



Australian Government

Wine Australia

Guidelines for Applications for the determination of Australian Geographical Indications

GEOGRAPHICAL INDICATIONS COMMITTEE

Wine Australia

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WHO MAY APPLY?

Section 40R of the *Wine Australia Act 2013* sets out who may apply for the determination of an Australian geographical indication. The Geographical Indications Committee 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

An application fee of \$27,500 is charged on a cost recovery basis. Applications can be made to Wine Australia for a reduction of the fee.

THE 11 STAGES IN PROCESSING APPLICATIONS FOR AUSTRALIAN GEOGRAPHICAL INDICATIONS

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 (Wine Australia Act)* and the *Wine Australia Regulations 2018 (Regulations)* for further information. Copies of these documents are available via Wine Australia's website, www.wineaustralia.com

1. APPLICATION

The Geographical Indications Committee (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 using the official application form, and should address each of the criteria for determining geographical indications set out in the *Wine Australia Regulations*.

2. TRADE MARK EVALUATION

On receipt of an application, the GIC must publish notice of the proposed GI inviting persons to make written objections to the Registrar of Trade Marks in relation to the proposed GI on the grounds of pre-existing trade mark rights (section 40RA).

The GIC cannot proceed with the application until advised by the Registrar of Trade Marks that either no objections were lodged within the stipulated timeframe, the Registrar of Trade Marks has considered any objections received and makes a recommendation that the application should proceed, or any objections are withdrawn or satisfactorily resolved.

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 organisations are the Australian Vignerons and the Winemakers' Federation of Australia.

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 must publish a notice indicating that an interim determination has been made and setting out the details. 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.

7. CONSIDERATION OF COMMENT

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 the 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 organisations 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

Where 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 Names until the AAT matter, and any subsequent appeals, have been finalised.

11. REGISTRATION

Where no appeal has been lodged with the AAT or any appeal has been finalised, the GIC will advise the Chairperson of the Australian Grape and Wine Authority 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.

The inclusion of an Australian 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.