Submission — Sunsetting Review of the Wine Australia Regulations 2018 (Cth)

Rules for a Fine Wine Industry

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Who Is Writing

I make wine in the Adelaide Hills. Ochre Nation grows, buys, makes, bottles and exports wine under the Unico Zelo label and holds a Wine Australia export licence; Parts 3 and 4 of the Regulations touch my business several times a year.

The Argument in One Paragraph

The Regulations were written for an industry whose strategy was volume — reliable, sunny, generous, inexpensive. That strategy worked, and it is now the constraint: structural oversupply at the bottom, and at the top no recognised way to be specific. At the low end Australia is outcompeted on labour cost and distance to market, whatever the rules say. Fine wine is the one part of the market where those two things do not decide the outcome — and the one part these Regulations have no vocabulary for. They protect origin and truth — which grape, which year, which place — and have almost nothing to say about quality. Nothing in them asks a producer to farm small, keep old vines, grow without irrigation or be particular about a single site; nothing lets a producer who does prove it; and nothing gives the regulator a proportionate way to act when someone claims it falsely. Every proposal here is the same shape: **an option, not an obligation.** This is not a European appellation regime: no producer is told what to plant or how to farm; the only rule is that a claim must be true. A producer who claims nothing owes nothing new. A producer who claims Old Vine, Single Vineyard, Dry Grown or a conditioned subregion earns the right to say so through records the industry already keeps.

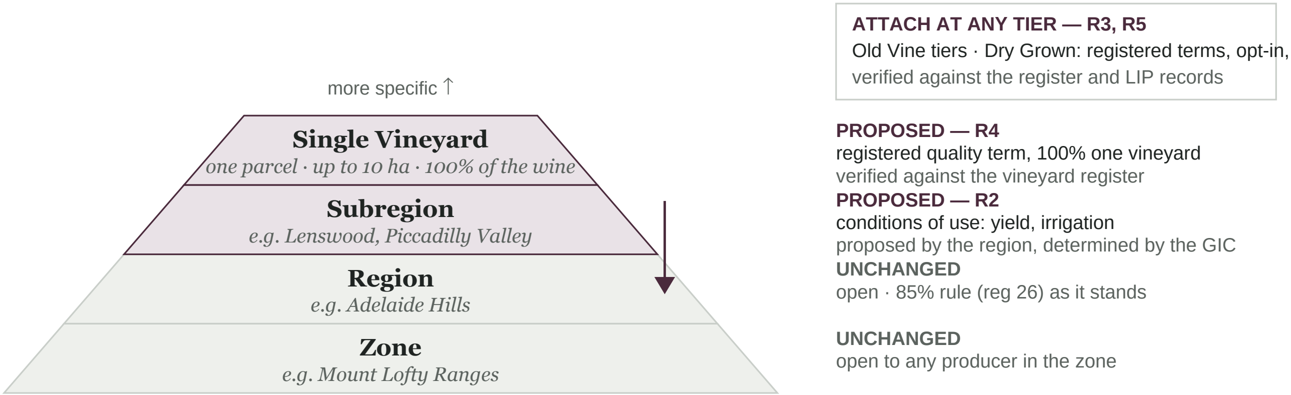
Summary of Recommendations

R1	Remove the two size thresholds in reg 57(1)(a)–(b) — 500 tonnes, and 5 hectares per vineyard — and keep the requirement for five vineyards in separate ownership. Replace the thresholds with an evidence standard. Leave the application fee where it is. *(Q10, Q21)*
R2	Activate the conditions-of-use power the Act already contains (s 40T) for subregional GIs: yield and irrigation only, proposed by regions, determined by the Geographical Indications Committee, ratcheted over time. Fruit outside the conditions labels at the regional GI. *(Q4, Q5, Q7, Q10)*
R3	Register the four Barossa Old Vine Charter tiers as quality wine terms in Part 3 of the Register, age tiers unchanged and with the Association's agreement, stacked with a water condition, verified against the vineyard register. *(Q4, Q5)*
R4	Register "Single Vineyard" as a quality wine term: one vineyard as defined in reg 57(2), no larger than 10 hectares, 100% of the wine. *(Q4, Q5)*
R5	Register "Dry Grown" as a quality wine term, with a defined and limited emergency allowance. *(Q4, Q5)*

R6 Give Wine Australia a proportionate enforcement toolkit — infringement notices, civil penalties, enforceable undertakings. *(Q12, Q13)*

R7 Draft all of the above as opt-in. The 85% rules in Part 4 and the export framework in Part 3 stay as they are. *(Q15, Q18, Q20)*

R8 *Beyond the Review's scope, but material:* move the wine grapes levy base from tonnes to value. *(Q28)*



The proposed hierarchy. The two lower tiers are unchanged and open; the shaded tiers carry conditions a producer opts into. The arrow is the labelling-down rule: fruit inside a subregion that does not meet its conditions is labelled at the region. Old Vine and Dry Grown are registered terms that can attach at any tier.

