

Guidance on applying to become a Specialist Vape Retailer

This guide is to help you consider whether you and your premises may be eligible for approval as a specialist vape retailer, and if so, to help you navigate the application process.

These applications are made under the Smokefree Environments and Regulated Products Act 1990 (the Act). The purpose of the Act, as it relates to vaping, is to regulate vaping products in a way that seeks to minimise harm, especially harm to young people and children. One of the ways the Act seeks to ensure its purpose is fulfilled, is by permitting Specialist Vape Retailers (SVRs) to only operate from appropriate premises.

This guide is not a checklist or an exhaustive list of criteria, and each application is considered on its own merits. It is important to remember that complying with the following information does not guarantee approval.

Before you start

Firstly, you must make sure your proposed store meets the considerations for approval.

[Information for or about Specialist Vape Retailers | Ministry of Health NZ](#)

There are important requirements, as well as additional considerations, that the Director General must be satisfied are met before they can consider an application for premises to be AVP. Only retail premises can be an AVP, so if your premises are not retail premises, or they are not permitted to be retail premises, we may not be able to consider your application.

The application is made up of two main parts: an SVR application for your business, and an approved vaping premises (AVP) application for each store that you want to be an AVP. You must submit an SVR application and at least one AVP application before we can begin our assessment. Separate stores (retail locations) must each have their own AVP application. Internet sites also need a separate application, called an approved internet site (AIS).

During the application, you will be asked for information about yourself and your store, including contact details and address. You do not need to complete the application all at once - you can save and close your application at any time and come back to complete it later. However, it is important that you do not submit your application until it is complete.

If you have bought, or are planning to buy, an existing AVP and wish to operate as an SVR under a different business entity to the one that was approved previously, you will need to submit a new AVP application (and an SVR application if you are not already an SVR in

respect of another premises). This is because neither the SVR nor the AVP license can be transferred between businesses.

Be aware that if a premises has been approved to be an AVP in the past, this does not guarantee that a new application for the same premises will be approved. Applications are always assessed at the time they are made, and under the legislation that is in force when the application is received by the Ministry of Health.

Throughout this guide, if you are applying on behalf of a business entity (company, partnership, trust, etc.) then 'you' refers to that entity, but if you are applying as an individual or sole trader then 'you' refers to you.

For more information regarding scenarios of ownership changes and the actions to be taken in these scenarios, please refer to our webpages: [Information for ownership changes | Ministry of Health NZ](#).

You must pay the assessment fee for each application before we can begin our assessments. Please be aware that even if you comply with everything listed in this document, this does not guarantee your application will be approved. This guide is intended to help you, but each application will be assessed individually on its own merits.

Determining if my store meets the legal requirements

The Act says that the Director-General of Health must not approve an application to become a Specialist Vape Retailer in respect of specified retail premises unless they are satisfied the application meets the requirements in and under the Act. These requirements are summarised on the Ministry of Health (the Ministry) [webpages](#).

We aim to operate a fair and transparent process so we will only consider up to three iterations of any single application before deciding whether to approve or decline it. You are generally expected to provide all the information the Ministry requires to assess your application with your initial submission.

However, we understand you may not fully understand what is required, or overlook some key supporting information, and after reviewing your application, we may ask for clarification or more information from you in **no more than two requests**. You will need to respond within the time listed in the request letter or email (typically 10 business days).

If, after your initial application and two further opportunities to respond to our requests for further information, the Ministry still cannot make a full assessment, or the information you have provided does not satisfy the Ministry that you or your premises meet the prescribed requirements, your application may be declined.

Appropriate premises from which to operate

The Act prohibits the Ministry from approving an SVR in respect of a premises unless we are satisfied that the store is an appropriate premises.

To help prevent the normalisation of vaping, the Ministry considers that an AVP must operate separately from other adjacent premises. When assessing an AVP application, the Ministry will therefore consider whether the premises has separate, independent entry ways that are accessible directly from a public thoroughfare, such as a common footpath or walkway in a mall.

When considering whether your premises are appropriate to be an AVP, it may be worth thinking about whether a member of the public would consider it to be a separate retail premises from other adjacent premises.

