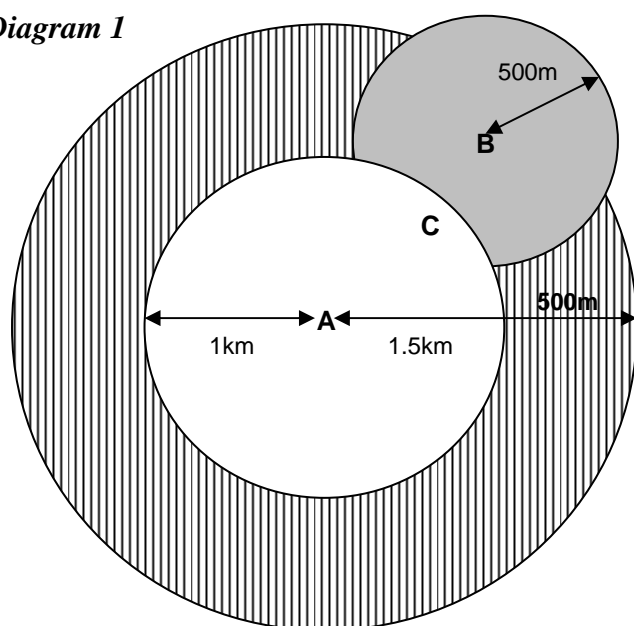
### ***Short distance relocation (more than 1 km)***

Item 105 also applies to the short distance relocation of an approval. It aims to ensure flexibility for pharmacists to relocate their pharmacies within their local area and, in some instances, to limit the clustering of pharmacies.

Paragraph (a) requires that the proposed premises are more than 1 km but no more than 1.5 km, in a straight line, from the existing premises.

Paragraph (b) requires that the proposed premises are at least 500 m, in a straight line, from all other approved premises, not including any approved premises that are 1 km or less, in a straight line, from the existing premises (see *Diagram 1* below).

***Diagram 1***



**A** = existing premises  
**B** = proposed premises

**B** must be at least 500 m from the nearest approved premises that is not within the 1 km of the existing premises (**A**).

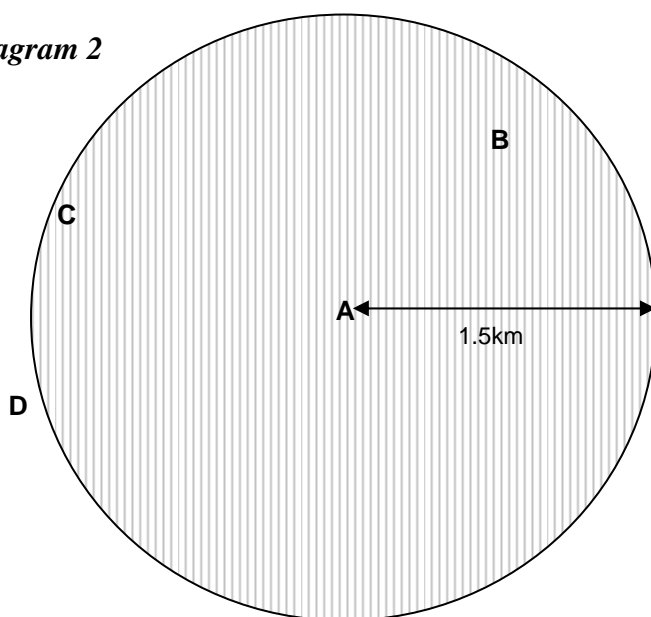
In this example, **B** does not have to be 500 m from the premises at **C** because **C** is within 1 km of the existing premises (**A**).

### ***Long distance relocation***

Item 106 applies to the long distance relocation of an approval. It aims to limit the introduction of additional pharmacies into areas that are serviced by existing pharmacies.

It requires that the proposed premises are at least 1.5 km, in a straight line, from the nearest approved premises. If the proposed premises are less than 1.5 km away in a straight line from the nearest approved premises, the proposed premises must be at least 2 km, by the shortest lawful access route, from each approved premises that are within 1.5 km (in a straight line) of the proposed premises (see *Diagram 2* below).

***Diagram 2***



**A** = proposed premises  
**B, C & D** = approved premises

**A** is less than 1.5 km (straight line) from the nearest approved premises (**B**). Therefore, it must be at least 2 km (shortest lawful access route) from each approved premises that is within 1.5 km (straight line) of the proposed premises (**B and C**).