Theme 1 — Are the Regulations Still Required?

Q1, Q3

Yes, without question. Sunsetting without replacement would remove the export conditions, the labelling rules that give the Label Integrity Program its standards, and the criteria and procedures by which GIs are determined, in one stroke. But remaking them unchanged would be a quieter failure: ten more years of a rulebook that only knows how to measure tonnes. The Regulations protect *origin* and *truth*; the only quality terms they recognise are the traditional terms for Australian fortified wine. A GI in Australia is a boundary. Reg 57 tells the Committee how to draw the line; nothing tells it what the line may mean.

Q4

Two things should move, in opposite directions. *Into the Regulations:* the meaning of the quality terms producers already use — Old Vine (today defined privately by the Barossa Grape & Wine Association), Single Vineyard and Dry Grown (undefined). Each should become a registered quality wine term with registered conditions of use (R3–R5). *Out of the Regulations:* the numbers inside subregional conditions. A yield ceiling for Lenswood is not a matter for a Commonwealth instrument; it is a registered condition of use, determined by the Committee on a regional proposal, set by people who know the climate (R2).

Q5

R1–R7.

Theme 2 — Current Context and Operating Environment

Q6

Three things have changed since 2018. *The volume model has run out of road:* consumption is flat to declining in the established markets. *The competitors Australia is measured against have legislated quality hierarchies:* Rioja (2017), Priorat (2019), Germany (law 2021, labels from the 2026 vintage), Austria (2023) and South Africa (single-vineyard and old-vine certification) — see Q27.

Australia's verification infrastructure has caught up: a National Vineyard Register, led by Wine Australia and funded by the Department, is being built now and is expected to operate by the end of 2026, recording vineyard age, area and variety; South Australia's Vinehealth register has recorded vine age and planted area by law since 1995; the Label Integrity Program already traces tonnes by variety, vintage and GI. Every claim in this submission can be verified from these records with one extension: a block identifier and a water declaration on the Label Integrity Program record, kept only by producers who claim a conditioned name or a registered term (R2, R3, R5). Do the Regulations still support industry needs? They still do what they were built to do. What they do not do is support the part of the industry that now has to grow.

Q7

See R2–R5. The Regulations best support the objects of the Act by giving producers a verifiable way to make quality claims, and the Committee a reason to attach meaning to place.

Q8

I am making a corresponding submission to DAFF's consultation on the Australia–EU FTA and wine GIs. Whichever option Government adopts, the terms and conditions proposed here belong in the wine legislation; DAFF's own paper confirms that the Label Integrity Program, reg 26, export approval and the Register's traditional expressions and other terms remain with Wine Australia under either option.

Theme 3 — Broader Policy or Legal Issues

Q10, Q21 — The Criteria for Determining Australian GIs (R1)

Reg 57(1)(a) and (b) direct the Committee to have regard to whether an area usually produces at least 500 tonnes and contains five separately owned vineyards of 5 hectares each. They are drafted as considerations; they operate as a threshold — DAFF's paper describes them, accurately, as "a minimum size." The effect is that Australia's GI map is a map of volume: in roughly thirty years, 65 regions and 14 subregions, and nothing below subregion. An area of five separately owned vineyards of two hectares, cropped at one to two tonnes a hectare on old vines — precisely what a fine-wine system exists to protect — cannot be delimited, because it is not big enough.

Any tonnage test is a volume gate in a quality costume; reduce 500 to 100 and you have told small subregions to over-crop their way to recognition. Remove the two size thresholds — the 500 tonnes in (a) and the 5 hectares per vineyard in (b) — and keep (b)'s requirement for five vineyards in separate ownership, which is what makes a GI a collective right rather than one estate's private name. Replace the thresholds with an evidence standard: documented history, as reg 57(1)(e) already contemplates, and a geological and pedological survey of the proposed area to a published Wine Australia standard, lodged under an open licence so that it becomes part of the sector's permanent knowledge base. The application fee — currently $27,500 — should stay. Fee and evidence together answer the reasonable concern about a proliferation of GIs: only applicants prepared to fund a survey to standard will apply, and every successful application leaves the industry knowing more about its own ground. The remaining criteria in reg 57(1)(c)–(q), which go to uniformity and distinctness, are the right ones.

