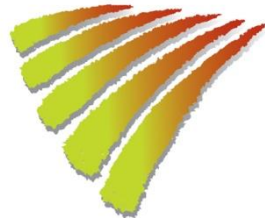


WINE TASMANIA



WINETASMANIA

Submission to

Review of the Primary Industry Activities Protection Act 1995
Issues Paper

Department of Primary Industries, Parks, Water and Environment

August 2014

Submitted to:

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Introduction

Wine production in Tasmania is small by comparison to many other Australian regions but has high value, as all wine produced is of premium quality and above, with demand for its premium cool climate wines continuing to outstrip supply.

The Tasmanian wine sector is an important contributor to trade and the economy, regional employment, tourism and the overall Tasmanian brand. The wine sector has been identified as a sector with an opportunity for growth to be encouraged, and wine sector / government collaboration has been positive and productive.

Tasmania enjoys advantages through growing conditions, biosecurity, research and extension collaboration and input to research priorities, a clear strategic plan, government support and cooperation, unified wine sector and collaborative marketing activities.

Wine Tasmania is the peak body representing Tasmanian grapegrowers and winemakers. Wine Tasmania has reviewed the issues paper and the Primary Industry Activities Protection Act 1995 and has prepared a submission of key issues impacting on Tasmanian wine producers.

Snapshot of Tasmania's Wine Sector

The Tasmanian wine sector has developed a strong, clear and collaborative position in the wine world, built on quality and value. Tasmania has emerged as one of the strongest wine regions with an opportunity to lead and drive the new wave of interest in Australian wine.

Contrary to most mainland wine regions, demand for Tasmanian wine continues to outstrip supply, all Tasmanian wine produced is in the premium or ultra-premium wine categories, prices for both Tasmanian grapes and wine are some of the highest nationally, and our wines consistently receive independent wine show awards and accolades.

Importantly, the wine sector has attracted significant investment by existing and new entrants in recent years, at a time when there is little investment in Australian wine assets.

Within Australia, the value of Tasmanian wine sales is growing at 11.1% compared with the total Australian bottled market, which is growing at 5.9%, whilst Tasmanian white wines are growing at 24.7% compared to total category growth of 6.7%.

Key Statistics¹

- 1,200+ full time equivalent positions
- 160 licensed wine producers
- 200+ vineyards covering 1,500 hectares
- 90 cellar door outlets, with 150,000 visitors - 15% of all visitors (2013)
- Key varieties - Pinot Noir 43%, Chardonnay 25%, Sauvignon Blanc 11%, Riesling 9%, Pinot Gris 7%
- Sales percentages (approximate) - Tasmanian 45%, mainland Australia 47%, export 8%
- Highest pricing for Pinot Noir, Chardonnay, Riesling and Sauvignon Blanc in Australia
- More than 6% share of Australia's on-premise wine listings
- The value per litre of Tasmania's export wine sales is quadruple the national average

Wine Tasmania Overview

Wine Tasmania is the peak representative body for Tasmanian grape growers and winemakers, working to assist them to be recognised as world leaders in the sustainable production of premium cool climate wine.

¹ *References: Wine Tasmania, Australian Grape & Wine Authority, Wine Business Solutions*

Established in 2006 as a public company limited by guarantee, the Wine Tasmania Board is skills based and is chaired by independent director Graeme Lynch. Other directors are Will Adkins (Brown Brothers Tasmania), Keryn Nylander (independent), Rebecca Duffy (Holm Oak), Nick Glaetzer (Glaetzer-Dixon Family Winemakers), Natasha Nieuwhof (Goaty Hill) and Scott Dawkins (Deloitte - independent).

Wine Tasmania represents more than 98% of Tasmanian wine production, with around 100 state-wide producer members and 40 associated member businesses. All activities undertaken by the industry body are designed to generate value for our members. Wine Tasmania's Strategic Plan further outlines details of our role and is available at www.winetasmania.com.au.

Wine Tasmania's key roles, as outlined in the Strategic Plan, are as follow:

1. Drive demand for Tasmania's wines through targeted and collaborative marketing and promotion
2. Encourage sustainable production and market-led growth
3. Support individual wine businesses and profitability to stabilise the base for future growth
4. Advocate and manage issues on behalf of wine producers

Review of the Primary Industry Activities Protection Act 1995

Our review indicates that the Act ostensibly allows for primary producers to undertake activities on their land that may otherwise be considered a nuisance by neighbours, including spraying, cultivation, harvesting etc. These activities underpin agricultural productivity and the protection afforded by the Act is valuable.

Upon detailed reading it is apparent that it is not a "right to farm" act; it merely provides for primary production to occur on farming land by reducing the exposure to legal action due to "nuisance", as some primary industry activities may be seen by neighbouring residential and the extended peri-urban community.

Crucially for the development of the Tasmanian wine sector, the Act does not appear to cover changes to activities except where it improves the efficiency of the historic primary production activities on a given site. Agriculture in Tasmania and in the broader Australian context is under considerable pressure to remain sustainable both environmentally and economically, so adjusting operations to improve efficiency is vital. Over time, however, market forces can constrict the economic sustainability of any enterprise such that to remain viable a farmer may need to diversify or change completely the nature of primary industry on the farm.

This is particularly important for Wine Tasmania and future wine sector growth, as it may preclude the adoption or expansion of vineyards and wineries on land that has previously been utilised for other primary production purposes.

The Act has some value in protecting primary industry from litigation but it does not address the greater issues of erosion of viable primary production land to urban encroachment, the associated planning and legislative issues that do not appear to support primary industry as a desirable land use option and the naive or misconstrued notions of the wider community regarding the nature of primary production in Australia and its value to the local and wider community.

