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

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Caroline Mooney, Bird on a Wire Wines

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, under any of these proposed alternative definitions my particular business model would POTENTIALLY BE ELIGIBLE HOWEVER:

I currently lease a winery in the Yarra Valley and am going through a renegotiation process now with the landlord. What is being revealed is how tenuous a Commercial Lease and can be for a tenant with far fewer regulatory safety nets compared to a retail lease.

Despite my intentions to lease a property for the purpose of winemaking the shear nature of the existing system and the lack of availability of winemaking venues mean that it is a generally unlikely scenario for most small producers.

The fact that I have an opportunity to go through this negotiation with the landlord is in itself a rare situation and should the terms be unreasonable I will be forced to make wine at someone else’s winery.

* My business has been running since 2008 and became a company a couple of years later.
* I have been in the industry since 1994.
* I am 43 years old.
* I started my business with $10,000 in my back pocket.
* I now process approximately **30 - 35 tonnes** of premium Yarra Valley fruit.
* I make around 2300 cases
* I export to the UK
* I sell domestically to Australia’s best restaurants including **Grossi Florentino, Aria & Tetsuyas**.
* I make Super premium wine from some of the most sort after vineyards in the Yarra Valley.
* My wines retail for **$35 - $40** per bottle
* I pay more for my fruit because I buy fruit that is in high from QUALITY VINEYARDS and big companies drive prices up.
* This has been a labor of love. Up until 2014 I worked alone processing every last grape ON MY OWN all the way to bottle.
* I am the sole employee outside of vintage.
* I now employ people over vintage. Usually aspiring young people.
* I am fiercely independent but not cashed up so can’t afford to buy land in the Yarra Valley.
* I grew up here in the Yarra Valley and my parents farmed here and still do.
* **This is me** <https://birdonawirewines.com.au/>

*As mentioned, as it stands now I believe I would meet the new criteria, however, that could change tomorrow through no fault of my own.*

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]](#footnote-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]](#footnote-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,

**Caroline Mooney**

Winemaker/ Owner/ Director



**Mobile:** +61 439 045 000

51 Symons Street

Healesville VIC 3777

Australia

**Email:** caroline@birdonawirewines.com.au

**Twitter:** [@birdonawirewine](http://twitter.com/birdonawirewine)

[birdonawirewines.com.au](http://birdonawirewines.com.au/)

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 [↑](#footnote-ref-1)
2. *Wine Equalisation Tax Rebate Consultative Group report* October 2015, p 5. [↑](#footnote-ref-2)