Q4, Q7, Q10 — Conditions of Use for Subregional GIs (R2)

The power already exists. Section 40T of the Act requires the Committee, in determining a GI, to identify its boundaries, determine the indication and *determine any conditions of use*; s 40ZD provides for those conditions to be entered in Part 1 of the Register; reg 92 imposes the identical duty for foreign GIs. So far as I can determine, no Australian GI carries a registered condition of use. Australia wrote itself the European model in the 1990s and has never used it. The remade Regulations should give reg 57 a Division on conditions of use:

- **Scope.** A maximum yield in tonnes per hectare, and irrigation (whether permitted, and to what limit). Nothing on variety, planting density, harvest method or ageing — those can follow once the sector has seen that conditions can be set and policed. Yield does most of the work — it is the best available proxy for water — and irrigation is named separately only because a low yield can still be irrigated.
- **Who.** The responsible body for the GI — the regional association or its nominee — proposes; the Committee determines, having regard to the region's climate — the right number for Piccadilly Valley is not the right number for the Riverland. Because the Committee determines the conditions under the Act, they are imposed by statute, not agreed among competitors. If an applicant will not propose conditions for a new subregion, the Committee may determine them.

- **When.** New subregions carry conditions from determination — the tier is opt-in for the region, and the name is opt-in for the producer. The fourteen existing subregions have five years to adopt conditions or remain, expressly, open.
- **Stability.** Reviewable five years after they are set; if confirmed, ten years after that; then fifteen; thereafter varied only by application demonstrating exceptional circumstances. Vineyards are planted on thirty-year horizons.
- **Labelling down.** Fruit inside the boundary that does not meet the conditions loses only the subregional name: Lenswood fruit outside the Lenswood conditions is still Adelaide Hills. The 850 mL/L threshold in reg 26(2) is unchanged; the conditions apply to all fruit from within the subregion used in the wine.
- **Verification.** The Label Integrity Program already records tonnes received by vintage, variety and GI. For fruit that will carry a conditioned name, the record should also identify the registered vineyard block — one further field, kept only by those claiming the name — and yield per hectare follows from that record and the registered area. Irrigation is a declaration on the same record.

Q12, Q13 — Compliance and Enforcement (R6)

The offence provisions do the right thing on paper and almost nothing in practice, because the only tool is criminal prosecution; for anything short of outright fraud, that means no action. I support extending Wine Australia's toolkit to infringement notices, civil penalties and enforceable undertakings, applied to the description-and-presentation provisions and to registered conditions of use. It costs compliant producers nothing, and every protected term proposed here depends on it. A quality term that cannot be enforced is worth less than no term at all, because it invites the drift it was meant to prevent.

Theme 4 — Regulatory Impact

Q15–Q18

The export control framework is proportionate and should stay as it is (R7). What this submission asks of whom: producers, nothing unless they claim a name or a term; the responsible body for a region, a proposal and a survey; Wine Australia, registrations and audits of records it already receives; Government, one amendment to the Act for R6. The cost falls only on those who choose the benefit.

Theme 5 — Could the Regulations Be Simplified?

Q19–Q22

No objection to consolidating the parallel Australian and foreign procedures in Parts 6 and 7. The Part 4 rules are clear and workable; the 85% thresholds for variety, vintage and GI (regs 25(2), 26(2), 27(2)) are the right settings for the whole industry and should not be raised — what the industry lacks is not a stricter floor but a voluntary ceiling (R3–R5). For Q21 see R1.

Q4, Q5 — Protected Quality Terms (R3, R4, R5)

Part 3 of the Register already exists for "quality wine terms for wines originating in Australia, and any conditions of use applicable to those terms." Today it holds only the traditional terms for Australian fortified wine. The three proposals below use that Part as it stands.

R3 — Old Vine, Survivor Vine, Centenarian Vine, Ancestor Vine. Register the four tiers of the Barossa Old Vine Charter — 35, 70, 100 and 125 years — as quality wine terms, age tiers adopted unchanged and with the Association's agreement. Adopting it nationally makes it the Australian standard without inventing one. Age alone is not quality: a 35-year-old vineyard under full irrigation is an old vineyard, not a fine one. The registered terms should therefore stack a water condition on the age tier, so that the words signal age and restraint together. *Condition of use:* the vineyard is recorded on the National Vineyard Register (or Vinehealth's SA register) with its planting date; the wine's Label Integrity Program record identifies that block; and irrigation applied to the block does not exceed 1 megalitre per hectare in any year. *Precedent:* South Africa's Old Vine Project has certified vineyards of 35 years and older since 2016 against SAWIS planting records and has carried a Certified Heritage Vineyards seal since 2018. Rioja's Viñedo Singular (2017) uses the same 35-year threshold.