Fixed permanent structure

An AVP must be a fixed permanent structure. That means the store must be fixed rather than mobile, and cannot be easily moved, and that it is permanent rather than temporary, and cannot be easily deconstructed.

Applications for caravans or other temporary structures that can be easily moved or deconstructed, are unlikely to be approved.

Sales threshold

The Act requires 70% of the total sales from an AVP to be from the sale of vaping products.

However, there are limited exceptions where a threshold of only 60% may apply. For example, businesses that are in very remote rural areas, where it would not be feasible to operate a business selling *only* vaping products may be permitted to meet a 60% sales threshold. You will be asked about this in the application, and you will need to send supporting information if you select 60%.

Location requirements

New specialist vape retailers (SVRs) cannot be approved if they are located within 300 metres of registered schools and marae. To be approved, new SVRs have to be at least 300 metres away from a school or marae.

For more information please refer to:

- [Location requirements for approval of specialist vape retailers](#)

Characteristics of an appropriate premises

Below is a list of considerations the Ministry may use to assess applications. This is not a definitive list but is here as a guide. Depending on your application, it may not be declined if your store is unable to meet all of these considerations, and your application may not be approved even if your store meets all of these considerations.

Whether any emissions within the AVP would be able to pass directly into any other place where people are working

All walls and doors around an AVP that are shared with any premises that is not an AVP must reach from floor to ceiling and be sealed to stop any vaping aerosol from passing out of the store into any other place where someone is working. This is because vaping is permitted inside AVPs, but it is prohibited in other workplaces, we may consider a proposed premises inappropriate where vaping emissions are able to pass directly from an AVP into a separate workplace.

Whether staff would always be present in the AVP when it is open, so they are able to carry out age-checks before people enter

We usually expect at least one member of staff to be inside the AVP when it is open to carry out age checks before a person enters the store.

It would not generally be acceptable for staff to be shared with another retail store and go into the vape store when they hear a customer enter, for example, because they would be unable to prevent a person who is under 18 from entering the store.

Whether the AVP would have clearly identifiable points of entry, which do not permit under-18s

The entrance to an AVP must be easily recognisable, as it must be clear to people exactly where the age restricted entry zone begins. The public should be able to easily identify where the store's boundary begins.

An SVR must take all practicable steps to prevent under-18s from entering their AVP. This applies to each point of entry to the store, including staff entrances.

Whether the AVP would be directly accessible from a public thoroughfare

The Ministry considers that an AVP must be directly accessible from a public thoroughfare, such as a public footpath or the public area in a mall. People must not be required to pass through private property or another business's premises to enter a vape store.

The main customer entrance(s) to an AVP must be directly accessible from a public thoroughfare.

Examples

It would generally be appropriate for customers to enter the vape store directly from the pavement, from within a mall, from a public arcade, from a public accessway, or from another thoroughfare that is open to the public.

It would not generally be appropriate for customers to enter the vape store by going through another retail store, a dairy, an office, a house, a private driveway, or any other place that is not a public thoroughfare.

Whether the AVP would be a public place, meaning that the public are able to enter the premises during advertised opening hours

An AVP must be considered a retail premises and therefore must be in a 'public place', this means that generally it cannot be reliant on another store or building being open for customers to gain access. The public should expect to be able to access the store during its published opening hours.

Examples

It is unlikely to be appropriate for a store to be locked with a sign telling customers to ask staff at a neighbouring business to let them in and sell them vaping products.

A store may be considered appropriate if its customer entrance is generally locked to prevent under-18s from entering the premises, and staff who are present within the store grant customers access after checking their age. Note that this store would not generally be considered appropriate if staff only came to the vape store when they were alerted that a customer wished to enter, as staff would normally be present in a retail store during its published opening hours.

Whether customers would be served inside the AVP, and whether there would be a point of sale inside the AVP

These two considerations mean that customers must be served inside the store and cannot be standing anywhere that is not inside the AVP. The point of sale (ie, the till or EFTPOS machine) must also be inside the vaping store.