### ***Relocation to rural locality (additional pharmacy)***

Item 107 applies to the relocation of an approval to a rural locality, into a catchment area with a single pharmacy. It aims to address community need for the supply of pharmaceutical benefits in single pharmacy areas in which the population and generation of prescriptions for pharmaceutical benefits is sufficient to ensure the viability of a second pharmacy.

Sub-item 1 requires that the proposed premises are situated in a rural locality. A rural locality is defined in subsection 6(1) of Part 1 of the Determination as a locality classified by PhARIA as category 2, 3, 4, 5 or 6.

Paragraph 2(a) requires that the proposed premises are at least 200 m, in a straight line, from the nearest approved premises.

Paragraph 2(b) requires that, if an application does not meet the requirement of paragraph 2(a), the Authority must be satisfied that there is a genuine barrier to access between the proposed premises and each approved premises that are within 200 m (in a straight line) of the proposed premises, and the proposed premises must be at least 200 m, by the shortest lawful access route, from each of those approved premises.

Sub-item 3 requires that the Authority is satisfied that the requirements at paragraphs (a), (b), (c) and (d) are met.

Paragraph 3(a) requires that the catchment area for the proposed premises contains a resident population of at least 8,000 for most of the year.

**Note: catchment areas**

In considering a catchment area, the Authority must be satisfied that the catchment area meets the relevant requirements when it considers the application, not that it **will or may** meet the requirements at a future time.

The catchment area of a pharmacy is generally considered to be one in which the population would naturally and reasonably gravitate toward the pharmacy. In considering a catchment area, the Authority will take account of matters such as traffic networks and natural barriers. It will also consider other services or attractions in an area which may influence the flow of the population (e.g. people may be likely to travel further to a shopping centre for their shopping needs rather than to a single corner store that might be closer).

In areas where there is one or more existing pharmacies, the catchment area of a proposed pharmacy is likely to overlap, to some degree, with those of the existing pharmacies.

Paragraph 3(b) requires that the catchment area for the proposed premises contains the equivalent of at least four full-time prescribing medical practitioners that provide general practice services in that area and issues prescriptions for pharmaceutical benefits.

**Note: medical practitioners**

Under subsection 3(1) of the *Health Insurance Act 1973*, a 'medical practitioner' means a person registered or licensed as a medical practitioner under a State or Territory law, and does not include a person whose registration/license has been suspended or cancelled. 'Medical practitioner' has the same meaning in the Act as defined in the *Health Insurance Act 1973* (see subsection 4(1A) of the Act).

For the purpose of this Determination, the requirements associated with a medical practitioner require that the medical practitioner provide general practice services in the relevant community and issues prescriptions for pharmaceutical benefits (see definition of 'prescribing medical practitioner' at subsection 6(1) of Part 1).

The equivalent of a full-time prescribing medical practitioner means any number of medical practitioners who provide the equivalent services of one full-time practitioner. It also includes one medical practitioner who provides the equivalent service of more than one full-time medical practitioner.

Paragraph 3(c) requires that the catchment area for the proposed premises contains only one approved premises.

Paragraph 3(d) requires that the approved premises mentioned in 3(c) has not been involved in an amalgamation with another pharmacy that had previously been approved in the same rural locality, in the three years before the date the subject application was made, other than an amalgamation that occurred on or after 1 July 2006.

***Example of amalgamations:***

On 1 February 2007, a pharmacist makes an application under this provision. In considering whether an amalgamation has occurred, the Authority **must not** recommend approval if:

- the catchment area's existing pharmacy amalgamated with another pharmacy in the rural locality on 1 January 2005 (less than 3 years before this application was made and before 1 July 2006).

The Authority **may** (subject to other rules) recommend approval if:

- no amalgamation has occurred in relation to the catchment area's existing pharmacy; or
- the catchment area's existing pharmacy amalgamated with another pharmacy in the rural locality on 1 January 2007 (less than 3 years before this application was made but after 1 July 2006); or
- the catchment area's existing pharmacy amalgamated with another pharmacy in the rural locality on 1 January 2004 (more than 3 years before this application was made).

***Relocation to urban locality (additional pharmacy)***

Item 108 applies to the relocation of an approval to an urban locality, into a catchment area with a single pharmacy. It aims to address community need for the supply of pharmaceutical benefits in single pharmacy areas which have demonstrated a consistently high population growth.

