



Australian Government

Geographical Indications Committee

Applications for Australian Geographical Indications

Guidelines

Geographical Indications Committee

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Who May Apply?

Section 40R of the *Wine Australia Act 2013* (Cth) (*Wine Australia Act*) sets out who may apply for the determination of an Australian geographical indication. The Geographical Indications Committee (GIC) can only accept applications from those persons or organisations described below.

40R Applications for determinations

Any of the following may apply in writing to the Committee for the determination of a geographical indication in relation to a region or locality in Australia:

- (a) a declared winemakers organisation;
- (b) a declared wine grape growers organisation;
- (c) an organisation representing winemakers in a State or Territory;
- (d) an organisation representing growers of wine grapes in a State or Territory;
- (e) a winemaker;
- (f) a grower of wine grapes.

Fees

The application fee is \$27,500 (inc GST) and must be paid before an application is accepted. Additional fees may be charged as necessary on a cost-recovery basis. Applications can be made to the GIC for a reduction of the fee.

Note: The following general comments are provided for the guidance of applicants only, and are not to be considered as authoritative legal advice. Applicants should consult the relevant sections of the *Wine Australia Act 2013* and the *Wine Australia Regulations 2018* (*Regulations*) for further information. Copies of these documents are available via Wine Australia's website – www.wineaustralia.com

Criteria for Applications for New Australian Geographical Indications

There is no standard application form for applying for a new Australian geographical indication, however, the application must address each of the criteria set out in section 57 of the *Regulations*. The criteria are set out in the table below.

Section	Criteria
57(1)(a)	Whether the area usually produces at least 500 tonnes of wine grapes in a year
57(1)(b)	Whether the area includes at least 5 wine grape vineyards of at least 5 hectares each that do not have any common ownership (whether or not it also includes smaller vineyards)
57(1)(c)	Whether the area is a single tract of land
57(1)(d)	The degree to which the grape growing attributes of the area are (i) uniform; and (ii) different from the grape growing attributes of neighbouring areas
57(1)(e)	The history of the founding and development of the area (as ascertained from local government records, newspaper archives, books, maps and other relevant material)
57(1)(f)	Natural features within the area, including rivers, valleys, hills and other topographical features
57(1)(g)	Construction features in or near the area, including roads, railways, towns and buildings
57(1)(h)	The boundary of the area suggested in the application
57(1)(i)	The degree to which the geological formation of the area is: (i) uniform; and (ii) different from the geological formation of neighbouring areas
57(1)(j)	The degree to which the climate of the area is uniform, having regard to the temperature, atmospheric pressure, humidity, rainfall, number of hours of sunshine and any other weather conditions experienced in the area throughout the year
57(1)(k)	Whether the date of harvesting a particular variety of wine grapes is expected to begin in the area is the same date on which harvesting grapes of the same variety is expected to begin in the neighbouring areas
57(1)(l)	Whether all of the area is within a natural drainage basin
57(1)(m)	Whether water is available from an irrigation scheme: (i) to a similar extent throughout the area; and (ii) to a different extent compared to availability in neighbouring areas
57(1)(n)	The degree to which the elevation of the area is: (i) uniform; and (ii) different to the elevation of neighbouring areas
57(1)(o)	Whether there are any plans for the development of the area proposed by Commonwealth, State or municipal authorities and, if so, whether the development would affect the uniformity of the area or its distinctness from neighbouring areas
57(1)(p)	Whether there are any relevant traditional divisions within the area
57(1)(q)	Whether there is a common history of grape and wine production in the area, and whether it differs from the history of neighbouring areas

1. Proposed Name

The application must indicate the proposed name for the geographical indication and the approximate size of the proposed area. If the proposed area falls within the boundaries of one or more registered geographical indications, the application should indicate the names of those geographical indications.

2. Details of Applicant

The application must indicate the name and address for notices of the applicant. If the applicant is an industry association a copy of the association's Certificate of Incorporation, Articles of Association or Constitution and an up-to-date membership list must be lodged with the application.

The application may also be accompanied by evidence of support including:

- any minutes of meetings where membership voted on and formally approved the application;
- evidence of support from your State or Territory wine grape growers' body;
- evidence of support from your State or Territory winemakers' body.