R4 — Single Vineyard. Register "Single Vineyard" (and "Single Site"). *Condition of use:* 100% of the wine from one wine grape vineyard as already defined in reg 57(2) — a single parcel operated as a single entity — no larger than 10 hectares, recorded on the vineyard register. The cap is the point: a term that can be applied to a hundred-hectare block has already lost its meaning. South Africa's Wine of Origin scheme caps its registered single-vineyard designation at six. Reg 31 already provides a three-year marketing period when a term becomes protected; that is the transition for labels in use today.

R5 — Dry Grown. Register "Dry Grown." No New World country, so far as I can find, has a legal dry-grown term, and Australia's rules have no position on irrigation in either direction: no producer can be held to growing without it, and none can prove it. *Condition of use:* no irrigation, save supplementary irrigation of not more than 0.5 megalitres per hectare in a year the responsible body for the region has declared extreme against a published criterion (growing-season rainfall below the 10th percentile of the Bureau of Meteorology record for the region), and used in not more than two years in any rolling ten. A vineyard becomes eligible only after three consecutive vintages without irrigation; a young vineyard under establishment irrigation is not dry grown. The term is binary; the allowance is for survival, not a tool to be relied upon. The declaration of water applied sits on the Label Integrity Program record, and only producers who claim the term make it.

Theme 6 — Wine Australia's Administration of the Regulations

Q23–Q26

No adverse observations. As a licensed exporter I find the export approval, certification and label systems workable and the regulatory team responsive.

Q27

On administration I have no comparative observation to add. The comparison that bears on this submission is one of regulatory design, offered in support of R1–R5 (Q7, Q21): nothing proposed here is untested. Each scheme below layers a voluntary, conditioned quality tier on an existing origin system, and each is verified.

Country / scheme	Since	Conditions used	Verified by
Barossa Old Vine Charter (Australia)	2009	Vine age tiers: 35 / 70 / 100 / 125 years	Barossa vineyard register
Rioja — Viñedo Singular (Spain)	2017	Vines at least 35 years; up to 5,000 kg/ha red, up to 6,922 white; hand harvest; tasting panel	Consejo Regulador
Priorat — Els Noms de la Terra (Spain)	2019	Five tiers; vine age 10 to 35 years; yields stepping down to 3,000 kg/ha; ownership or 7-year lease	Consell Regulador
Germany — Wine Law 2021 (labels from 2026 vintage)	2021	Erstes Gewächs up to 60 hl/ha; Großes Gewächs up to 50 hl/ha, hand harvest, sensory panel	Federal wine law
Austria — Erste Lage / Große Lage	2023	Nationwide single-vineyard classification; five years at Erste Lage before Große Lage	Wine Law Collective Decree
South Africa — Wine of Origin: Single Vineyard	—	One registered vineyard, up to 6 ha; 100% origin; separate production record	Wine and Spirit Board
South Africa — Old Vine Project	2016 / seal 2018	Vines at least 35 years, planting date on label	SAWIS planting records to 1900

Two things stand out. **Time is built into every one of these systems:** Austria's private classification effort began in 1991, reached law in 2023, and will not produce a complete two-tier hierarchy before 2030; Priorat's top tier requires 35-year vines. A system that takes a generation to mature has to be started in the instrument that governs the next decade. And **each of the European schemes above, and South Africa's, gives a producer a legislated way to be specific about place and be held to it.** Australia still resembles the American AVA model — boundaries without conditions — and its rules contain no way for a producer to be held to a higher standard, or for a regulator to act proportionately when a quality claim is false.

Q28 — Beyond the Review's Scope, but Material: The Levy Base (R8)

Section 2.4 confines the Review to the Regulations, and levy settings sit elsewhere. I raise this because it is the mechanism that most shapes the culture every other proposal here is trying to change. The two production levies are struck on tonnes. In 2023–24 they were 27 per cent of Wine Australia's revenue and drew a further 20 per cent in Commonwealth matching; the only value-based element, the export charge, was 6 per cent. A tonne sold at $300 contributes the same as a tonne sold at $3,000, and the producers of the former, by volume, fund most of the sector's statutory bodies and are, in practice, the producers those bodies most hear from. A value-based levy would have a $100 bottle contribute more than an $8 bottle from the same fruit, penalise nobody for being small, and shift the weight of contribution — and, over time, of voice — toward the producers creating the most value per hectare. That is for Government and the levy-setting process. I ask only that the report record that the mechanism which funds the regulator and the mechanism which regulates quality currently pull in opposite directions.

I would welcome the opportunity to discuss any of this with the Reviewer, in person or by phone, before the report is finalised.

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