

# Evaluation of the Conditions that Created the Basis for the Geographical Indication Protection and Evaluation of any Changes to Those Conditions

Information Session on Geographical Indications  
Geneva, November 24, 2020

# Geographical indication protection in New Zealand

- **Fair Trading Act 1986**

A product that does not originate from the geographical area indicated could be misleading or deceptive conduct

- **The common law tort of “passing off”**

*Wineworths Group Ltd v Comite Interprofessionel du Vin de Champagne*

- **Trade marks**

A GI could be protected as a collective or certification trade mark

- **Geographical Indications (Wine and Spirits) Registration Act 2006 (“GI Act”)**

Established a registration regime for the geographical indications of wine and spirits.

## Certification Trade Marks

- Indicate that the goods certified can be distinguished from those not certified
- The associated regulations can be the same as the GI's country of origin requirements
- The application and associated regulations are open to third party opposition prior to registration
- The owner can amend and update the associated regulations at anytime

### 845231 - TRADE MARK - NAPA VALLEY

Bibliographical Data	Activities	Discussions	History
<b>▼ Case Data</b>			
Reference	NAPDIC3764		
IP Number	845231		
Status	Registered		
Nature	Certification		
Application Type	National		

### 746962 - TRADE MARK - PARMA

Bibliographical Data	Activities	Discussions	History	De
<b>▼ Case Data</b>				
Reference	541471 JBH/VFW/ACT			
IP Number	746962			
Status	Registered			
Nature	Certification			
Application Type	National			

## GI Act overview

- Entered into force in 2017
- Provides a regime for registering New Zealand and foreign GIs for wine or spirits
- Defines a GI as: “A *geographical indication* is an indication that identifies a wine or spirit as originating in the territory of a country, or a region or locality in that territory, where a given quality, or reputation, or other characteristic, of the wine or spirit is essentially attributable to its geographical origin”.



## Geographical Indications (Wine and Spirits) Registration Act 2006

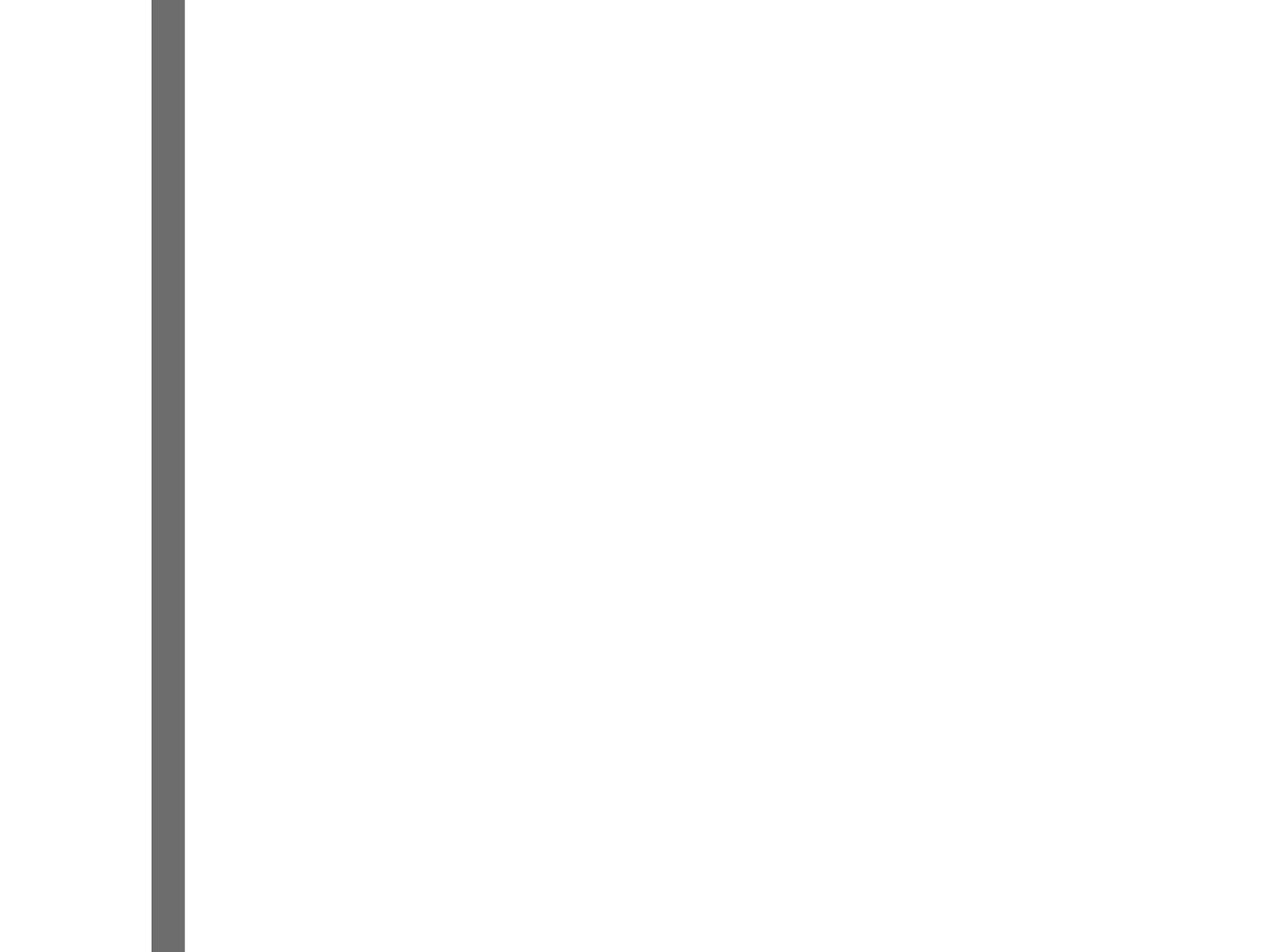
Public Act 2006 No 60  
Date of assent 21 November 2006  
Commencement see section 2

