



Australian Government

**Department of Agriculture,
Fisheries and Forestry**

Levy guidelines

How to establish or amend agricultural levies

Department of Agriculture, Fisheries and Forestry



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Acknowledgement of Country

We acknowledge the Traditional Custodians of Australia and their continuing connection to land and sea, waters, environment and community. We pay our respects to the Traditional Custodians of the lands we live and work on, their culture, and their Elders past and present.

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Purpose

Levy guidelines: How to establish or amend agricultural levies aims to support agricultural, fisheries and forestry industries step-by-step through the process of developing a proposal to establish or amend a legislated agricultural levy or charge.

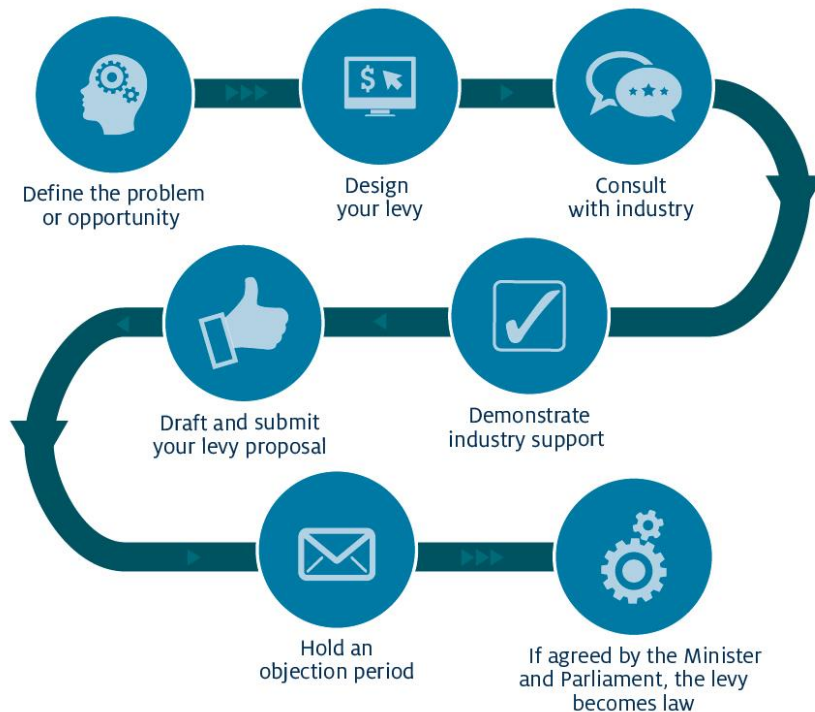
This guide is designed to complement the Australian Government’s ‘General principles applying to proposals for new and amended primary industries levies and charges’ ([the Levy principles](#)), introduced in 1997. The guide replaces the Levy Principles and Guidelines of January 2009.

All references to ‘levies’ in this guide can be taken as meaning levies and charges imposed under a law of the Commonwealth of Australia, which are explained in [Types of levies and charges](#).

This document outlines the usual steps needed to help you design a levy, consult with industry stakeholders, and draft and submit a proposal to the Australian Government.

The processes described here will also be used by officers of the Department of Agriculture, Fisheries and Forestry to assess the soundness of a levy proposal and advise the Minister for Agriculture, Fisheries and Forestry on likely associated costs of collection and the regulatory impact on levy payers, collection agents, and the legislative changes necessary to implement a levy proposal. The minister decides whether to agree to the proposal.

Figure 1 Steps in the process of establishing or amending a levy



If your proposal is to activate or deactivate a biosecurity emergency response levy, read the guidance in [Step 7 Activate or deactivate biosecurity emergency response levies](#) before reading the rest of this guide.

About levies and the levy system

For many years, Australian primary industries (agriculture, fisheries and forestry producers and their representatives) have asked the Australian Government to impose levies and charges (levies) on their products—using its taxation power under the Constitution—to facilitate industry investment in strategic activities. Unlike other taxes, these levy funds are directed to levy recipient bodies to invest in the strategic activities they were imposed to fund.

The levy system allows primary industries to collectively invest in research and development (R&D), marketing, biosecurity activities, residue testing and biosecurity emergency response activities. Without this arrangement many producers could not invest effectively in these activities.

It is compulsory to pay the levies that government imposes in legislation. By having a compulsory levy, primary industries can ensure that all levy payers who benefit from the activities funded by the levy contribute equitably.

Primary industries drive all aspects of their levy—whether they need one, how it will be charged and collected, what the rate is, and when to review the levy.

The responsible minister considers levy proposals from industry and progresses proposals to establish or alter existing levies in accordance with the legislation. The minister needs to be sure that all potential levy payers in an industry have had an opportunity to know about, examine, discuss, question and give their opinion about any levy proposal that affects them.

How the levy system works

The levy system is based on the Australian Government's exclusive power to impose levies and charges (taxes) across Australia.

- Levies are duties of excise or taxes on certain goods produced, manufactured, sold or distributed in Australia.
- Charges are duties of custom or taxes on goods imported into or exported out of Australia. (All references to levies in this guide can be taken as meaning levies and charges).

Types of levies and charges

There are five purposes for which agricultural levies are established.

Levies must be used for the purpose for which they were collected, for example to fund R&D for the grains industry or for national residue survey for the sheep industry.

R&D levies

- are collected to allow industry to invest in systematic experimentation and analysis in any field of science, technology, economics or business.
- are collected to increase knowledge, build on industry objectives, conduct extension activities or improve any aspect of the production, processing, storage, transport or marketing of the industry's products.

- are invested by research and development corporations (RDCs) on behalf of industry.

Marketing levies

- are collected to fund industry marketing, advertising or promotion of industry products.
- are invested by RDCs on behalf of industry.

Biosecurity activity levies

- are collected to fund industry member contributions to Plant Health Australia (PHA) and Animal Health Australia (AHA).

AHA and PHA facilitate a national approach to enhancing Australia's animal and plant health status, through government and industry partnerships for pest and disease preparedness, prevention, emergency response and management.

Biosecurity emergency response levies

- are collected to repay to the Australian Government, over a period of time, an industry's share of the costs of a response to a pest or disease incursion under the Emergency Plant Pest Response Deed (EPPRD) and the Emergency Animal Disease Response Agreement (EADRA), where the government has underwritten the industry's contribution in the first instance.
- are often set at nil, and only activated if an emergency response is required. Alternatively, they can be set at a low rate to raise funds pre-emptively for use during an emergency response.

The EPPRD and the EADRA outline the responsibilities and activities of government and industry signatories in the event of an incursion.

New emergency response agreements developed to cover pest and disease incursions not currently covered by existing agreements will include similar provisions to the EPPRD and EADRA to enable the use of biosecurity emergency response levies to repay the costs of emergency responses.

National Residue Survey (NRS) levies

- are collected to fund residue monitoring activities undertaken by the NRS to manage the risk of chemical residues and environmental contaminants in Australian animal and plant products.
- are used by the NRS to assist participating industries to demonstrate good agricultural practice and meet importing country requirements.

NRS levies are administered by the NRS area of the Department of Agriculture, Fisheries and Forestry.

Key players in the levy system

Many people and organisations play a part in the levy system.

Levy payers

- are responsible for paying levies.
- are generally growers, primary producers, processors, importers or exporters of leviable goods.

Collection agents

- are generally responsible for collecting levies and charges and submitting levy returns to the department on behalf of levy payers.
- operate at identified narrow points in the supply chain that most, if not all, leviable products flow through. These narrow points are generally the most cost-effective way to collect levies.
- are also called intermediaries.

Industry representative bodies

- generally propose and present a levy proposal to industry.
- usually present the agreed upon proposal to the department and the minister of the day.

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- provides advice and support through a case manager to the industry representative body on the policy and processes for establishing or amending an agricultural levy.
- provides advice to the minister on whether the levy proposal addresses the points in this guide and the regulatory impact on the industry.
- is responsible for administering levies legislation including receiving the levy returns from collection agents, paying the levies to specified levy recipient bodies and conducting compliance inspections. The department recovers the cost of conducting these activities.

Find more information about [levies and charges](#) on the department's website.

Minister for Agriculture, Fisheries and Forestry

- receives levy proposals and determines whether majority industry support is evident.
- decides whether to progress changes to levies, or introduce new levies, through the appropriate legislative pathway.

Levy recipient bodies

- are responsible for managing and investing levies in line with industry priorities.
- receive and invest the matching funding that government provides for eligible R&D activities up to set limits.

