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

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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 explaination. 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.

I began making wine in a garage in 2002, whilst studying my Master’s degree in Wine Technology and Marketing at Monash University. I have no family history in the wine industry and was not fortunate enough to inherit a family wine business or the means to acquire a vineyard. I started in the industry I love by doing what many others have done before me – buying some grapes, cobbling together some basic equipment, finding a shed and giving it a go. Since then I have gone on to establish a very small, high quality brand that is sold in the top restaurants in the country, to virtually every top independent retailer, and to a loyal mailing list. We produce approximately 3000 cases annually and now export to the UK as well as sell domestically. Just yesterday our top wine, which retails for $75 per bottle, was reviewed by one of the country’s top critics as “This has ‘classic’ written all over it.” 96/100 points.

Given the capital intensive nature of our industry and the 2 year lead times between production and sale, I decided to run an ‘asset light’ business model. I don’t own the vineyards, and I make my wines in an existing winery to whom I pay a per-tonne processing fee. I concentrate on doing what I do well – making good wine and managing a small brand.

Since 2003 I have poured hundreds of thousands of dollars into the regional communities that grow our grapes and bottle our wine – our current grape bill alone is over $70,000 per annum, not to mention the $50,000 per year spent at contract bottling facilities and similar amounts spent at our contract winery provider. This model has worked for my business in as far as it reduces risk, keeps me out of debt, and frees up some working capital to take my product to market and attempt to compete against the larger players.

That said, the $50,000 or so that I claim as WET rebate basically means the difference between a wage for me as effectively a sole trader, and non-viability. I would certainly close my business were it not for this assistance. This would mean the hundreds of thousands of dollars I spend in regional areas annually would cease also.

The government’s proposal to tie the WET rebate to significant asset ownership would mean I would have to contemplate investing capital I don’t have (acquiring debt) to buy an asset I don’t want or need, just to continue to stay in business. This makes absolutely no sense when one considers the excess vineyard and winery infrastructure already operating in the industry. My business needn’t add to that.

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.

Sincerely,

Rory Lane

Director, winemaker

The Story Wines

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)