Sub-item 1 requires that the proposed premises are not situated in a rural locality. This means that the locality must be classified by PhARIA as category 1 – urban.

Paragraph 2(a) requires that the proposed premises are at least 500 m, in a straight line, from the nearest approved premises.

Paragraph 2(b) requires that, if an application does not meet the requirement of paragraph 2(a), the Authority must be satisfied that there is a genuine barrier to access between the proposed premises and each approved premises that are within 500 m (in a straight line) of the proposed premises, and the proposed premises must be at least 500 m, by the shortest lawful access route, from each of those approved premises.

Sub-item 3 requires that the Authority is satisfied that the requirements at paragraphs (a) and (b) are met.

Paragraph 3(a) requires that the catchment area for the proposed premises contains a resident population of at least 8,000 for most of the year, and that the population has grown at least 5% in each of the two years before the application was made.

***Example of population growth:***

The population growth factor must be at least 5% in **each** of the previous two years. This does not mean an average growth rate.

The requirement **would not** be met in the following example – if the population of catchment area X grew:

- 4% in the 12 months before the application was made and 8% in the 12 months before that – an average of 6% each year
- 11% in the 24 months before the application was made – an average of 5.5% each year
- 22% in the 4 years before the application was made – an average of 5.25% each year

These are not acceptable since there is no evidence indicating that the growth rate was at least 5% in each of the relevant years.

The requirement **would** be met in the following examples – if the population of catchment area X grew:

- 6% in financial year 04/05 and 7% in financial year 05/06 (assuming application is made beginning of financial year 06/07)
- 7% in the 12 months before the application was made, and 5% in the 12 months before that.

Paragraph 3(b) requires that the catchment area for the proposed premises contains only one approved premises.

***Relocation to small shopping centre***

Item 109 applies to the relocation of an approval into a small shopping centre. It aims to improve pharmacy access for consumers in shopping centres that are of sufficient size and range of commercial establishments to attract consumers from a larger area than that of the local community.

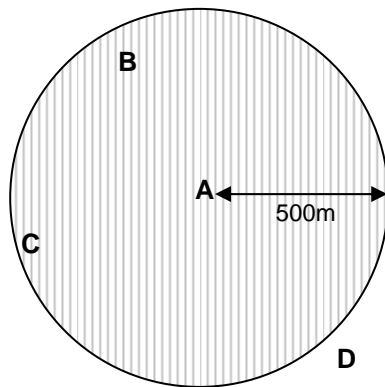
Sub-item 1 requires that the proposed premises are situated in a small shopping centre. Shopping centre is defined at subsection 6(1) of Part 1 as a group of shops and associated facilities that is under single management. Small shopping centre is defined at subsection 6(1) of Part 1 as a shopping centre that:

- (a) has a total gross leasable area of at least 5,000 m<sup>2</sup>; and
- (b) contains a supermarket that occupies at least 2,500 m<sup>2</sup>; and
- (c) contains at least 15 other commercial establishments; and
- (d) has customer parking facilities.

Paragraph 2(a) requires that the proposed premises are at least 500 m, in a straight line, from the nearest approved premises.

Paragraph 2(b) requires that, if an application does not meet the requirement of paragraph 2(a), the Authority must be satisfied that there is a genuine barrier to access between the proposed premises and each approved premises that are within 500 m (in a straight line) of the proposed premises, and the proposed premises must be at least 500 m, by the shortest lawful access route, from each of those approved premises (see *Diagram 3* below).

**Diagram 3**



**A** = proposed premises

**B, C & D** = approved premises

**A** is less than 500 m (straight line) from the nearest approved premises (**B**).

In this case, if the Authority is satisfied there is a genuine barrier to access between the proposed premises and each approved premises that is within 500 m (straight line) of the proposed premises (that is, between **A** and **B** and between **A** and **C**), the proposed premises must be at least 500 m by the shortest lawful access route from each of those approved premises (from **B** and **C**).

Sub-item 3 requires that there are no approved premises within the shopping centre.

### ***Relocation to large shopping centre***

Item 110 applies to the relocation of an approval into a large shopping centre. It aims to improve pharmacy access for consumers in shopping centres that are of sufficient size and range of commercial establishments to attract consumers from a larger area than that of the local community.