There are 18 levy recipient bodies, including five statutory RDCs, 10 industry-owned RDCs, AHA and PHA, and the NRS.

Statutory RDCs

- Cotton Research and Development Corporation
- Fisheries Research and Development Corporation
- Grains Research and Development Corporation
- AgriFutures Australia (Rural Industries Research and Development Corporation)
- Wine Australia.

Industry-owned RDCs

- Australian Eggs Limited
- Australian Livestock Export Corporation Ltd (LiveCorp)
- Australian Meat Processor Corporation
- Australian Pork Limited
- Australian Wool Innovation Limited
- Dairy Australia Ltd
- Forest and Wood Products Australia Limited
- Horticulture Innovation Australia Limited
- Meat & Livestock Australia Limited
- Sugar Research Australia Ltd.

Other levy recipient bodies

- Australian Animal Health Council Limited (Animal Health Australia or AHA)
- Plant Health Australia (PHA)
- National Residue Survey (administered by the department) (NRS).

Levy principles

This guide is designed to assist an industry or a group of levy payers to meet the 12 levy principles introduced by the Australian Government in January 1997.

- 1) The proposed levy must relate to a function for which there is a market failure.
- 2) A request for a levy must be supported by industry bodies representing, wherever possible, all existing and/or potential levy payers, the relevant levy beneficiaries and other interested parties.

The initiator shall demonstrate that all reasonable attempts have been made to inform all relevant parties of the proposal and that they have had the opportunity to comment on the proposed levy.

A levy may be initiated by the government, in the public interest, in consultation with the industries involved.

- 3) The initiator of a levy proposal shall provide an assessment of the extent, the nature and source of any opposition to the levy, and shall provide an analysis of the opposing argument and reasons why the levy should be imposed despite the argument raised against the levy.
- 4) The initiator is responsible to provide, as follows:
 - a) an estimate of the amount of levy to be raised to fulfil its proposed function
 - b) a clear plan of how the levy will be utilised, including an assessment of how the plan will benefit the levy payers in an equitable manner
 - c) demonstrated acceptance of the plan by levy payers in a manner consistent with levy principle 2.
- 5) The initiator must be able to demonstrate that there is agreement by a majority on the levy imposition/collection mechanism or that, despite objections, the proposed mechanism is equitable under the circumstances.
- 6) The levy imposition must be equitable between levy payers.
- 7) The imposition of the levy must be related to the inputs, outputs or units of value of production of the industry or some other equitable arrangements linked to the function causing the market failure.
- 8) The levy collection system must be efficient and practical. It must impose the lowest possible 'red tape' impact on business and must satisfy transparency and accountability requirements.
- 9) Unless new structures are proposed, the organisation/s that will manage expenditure of levy monies must be consulted prior to introduction of the levy.
- 10) The body managing expenditure of levy monies must be accountable to levy payers and to the Commonwealth.
- 11) After a specified time period, levies must be reviewed against these principles in the manner determined by the government and the industry when the levy was first imposed.

Amendments to existing levies

- 12) The proposed change must be supported by industry bodies or by levy payers or by the government in the public interest. The initiator of the change must establish the case for change and where an increase is involved, must estimate the additional amount which would be raised. The initiator must indicate how the increase would be spent and must demonstrate the benefit of this expenditure for levy payers.

Levy proposal process

Before you start

Establishing or changing an existing levy is a process that will affect a number of producers and needs to be considered carefully.

Before you start:

- Contact the department to have a case manager assigned who can answer your questions as you follow the steps in this guide.

Email leviestaskforce@agriculture.gov.au or your usual contact.

Telephone the switchboard 02 6272 3933 or your usual contact.

- Consider whether you have the skills and expertise you need to calculate the funding needed to achieve industry's desired outcome or fund the necessary activities, and to decide the type of levy.

You may wish to ask someone in your industry, the levy recipient body or the department to help you calculate how much you need.

- Speak with other industry representative bodies that have successfully gone through the levy process about their experience.

- Contact the relevant levy recipient body to ask it for advice.

Levy recipient bodies are usually familiar with what you need to do, can explain how the levy funds you propose to raise would be allocated and what types of levy arrangements might suit your industry.

- Consider whether you have enough contacts and relationships in the industry to consult effectively.
- If your proposal is to activate or deactivate a biosecurity emergency response levy, read the guidance in [Step 7 Activate or deactivate biosecurity emergency response levies](#) before reading the rest of this guide.

Begin drafting your proposal early

Start drafting as early as possible.

- Your answers to the questions throughout this guide will help you think about what to put in your proposal.
- The process of drafting your proposal is likely to help you in preparing other documents you need along the way, for example, documents that you might use when outlining your proposal to levy payers.
- If you want feedback from levy payers (including potential levy payers) on your proposal, you could circulate a draft copy for comment and then refine the proposal to meet their needs.

1 Define the problem or opportunity

To make a strong and persuasive case for a legislated levy—first, to levy payers and then to the minister and government—you should clearly define the problem you are trying to solve or the opportunity you are trying to capture that requires levy funds.

The overall outcome should provide industry benefits that are likely to exceed the levy costs, including collection and administration costs. There may also be broader public benefits beyond the levied industry.

The questions to consider are designed to help you describe the need for government to intervene to establish or amend your levy—to address a market failure. This refers to why the benefits cannot be captured by individual firms acting alone and why a collective action is the best solution.

For example, Australian farmers have a limited capacity to individually conduct or invest in R&D, extension and marketing, as around 94% of farms are small businesses with an annual turnover of less than \$2 million (ABS, 2019). There are also limited incentives for private investment in R&D, extension and marketing because it is difficult to prevent others from accessing the benefits.

You can use your answers to the questions to draft the first section of your proposal to government—see the [Proposal checklist](#).

1.1 Questions to consider

- Does the problem or opportunity relate to R&D, marketing, biosecurity activities, biosecurity emergency response or residue testing?
- What is the problem or opportunity?
 - Does it affect all industry participants?
 - Is the problem isolated or ongoing? Is a temporary or permanent solution required?
 - Are industry needs currently not being met?
 - What has promoted discussion on this problem or opportunity? Why now?
- What is your industry trying to achieve and what barriers are you facing? For example:
 - Are there new technologies or practices requiring further R&D that could then be extended to levy payers for adoption?
 - Does the industry need to build or maintain demand for a product in export markets?
 - Are there new biosecurity risks the industry needs to manage?
 - Is there a new export market that requires information of residue levels at a national level on certain products?
 - Does the industry want to have an emergency response levy ready to activate, in case there is an exotic pest and/or disease outbreak?

- Do you need a legislated levy or could you pursue a voluntary levy option?
 - Are there existing or alternative sources of funding that you could use to address that problem or opportunity? For example, voluntary contributions, grant funding, sponsorship, private co-investment, collaboration.
 - Why is collective action the best solution?
 - Why can't the benefits be captured by individual firms acting alone?
- What sort of time, funding and resources would you need to resolve the issue or capture the opportunity?

Case study 1 An industry considering increasing exports

A horticultural industry has achieved market access status in several new export markets. A small number of producers currently export their products and, via individual testing, are able to demonstrate chemical residue levels are below set limits.

At an industry meeting, these new markets and the opportunities for producers to receive a higher price for their product are discussed. Subsequently the majority of producers express an interest in exporting to these new markets. The producers also consider that other key export markets may soon give preference to produce that can demonstrate its chemical residue status, as there is increasing demand for assurance from consumers.

The producers decide that it would be appropriate to establish industry-wide export chemical residue testing on an ongoing basis, to be achieved through the NRS funded by a compulsory legislated levy (a customs charge). A new levy would recognise the collective efforts required to increase exports, providing an ongoing solution for the need to demonstrate compliance with importing country requirements for chemical residues and benefit all producers who export. There is a cost to producers and based on all the considerations, the industry leaders decide that pursuing a new levy has merit as it would help them capture the opportunity facing industry.

At the meeting, the industry representative body advises producers that the industry body will need to demonstrate majority support to the minister and government to enable a levy to be legislated. The industry body indicates it will develop a proposal for consultation with potential levy payers, including the estimated cost, and will provide information on the voting process and time.

The industry body contacts the department to confirm its assumption about the cost of NRS testing and for advice on how to begin the process to make a levy proposal. A case manager in the department is assigned so that the industry body has a single point of contact in the department.

The department can help

The department can assist in preparing your proposal and navigating the government processes. It is recommended that you contact the department early.