## GI Act overview

Register consists of 3 parts:

- Enduring GIs
- Those registered as part of an international agreement
- All other (i.e. those applied for under the GI Act)





## Application requirements

- Online application
- “Interested person” can apply to register
- Payment of NZ\$5000 application fee
- New Zealand or foreign GI

## Apply for a geographical indication

Use this form to apply to register either a local or foreign geographical indication in New Zealand. Unless otherwise indicated, all fields are required.

### Key information

Name of the geographical indication:

What language is this name in?

- English/Māori  Other language

Is this a New Zealand or foreign geographical indication?

- New Zealand  Foreign

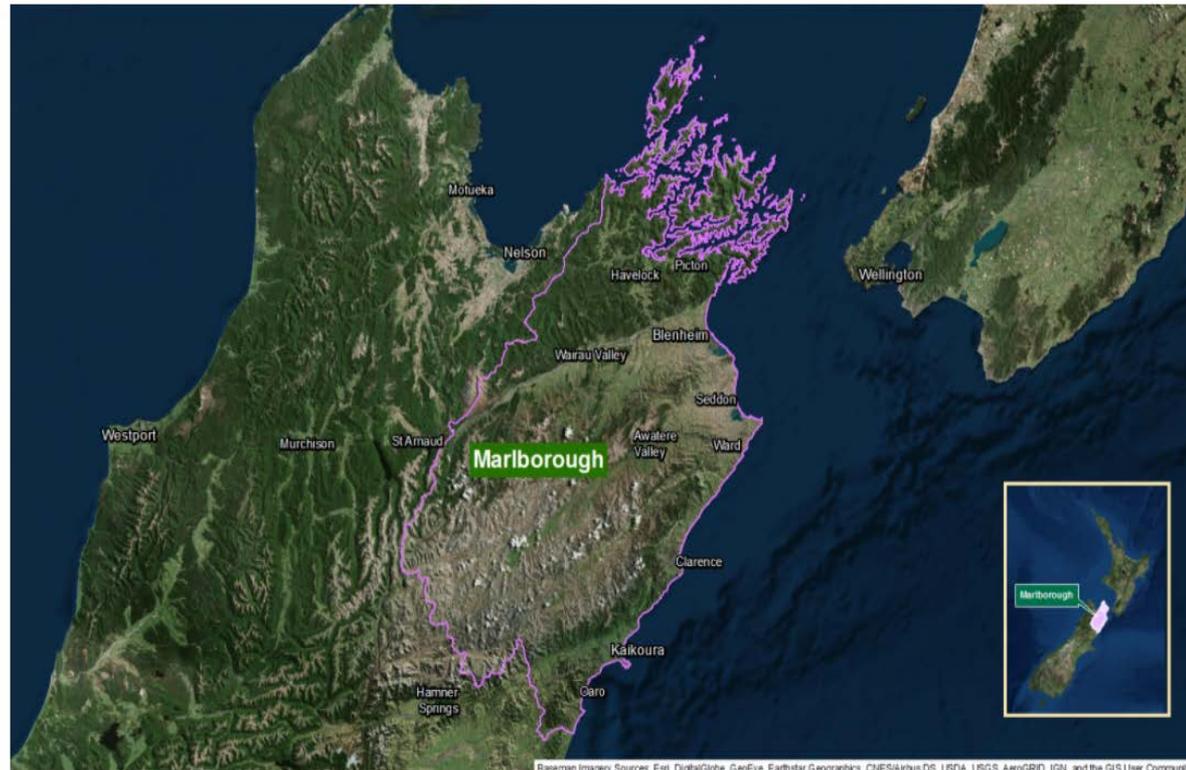
What type of product does this geographical indication apply to?