Sub-item 1 requires that the proposed premises are situated in a large shopping centre. Shopping centre is defined at subsection 6(1) of Part 1 as a group of shops and associated facilities that is under a single management. Large shopping centre is defined at subsection 6(1) of Part 1 as a shopping centre that:

- (a) has a total gross leasable area of at least 5,000 m<sup>2</sup>; and
- (b) contains a supermarket that occupies at least 1,000 m<sup>2</sup>; and
- (c) contains at least 30 other commercial establishments; and
- (d) has customer parking facilities.

Paragraph 2(a) requires that for a shopping centre with no approved premises, it must contain at least 30 but less than 100 commercial establishments.

Paragraph 2(b) requires that for a shopping centre with one approved premises, it must contain at least 100 but less than 200 commercial establishments.

Paragraph 2(c) requires that for a shopping centre with two approved premises, it must contain at least 200 commercial establishments.

**Note: commercial establishments**

The provisions relating to small and large shopping centres specify that the centre must contain at least a specific number of commercial establishments. A commercial establishment is defined in section 7 of Part 1, and generally means premises from which businesses will provide goods and/or services to consumers. It does not include premises that are occupied (or likely to be occupied) as commercial or government offices, or businesses that are temporary in nature.

In considering an application under either of the shopping centre provisions, 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. In considering this, the Authority will have some discretion and may consider matters such as how much progress has been made on fitting out the relevant premises and how soon the commercial establishments will begin operating.

**Relocation to private hospital**

Item 111 applies to the relocation of an approval into a private hospital. It aims to improve access to pharmaceutical benefits for patients of, and visitors to, the hospital which are drawn from a larger area than that of the local community.

Sub-item 1 requires that the proposed premises are situated in a private hospital.

**Note: meaning of 'private hospital'**

Under subsection 3(1) of the *Health Insurance Act 1973*, 'private hospital' means:

"(a) premises that were, immediately before 1 October 1986, a private hospital (within the meaning of this section as in force at that time), other than premises in respect of which a declaration under subsection 23EA(2) is in force; and

(b) premises in respect of which a declaration under subsection 23EA(1) is in force."

'Private hospital' has the same meaning in the Act as defined in the *Health Insurance Act 1973* (see subsection 4(1A) of the Act)

Sub-item 2 requires that the private hospital does not contain an approved premises.

Sub-item 3 requires that the hospital authority is not approved under section 94 of the Act. Section 94 of the Act provides for the Minister to approve a hospital authority to supply pharmaceutical benefits to patients receiving treatment in or at that hospital. A hospital authority approved under section 94 cannot supply pharmaceutical benefits to the general public.

Sub-item 4 requires that the private hospital is licensed or registered under the relevant State or Territory law:

- (a) to contain at least 150 beds to provide health services to patients; or
- (b) to treat or accommodate or lodge at least 150 patients at any one time.

**Relocation to large medical centre**

Item 112 applies to the relocation of an approval into a large medical centre. It aims to facilitate timely and convenient access to the supply of pharmaceutical benefits for patients of large medical centres that operate extended hours.

Sub-item 1 requires that the proposed premises are situated in a large medical centre. Large medical centre is defined at subsection 6(1) of Part 1 as a medical centre that is under single management and operates for at least 55 hours each week.

Paragraph 2(a) requires that the proposed premises are at least 500 m, in a straight line, from the nearest approved premises.

Paragraph 2(b) requires that, if an application does not meet the requirement of paragraph 2(a), the Authority must be satisfied that there is a genuine barrier to access between the proposed premises and each approved premises within 500 m (in a straight line) of the proposed premises, and the proposed premises must be at least 500 m, by the shortest lawful access route, from each of those approved premises.

Sub-item 3 requires that the Authority is satisfied that the requirements at paragraphs (a) and (b) are met.

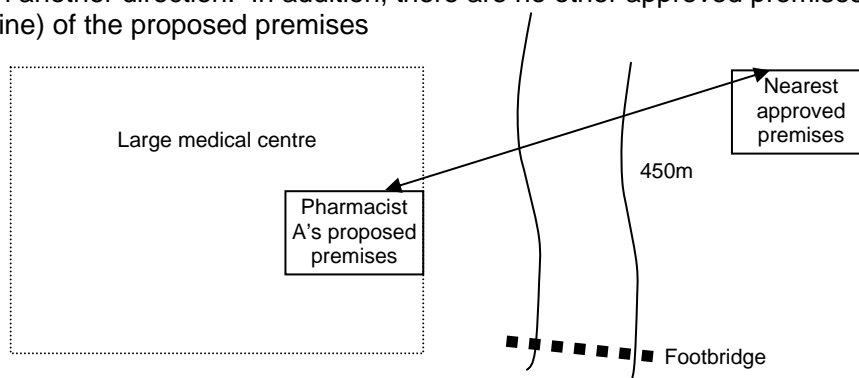
Paragraph 3(a) requires that, on the date the application is made and for the preceding six months, the equivalent of at least eight full-time prescribing medical practitioners that provide general practice services in that centre and issue prescriptions for pharmaceutical benefits, have been practising in that medical centre.