The department can:

- provide information on the levy system
- provide advice on how to structure your levy proposal to meet the requirements of the [Levy principles](#) and these guidelines
- allocate a case manager to you to provide ongoing advice

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- provide information about your existing levy (if you have one) such as how much the department collects, how much it costs, and how this has changed each year.

Email leviastaskforce@agriculture.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

2 Design your levy

This step is about designing the technical elements of your levy to best address the problem or opportunity identified in [Step 1 Define the problem or opportunity](#).

Well-designed levies cost less to collect, are easier to administer, affect levy payers fairly and impose the least cost necessary on levy payers and collection agents. It is important to design your levy as cost-effectively as possible because the cost to the department of collecting and administering each levy is recovered (deducted) from levy funds.

The information in this step will help you to design a levy to suit your industry, whether you are establishing a new levy, amending an existing levy or amending the 'mix' between the rates of different types of levy or levy components without altering the total payable amount of levy.

2.1 Key elements of levy design

Your levy proposal must:

- 1) nominate a levy collection point in the supply chain
- 2) define a leviable commodity
- 3) determine a unit of levy
- 4) determine a rate of levy
- 5) determine a levy return frequency.

Designing an effective levy may require you to test different ideas with industry before you settle on a final proposal. You should test a number of different options with industry. For example, your options may offer different rates to deliver different activities or outcomes, different frequencies of return or different collection points.

2.1.1 Nominate a collection point

Levies are generally collected from multiple producers by a collection agent, at the narrowest point in the supply chain where a transaction occurs. For example, at the sale yards, abattoir or market.

You need to look at your industry's supply chain and identify narrow points where levy payers make a transaction with the smallest possible number of potential collection agents. In many industries it is the first point of sale, such as sale yards or packing sheds, while in others it is an input, such as mushroom spawn. Collection agents submit levies to the department through regular levy return processes (see [2.1.5 Determine levy return frequency](#)).

The collection point is chosen because it is the most efficient, and therefore cheapest, point to collect the levy. Generally, a smaller number of collection points leads to a more cost-effective levy.

Your levy collection point must be stable, efficient and practical. Collection agents must be able to collect and pass on levies to the department, maintain records (such as the levy payer's name, company and contact details and amount of levy liability) and supply information, where required, with the smallest possible increase in effort to comply.

Collection agents as a group must be consulted as part of the levy proposal process and agree to their role.

When nominating a collection point you should ask:

- Is the collection point at the most efficient (usually narrowest) point of the supply chain?
 - Will the arrangements assist levy payers and collection agents to efficiently and effectively pay levies and maximise levy returns?
 - What additional administrative burdens will collection agents and/or levy payers face?
- Will the arrangement appropriately capture the majority of potential levy payers?
 - Are there any minority or different supply chain structures that will need a specific mechanism or assistance to pay levies?
 - Will some levy payers have to pay levy directly rather than through a collection agent?
- Are there other collection points that should be considered?

2.1.2 Define a leviable commodity

You must define what commodity the levy will be imposed on.

Whether you are establishing a new levy or amending an existing arrangement, how you define your leviable commodity will influence who pays it, where it is collected and who must be consulted about the levy.

You should ask yourself:

- What commodity is affected by the opportunity or problem identified in [Step 1 Define the problem or opportunity](#)? Is it an entire industry (such as the grains sector), or a single commodity (such as wheat)?
- Are there any specific characteristics that will accurately define the leviable commodity? For example, produced in Australia, sold for processing, unprocessed, for human consumption, and/or botanical name?
- Does the commodity come in more than one form? Will all forms of the commodity be subject to the levy? For example, live animals or meat, fruit for consumption or for processing.
- Are there existing levies in related industries? If yes, who in that industry or the department can you speak with about the definition to ensure that levy will not be paid twice on the same leviable commodity for the same purpose?
- If your definition captures an input (such as seeds or chicks) or an output (such as carcasses or wool) that is already levied, how can you make sure your definition does not have any unintended consequences?
- Who should ultimately be liable for the levy? From whose funds should the collection agent be able to deduct the levy? For example, the producer or the processor or both?
- Should anyone be exempt from the levy? For example, small producers. If yes, this can be built into the definition of the leviable commodity or included as an exemption.

Examples of exemptions

Exemptions are often included in the definitions of leviable commodities.

Common exemptions include where:

- the product is unfit for human consumption
- the product is used for domestic or non-commercial purposes
- the product is to be used by the producer, or members of their family, or on their premises
- the producer is liable for levy lower than a specified dollar amount or 'leviable amount' in a year or other period
- the producer's total production is below a prescribed quantity or weight over a specified period
- a levy has been paid or is payable under another piece of agricultural levies legislation
- ownership changes as a result of a court order in taxation or family law proceedings, or on death of the owner
- proceeds from a transaction are donated to a fund endorsed by the Australian Taxation Office.

2.1.3 Determine a unit of levy

The unit of a levy must be related to the inputs (such as seed or chicks) or outputs (such as carcasses or wool) of the industry or some other arrangement related to the levied commodity you have defined. It should be a stable and commonly understood element of production in your industry so that it is easy for levy payers and collection agents to understand and calculate. The unit is, for example, the 'per kilogram', 'per tray' or 'per head' part of the levy.

When you have a clearly defined leviable commodity, there are two options for determining the unit of levy imposition: volume or value.

Volume relates to something that can be quantified or measured in the production or processing of the levied commodity.

Examples of a volume-based unit of levy include:

- per kilogram (kg)—for example, cents (c) or dollars (\$) per kg
- per tonne—for example, c/tonne or \$/tonne
- per item such as c/item or \$/item
- per metre squared (m^2) such as c/ m^2 or \$/ m^2

An advantage of a volume-based rate is that it provides a stable levy investment even if the value of the commodity rises or falls. For example, the rate may be 5 cents per tonne or \$5 per head regardless of the price.

However, using a volume based rate means that the proportion of that levy fluctuates relative to the price. If the price the producer of the commodity receives is high, then the proportion of the levy relative to the price is low. However, if the price of the commodity is low then the levy takes up more of the price the producer would receive. Within an industry that uses one volume-based rate,

producers selling lower-quality product for less will pay more levy relative to the price they receive for their product.

Value relates to a percentage of the value of the levied commodity or transaction. A percentage of an estimate of the value may also be used. The value of the product multiplied by a factor is also an option. For example, in the case of dried grapes, the weight of the dried grapes is multiplied by three to determine the levy equivalent to fresh grapes.

Examples of a value-based unit of levy include:

- a percentage of the price at first point of sale
- two different rates of levy depending whether the price of a product (the per unit price) is above or below a certain threshold.

An advantage of a value-based rate may be that the levy burden on the producer will be a consistent percentage of their income no matter the value of the commodity. When prices are higher this can help the levy recipient body build reserves to maintain investment when prices fall.

A disadvantage of a value-based rate is that during an industry downturn or price slump, the levy recipient body might have to draw on levy reserves to maintain industry's investment in strategic priorities, or potentially reduce investment.

Testing your proposed levy unit

Testing different possible units with your stakeholders will help you to understand how the units would affect your industry. It could also help you to identify problems you may not have thought of, as well as possible solutions.

Questions to consider when determining a unit of levy:

- What supply-chain structures already exist that lend themselves to determining levy unit? For example, does the industry deal in tonnes or kilograms, per head or per 100 head?
- Do all intended levy payers deal in a common unit? Should you consider different units for different industry arrangements or industry subgroups?
- What financial practices already exist within the industry that would make calculating a levy relatively straightforward?
- What have similar industries done? Can you learn from, or use, their unit model?
- Does the unit you have chosen inadvertently impose a levy on an industry unrelated to the leviable commodity? If so, how can the levy or the unit be defined to avoid this?
- Are there minimum volumes or values that should be exempt from paying levy? Would it be cost effective, for example, to collect levy from a very small producer?

Case study 2 Determining your unit of levy

The horticultural industry in the case study from [Step 1 Define the problem or opportunity](#) uses two different units when selling its commodity in Australia. When selling to markets or supermarkets the product is sold per tray, when selling in bulk for juicing to processors it is sold per tonne.

The new export market is for premium produce in smaller quantities so using a per tonne unit may not be appropriate.

In this case the industry discusses the options and decides that it would be clearer, simpler and easier to use a kilogram unit as it is more widely understood internationally than 'per tray' which is a unit specific to Australia.

The industry proceeds to determining a rate.

2.1.4 Determine a rate of levy

Levy rate is an amount—such as dollars or a percentage—that is multiplied by the unit, to arrive at a levy rate per unit.

