Australian Government
Department of Health
Therapeutic Goods Administration

Priority determination eligibility criteria

Including supporting documentation

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TGA Health Safety Regulation

Contents

This guidance helps sponsors understand the eligibility criteria and supporting documentation required for a medicine to be eligible for priority determination.

To assist with the process of applying for priority determination, please refer to the guidance on the Priority determination: A step-by-step guide for prescription medicines.

Eligibility for priority determination

If you have not had a pre-submission meeting with TGA to discuss your prospective application for priority determination, or if your pre-submission meeting was more than six months ago, you should notify TGA of your intent to lodge a priority determination application at least one month prior to lodgement. Consider all of the eligibility criteria and supporting documentation before notifying us.

Priority determination eligibility criteria

A medicine may be eligible for priority determination if all eligibility criteria in the table below are satisfied (regulation 16R of the *Therapeutic Goods Regulations 1990* (the Regulations)).

Eligibility criteria for priority determination	
1. Medicine	the medicine is a new prescription medicine **OR** a new indications medicine; **AND**
2. Serious condition	an indication of the medicine (the priority indication) is the treatment, prevention or diagnosis of a life-threatening or seriously debilitating condition; **AND**
3. Comparison against registered therapeutic goods	either: i. no therapeutic goods that are intended to treat, prevent or diagnose the condition are included in the Register (except in the part of the Register for goods known as provisionally registered goods); **OR** ii. if one or more therapeutic goods that are intended to treat, prevent or diagnose the condition are included in the Register (except in the part of the Register for goods known as provisionally registered goods) - there is substantial evidence demonstrating that the medicine provides a significant improvement in the efficacy or safety of the treatment, prevention or diagnosis of the condition compared to those goods; **AND**
4. Major therapeutic advance	there is substantial evidence demonstrating that the medicine provides a major therapeutic advance.

Priority determination

Under subregulation 16R(3) of the Regulations, the priority determination is specific to:

- the priority applicant; and
- each active ingredient of the medicine; and
- the priority indication

The priority determination therefore applies to a specific medicine for a specific indication. The proposed priority indication at the time of determination may be different to that approved at the time of registration as a result of the assessment of the quality, safety and efficacy data submitted with the registration application.

Priority determination for one indication and one medicine

You can apply for only one medicine and indication in a determination application. If you are seeking determination for multiple indications, you must submit one application for each indication.

A registration submission that is a combination of priority and non-priority indications will not be eligible for review under the priority review pathway. However, multiple priority determinations may apply to one registration application.

Combinations of medicines that are not fixed dose combinations require separate applications (one for each component of the non-fixed dose combination).

In vitro diagnostic device use

Supply the following information if your priority determination application is supported by clinical trials where an in vitro diagnostic (IVD) medical device was used to select patients who should or should not be treated, or to monitor patients with the aim of improving the safety or efficacy of the medicine:

- the name of the IVD medical device and the name of the manufacturer of the device; and
- whether the IVD medical device is an in-house IVD medical device (this includes the use of products that are intended by the manufacturer as being for research use only); AND
- if the IVD medical device is included in the Australian Register of Therapeutic Goods (ARTG) provide the ARTG entry number and name of the sponsor; OR
- if aware, provide details on any current application for inclusion of the IVD medical device in the ARTG; OR
- if the IVD medical device is not included on the ARTG, we would appreciate an update on what steps the manufacturer of the medical device might be making to include the product in the ARTG

Supporting documentation requirements

The main body of your application should be no more than 10 pages. Include additional supporting documentation as attachments.

The main body should address:

- justifications for addressing relevant eligibility criteria
- overseas regulatory status

Attachments can include:

- summaries of pivotal studies (e.g. the study synopsis included as part of the body of the clinical study report, or where study synopses are not available, a summary of the study with sufficient detail to inform assessment, a full module 2 summary is not required). Do not submit full study reports
- summaries of any available other important safety data obtained in the preclinical and clinical setting
- where published papers are highly relevant, the full text of such literature (including supplementary appendices)
- other forms of literature references or unpublished reports and expert statements may also be used in addition to the pivotal study summaries but would be considered low-level evidence
- an abbreviations list

Addressing the criteria

We will determine the validity of the justifications against the eligibility criteria on a case-by-case basis. As part of the routine determination process, the extent to which criteria are met will be assessed at the time a decision is made on the application.

Criterion 1: New prescription medicine or new indications medicine

Only certain types of medicines are eligible for priority determination. The medicine must either be a new prescription medicine or a new indications medicine. A definition of new indications medicine and new prescription medicine is found in regulation 2 of the Regulations and reproduced in the TGA glossary.