- Wine  Spirits

New Zealand applications should be for new geographical indications. Foreign ones need to be already protected in another country.

## New Zealand GI application requirements

- Geographical data demonstrating the boundary of the proposed GI
- Explanation of and evidence to support the quality, reputation or other characteristic
- A description of any proposed conditions on the use of the GI



## New Zealand GI application evidence requirements

- History and background
- Geographical features in the area
- Soil composition in the area
- Climate in the area
- Methods of producing wines and spirits
- Quality
- Reputation



## Foreign GI application requirements

- A statement that the GI is registered in its country of origin and has not fallen into disuse in that country
- Copies of the regulations, rules or other documents that show GI is protected in its country of origin
- A description of any proposed conditions on the use of the GI in New Zealand

2009 No. 2890

FOOD

The Scotch Whisky Regulations 2009

<i>Made</i> - - - -	<i>26th October 2009</i>
<i>Laid before Parliament</i>	<i>30th October 2009</i>
<i>Coming into force</i> - -	<i>23rd November 2009</i>

## Examination of GI applications

- It's use or registration is not likely to be offensive
- It's not identical to a registered GI
- It's not identical to the customary name of a grape variety or a common name of a wine or spirit
- It's not identical or similar to a registered trade mark
- For a foreign GI it remains in use and protected in its country of origin

### NZ GEOGRAPHICAL INDICATION (GI)

#### EXAMINATION CHECKSHEET

#### Application information (reg 7) and formalities

Box Reference Number			
1	GI Number: 1015	GI Name: WAIHEKE ISLAND	
2	New Zealand GI correctly selected (cf foreign)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
3	Goods GI for	<input checked="" type="checkbox"/> Wine	<input type="checkbox"/> Spirit

4	GI correct?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Comment(s):
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## Acceptance and registration

- GI application published in IPONZ journal
- Third parties can oppose within 3 months of publication
- Registration effective for 5 years, then can be renewed for further periods of 10 years
- First renewal fee: NZ\$2000 subsequent renewal fees: NZ\$500
- Registered GIs are removed from register 6 months after renewal date if renewal fee not paid

### Geographical data



#### [Martinborough geographical data file](#)

Geographical data that define the boundaries of the territory, region or locality to which this geographical indication relates.

Geodata ZIP, 2.3 MB

### Other documents



#### [Certificate of Registration](#)

PDF, 823 KB



#### [Applicant's evidence](#)

Evidence in support of an application to register a geographical indication: Martinborough

PDF, 4.9 MB



#### [Examiner's check sheet](#)

Examiner's assessment of the applicant's evidence

PDF, 1.3 MB

## Alteration or removal of a registered GI

The Registrar may on their own initiative or on the application of an interested person alter:

- A registered geographical indication; or
- The conditions or boundaries relating to a registered geographical indication

A registered GI can also be removed from the register on certain grounds.

What type of proceeding do you wish to file?

- Request a hearing (REGS 24, 27 AND 92)
- Apply for an alteration (REG 49)
- Oppose an application for alteration (REG 50)
- File a counterstatement to an alteration proposed by Registrar (REG 47)
- Apply for removal (REG 41)
- Oppose an application to remove (REG 42)
- File a counterstatement to a removal proposed by Registrar (REG 39)
- Substitute the registrant (REG 56)

## Procedure to alter or remove a registered GI

- Can be made on the Registrar's own initiative or on an application of any interested person
- If proposal is on the Registrar's own initiative they must notify the registrant of the grounds of the proposed alteration or removal and also give public notice
- If an application to remove or alter is made by an interested person the Registrar must send a copy of the application to the registrant (assuming they are not the applicant) and also give public notice
- Any interested person may oppose the proposed removal or alteration
- If opposed the matter would be determined at a hearing



**NEW ZEALAND  
INTELLECTUAL  
PROPERTY OFFICE**

**Thank you**



**MINISTRY OF BUSINESS,  
INNOVATION & EMPLOYMENT**  
HĪKINA WHAKATUTUKI

New Zealand Government