If the unit is based on volume, the rate is generally expressed as a monetary rate—cents per kilogram (c/kg) or dollars per tonne (\$/tonne), for example. If the unit is based on value, the rate is generally proportionate—such as a percentage of total value.

Questions to consider when determining a rate of levy:

- Would the rate raise the required funds to address the problem or opportunity defined in [Step 1 Define the problem or opportunity?](#) Does the split between levy types or components (for example 60% R&D and 40% marketing) accurately represent industry priorities?
- What will be the impact on levy payers? Will the proposed rate be affordable?
- Is the rate easily calculated?
- Will the rate sustainably support long-term investment for industry priorities?

How you might calculate your rate

The following simple calculation and example may help you arrive at a suitable approximate rate for your levy.

You will need to estimate:

- how much you need the levy to raise (the amount required per year to address the problem or opportunity you identified in [Step 1 Define the problem or opportunity](#)). For example, you might need \$100,000 per year
- the units of leviable commodity per year (number of units per year). For example, the proposed levy will be imposed per kilogram, and the industry produces 1 million kilograms per year
- the cost of collecting the levy (the amount required to administer the levy collection). For example, the levy collection costs are \$13,000 per year

$$\text{rate} = \frac{\text{amount required per year} + \text{the amount required to administer the levy collection}}{\text{number of units per year}}$$

In the example, the calculation would be:

$$\begin{aligned} \text{rate} &= \frac{\$100,000 + \$13,000}{1,000,000 \text{ kg}} \\ \text{rate} &= \$0.113/\text{kg} \end{aligned}$$

2.1.5 Determine levy return frequency

A levy return is a form that accompanies levy payments and provides information about the commodity, who paid the levy, the period the return covers and any other details required by the legislation.

The levy return frequency refers to how often a collection agent must submit a levy return and associated levies to the department.

Levy return frequencies can be monthly, quarterly, annually (financial, calendar or other) or another timeframe that best suits industry. Levy returns can be arranged around harvesting and breeding cycles, business and administration cycles, or any other cycle that industry chooses.

Questions to consider when determining a levy return frequency:

- What frequency of levy returns best suits your industry?
 - What reporting or accounting cycles already exist for levy payers and collection agents? Can the levy return dates align with these timeframes?
 - Are there industry timeframes—such as harvest—that make a particular levy return frequency efficient for your industry?
 - What are levy return frequencies for similarly structured industries? Are these useful for your industry?
- Could you fairly reduce administrative burden by requiring levy returns at different times for different types of collection agent (for example, quarterly for large agents and annually for small agents or individual levy payers)?
- Would collection agents and levy payers be likely to agree with the proposed levy return frequency?

Table 1 Examples of common return frequencies and hypothetical tailored frequencies

Frequency	Hypothetical tailored frequencies
Monthly	Monthly levy return for collection agents Annual levy returns for producers who do not use a collection agent.
Quarterly	Quarterly levy return for producers dealing with more than 60,000 tonnes Annual levy returns for producers dealing with less than 60,000 tonnes.
Biannually	Biannual return Annual return with the Secretary of the department's approval.
Annually	An annual return following the harvest period, with for example, the levy year commencing on 1 April and concluding 31 March.

Case study 3 Defining your levy effectively

In the case study from [Step1 Define the problem or opportunity](#), the industry body has selected the type of levy that will meet its needs, and then needs to define the levy effectively to target exporters, not all producers of the product.

The department provides an estimate of the costs of collecting similar levies and confirms that imposing an export charge will affect only those producers who want to be liable for residue testing—exporters. This helps the industry body both to define the leviable commodity as the product for export and to identify possible collection points.

Based on the process described in 2.1.4, the industry body works out how much funding it needs to pay for the testing (\$1 million each year) and the costs of collecting the levy (\$25,000). With this information and an estimate of the annual amount for export (60,000 tonnes), they calculate an indicative rate per tonne.

$$\text{rate} = \frac{\$1,000,000 + \$25,000}{60,000 \text{ tonnes}}$$

$$\text{rate} = \$17.08/\text{tonne}$$

The industry body prepares some options with different collection points and levy return frequencies for consultation.

Current exporters provide useful information about existing export practices that help the industry body define the levy as cost effectively as possible and with the smallest administrative burden.

The department can help

We can provide advice on:

- the actual or estimated costs of implementing and administering the levy (some of this information is published in the [Report to levies stakeholders](#) available on the department's website)
- different levy design options, how they may apply to your industry and what they may mean for cost recovery arrangements.

For advice:

Email leviestaskforce@awe.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

3 Consult with industry

[Step 3 Consult with industry](#) and [Step 4 Demonstrate industry support](#) are closely linked and should be read together.

Step 3 Consult with industry is about:

- planning for how you will test the levy options you developed in [Step 1 Define the problem or opportunity](#) and [Step 2 Design your levy](#) with the people and organisations they would affect
- putting the plan into action by consulting with industry
- refining your proposal based on feedback from consultation.

Your proposal to government should include details of:

- when, how and with whom you consulted
- what stakeholder views, feedback and concerns were received
- how your proposal has evolved to reflect the feedback you received
- the final proposal on which stakeholders were consulted.

The [About levies and the levy system](#) part of this guide includes a brief introduction to the levies system—what it is, how it works, the types of levies and key players in the system. You may wish to include this information as background in your proposal to industry as it may be a useful tool when communicating with levy payers about the system.

Principles for consulting with industry and demonstrating industry support

There are five principles that you should keep in mind for [Step 3 Consult with industry](#) and [Step 4 Demonstrate industry support](#): accessibility, impartiality, clarity, coverage and accuracy.

These principles apply whether you are consulting actual levy payers about changing an existing levy or potential levy payers about a new levy.

Accessibility

You must offer all actual or potential levy payers an equal opportunity to have their say.

The size, geographic distribution and other features of your industry will influence the methods you use to consult with industry and demonstrate industry support. For example, taking a vote at an industry meeting may be suitable for an industry with a small number of levy payers located in a limited geographic area. For very large or widely dispersed industries, other approaches—such as a series of regional meetings or a combination of media and online activities, finishing in a ballot or other voting activity—may be a more appropriate method of offering all levy payers and potential levy payers an opportunity to have their say.

Impartiality

Levy payers must be able to express their opinion without interference or fear of adverse consequences.

Levy payers must be confident that when they express their opinion, it will be represented accurately. For example, postal ballot forms should be handled by an independent party with no interest in the outcome and no motivation to influence the results.

Levy payers must be confident that expressing their opinion will not have any repercussions for them. This might mean accepting levy payer opinions confidentially or anonymously, or involving an independent party to run a consultative process or collect responses.

Clarity

You must clearly and accurately describe the options being put to levy payers.

This starts with asking levy payers clear and specific questions. For proposals with multiple types of levy, levy payers must be able to express their opinion on each type separately.

For example, a proposal to increase the R&D levy rate and decrease the marketing levy rate should present those ideas in two separate questions.

Levy payers should be familiar with all the elements of your proposal. You should not ask levy payers to decide on anything that was not presented to them during consultation.

Coverage

The method you choose to measure industry support must maximise participation.

Low participation rates reduce the confidence the minister can have in a result, so your demonstration of support—whether a ballot or any other activity—needs to involve as many levy payers and potential levy payers as possible, including those who are not members of an industry representative body. Not every levy payer will choose to participate in a ballot or other activity to demonstrate support, but it is important to be able to show that all levy payers had the opportunity to do so.

Accuracy

You must be able to present an accurate, reliable result.

Your demonstration of support should provide certainty for the minister and give legitimacy to a decision. Levy proposals must demonstrate that the majority of participating levy payers support the proposal (see [Step 4 Demonstrate industry support](#)).

It may also be useful to provide context for the result, such as the percentage of total levy payers (actual or potential) who chose to vote. If you are unsure about the strength of your majority, it can be helpful to calculate how many additional ‘no’ votes would have changed the result. This may prompt you to consider whether you need any additional demonstration of support.

3.1 Who you must consult

You must be able to show that:

- the proposal was accessible and you made reasonable efforts to inform all potential (if you are proposing a new or expanded levy) and existing levy payers, and their representative bodies, affected by the proposal
- those parties had an opportunity to understand your proposal and to express their views freely

- you consulted with the organisation(s) that would receive your levy (the levy recipient body or bodies)
- you have sought and considered the views of collection agents and their representative bodies, other industry representative bodies in your sector, and other interested stakeholders.

Consultation can be time-consuming and you should consider appropriate resourcing to ensure you consult effectively and efficiently.