Paragraph 3(b) requires that the applicant will make all reasonable attempts to ensure that the proposed premises' hours of operation will meet the needs of patients of the medical centre. The intention of this provision is to ensure that, as far as is practicable, a majority of patients can access the pharmacy following a consultation by a doctor in that medical centre.

***Genuine barrier to access – example:***

Pharmacist A makes an application under the provision for large medical centre (see item 112 of Part 1 of Schedule 1).

The proposed premises are 450m, door to door in a straight line, from the nearest other approved premises. However, Pharmacist A provides evidence that the nearest approved premises is across a small river, and the nearest crossing of that river is a footbridge which is 200 m away in another direction. In addition, there are no other approved premises within 500 m (in a straight line) of the proposed premises



Depending on the facts, the Authority may form a view that the river is a genuine barrier to access between the two premises and may therefore apply the distance requirement as measured by the shortest lawful access route.

In this example Pharmacist A provides evidence indicating that the shortest lawful access route is 750 m, thus satisfying the requirement.

It is important to note that if the proposed premises are within 500 m of several approved premises, the Authority must be satisfied that there is a genuine barrier between the proposed premises and **each** of those other approved premises.

Other examples of a genuine barrier to access may include other natural obstructions such as a ravine or a body of water, a major highway without direct pedestrian access, or a restricted-access military base.

## **SCHEDULE 1, PART 2 – Applications not involving cancellation of existing approval**

Part 2 of Schedule 1 deals with applications to establish a new pharmacy. These kinds of applications do not involve the cancellation of an existing approval.

### ***New pharmacy (general)***

Item 113 applies to applications for a new approval where there is a community need for the supply of pharmaceutical benefits. It aims to address community need by targeting areas which have no local pharmacy and in which the population and generation of prescriptions for pharmaceutical benefits is sufficient to ensure the viability of a pharmacy.

Sub-item 1 requires that the proposed premises are at least 1.5 km, in a straight line, from the nearest approved premises.

Sub-item 2 requires that the Authority is satisfied that the requirements at paragraphs (a) and (b) are met.

Paragraph 2(a) requires that the catchment area for the proposed premises contains a resident population of at least 3,000 for most of the year.

Paragraph 2(b) requires that the catchment area for the proposed premises contains the equivalent of at least one full-time prescribing medical practitioner that provides general practice services in that area and issues prescriptions for pharmaceutical benefits.

### ***New pharmacy (rural)***

Item 114 applies to applications for a new approval in a rural locality. It aims to address the needs of rural and remote communities that are isolated from pharmacies and, to some degree, other communities.

Paragraph (a) requires that the proposed premises are situated in a rural locality. A rural locality is defined in subsection 6(1) of Part 1 as a locality classified by PhARIA as category 2, 3, 4, 5 or 6.

Paragraph (b) requires that the proposed premises are at least 10 km, by the shortest lawful access route, from the nearest approved premises.

## **SCHEDULE 2 – GENERAL REQUIREMENTS**

Schedule 2 sets out the requirements that every application must meet, regardless of whether the application involves the cancellation of an existing approval or not. As required at subparagraphs 9(a)(iii) and 9(b)(iii) of Part 2 of the Determination, an application must meet the requirements of Schedule 2.

Item 201 requires that the Authority be satisfied that the requirements at paragraphs (a), (b), (c) and (d) are met.

### ***Legal right to occupy proposed premises***

Paragraph (a) requires the applicant to have a legal right to occupy the proposed premises.

For example, the applicant may produce a lease to demonstrate that he or she is leasing the proposed premises, or may produce a rates notice to demonstrate that he or she owns the proposed premises.

If there is more than one pharmacist making the application, the Authority must be satisfied that each pharmacist has a legal right to occupy the proposed premises.