Example

It would not generally be considered appropriate for a customer to be standing outside of the AVP and served through a window.

Whether the primary purpose of the AVP would be to sell vaping products.

The primary purpose of an AVP should be to sell vaping products. Adult customers can purchase other products, as long as the store maintains the 70% (or 60% if applicable) sales threshold.

Whether the entranceway to the AVP is separate from the entranceway to any other premises

Whether the AVP's doorway is separate to the doorway of any other premises

These two considerations mean that the entranceway and the doorway must both be completely and securely separate to that of any other premises. This is so that the AVP is clearly separate retail premises, and so each premises can operate completely independently from each other.

Whether the AVP's entrance door operates completely independently from any other premises' entrance door

This means that the entrance door into your store must be able to operate independently to any other door. It would not normally be appropriate for you to divide an existing double doorway in half to create two doors.

Additional information required

General information

When considering whether to approve an application for a specialist vape retailer, the Director General must be satisfied that the applicant understands their obligations under the Act (including, but not limited to, in regard to sales to minors). Please be aware that you must be able to demonstrate understanding of these obligations. Once approved, a specialist vape retailer approval can be cancelled if the retailer does not show an understanding of these obligations.

Section 14(2) of the Act requires an SVR to take all practicable steps to **prevent minors from entering** their AVP.

Section 40 of the Act states that a person must not sell a regulated product to a person younger than 18 years; or having sold a regulated product to a person of any age, must not

deliver it, or arrange for it to be delivered, to a person younger than 18 years. No one under 18 years old is allowed in an AVP at any time, including young children accompanying a parent or guardian. This also applies to staff – they must be at least 18 to work in an AVP. It is not sufficient to simply stop minors from buying products once they are inside your store.

You will also be asked about staffing arrangements in your store. You should include details about the number of owner-operators, employees, contractors, volunteers, and who will work there. You will also be asked whether you will share staff with any other businesses, and if so, how this will be managed.

It is a condition of an approval that you continue to comply with this regulation. To meet this condition, you will need ensure your store remains compliant with all relevant aspects of the law. Failure to do so may result in the cancellation of your approval.

Legal name, trading name and advertising

When making an application to be an SVR, you must provide us with the full legal name of the entity that is to become the SVR. In the case of a sole trader, this will be the full name of that person. Where the proposed SVR will be a company, you should provide that company's name as it appears on the Companies Register.

If you have a trading name, which is the name your store will trade under (which may be different from the legal name of your business), you will need to include this in your application.

Please be aware that the Act prohibits references to regulated products in a store's signage, as this is considered prohibited advertising. However, there is an exemption for an SVR to use 'vape' or a vaping-related word at the outside of their AVP if it is part of the store's business or trading name.

If you have the word 'vape' or its derivatives in your business or trading name, signs with that name can only be on the outside of the store itself, or immediately in front of it. You will not generally be able to display references to vaping anywhere else on the outside of your premises, as this is likely to be prohibited as a vaping product advertisement.

Prohibited advertising also includes pictures, words, etc. that relate to smoking and vaping, including aerosol, vapour and smoke.

Section 2(1) of the Act defines a regulated product advertisement and section 23 prohibits people from publishing them or arranging for them to be published. However, a number of exemptions to the general prohibition are provided in Part 2 of the Act.

Unless an exemption applies, advertising must not encourage the use, promote the sale, or notify the availability of vaping products. Vaping products include vaping substances such as e-liquids or 'vape juice' as well as e-cigarettes and other vaping devices such as those used with heated tobacco products.

See Part 2, Subpart 1 of the Act for more information on displaying products and price lists inside your AVP.

It would generally be acceptable for life-size images of vaping products to be displayed inside an AVP in place of an actual product in order to reduce the risk of theft.

Photos and supporting files

You will need to provide enough photographs of your premises to show the entire space of your proposed AVP, as we do not visit every store before we assess applications.

Your application should include photographs of:

- the entire inside of your premises
- any internal doors and where they lead
- floor-to-ceiling walls
- point(s) of sale
- required signage and display notices
- entranceways from inside and outside
- how customers will approach and enter the premises.