As well as contacting your members, you will need to make best efforts to consult with any other potential and existing levy payers, for example through advertising, meetings, other contacts (levy recipient bodies may be able to provide contacts), or other means.

Accessing contact details for levy payers and collection agents

The department may give you a list of collection agents if you have an existing levy.

Some RDCs have established a levy payer register. You may wish to approach relevant RDCs to request access to their levy payer registers to assist in consulting levy payers about your proposal, or to request RDCs' assistance in sending consultation materials to levy payers on your behalf.

Note that the RDC would need to seek the approval of the secretary of the department to give you access to levy payer information.

For more information, contact your case manager.

3.2 How you should consult

Agricultural industries are diverse so how you consult is up to you. Each industry and levy proposal will likely require a different approach to consultation to ensure levy payer views are adequately captured. The key is to make your proposal widely accessible, clear and accurate.

Past examples of consultation activities used by industry leaders include:

- testing the idea with a targeted group(s) of levy payers and recording their feedback
- distributing an information pack to levy payers outlining the proposed option, what it would achieve, and why it is needed
- convening industry forums specifically to explain the proposal or adding a discussion on the levy to the agenda of existing meetings or industry events
- meeting with levy recipient bodies to discuss industry priorities and program costs
- circulating a regular update to the industry mailing list
- writing a blog about the proposal and its progress
- including discussion articles in industry newsletters or relevant newspapers
- publishing fact sheets and frequently asked questions on relevant websites
- seeking quantitative and qualitative feedback via an online, phone or postal survey
- circulating an issues paper for feedback and then producing a final paper based on feedback received.

This list is a guide only. You do not need to undertake all of the listed activities. You may decide to undertake activities not on the list or you may decide to undertake a combination of activities to reach potential and existing levy payers in your industry.

3.3 When or how long you should consult for

There is no minimum period—recent consultation periods range from 83 calendar days to more than a year. It depends on the characteristics of your industry (such as size, geographical spread and how unified your industry is) and how much support there is for the levy proposal.

This step is about ensuring stakeholders' views are captured and reflected in your levy proposal; and that the proposal put to government is supported by the majority of levy payers.

Your consultation period should:

- be long enough to allow all actual and potential levy payers, collection agents, levy recipient bodies and other stakeholders to access and understand your proposal
- be long enough to allow them to discuss and provide constructive feedback
- take into account peak season in your industry so that everyone has time to consider the proposal.

3.4 Useful questions to ask when planning consultation

You should plan in advance how you will undertake consultation. You may choose to contact the department or representatives of other industries who have gone through the process, to get ideas on how to consult effectively.

Asking yourself these questions may help guide you in deciding how to approach consultation on your proposal. For example:

- How many potential or existing levy payers are there?
 - Where are they located?
 - How geographically dispersed are they?
 - Are there regional, varietal or other different subgroups of levy payers?
 - Are producers in your industry aware of the levy system?
 - How well informed are they?
- How do producers in your industry prefer to communicate?
 - Are there established means by which producers are regularly contacted?
 - What existing industry events in the short term could support consultation on your levy options?
 - How will producers who do not receive regular communication from industry representatives, or are not members of industry representative bodies, be consulted?
- Are you proposing to establish a new levy, change an existing levy, or change the allocations within an existing levy rate?
 - For existing levies, how long has the levy been in place?
 - When was the last change and why?

- What was the response last time a levy proposal was put forward in your industry?
- Is there already widespread industry discussion and strong support for making a proposal to government to make a small change to an existing levy? For example, a minor technical change, altering the amount of levy allocated to different purposes without increasing or reducing the total rate and not affecting potential new stakeholders?
 - Are you confident that all levy payers are aware of the proposal and that few, or no objections would be raised to it?
 - You may be able to use a notification and objection period in some circumstances. There are risks associated with this approach and you should discuss whether it would be appropriate in the circumstances with the department.

For guidance on whether your consultation plan should include conducting a ballot, see [Step 4 Demonstrate industry support](#).

3.5 What to do with negative feedback

There is rarely complete agreement with levy proposals.

3.5.1 Accept the feedback

Incorporating the range of views will strengthen your levy proposal.

At this stage your task is to collect the views of levy payers and other stakeholders, even where these conflict with the preferred proposal.

3.5.2 Respond appropriately

If the feedback exposes misunderstandings about the levy option you are proposing, clarify the relevant points.

If feedback highlights a problem you can't resolve or if it suggests a good alternative solution, you may wish to revisit the levy options you are pursuing.

Case study 4 Consulting with a diverse, geographically spread industry

An industry body sees a need for the industry to invest in R&D as a high priority to increase farm productivity and boost returns. As a second priority, marketing to build demand for the commodity in various overseas markets would be desirable. The industry is made up of some large producers and many smaller producers spread across Australia. These producers have different needs, business models and production methods, as well as different peak periods due to their size and locations.

The industry body contacts the department for advice, particularly about how to consult with such a diverse industry. The department appoints a case manager to help the body navigate the levy process. The case manager highlights the importance of following the [principles](#) for consulting with industry so the industry body can build a strong case that levy payers can support.

The industry body and the case manager conclude that it would be effective and fair for the industry body to contact the large, well-known producers directly. The industry body meets with large producers to outline their R&D levy proposal and seeks their views on the proposal. During the meeting the possibility of a marketing levy is also discussed. The large producers support the R&D levy but do not support a marketing levy.

The industry body decides to focus on the priority R&D levy and leaves the marketing levy to another time. To progress with a marketing levy proposal in future, the industry body will need to build consensus and make a persuasive case for broad industry benefits.

The industry body refines the proposal for an R&D levy and continues consultation with smaller producers. It advertises the proposal in each state industry newsletter and rural newspapers, because these have a wide readership among smaller producers. The advertisements include:

- the key features of the revised proposal and expected benefits for industry from R&D investment
- how to access the full levy proposal online and in hard copy
- a request that regional grower groups, Landcare groups and producers tell one another about the proposal and discuss it
- the dates of field days in each state throughout the year that the industry representatives will attend to explain the proposal
- dates of online discussion forums where producers can ask questions
- contact details for the industry representative body and a telephone number for further information, as not all producers have internet access.

The industry body estimates that 90% of producers will become aware of the proposal through these methods. The industry body will also ask those it speaks with in person, online and on the phone to tell any who may not have heard of it about the proposal and how to get further information.

Case study 5 Small industry, single harvest period, geographically close

Two partners operating in an emerging industry which covers a small area (with adequate internet access) want to build productivity through R&D and set up biosecurity and emergency response levies. They are passionate about their crop and its potential for growth, and consider that the fairest and most efficient way to fund industry's goals is to raise a levy. Their proposed goals are to improve on-farm efficiency and to become members of the relevant biosecurity organisation, Plant Health Australia (PHA). As they hope to increase the investment as the industry expands, they propose a volume-based cents per kilogram rate.

The two partners think there are 20 producers in the industry and they know all of them personally. After harvest, they prepare a draft proposal and discuss it with all of the other producers in small groups. They receive valuable feedback from those discussions:

- that growers expect the industry to grow more in value than volume as theirs is a premium product,
- growers think it would be sensible to change the rate to a percentage of the value at first sale as this will allow levy investment to grow with the value of the product.

With this feedback the partners refine their proposal into a final version. The size, spread and closeness of the industry means they can consult quickly and effectively.

They contact the department and their proposed levy recipient bodies—the RDC and PHA—to seek feedback on the details and have a case manager assigned. The case manager explains that they must follow the principles of consulting with industry and helps them work through the most robust and cost effective way of demonstrating industry support. PHA explains how the emergency response levy and deed arrangement works and what activities they could fund with a biosecurity levy. The RDC explains how it could support industry's goal of increasing productivity.

Next, the partners provide the final version of their proposal to all producers in their industry. In case there are producers they are not aware of, they ask the only supplier of an essential input to advertise the proposal in its next newsletter or when inputs are purchased, with information on how to access the proposal.

The proposal is available on the producer partners' public website, by email and by post for a reasonable and defined consultation period, followed by a secure online survey to measure support.

In the supporting documents to the proposal, the partners explain how they have incorporated feedback from producers, the department and the levy recipient bodies. The proposal contains a section about feedback that was not incorporated with an explanation of why not. Which producers said what is not specified to respect their privacy, just that certain alternatives were raised and why those alternatives were not included in the final version.

At the end of the consultation period, the partners set up the online survey and send it out to all 20 producers (as no others have emerged) of whom they are aware. The survey is open for three weeks to ensure that all producers have an opportunity to vote.

The department can help

The department can provide:

- feedback on your consultation plan
- contact details for levy recipient bodies
- for existing levies, a list of relevant collection agent contact details.