### ***Proposed premises can be used as a pharmacy***

Paragraph (b) requires that the proposed premises can be used under the applicable local government and State/Territory laws relating to land development for the purpose of operating a pharmacy.

For example, the applicant may produce a notice from their local Council that advises that the permitted use for the proposed premises includes operating a pharmacy, or may produce evidence that confirms that the proposed premises are situated on land which is zoned for retail purposes which includes pharmacy usage.

### ***Applicant will begin operating pharmacy from proposed premises within six months***

Paragraph (c) requires that the applicant will be able to begin operating a pharmacy at the proposed premises within six months after 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.

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

Paragraph (d) requires that the proposed premises are not directly accessible, by the public, from within a supermarket.

### **SCHEDULE 3 – REQUIREMENTS FOR APPLICATIONS INVOLVING CANCELLATION OF EXISTING APPROVAL**

Schedule 3 sets out the requirements for an application to relocate an existing approval. As required at subparagraphs 9(a)(iii) and (iv) of Part 2 of the Determination, an application involving the cancellation of an existing approval must meet the requirement of Schedule 3.

#### **SCHEDULE 3, PART 1 – All applications**

Part 1 of Schedule 3 applies to applications involving the cancellation of an existing approval, as set out in Part 1 of Schedule 1, that is, applications to relocate an existing approval that is in force in respect of existing premises, or applications to expand or contract premises.

##### ***Existing approval to be cancelled***

Item 301 requires that the Authority be satisfied that the requirements of paragraphs (a) and (b) are met.

Paragraph (a) requires that the approved pharmacist (that is, either the applicant or any other pharmacist) in respect of the existing premises has requested, in writing, the cancellation of the existing approval immediately before approval in respect of the proposed premises is granted.

Paragraph (b) requires that, if the approved pharmacist in respect of the existing premises has stopping carrying on business as a pharmacist at the existing premises, the Secretary is aware of this and has agreed only to cancel the existing approval in accordance with the request made by the approved pharmacist (noted at paragraph (a)).

##### ***Period existing premises have been approved premises***

Item 302 relates to the period of time the existing approval has been in force. It provides that an existing approval cannot be relocated more often than once every two years, except in specified circumstances. It aims to ensure a degree of stability in the network of approved pharmacies while still allowing some flexibility for relocations that have no impact on other pharmacies.

Item 302 requires that the Authority be satisfied that the requirements at paragraphs (a) or (b) are met.

Paragraph (a) requires that, on the date the application is made, one or more approvals in respect of the existing premises have been in force for a total period of at least two years.

In respect of approved premises which are situated within a large shopping centre, a private hospital or a rural locality, the approval is taken to have been in force continuously from the time it is first granted within that centre, hospital or locality (see subsection 6(4) and the example in relation to that provision on page 6).

Paragraph (b) requires that, if paragraph (a) does not apply, one of the exceptions set out in subparagraphs (i)-(vii) is to be met.

Subparagraph (b)(i) requires that the proposed premises are situated in the same large shopping centre or private hospital in which the existing premises are situated.

Subparagraph (b)(ii) requires that the existing premises are the only approved premises in a particular rural locality and the proposed premises are situated in that same rural locality.

Subparagraph (b)(iii) requires that the purpose of the application is to relocate the existing approval while the existing premises are being renovated or refurbished.

Subparagraph (b)(iv) requires that the proposed premises are renovated or refurbished premises that are substantially the same premises that were previously occupied by the pharmacy at the existing premises (operated by the applicant or the previous owner of the pharmacy).

Subparagraph (b)(v) requires that the application is the result of exceptional circumstances (for example, the existing premises may have been damaged by fire or flood).

Subparagraph (b)(vi) requires that the application involves the cancellation of an existing approval that was granted following an application for an expansion or contraction of approved premises (subsection 90(3AE) of the Act), and the existing and previous approvals have been in force for a total of at least two years. This requirement reflects the view that if the previous approval was granted at least two years prior to the date the application is made, an expansion or contraction that has occurred since that approval was granted has no negative impact on the application.

Subparagraph (b)(vii) requires that the application is for an expansion or contraction of approved premises (subsection 90(3AE) of the Act) and the application has been referred to the Authority under subsection 90(3AF) of the Act. This provides that expansions or contractions of approved premises can proceed if the existing approval has been in force in respect of the existing premises for less than two years.