3. Eligibility Criteria

To be eligible for determination as a GI, sections 57(1)(a)-(c) requires that a grape growing area must:

- usually produce at least 500 tonnes of grapes per year;
- include at least five wine grape vineyards of at least five hectares each (that do not have common ownership); and
- be a single tract of land.

The application should include evidence that the eligibility criteria has been made out by providing the names and addresses of at least five independently owned wine grape vineyards, each with a minimum of five hectares of vines, together with evidence of a combined annual production of at least 500 tonnes of wine grapes.

It is recognised that the reporting of individual tonnages from each vineyard may require the disclosure of confidential information. The GIC may make direct contact with the named vineyards to establish this information should disclosure present any difficulties for the vineyards or the applicant body.

4. **Textual Description**

In addressing s 57(1)(h), a comprehensive textual description of the proposed boundary must be written and lodged with the application. The text must identify the map used as a starting point and any changes in maps, and it must only refer to the natural features, man-made features, names, grid references etc that are identified on the maps. The text must commence at a well-defined starting point and follow a clockwise direction.

5. **Maps**

Two copies of the map used to describe the boundary must be provided with the application; one set marked-up with the proposed boundary and one un-marked set. Indicate the title, name of publishers and date of issue of all maps used to describe the proposed boundary.

Quality, commercially available topographical maps with official standing and appropriate grid reference and of a suitable scale are required. Photocopies or extracts from street directories or tourist maps are not acceptable.

The purpose of the maps is to define each boundary at a particular 'moment in time'. Any future changes that may take place due to council amalgamations or the future shifting of highways or changes to other man-made features will not affect the validity of the determined boundary in relation to the declared maps.

6. **History of the Area**

In addressing sections 57(1)(e) and 57(1)(q), the application should detail the general history of the founding and development of the area within which the proposed region is located. A short history of major towns or other important features should be provided, together with information on the extent to which the proposed name is known within, as well as outside, the area.

Trace the history and development of grape growing and wine making in the proposed area from the time grape vines were first planted until the present day. Indicate the sources of this information.

7. **Grape Growing Attributes**

In addressing the grape growing attributes listed in sections 57(1)(d),(i),(j),(k),(l),(m),(n), the application should include measurable or substantial data. The specific grape growing attributes that must be addressed include:

- i the degree to which the grape growing attributes of the area are uniform and different from the grape growing attributes of neighbouring areas;

- ii the geological formations and features of the area and the degree to which they are uniform and different from the grape growing attributes of neighbouring areas;
- iii the degree to which the climate of the area is uniform in respect of temperature, atmospheric pressure, humidity, rainfall, hours of sunshine, or other weather conditions;
- iv comparisons between the usual date of harvest of the same variety(s) of wine grape(s) in the proposed area and neighbouring areas;
- v whether part or the whole of the area is within a natural drainage basin, and if so, which basin;
- vi the availability (or otherwise) of water from an irrigation scheme, and if so, details of the extent of the scheme, volumes and water quality (dry land irrigation from private bores or drip irrigation from private dams is not considered to be a part of a defined irrigation scheme); and any differences in irrigation schemes compared to availability in neighbouring areas;
- vii the degree to which elevation of the proposed area is uniform and different from the grape growing attributes of neighbouring areas; and
- viii any other grape growing attributes you believe are pertinent to this application. Details should be provided where available of the ability (or otherwise) of the proposed area to produce uniform crops of specified varieties of grapes.

8. Development Plans

In addressing s 57(1)(o), the application should provide details of any plans for the development of the proposed area that have been approved or are proposed by Commonwealth, State or Municipal authorities known to you which could affect the application.

9. Publication

The application should include the name of the most suitable local newspaper to carry the official publication of the proposed determination.

The 11 Stages in Processing Applications for Australian Geographical Indications

1. Application

The GIC, a statutory committee established under section 40N of the *Wine Australia Act*, has, under section 40P of the *Wine Australia Act*, the function and power to determine the name and boundary of a geographical indication (GI), either on its own initiative or on application from a person or body specified in section 40R of the *Wine Australia Act*.