Email leviestaskforce@agriculture.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

4 Demonstrate industry support

The decision to implement a levy proposal requires the government to draw on its taxation powers under Australia's Constitution. A levy proposal that demonstrates clear and compelling support from actual and potential levy payers is more likely to be implemented.

The aim of this step is to provide robust evidence that, following a thorough, industry-wide consultation process, a majority of levy payers who chose to participate support the proposal.

Demonstrating industry support does not guarantee your proposal will be implemented; however, presenting a clear, credible majority will give your proposal the best chance.

You may choose to measure levy payer support in any way that provides the government with clear and convincing information about levy payers' views.

You should continue to refer to the five principles for consulting with industry and demonstrating industry support described in [Step 3 Consult with industry](#).

4.1 How to measure support

To show industry support for establishing or changing a levy you can use various methods that include voting and non-voting methods.

These could include for example:

- a postal ballot
- votes at industry meetings
- a secure online survey
- letters of support from levy payers
- collecting individual responses over the phone
- a notification and objection period
- a combination of methods that is appropriate to your industry and fair to levy payers.

Case studies at the end of Step 4 illustrate some of the options.

For proposals to establish new levies, a ballot is the government's preferred option. A number of public and commercial entities provide ballot, voting and other election services that are accurate, transparent and secure.

In limited cases, identified in [4.1.2 Using a notification and objection period as a measure of support](#), you may choose to use a notification and objection period as a standalone method of demonstrating support.

4.1.1 Voting and what a majority means

Voting in levy-related ballots is not required by law, which is why it is important to show that you gave all affected levy payers an equal opportunity to consider the proposal and have their say.

A majority in a ballot or voting activity

The government considers a majority to be 50% plus one of levy payers who choose to vote.

Ballots and votes should demonstrate a majority on a one-vote-per-levy-payer basis.

Examples of majority outcomes from a ballot or vote:

- If 120 people voted, a majority vote in support of the proposal would be 61 (or more) yes votes.
- If 2,643 people voted, a majority vote in support of the proposal would be 1,322 (or more) yes votes.

Participation rates – those who do not vote

A low turnout rate will not necessarily mean you cannot demonstrate that a majority of your industry has supported your levy proposal. However, it is important for the minister to understand the context of how you consulted with industry and how many levy payers chose to participate in the voting process.

For example:

- You demonstrate that you consulted about altering an existing levy very widely and thoroughly, and responded to feedback. Half your industry voted in your process, and the majority of those who voted, voted yes. The minister may consider that those who chose not to vote did not object to the proposal, and that as a result majority support has been shown.
- You do not establish that you have consulted with all potential payers of a new levy, and provide no evidence of consulting with producers in a particular region. You get a clear majority yes vote from those who chose to vote, but the minister cannot consider that all affected levy payers have had the opportunity to have their say and to choose whether or not to demonstrate their support.

A non-voting method of demonstrating support

The government considers a majority to be a clear indication of support from more than half the participants, by number, in the consultation methods you have chosen. For example, in a small industry you may be able to get letters of support for a proposal from a majority of producers.

4.1.2 Using a notification and objection period as a measure of support

All levy proposals must have an objection period of at least 30 business days after being submitted to government (see [Step 6 Hold an objection period](#)).

The exception to this rule is activating (set to a positive rate) or deactivating (set to a nil rate) a biosecurity emergency response levy, where the objection period must be a minimum of 30 calendar days. If you are activating or deactivating a biosecurity emergency response levy, go to [Step 7 Activate or deactivate biosecurity emergency response levies](#).

In some limited cases, instead of holding a voting process to confirm industry support for some types of levy changes you may be able to use a notification and objection period process.

Such cases may include those which:

- relate to some technical or administrative aspects of the levy such as the collection point or return frequency
- will not increase the overall levy rate (will only change the levy 'mix')
- will not capture new levy payers.

Even for these sorts of cases, a notification and objection period will not always be appropriate.

If you wish to use a notification and objection period as a measure of support, all industry members should already know about the proposal, most likely through a consultation process, before the notification and objection period starts.

The department can help you decide whether you can use a notification and objection period to confirm majority industry support for your proposal.

If a notification and objection period is an appropriate method to confirm majority industry support for your proposal:

- 1) You start the process by submitting your proposal to the minister.

For more information go to [Step 5 Draft and submit your levy proposal](#).

- 2) You then issue a public notification to all levy payers, to provide details of the objection period and to make clear that the process will be used to confirm their support for the proposal.

This notification should be in a manner and form that you can reasonably expect to reach all current and potential levy payers.

- 3) You must allow levy payers to lodge objections with your organisation, other industry representative bodies (if applicable), the minister's office, and the department.

The objection period must last a minimum of 30 business days. You may wish to consider holding a longer objection period to give levy payers more time to respond.

- 4) You must adequately respond to all objections after the period has ended.

This will depend on the number and nature of objections you receive, and you can seek advice from the department on how you intend to handle objections. For example, some objections may simply require you to provide further information about your proposal, while more significant objections may indicate that you need to continue seeking support from levy payers or consider changing your proposal.

- 5) You must formally advise the minister about the outcomes of the objection period.

You should clearly explain how the objection period confirms that the majority of levy payers support your proposal. This includes describing how many (if any) objections were received, summarising the basis of the objections, and explaining how you responded to objectors or incorporated their views into the levy proposal.

Where relevant, you may explain why the objection should not change the proposal or stop it going ahead.

When you provide this advice to the minister, it will be attached to your proposal as an attachment.

Case study 6 Changing the levy mix using notification and objection period

Producers in a small, but rapidly growing, industry have proposed changing their levy rates to better support industry priorities.

They are seeking to increase their marketing levy and decrease their R&D levy, with no change to the overall rate paid by each levy payer. Following contact with the department and the RDC, the initiators conducted extensive consultation and received unanimously positive feedback from industry.

In this case, the industry participants may be able to submit their proposal and use a notification and objection period as a measure of industry support. A successful notification and objection period will reinforce their qualitative evidence of positive feedback.

4.2 How to describe the outcome of the vote

When describing industry support it is useful to set out the context of the majority. You should set out:

- how many levy payers would be affected by the proposal
- how many levy payers (or an estimate of how many) you consulted about the proposal
- how many levy payers voted
- how many levy payers voted yes and no.

To provide further context for a majority result, in either a voting or a non-voting activity, you may also wish to describe the result in proportional terms. This could include describing the yes or no result in terms of:

- the value or volume of production
- the amount of levy paid, or liable to be paid.

Note that proportional results should be presented as supplementary evidence to further support your majority, rather than in isolation.

When you are summarising industry views and discussions (whether for your own reference, for a report to levy payers on the consultation process, or for inclusion in a proposal to government), you may wish to consider:

- de-identifying individual responses, for example
 - it can be useful to include quotes or excerpts from submissions to demonstrate key points; however, it is not necessary to attribute these
 - if you are describing broadly held opinions among levy payers and other stakeholders, identifying an individual's or a business's views on levies is not relevant.
- clearly describing the way you sought and received feedback, for example
 - describing the methods you used will help put the feedback in context

- this may help you to plan further targeted consultation to address ‘blind spots’, where your consultation may not have adequately covered an issue or a group of levy payers.
- describing the feedback in both quantitative and qualitative terms
- presenting the results using quantitative analysis, for example, in a vote
 - how many levy payers participated
 - how many submissions were received
 - how many expressed support, and how many did not.
- presenting the results using qualitative analysis, for example, in a non-voting activity
 - describing the key themes in responses.

Include negative and positive feedback, as well as your response when outlining your consultation activities in your proposal to government.

For details on how to treat objections received during a notification and objection period, see [Step 6 Hold an objection period](#).

Case study 7 Large industry increasing existing marketing levy

Industry leaders in a large, established industry are seeking to increase the rate of a marketing levy, which has been in place for 10 years.

There are thousands of levy payers located across Australia, with varying access to the internet. The industry is made of small, medium and large producers across various states who have different marketing needs and financial resources.

Industry leaders contact the department for advice about the consultation process and how to demonstrate industry support in their industry.

Following discussion with the department and given the nature of the industry, industry leaders decide that a postal ballot is the most suitable method for measuring support and demonstrating a majority. Due to the size and spread of the industry, it would not be feasible to convene a meeting or to collect letters of support. Using a combination of their own member database and advertisements in rural press that ask levy payers to register to vote, they should be able to reach all levy payers to promote the proposal and ask for participation in the ballot. Although conducting a nationwide postal ballot will take time and money, the proposers of the change see this as the most effective and robust method in this case.