### **SCHEDULE 3, PART 2 – Particular applications**

Part 2 of Schedule 3 applies to certain applications of the kind described in Part 1 of Schedule 1 (that is, certain applications to relocate an existing approval). As required by subparagraph 9(a)(iv) of Part 2 of the Determination, an application described in an item in Part 2 of Schedule 3 must meet the requirements set out in that item.

#### ***Relocation of new pharmacy (rural)***

Item 303 applies to the relocation of an approval granted as a *New pharmacy (rural)* which cannot, under any circumstances, be relocated from the rural locality in which it was granted. That is, the proposed premises must be in the same rural locality as the existing premises. This requirement applies to an approval granted under item 114 of this Determination or the equivalent provision of a previous determination.

This provision reflects the intention to ensure that pharmacy services are retained in rural localities by requiring that a *New pharmacy (rural)* approval stays in the rural locality in respect of which it was originally granted.

Paragraph (a) provides that the existing approval was granted as a *New pharmacy (rural)*. That is, the existing approval was granted following a recommendation by the Authority in relation to the provisions set out in item 114 of this Determination (see subparagraph (a)(i)), or in accordance with the relevant provisions of previous determinations setting out the pharmacy location rules (see subparagraphs (a)(ii) and (iii)).

Paragraph (b) provides that the existing approval following an application of the kind mentioned in subsection 90(3AA) or 90(3AE) of the Act, that is, a change of ownership or an expansion/contraction (respectively), and that involved the cancellation of the previous approval that was granted in the manner described in paragraph (a).

If the application is of the kind mentioned in Part 1 of Schedule 1 (that is, the relocation of an existing approval) that involves the cancellation of an existing approval that was granted in the manner described in paragraph (a) or (b), the proposed premises must be in the same rural locality as the existing premises.

#### ***Subsequent relocation of new pharmacy (rural)***

Item 304 also applies to the relocation of an approval granted as a *New pharmacy (rural)*. If such an approval has subsequently been relocated in accordance with this Determination or a previous determination setting out the pharmacy location rules, the approval still cannot, under any circumstances, be relocated from the rural locality in which it was originally granted. That is, the proposed premises must be in the same rural locality as the existing premises.

This provision reflects the intention to ensure that pharmacy services are retained in rural localities by requiring that a *New pharmacy (rural)* approval stays in the rural locality in respect of which it was originally granted.

Subparagraph (a)(i) provides that the existing approval was granted following the cancellation of an approval granted as a *New pharmacy (rural)*. That is, the existing approval was granted following a recommendation by the Authority in relation to an application of the kind described in item 303 of this Determination.

Subparagraph (a)(ii) provides that the existing approval was granted following the cancellation of an approval that was originally granted as a *New pharmacy (rural)*. That is, the existing approval was granted following a recommendation by the Authority in relation to an application of the kind described in this item (item 304).

Subparagraphs (a)(iii)-(iv) provide that the existing approval was granted following the cancellation of an approval that had been granted following the cancellation of an approval that had been granted as a *New pharmacy (rural)*. That is, the approval being relocated was originally granted as *New pharmacy (rural)* in accordance with the relevant provision of previous determinations of the pharmacy location rules.

Paragraph (b) provides that the existing approval was granted following an application of the kind mentioned in subsection 90(3AA) or 90(3AE) of the Act, that is, a change of ownership or an expansion/contraction (respectively), and that involved the cancellation of the previous approval that was granted in the manner described in paragraph (a).

If the application is of the kind mentioned in Part 1 of Schedule 1 (that is, the relocation of an existing approval) that involves the cancellation of an existing approval that was granted in the manner described in paragraph (a) or (b), the proposed premises must be in the same rural locality as the existing premises.

***Relocation of pharmacy from shopping centre, private hospital or large medical centre***

Item 305 applies to the relocation of an approval granted within a small or large shopping centre, a private hospital or a large medical centre. It provides that any approval granted as a result of the provisions specifically relating to these facilities cannot subsequently undertake a short distance relocation (see item 104 or 105) unless the Authority is satisfied there are exceptional circumstances.

The provision reflects the intention to stop the practice of “backfilling”, that is, the introduction of an additional approval in a community via a small or large shopping centre, private hospital or large medical centre. It does this by preventing approvals that have been granted within these facilities from relocating a short distance out of the facility, unless there are exceptional circumstances.

Paragraph (a) provides that the existing approval was granted following a recommendation by the Authority in relation to an application of the kind mentioned in item 109 (*Relocation to small shopping centre*), 110 (*Relocation to large shopping centre*), 111 (*Relocation to private hospital*) and 112 (*Relocation to large medical centre*) of this Determination.

