# Submission to the Australian Federal Government consultative process on reform to the WET rebate eligibility criteria.

INSERT DATE, YEAR: 26 September 2016

INSERT NAME, WINERY NAME: Glen Kelly, Artwine

As a wine producer concerned with the future of our industry, I feel it important to participate in the consultation process regarding proposed changes to the Wine Equalisation Tax rebate, and in particular the definitions of ‘eligible producer’ under the act. My response to the Government’s discussion questions are as follows:

1. **For rebatable wine, is the proposed definition of packaged and branded wine appropriate?**

Yes, the definition of packaged and branded wine is appropriate.

**If a trademark approach is used, what types of trademarks should be permitted (e.g. exclusively licensed trademarks) and what would be the impact?**

Common law and registered trademarks should be permitted, licenced trademarks permitted unless they entitle one business or associated businesses access to multiple rebates.

1. **For eligible producers, how should a winery ownership and leasing test be applied? What should be the nature and extent of investment in the wine industry required to access the rebate, and how can this be implemented?**

No asset tests, ‘significant interest’ or ‘skin in the game’ tests should be required. See below for further explanation. Any eligibility criteria based on asset levels introduces unnecessary complexity and regulation, will be difficult to implement and administer, will be easily circumvented, and will exclude some legitimate producers.

1. **What is the impact from a 1 July 2019 start date of the tightened eligibility criteria? How might this change from an earlier transition period?**

If eligibility criteria must be tightened, the transition period should allow time for businesses to effectively restructure their operations to minimise disruption and to reflect the long lead times from production decision to commercial sale.

While questions 1 and 3 are important issues, for my business and livelihood question 2 in particular is critical. I offer the following supporting information:

As the government’s discussion paper has noted, there are many successful non-traditional business models operating in the Australian wine Industry today. The government’s discussion paper goes some way to acknowledging this, but under any of these proposed alternative definitions my particular business model would still be ineligible.

Artwine commenced in the wine industry (albeit under a different name which has been changed, although ABN remains the same) in 1997 when the company was established to purchase a vineyard.

That vineyard was subsequently sold, but we now own two vineyards in the Clare Valley and a third in the Adelaide Hills. In total we own about 25 hectares of vineyards, and continue to plant vines on vacant land on two of our three properties. We also have an architecturally designed, purpose-built Cellar Door on our Woodside SA (Adelaide Hills) vineyard.

This year (2016) we purchased grapes for the first time – Gruner Veltliner – in order that we could be part of the Gruner movement in the Adelaide Hills. Other than that, we produce all of our own fruit, and also sell a considerable volume to other significant wine producers.

Overall we are at the forefront in Australia of producing wines from “Alternative” varieties. In addition to the traditional grape varieties we grow Tempranillo, Graciano, Albarino, Montepulciano, Fiano, Prosecco and Viognier. The level of vineyards we have produce considerable employment as well as generating income for suppliers of posts, wire, chemicals and the like.

At present we run our Cellar Door with the assistance of three staff and are looking to add another in the short term.

Our winemaking is subcontracted to two different winemakers, as our volumes (we currently crush about 60 tonnes per year) do not justify the expense of setting up a ‘winery’. Furthermore, we would be highly unlikely to obtain Council consent to construct a ‘winery’ on our home property, even if we could afford to, because of environmental factors.

Because most of our wines are made in relatively small ‘batches’ – usually between 200 and 300 dozen per wine, our costs of production are significantly higher that many larger wine companies. The ability to claim the Wine Equalization Tax allows us to price our products at a competitive price and at the same time generate sufficient income to be profitable. Should we be excluded from the Wine Equalization Tax simply because vineyards and Cellar Door do not classify as a ‘winery’ our profitability would be abolished and we would need to either close our Cellar Door or undertake all service ourselves to eliminate the staff costs.

The Government is ignoring state regional and national industry bodies, all of whom agree that there is no need for asset based eligibility criteria for the WET rebate.

Independent financial modelling undertaken by PWC for the Winemakers Federation of Australia has clearly demonstrated that almost all of the so called ‘rorting’ of the rebate and recuperation of lost taxation revenue can be remedied by simply eliminating the rebate for bulk and unbranded wine, and by tightening the rules regarding ‘associated entities’ claiming multiple rebates.[[1]](#endnote-1) I, my regional association, state association and national industry body are all supportive of these measures.

I do not, however, support the recommendation of the Government’s Consultative group (Oct 2015) that

*“The business owns or leases one out of three of a vineyard, winery (production facilities or fermentation facilities) or cellar door outlet*” [[2]](#endnote-2)

Any imposition of ‘skin in the game’ or asset based eligibility criteria unfairly penalises younger and new entrants to the industry, who do not have the financial capacity to secure major leases and asset purchases.

The WET rebate has enabled many quality brands to emerge and contribute positively to the Australian wine landscape. These are the innovators, the ones who have been able to take risks with new styles, new varieties and new packaging. They have helped create a fertile and vibrant wine market that is necessary to capture the imagination of the next generation of educated wine consumers. Many of these producers could never have survived beyond the first few vintages given the ‘perfect storm’ of adverse market conditions seen in the wine industry over the past five years. Several of these young producers are now among Australia’s brightest stars, championed by domestic and international wine journalists and the world’s hottest restaurants and bars. They are the future of our wine industry, and if nurtured they will invest back in the industry, in vineyards, wineries, and other links in the supply chain.

Innovation in the wine industry should be encouraged and supported, particularly at a time when the industry desperately needs to shed its ‘commodity’ image and instead be known for quality, uniqueness, and driving new wine trends. Other agricultural industries are being actively encouraged to develop low-asset business models, and to utilise existing infrastructure. This is fundamentally efficient. The government however appears to be encouraging the wine industry to do the opposite.

As a long-term, committed wine producer, I implore you to remove the ‘lease or own a winery’ provisions and any associated physical asset-based criteria for eligibility for the WET rebate. Such changes will likely cause significant collateral damage to my business and to the future of our industry.

Yours sincerely,



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1. PWC report to WFA, Appendix F: *Returning WET Rebate to Fairness and Original Policy Intent - Supporting Advice on the Impact to Government Revenue,* 2015, pp iii-vi [↑](#endnote-ref-1)
2. *Wine Equalisation Tax Rebate Consultative Group report* October 2015, p 5. [↑](#endnote-ref-2)