Case study 8 Medium sized, cohesive industry across a small area

To reduce levy collection costs, an industry representative body has suggested changing the levy collection point. Industry structures and supply chains have changed significantly since the levy was established, and an alternative collection point would be more efficient. No change to the levy rate is proposed.

The representative body contacts the department to discuss the new collection point and for advice on how to proceed with consulting and demonstrating industry support for the change.

The representative body plans its consultation around annual field days for the three key production regions, which regularly attract attendance of over 80% of all levy payers.

The body notes that 20% of levy payers are known to live outside these regions and must be consulted by another method. The body contacts those it has details for and places notices in industry newsletters and

media, asking that those levy payers who are not attending the field days visit the body's website or contact the body for information about the proposal.

The department supports the consultation by identifying current collection agents, from whom the representative body seeks feedback and agreement. Potential new levy collection agents, identified through online searches and knowledge of the industry, are consulted about the planned changes to make sure the proposed mechanism is feasible and not too burdensome. The collection agents assist the representative body to make the most cost-effective proposal.

To demonstrate industry support, the representative body plans to hold an informal vote at each of the three field days and seek letters of support from geographically isolated levy payers who cannot attend, but who are known in the industry. Drawing these results together, the representative body will seek to demonstrate that a clear majority of levy payers support the proposal.

Case study 9 Small industry proposes PHA levy increase

An industry association in a small industry is pursuing an increase to the industry's PHA levy to undertake additional biosecurity projects, such as employing biosecurity extension officers.

There are fewer than 200 levy payers, almost all of whom are members of the association. The levy payers are widely dispersed geographically.

The association contacts the department and PHA to discuss its plans and seek guidance on how to proceed to consult and demonstrate industry support.

When the levy proposal is finalised and consultation via industry meetings has finished, the association engages an independent person to collect individual levy payers' views over the phone, including whether or not they support the change. Care must be taken to follow the principles of consultation and demonstrating industry support in this context. The association must ensure that non-members are encouraged to participate in the meetings and discussions about the proposal. They must have an equal opportunity to access, understand and provide feedback to the proposal, and their views must be accurately reflected in the final proposal.

The department can help

We can provide information and feedback on the methods you are considering to demonstrate industry support in your specific circumstances.

Email leviestaskforce@agriculture.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

5 Draft and submit your levy proposal

You must submit a complete proposal to the minister in order to have your levy proposal considered by government (see [Proposal checklist](#)). Your stakeholders must have been consulted on everything in the final proposal.

You must make your proposal publicly available during the objection period, which begins after you submit your proposal (see [Step 6 Hold an objection period](#)).

5.1 What the proposal must cover

Your proposal must provide robust evidence that it:

- will enable your industry to take collective action to address a specific problem or opportunity
- is the most appropriate course of action of the available options
- is the preferred course of action for actual and/or potential levy payers.

Draw on the information you gathered and the actions you undertook at each step in this guide to help you construct your proposal.

Your proposal should mention concerns raised by levy payers and how you addressed them.

Your proposal does not need to be long. It is best to be as concise as possible, and attach any supporting information.

For more details, see the [Proposal checklist](#).

5.2 Questions to ask yourself

- If I were the minister, does this proposal have all the information and evidence I would need to make this decision?
- Have I covered all the sections in the [Proposal checklist](#)?

5.3 Information you do not need to include

- A summary of the agricultural levy system.
- An extensive history of your industry or organisation unless relevant to this proposal.
- A description of the changes to legislation that would be necessary to implement your proposal. This is a technical matter about which the department will advise the minister.

The department can help

We can provide:

- feedback on draft proposal documents, coordinated by your case manager
- contact details for other industries that have completed a proposal process recently and are willing to discuss their experience with you.

For more information:

Email leviastaskforce@awe.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

5.4 How to submit the proposal

Submit your proposal to the minister by email or by post.

The email and postal addresses for the minister's office are available on the department's website minister.agriculture.gov.au or your case manager can provide you with these details.

Copy in your case manager and leviastaskforce@agriculture.gov.au.

Proposal checklist

The minister makes the decision to agree, or not, to a levy proposal and the minister cannot agree to a proposal that does not provide all the information needed to make that decision. By covering all the sections in this checklist you are more likely to provide all the information the minister needs and meet the [Levies principles](#). However, it is not possible to guarantee that the minister will agree to the proposal as that is a decision for the government of the day.

Your proposal should cover these 4 topics and include attachments.

The collective industry problem or opportunity

- Clearly outline the problem or opportunity you are seeking to address, and how it affects all levy payers.
- Describe what has prompted your proposal and why a compulsory levy is the best solution.
- Explain how the proposed levy changes will enable your industry to address the problem or opportunity, and provide the rationale for pursuing this option over others.

See [Step 1 Define the problem or opportunity](#).

The proposed levy solution

- Describe in detail the levy change or changes you are proposing.
- For new proposals, justify why you have selected each of the technical settings, such as the unit, rate, collection point and the frequency of return.
- For changes to existing levies, consider whether you need to outline why you have decided to change technical settings or not.
- Demonstrate how the proposal is equitable between levy payers.

See [Step 2 Design your levy](#).

The views of levy payers and other stakeholders

- Summarise the process you went through to consult levy payers, the levy recipient body, collection agents and other stakeholders.
- Include details of when, how and with whom you have consulted.
- Explain the different opportunities available to levy payers to provide input throughout the process.
- Describe the outcomes of the consultation process.
- Discuss levy payers' and levy recipient bodies' opinions on the proposal—both for and against. Support your analysis with qualitative and quantitative evidence.
- Describe how you incorporated feedback, and how the proposed solution evolved as a result.

- Do not include resources from the process here. Instead, you may wish to attach these materials—such as flyers, discussion papers, correspondence, or social media content—as attachments at the end of your proposal.

See [Step 3 Consult with industry](#).

Evidence of majority industry support

- Explain the method you used to demonstrate support for the final proposal.
- Outline your reasons for choosing this method, or combination of methods, over others.
- Identify any factors that influenced when or how you sought industry support. For example, you could choose a particular time of year to avoid peak production.
- Present your result accurately and in context.

See [Step 4 Demonstrate industry support](#).

Attachments

- Include detailed items in attachments at the end of the proposal rather than in the body of the proposal.
- If you need to, you can refer to the attachments in the body of the proposal.
- To strengthen your case you could include information in an attachment, such as:
 - copies of supporting letters from levy payers
 - materials from consultation processes
 - a declaration from an independent returning officer certifying that the ballot results are true and correct
 - correspondence from levy recipient bodies.
- Only include attachments that would assist the minister to assess your proposal.
 - For example, it would not be necessary to include the invoice from the ballot services provider.

6 Hold an objection period

The objection period is an important step in the levy proposal process. It ensures that all levy payers and interested stakeholders have an opportunity to express views on the final proposal submitted to government, and provides an independent avenue for them to do so.

6.1 What you must do

All levy proposals must have an objection period of at least 30 business days after being submitted to government.

The exception to this rule is activating (set to a positive rate) or deactivating (set to a nil rate) a biosecurity emergency response levy, where the objection period must be a minimum of 30 calendar days. If you are activating or deactivating a biosecurity emergency response levy go to [Step 7 Activate or deactivate biosecurity emergency response levies](#).

6.1.1 Arrange an objection period

After you send your proposal to the minister you must hold the objection period.

You must allow at least 30 business days for levy payers to submit objections to any of these three recipients:

- you as the initiator of the levy proposal
- the department
- the minister's office.

You should ask levy payers to indicate whether they agree to you (as the proposer of the levy) responding to their objection directly or whether they wish to remain anonymous. How to respond to objections is covered in [6.2 How to respond to objections](#).

6.1.2 Notify levy payers

You must make the details of the objection period public, including:

- the dates of the objection period opening and closing
- how to access the complete proposal
- what to include in an objection, including the reasons why the levy or part of the proposal is opposed
- how to submit an objection.

As with earlier steps, you need to make best efforts to notify all actual and potential levy payers of this opportunity to have their say.

Think about what communication methods worked and what methods did not work when you were consulting levy payers on the proposal. Use the most effective methods available to notify levy payers about the objection period.

6.1.3 Make the final version of the proposal publicly available during the objection period

You could publish your proposal, for example, on a public page on your website if you have one, and/or make copies available on request.

6.1.4 Timing of your objection period

Your objection period must be a minimum of 30 business days (six weeks) but you may wish to allow a longer period at busy times of the year, such as around Christmas and New Year or during the peak of production.