Whilst it affords some allowances for activity, the Act does not appear to meet the needs of the Tasmanian Primary Industries sector and in particular the developing wine sector in its current form because:

- The Act does not take into account enterprise diversification.
- It is vague regarding changes in practice (e.g. may not support the installation of a frost fan).
- The definition of what as a primary industry activity does not constitute a nuisance is quite tight and needs to address several criteria.

Given the reliance of Tasmania, not only on primary industry but also tourism, a reinvention of the legislation is required, as well as integration with other legislation such as regional and peri-urban planning, environmental management, agricultural chemical use, tourism and infrastructure.

A far-sighted approach to planning, environmental and primary production legislation could retain farming land for farming, encourage sustainable primary production and promote Tasmania as a producer of high quality agricultural goods and a highly desirable lifestyle and tourist destination.

1. Are there any other examples of innovative “right to farm” laws that Tasmania can learn from?

The Tasmanian Farmers and Graziers Association has compiled and summarised laws that pertain to the “right to farm”. It has generously shared its summary with Wine Tasmania:

Summary of Australian legislative policy mechanisms(Tasmanian Farmers and Graziers Association, 2014)

Policy tool	Examples of Australian usage
State Planning Policy	NSW, Victoria, Queensland
Urban growth boundary	Victoria, Queensland
‘Right to farm’ – removes common law right of neighbours to sue farmer for farming activities	Tasmania (PIAP Act 1995)
Dispute resolution process for conflicts over adjacent land uses	WA – Agricultural Practices (Disputes) Act 1995
Regional plans or planning authorities to protect environmental and amenity character	Swan Valley Planning Act (1995) in WA; Upper Yarra and Dandenong Ranges Strategy Plan (Melbourne) in Planning and Environment Act (1987)
Conservation/agricultural conservation easements	Victorian Conservation Trust Act (1972)

Summary of non-legislative Australian policy mechanisms(Tasmanian Farmers and Graziers Association, 2014)

Approach	Policy tool	Examples of Australian usage
Financial incentive	Rating concessions to keep agricultural land in production	Beaudesert, Kilcoy, Moreton municipalities, Queensland.
Community title (Multiple Occupancy)	Alternative subdivision allowing for clustering of residences with the remaining land used for agriculture etc.	In ACT and WA policy documents, but implementation more controversial.
Tradeable or transferable development rights	Dwelling Application Transfer Scheme – essentially ‘Title rights’ –	Mount Lofty Ranges and Adelaide Hills, South Australia

	created to encourage consolidation of rural allotments (and subdivision in targeted areas)	
Service funding Arrangements	Development contribution plans	Melbourne; Sydney

Any “right-to-farm” legislation needs to have a long term scope for the future of primary production as an integral and highly valued part of the local and wider community: farming is necessary for a sustainable society.

2. Are ‘right-to-farm’ laws the appropriate mechanism to resolve land use conflicts?

Carefully constructed and integrated “right-to-farm” laws should work to reduce land use conflicts. Conflict resolution mechanisms should be integrated as well but this should not be the *raison d’être* for the legislation. One piece of legislation defining a “right-to-farm” is not likely to be adequate to cover all eventualities, so the integration of a suite of legislation designed with long-term sustainable primary production in mind may be more successful.

3. Has the *Primary Industry Activities Protection Act 1995* been an effective tool in upholding farmer’s rights?

As the Tasmanian wine sector is highly integrated with tourism, its stakeholders are careful to minimise the impact on the community, whether resident or visiting. Wine producers have had minimal issues to this point in time, impacting on their rights to manage and operate vineyards and wineries and thus have not had cause to invoke the legislation.

This does not, however, preclude conflict over land use and viticulture and winemaking activities. Many vineyards and wineries in Tasmania are located near cities or regional centres and are therefore exposed to land-use conflict. Upholding farmer’s rights to undertake activities on their farms is vital but it does need to be integrated with other legislation to ensure the sustainability of primary industry in Tasmania and the communities supporting it.

4. Are the definitions in the *Primary Industry Activities Protection Act 1995* sufficiently clear and do they cover all relevant activities?

The simple answer to this question is no, the definitions are not sufficient to encompass the breadth and diversity of primary production activities, nor are they so clear that conflict would be easily resolved. The legislation is short-sighted and fails to take into account the evolution of farming operations; the diversification of systems on an individual farm or within a region; changes in systems, methods and operations due to succession or sale or the need to react over various timeframes (hourly, daily, weekly, seasonally and so on up to decades for perennial operations such as winegrapes). Rather, it presents primary industry activities as predictable, moveable and negotiable.

5. How could the *Primary Industry Activities Protection Act 1995* be improved?

Ideally the legislation would be completely overhauled, along with other legislation pertaining to regional planning, infrastructure, natural resource management, environmental management and primary production to integrate primary production as a highly valued part of the community, contributing to the wellbeing of the community and the State.

6. Mandatory disclosure of neighbouring agricultural activities is not currently required under Tasmania's land sales legislation. Would mandatory disclosure help prevent land use conflicts?

Mandatory disclosure would be a useful step in reducing potential conflicts over land use. Its efficacy would be limited without the above mentioned improvements in "right-to-farm" legislation. There is also a risk in mandatory disclosure being poorly constructed and leading to confusion and potentially more conflict.

Conclusion

Wine Tasmania welcomes the opportunity to provide input, on behalf of the state's wine producers, to the Review of the Primary Industry Activities Protection Act 1995 Issues Paper and future consideration and discussion on potential changes to the Act.

Wine Tasmania supports changes to the Act to reflect a long term approach to planning, environmental and primary production to ensure farming is recognised for its valuable contribution to the Tasmanian economy, tourism, brand and community.

Wine Tasmania requests the review of the Act considers and supports enterprise diversification and further clarification and definition of permitted changes in practice and activities that do or do not constitute a nuisance.