Paragraph (b) provides that the existing approval was granted following an application of the kind mentioned in subsection 90(3AA) or 90(3AE) of the Act, that is, a change of ownership or an expansion/contraction (respectively), and that involved the cancellation of the previous approval that was granted in the manner described in paragraph (a).

Paragraph (c) provides that existing approval was granted following a recommendation by the Authority in relation to an application of the kind mentioned in item 101 (*Relocation within shopping centre or private hospital*) of this Determination, and the previous approval was granted in the manner described in paragraph (a) or (b).

If the application is of the kind mentioned in item 104 or 105 (that is, the short distance relocation of an existing approval) that involves the cancellation of an existing approval that

was granted in the manner described in paragraph (a), (b) or (c), the Authority must be satisfied that there are exceptional circumstances. An example of exceptional circumstances might include if a shopping centre is being redeveloped and all tenants must be temporarily relocated to sites outside of the centre until the redevelopment is complete and new premises are available within the centre.

#### ***Relocation of new pharmacy (general)***

Item 306 applies to the relocation of an approval granted as a *New pharmacy (general)* which cannot be relocated more than 1.5 km, in a straight line, from the premises in respect of which the approval was originally granted, that is, the existing premises. This requirement applies to an approval granted under item 113 of this Determination.

This provision reflects the intention to ensure that new approvals that are granted to address a community need remain in that area of need by requiring that a *New pharmacy (general)* approval stays within a 1.5 km radius of the premises in respect of which the approval was originally granted, for a period of five years.

Subparagraph (a)(i) provides that the existing approval was granted as a *New pharmacy (general)*, that is, the existing approval was granted following a recommendation by the Authority in relation to the provision set out in item 113 of this Determination.

Subparagraph (a)(ii) provides that the existing approval was granted following an application of the kind mentioned in subsection 90(3AA) or 90(3AE) of the Act, that is, a change of ownership or an expansion/contraction (respectively), and that involved the cancellation of the previous approval that was granted in the manner described in subparagraph (a)(i).

Paragraph (b) provides that the application is made within five years after the date the approval described at subparagraph (a)(i) was granted.

If the application is of the kind mentioned in Part 1 of Schedule 1 (that is, the relocation of an existing approval) that involves the cancellation of an existing approval that was granted in the manner described in paragraph (a), and is made within the period specified in paragraph (b), the proposed premises must be within 1.5 km, in a straight line, from the existing premises.

#### ***Relocation of new pharmacy (general)***

Item 307 also applies to the relocation of an approval granted as a *New pharmacy (general)*. If such an approval has subsequently been relocated in accordance with this Determination, the approval still cannot, under any circumstances, be relocated further than 1.5 km, in a straight line, from the premises in respect of which the approval was originally granted. This applies to an approval granted under item 113 of this Determination.

This provision reflects the intention to ensure that new approvals that are granted to address a community need remain in that area of need by requiring that a *New pharmacy (general)* approval stays within a 1.5 km radius of the premises in respect of which the approval was originally granted, for a period of five years.

Subparagraph (a)(i) provides that the existing approval was granted following the cancellation of an approval granted as a *New pharmacy (general)*. That is, the existing approval was granted following a recommendation by the Authority in relation to an application of the kind described in item 306 of this Determination.

Subparagraph (a)(ii) provides that the existing approval was granted following the cancellation of an approval that was originally granted as a *New pharmacy (general)*. That is, the existing approval was granted following a recommendation by the Authority in relation to an application of the kind described in this item.

Subparagraph (a)(iii) provides that the existing approval was granted following an application of the kind mentioned in subsection 90(3AA) or 90(3AE) of the Act, that is, a change of ownership or an expansion/contraction (respectively), and that involved the cancellation of the previous approval that was granted in the manner described in subparagraph (a)(i) or (ii).

Subparagraph (b) provides that the application is made within five years after the date the approval was originally granted as a *New pharmacy (general)*.

If the application is of the kind mentioned in Part 1 of Schedule 1 (that is, the relocation of an existing approval) that involves the cancellation of an existing approval that was granted in the manner described in paragraph (a), and is made within the period specified in paragraph (b), the proposed premises must be within 1.5 km, in a straight line, from the site in respect of which the approval was originally granted as a *New pharmacy (general)*.