Criterion 2: Provide a justification of the life-threatening or seriously debilitating nature of the condition

You need to justify the severity of the disease in Australia (i.e. its seriously debilitating or life-threatening nature), based on objective and quantifiable medical information. Your determination application must justify the:

- life-threatening nature of the disease or condition based on figures of mortality and life expectancy in Australia
- seriously debilitating nature of the condition based on morbidity over the course of the disease and its consequences on patients' day-to-day functioning

The serious debilitation or fatal outcome should be a prominent feature of both the target disease or condition and therapeutic indication, i.e. affect an important portion of the target population. The therapeutic indication is the proposed indication for ARTG registration, based on the proposed indication at the time of the determination application.

Criterion 3: Comparison against registered therapeutic goods for diagnosis, prevention or treatment

You must establish that:

i. there are no registered therapeutic goods for diagnosis, prevention or treatment of the condition in question included on the ARTG,

   OR

ii. if such therapeutic goods exist that the medicine will provide a significant improvement in efficacy or safety over those goods.

Any reference to a registered therapeutic good must be limited to the conditions of the relevant register entry. Therefore, a medicine that is administered or applied outside the approved product information ('off-label' use) cannot be considered an existing therapeutic good for the purposes of the Regulations.

Provisionally registered goods on the ARTG are excluded from this comparison.

Registered therapeutic goods

You must review therapeutic goods included in the ARTG for diagnosis, prevention or treatment for the proposed indication in Australia, and provide:

- details of any registered therapeutic goods for diagnosis, prevention or treatment (Overview table of Trade name(s), holder of the ARTG entry, and the registered indication) **AND**
- either:
  - a declaration that there are no registered therapeutic goods in Australia in accordance with ARTG entries at the date of determination application lodgement **OR**
  - a justification demonstrating a significant improvement in safety or efficacy against registered therapeutic goods **AND**
- a justification that the new indication should be considered if the medicine is already registered for a similar condition.

Justification of significant improvement in safety or efficacy

You must demonstrate that there is substantial evidence that the medicine provides an advantage over registered therapeutic goods for the indication that is the subject of the determination application (for treatment, prevention or diagnosis of the condition) by addressing either of the following:

- improved efficacy for the entire population relevant to the therapeutic indication; OR
- a better safety profile for the entire population relevant to the therapeutic indication

If new goods for the diagnosis, prevention or treatment of your proposed indication are included on the ARTG after you lodge your application, you will have the opportunity to submit a further justification of significant improvement in safety or efficacy in relation to those goods before a decision is made on your application.

Supporting evidence should be based on clinical trial data. Increased safety or efficacy should be demonstrated through established safety and efficacy endpoints that demonstrate direct clinical benefit.

Comparator studies are expected to be generated (pivotal study reports). Scientific argument/justification for the significant improvement in safety or efficacy of the medicine relative to products not studied in available clinical trials (this may involve cross study comparisons) may be considered.

For a claim of improved efficacy or safety (eligibility criterion 3,ii), we will evaluate whether there is a high probability that patients will experience a clinically relevant benefit. Therefore, this claim has to be supported by robust evidence from summaries of full study reports that form the basis of the intended registration application, and justifications presented by the sponsor.

The evidence/data must be considered in light of the particular characteristics of the condition (life expectancy, symptoms) and the registered medicines for the treatment, prevention or diagnosis of the proposed therapeutic indication.

The TGA will not assess significant benefit against comparators that are a subject of concurrent determination or registration applications, those that are the subject of a provisional registration submission that is under review by TGA, or medicines that are currently provisionally registered.

For diagnostic agents you should consider diagnostic performance (sensitivity and specificity), predictive values and likelihood ratios, among other endpoints. Further information is available in the Guideline on Clinical Evaluation of Diagnostic Agents. You should justify safety in the same way as for all medicines.