Please also supply detailed floor plans, including measurements of the store and all entrance way(s), including staff entrances. This should show the store's orientation in relation to the footpath/public thoroughfare.

Other useful information before you decide to apply for approval

It is important that you understand your legal obligations. You can find the relevant legislation [here](#), and further information on the Vaping Facts website [here](#).

You can see our compliance alerts on our website [here](#).

If you are thinking about buying an existing vape store, you still need to consider whether the premises will meet the current requirements, as SVR approvals cannot be transferred between legal entities, and the premises may no longer be appropriate to be an AVP. There have been multiple law changes relating to SVR and AVP approvals, and new applications for stores that were approved before these changes will not be approved unless they are able to meet the current requirements.

If you want to sell the full range of vaping products online, you must already have an AVP (i.e., a physical store) before you apply for an internet site (AIS).

General vape retailers (retailers that sell vaping products but aren't approved SVRs) are only permitted to sell vape juice that is only tobacco, mint or menthol flavour. They can sell those products in retail stores and/or online.

All general vape retailers must register with the Ministry of Health to tell us that they sell notifiable products. This is called a 'notification', and they must re-notify annually.

During the assessment process, you may also be asked to demonstrate compliance with other legislation, where relevant, or that you have relevant consents for your premises to be able to operate as a retail premises.

Permissions and approvals from other agencies

If your application for an AVP is approved, this may have an impact on other licences or approvals you may have under other legislation. For example, if your AVP is on floor space that is currently included in an alcohol licence floor plan, this may impact your alcohol licence and you should discuss this with your alcohol licencing authority.

It is your responsibility to make sure that you meet all requirements and consents under other legislation, such as resource consents, building consents and advertising standards, to operate your proposed new business. In some situations, we may decline your application to become an AVP where we are not satisfied that you meet such requirements and failure to meet them would mean your premises are not appropriate to be an AVP.

Please consider these factors and seek professional advice if you are not sure about any of the above. The Ministry cannot assist or provide advice to help you to comply with requirements outside of SERPA.

Conditional approval for specialist vape retailers

If you apply, but your vape shop is not ready to open when you submit your application, the Ministry may grant 'conditional approval' if the planned details of your store meet all the requirements for approval.

This means the Ministry approves your application with conditions, which would usually include that your finished store is the same as what you tell us it will be in your application. A conditional approval gives you some assurance you will be granted a full approval if you meet all the conditions of the conditional approval when you're ready to open. It means you can invest in setting up your store with some confidence.

It is important to note that a conditional approval is not a full approval. You cannot begin trading as a specialist vape retailer (SVR) until you receive full approval – even if you have already been given conditional approval. You need full approval before you can start trading from your new shop. When you are ready to open, you need to contact the Ministry to be given full approval.

The Ministry will assess your application based on how you plan to meet the requirements of the Act. These requirements include being appropriate premises from which to operate, ensuring that your shop is a fixed and permanent structure, and demonstrating you understand what is required from you once the store has been fully approved.

What information do we need before granting conditional approval?

The Ministry needs all the following information when you submit an application before we can give you conditional approval:

1. A floorplan of the proposed vape store layout that must show:

- the customer entrance (which is directly accessible from a public thoroughfare), and
- point of sale (POS)
- any shelving, cabinet
- any internal doors, and
- where the proposed vape store is located in relation to any other businesses.

2. Photos of the inside of the proposed vape store to show:

- the layout of the store
- the location of the POS
- the location of any shelving, and
- whether the proposed vape store will occupy the whole retail space, or if not how the store is separated from the rest of the retail space, and where the entry is.

Note that specialist vape stores cannot be located inside another store, and must have a separate entrance onto a public thoroughfare,

3. Photos of the outside of the proposed vape store to show:

- the customer entrance, and
- how the proposed customer entrance would be directly accessible from a public thoroughfare.

4. A proposed **opening date**, which needs to be within 6 months of submitting your application.

Please note acceptable floorplan formats include: building or architect plans (can be 2 or 3-dimensional), construction drawings (like blueprints), digital line drawings or hand drawn floorplans.