Applications must be made in writing and should address each of the criteria for determining geographical indications outlined above and set out in the *Regulations*.

To allow public comment, applications made to the GIC, including any supporting documents, will be made public by the GIC during the period following an interim determination.

2. Trade Mark Evaluation

An application cannot be considered until trade mark owners (or those with applications pending) or other persons have been invited to object, through the Registrar of Trade Marks. Oppositions can be made to the Registrar of Trade Marks on the grounds that determination of the proposed GI is likely to cause confusion with an existing trade mark or that the proposed GI is used in Australia as the common name of a type or style of wine or as a name of a variety of grapes. The grounds of objection to the determination of a GI based on pre-existing trade mark rights are set out in section 40RB of the *Wine Australia Act*. Decisions by the Registrar of Trade Marks can be appealed in the Federal Court.

3. Evaluation

Upon receipt of advice from the Registrar of Trade Marks, the GIC will evaluate the information provided and will normally seek to arrange informal consultations with the applicant and other organisations or persons it thinks appropriate.

It should be noted that the GIC is not bound to accept either the boundary or the name submitted in an application.

4. Consultation

The GIC is obliged to consult with declared winegrape grower and winemaker organisations in respect of every application.

The declared organisation is Australian Grape and Wine (AG&W).

The GIC may, at its discretion, consult with other interested parties.

5. Formal Consideration of Application

At the conclusion of these preliminary consultations, and once the GIC has satisfied that it has sufficient information to make an informed decision, the GIC will then formally consider the application, and the applicant may be invited to appear.

Applications are assessed against the criteria set out in section 57 of the *Regulations*.

An interim determination by the GIC will normally follow.

6. Interim Determination

The GIC will make an interim determination which is published in a national newspaper, on the Wine Australia website, and in the relevant region's local newspaper.

Comments/submissions from interested parties must be considered by the GIC prior to making a final determination. The notice will allow a period of no less than one month from the date of publication of the notice for submissions in relation to the determination to be received.

To allow public comment, applications made to the GIC, including any supporting documents, will be made public by the GIC during the period following an interim determination.

7. Consideration of Comments

Following the receipt of any public comment in respect of the interim determination, the GIC will evaluate the substance of these comments against their original considerations of the application. The GIC must then decide whether or not to uphold the original interim determination or to vary the name or boundary in light of the additional information provided during the public comment process.

8. Consultation

The GIC is again obliged to consult with the declared winegrape grower and winemaker organisation in respect of the interim determination and any comments received, and may consult again with any other organisations or persons it thinks appropriate.

9. Final Determination

A final determination may only be made by the GIC after it has considered written submissions received during the public comment process.

The GIC must publish a further notice setting out the final determination and setting out the details.

The notice must also include a statement to the effect that applications for a review of the determination may be made to the Administrative Appeals Tribunal (AAT) within 28 days of the publication of the notice of final determination by or on behalf of any person whose interests are affected by the determination.

10. Review Process

Applications for the review of a final determination may be made to the AAT within 28 days. Appeals against an AAT decision can be lodged with the Federal Court.

If an application has been made to the AAT for a review of the final determination, the proposed name and the boundary of an Australian geographical indication may not be entered into the Register of Protected Geographical Indications and Other Terms until the AAT matter, and any subsequent appeals, have been finalised.

11. Registration

If no appeals are lodged, or if appeals are not successful, the GIC will advise the Chairperson of Wine Australia and the Registrar of Protected Geographical Indications and Other Terms that the final determination of the Australian geographical indication may be entered into the [Register of Protected Geographical Indications and Other Terms](#).

The final determination takes legal effect on the day on which the particulars of the determination are entered in the Register.

Once a GI is entered onto the Register of Protected Geographical Indications and Other Terms, the blending rules apply to it. This means that if the single GI is used, at least 85 per cent of the fruit used to make the wine must have been sourced from within the boundary of the GI. Use of registered GIs is regulated by Wine Australia through its [Label Integrity Program](#).

The inclusion of a geographical indication in the Register affords strong legal protection to the name, and enables the future prosecution of any person or organisation found to be using the registered name in a false or misleading manner in any description or presentation of wine in Australia or an agreement country overseas.