Criterion 4: Justification of major therapeutic advance

Your determination application must provide a justification that there is substantial evidence that the medicine is a major therapeutic advance based on the following aspects:

- the magnitude of the demonstrated improvement in safety and/or efficacy
- endpoints that directly demonstrate clinical benefit
- the impact on patient outcomes taking into account both safety and efficacy
- the magnitude of the advance in relation to other therapeutic goods registered for the indicated population. Where no product is on the ARTG, the comparison should occur against the standard of care
- the strength of evidence (general TGA adopted guidelines about appropriate trial design apply)

You must include an assessment of the **magnitude** of the demonstrated improvement in safety or efficacy based on established safety and efficacy endpoints. The demonstration of a medicine's clinically significant benefit based on improved safety and/or efficacy is not sufficient. Rather, there should be demonstration of a major benefit, i.e. beyond the level that could be described as clinically significant (e.g. a major improvement in mortality endpoints). Even if the benefit appears in one aspect only, you must assess the overall impact on patient outcomes taking into account both safety and efficacy. Patient-reported outcomes may be provided, but are not a universal requirement (depending on the setting).

The medicine should provide a therapeutic advance, in comparison with other registered therapeutic goods, by addressing a major or urgent unmet need for Australian patients in a substantial way. You must describe how and to what extent the medicine is expected to fulfil a major or urgent unmet medical need with reference to the therapeutic goods registered for the indicated population, the importance of the effects of the proposed medicine, and the added value of the proposed medicine.

The description of the strength of evidence should include a brief outline of the main available evidence (e.g. number and type of clinical trials with clear delineation of pivotal versus supporting studies, sample size, design and key results) on which the claim is based. In this context, weak data evidence would be weighted less than comprehensive data evidence. Refer to the section above for further information on cross study comparisons.

A medicine that demonstrates significant improvement in safety or efficacy may constitute a major therapeutic advance if for example, the medicine that demonstrates cure rates that are considerably higher than those observed in previous treatment options, while also replacing a standard treatment which has poor tolerability and potential for serious side effects.

Related applications for priority determination and orphan drug designation

Related applications for priority determination and orphan drug designation may be submitted simultaneously or separately.

The proposed therapeutic indication for priority must be identical to, or a subset of, the orphan indication. You may wish to submit joint justifications for overlapping criteria. The table below sets out circumstances in which joint justifications are permitted.

Conditions under which joint justifications are permitted

Eligibility criteria	Description	Applies to priority determination (PD) /orphan designation (OD)	Joint justification permitted
New medicine	the medicine is: • a new prescription medicine **OR** • a new indications medicine	PD,OD	Yes
Serious condition	the medicine is indicated for the treatment, prevention or diagnosis of a life threatening or seriously debilitating condition	PD,OD	Yes
Comparison against existing therapeutic goods	there are no therapeutic goods registered in Australia (excluding provisionally registered goods) that are indicated for the treatment, prevention or diagnosis of the condition	PD,OD	Yes
Improved safety or efficacy	there is substantial evidence demonstrating that the medicine provides a significant improvement in efficacy or safety (or both) over therapeutic goods registered in Australia (excluding provisionally registered goods)that are indicated for the treatment, prevention or diagnosis of the condition	PD (may apply to OD)	May be permitted
Major therapeutic advance	there is substantial evidence demonstrating that the medicine provides a major therapeutic advance	PD	No

Eligibility criteria	Description	Applies to priority determination (PD) /orphan designation (OD)	Joint justification permitted
Significant benefit	if there are therapeutic goods registered in Australia (excluding provisionally registered goods) that are indicated for the treatment, prevention or diagnosis of the condition, the medicine represents a significant benefit over these therapeutic goods	OD	May be permitted when addressing safety and efficacy, but not where a major contribution to patient care is addressed
Orphan prevalence threshold or lack of financial viability	the medicine is intended for the treatment, prevention or diagnosis of a condition affecting not more than five in 10 thousand persons in Australia when the application is made **OR** it is unlikely that it would be financially viable for the sponsor of the orphan drug to market the medicine presentation in Australia without a waiver of the application and evaluation fees that would otherwise apply for the registration of the medicine (and, where relevant, the priority determination fee)	OD	No
Medical plausibility	1. the rationale for use of the medicinal product in the proposed orphan indication is established 2. where the orphan indication refers to a subset of a particular condition, a justification of the medical plausibility for restricting the medicine in the subset is required	OD	No

Version history

Version	Description of change	Author	Effective date
V1.0	Original publication	Policy and Reform Facilitation, Prescription Medicines Authorisation Branch	June 2017
V1.1	Minor text corrections	Policy and Reform Facilitation, Prescription Medicines Authorisation Branch	July 2017
V1.2	• Text corrections • The term priority determination replaces priority designation • Movement of definitions to the TGA glossary	Policy and Reform Facilitation, Prescription Medicines Authorisation Branch	August 2018
V1.3	Minor edit Update to currency of data required for criteria assessment	Prescription Medicines Authorisation Branch	April 2021

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