Annotated photos of the store location, relative to existing buildings or businesses, can also be useful to show where the proposed vape store would be located.

To make sure that your proposed vape store will meet requirements, please carefully review the [guidance document \(pdf, 133KB\)](#) before submitting your application. Please also note that the vape store must be finished construction and be operational no more than 6 months after the application date, otherwise conditional approval will be cancelled.

Once approved

You must make sure that everything you told the Ministry as part of your application remains true, and that you continue to comply with all relevant requirements. If anything about your business changes, please let the Ministry know.

We may place conditions on your approval. You will need to be aware of these conditions and ensure your store continues to comply with them, or your approval may be suspended or cancelled.

If you want to make any significant changes to your store you must let the Ministry know, as this may impact your approval.

Approvals cannot be transferred between locations or legal entities (e.g., if you sell your business to another individual or company) so a new application for approval would need to be submitted if the premises or the legal entity changes. Remember that each application is assessed based on the criteria in place when the application is submitted, so premises that were approved under previous criteria may not be approved again.

You also need to keep records and file annual returns with the Ministry. You can find out more about record keeping [here](#), and annual returns [here](#).

Step-by-step guide to filling out your application

This section takes you through each application question and provides clarity on what information the Ministry needs.

1. The applicant details section asks for information about the legal entity that will own the businesses (i.e., sole trader, limited company, partnership etc), and the name of the director/manager/contact person who will operate the business. More information on legal entities and business types [here](#).
2. The vaping premises section asks for the address of the store you are applying to trade from.
3. The planned opening date is the date you intend to start trading, for example when construction work is expected to finish. Remember that you cannot start selling products until you have received approval from the Ministry.
4. We need to understand details of your staffing arrangements, including how many staff you will have and whether they are part time or full time. Remember that all staff must also be at least 18 years old.
5. You need to provide details of the steps you will take to make sure that no-one under the age of 18 years enters your vape store. An SVR is required to take all practicable steps to prevent under-18s from entering their AVP, and you must explain how you will meet your obligations. It is not acceptable to say you will check their ID at the counter.
6. We require supporting files to be satisfied that you are able to meet your obligations under this act:
 - You are required to provide evidence that you will meet the sales threshold declared in your application. This may include sales records or a business plan if you are going to sell other products from the store as well as vaping products.
 - You are required to provide evidence that you understand your obligations under the Act to prevent under 18s entering your approved vaping premises. This may include but not limited to staff manual/procedures, training plans and records.
 - You are required to provide evidence that you understand your obligations under the Act to ensure regulated products are not sold to under 18s in your approved vaping premises. This may include but not limited to staff manual/procedures, training plans and records.
7. The registered address is the address for your business that is registered with Companies Office.
8. We require photographs of the premises before we can approve your application. The Ministry often needs to ask for additional photos/videos/a floor plan etc, so send as many photos as is required to show every part of your store inside and out. Please include any storage rooms, signage and the locations of point-of-sale machines. Given the requirements for AVPs to be separate retail premises, we specifically ask you to supply photos of each entrance/exit from the premises, and to let us know where they lead.

9. Lastly, you will be asked to make a 'declaration'. You must agree to tick boxes in this question which are in regards to:
- stating that everything you have told us in your application is true,
 - that you understand your legal obligations and have the necessary permissions and consents required to operate as a retail store,
 - a confirmation that the AVP is fully enclosed,
 - and declaring the store's 'sales threshold' (the proportion of the store's sales that comes from vaping products).

For the sales threshold, you will be asked to tick one of three boxes:

- Vaping products make up 70% of your sales
This applies to most businesses, even if you have not opened yet. If you haven't opened yet, you can estimate this based on whether you have any other (non-vaping related) products for sale.
- Vaping products will make up 70% of your sales in the near future
This refers to businesses that do not meet the 70% sales threshold for vaping products when the vape premises opens, and you must supply documentation or evidence to support your plan to reach 70%, by a date agreed upon with the Ministry.
- Vaping products make up 60% of your sales
You must supply evidence to explain why your businesses meets the strict requirements for this lower threshold.