6.1.5 Respond to objections

After the objection period has closed, you must respond to each objection.

6.2 How to respond to objections

Receiving objections does not mean that your proposal cannot proceed. However, the minister needs to know whether you responded appropriately to the objections received.

You may respond individually, where appropriate, or publicly. For example, you can publish objections and your responses on your website.

When preparing a response, consider the outcome the objector is seeking. This often falls into 3 broad categories:

- 1) Seeking more information—the objector may not have fully understood all aspects of the proposal.

Your response may need to describe the proposed levy options in more detail, clarify the steps you took to consult levy payers, or explain the way you demonstrated majority industry support.

- 2) Seeking action—if the objector suggests that you change the proposal in some way, you can consider whether the suggestion is practical, reasonable and necessary.

The objector may have identified something that will make your proposal stronger.

If an objection highlights a problem you cannot resolve or suggests a good alternative solution, you will need to consider how to address it. You can discuss this with your case manager.

- 3) Seeking to express unrelated views—rarely, stakeholders may use the objection period to express their opinion on an issue unrelated to your proposal.

You do not need to respond to objections that do not relate to your proposal, however, you should list the objection in your advice to the minister about the objections you have received, and outline why the objection is not relevant to the proposal.

6.3 Provide the results to the minister

Prepare a summary of the objection period, the objections you received and how you responded.

Submit this to the minister the same way you submitted your proposal (see [5.4 How to submit the proposal](#))—it will be added as an attachment.

6.4 The objection period is not the same as the disallowance process

The objection period takes place before the minister decides whether to implement the proposal in legislation.

The disallowance process is part of the parliamentary process that takes place after legislative instruments (including regulations) have been made and registered. While relatively rare, from time to time a legislative instrument is disallowed, meaning that from the time of the disallowance the instrument no longer has legal effect.

For more information about the disallowance process, see [After you submit your proposal](#).

The department can help

The department can give you informal feedback on draft responses to objections and draft summaries for the minister.

For feedback:

Email leviestaskforce@agriculture.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

After you submit your proposal

After you have held an objection period and responded to any objections, a number of steps usually take place.

The minister will consider your proposal

The department advises the minister about your proposal, the associated costs to the government and regulatory impact, and the legislative changes necessary to implement it.

If the minister requires additional information, your case manager will work closely with you to help you provide the relevant details.

The minister decides whether to agree to your proposal

If the minister agrees, and depending on the nature of the changes needed, a range of internal government processes may be required.

The time and complexity of drafting new, or amending existing, legislation varies.

Changes for your levy also have to compete for priority with all the other legislation and subordinate legislation—such as regulations, rules or other legislative instruments—being drafted across government, so the time required to establish or change a levy can be unpredictable.

If the minister does not agree to your proposal it will not proceed. You may seek feedback from your case manager.

The legislation is considered by the decision-making body

Depending on the changes required, your levy will be considered by either the Parliament of Australia or the Federal Executive Council. The process of making these changes is likely to take 6 months to 12 months. In some cases it may take longer.

Parliament considers primary legislation, which is introduced as a Bill and must be passed by both Houses of Parliament to become law (an Act of Parliament).

The Federal Executive Council considers subordinate legislation—such as regulations, rules or legislative instruments—which are authorised by an existing Act. After a piece of subordinate legislation is made, it goes through a disallowance process.

The disallowance process

The disallowance process is one of the democratic checks and balances in Australia's legislative system. This process allows Parliament to consider subordinate legislation on all topics, not just for levies.

After a legislative instrument is made, it must be registered and then tabled in Parliament within 6 days of registration. Both Houses of Parliament then have 15 parliamentary sitting days to lodge a notice for disallowance. If a disallowance motion is passed by either House, the legislative instrument is no longer legally valid, from the time of disallowance.

If a legislative instrument (including a regulation) is disallowed by the Parliament, any actions or decisions made between the registration of the instrument and the disallowance by the Parliament would still be legally valid.

Due to the parliamentary sitting calendar, months may pass between the making and registration of an instrument (it being legally valid) and a successful motion of disallowance (it being no longer legally valid).

The levy commences

If a piece of subordinate legislation is not disallowed, it will continue in force. Your case manager will let you know when your levy becomes law. The department also publishes levy notices on its webpage and communicates with collection agents about levy changes.

7 Activate or deactivate biosecurity emergency response levies

Biosecurity incursions pose a significant threat to Australian producers and the economy, and require rapid, coordinated responses. Agreements setting out arrangements for incursions of exotic pests and diseases include the Emergency Animal Disease Response Agreement (EADRA) and the Emergency Plant Pest Response Deed (EPPRD).

In the event of an incursion, the emergency response agreements, such as the EADRA and EPPRD:

- outline responsibilities and activities for industries, state and territory governments, and the Australian Government
- provide for cost-sharing arrangements
- provide for the Australian Government to initially meet an industry's share of costs, where requested by the industry.

Industries that are members of AHA or PHA, and are signatories to a biosecurity emergency response agreement, may proactively establish a biosecurity emergency response levy using steps 1 to 6 of this guide. These levies are often established at a nil rate and activated on request when needed—usually after an incursion—to meet an industry's financial obligations under a biosecurity emergency response agreement, or to repay the Australian Government where it has underwritten an industry's share of the costs of a response to a pest or disease outbreak.

Only industry bodies that are signatories to a biosecurity emergency response agreement may request that the government activate or deactivate an emergency response levy.

7.1 Activating and deactivating biosecurity emergency response levies

Contact the department if you think your industry needs to activate or deactivate a biosecurity emergency response levy.

To activate or deactivate a levy you, as a signatory to the biosecurity emergency response agreement, must take the steps in this guide to support the minister in changing the legislation or subordinate legislation. However, because industry was consulted when the levy was established, the actions you take at each step will be simpler. Biosecurity emergency response levies are established on the understanding that they will be activated in the event of an emergency response, so a notification and objection period approach can be used.

Activating or deactivating a biosecurity emergency response levy should be a smooth, streamlined, process but it is not instantaneous—it still requires changes to legislation or subordinate legislation.

7.1.1 Contact the department

To have a case manager assigned to you and to settle your levy rate you should contact the Biosecurity National Response Policy Section by emailing response.policy@awe.gov.au or by telephoning the switchboard 02 6272 3933.

With the department's assistance you will need to determine:

- that the net benefit is greater than the cost to industry
- a levy rate that will raise enough funds annually to either
 - cover the industry cost-sharing obligation
 - repay the Commonwealth for costs it has underwritten on the industry's behalf.

7.1.2 Notify levy payers that you intend to activate or deactivate the levy

Notify all levy payers that you are:

- writing to the minister to request an increase (activation) or decrease (deactivation) to the rate of your Emergency Animal Disease Response (EADR) or Emergency Plant Pest Response (EPPR) levy.
- holding an objection period during which levy payers may provide feedback.

You must provide full details of the proposed change (including the proposed rate and purpose of the changes) and your intention to hold an objection period. You can provide all information for the objection period in this notice (see [7.1.4 Begin your 30 calendar day objection period](#) for information required) or in a separate notice prior to the start date of the objection period.

You should use whatever methods suit your industry circumstances to reach as many levy payers as possible, whether they are members of your industry body or not. See [Step 3 Consult with industry](#) for further guidance.

7.1.3 Inform the minister that you will hold an objection period

You must write to the minister to:

- request the increase or decrease to the rate, and specify the current rate and the proposed rate
- explain how majority support was demonstrated when the levy was established
- advise how levy payers have been notified of the levy proposal, purpose of the levy changes and proposed rate. This could include, where relevant, information about emergency responses and cost-sharing obligations (or the finalisation of such obligations).
- provide the start and finish dates of the objection period.

7.1.4 Begin your 30 calendar day objection period

The objection period should begin after you have written to the minister. However, please note, you do not have to wait for a reply from the minister before starting your objection period.

In your notification to levy payers about the objection period, you must provide:

- full details of the proposed change to the levy

- contact information for the industry body proposing the activation or deactivation
- contact information for the department, including by email at leviastaskforce@awe.gov.au and response.policy@awe.gov.au
- what a person making an objection should include:
 - that they are an actual or potential levy payer
 - the reason(s) for their objection
 - evidence to support their objection.

7.1.5 Consider and address objections

You must respond to objections to your proposal. For guidance see [6.2 How to respond to objections](#).

You may respond directly to those who have lodged objections or respond generally on your website or by equivalent means. If you respond to objections publicly, such as on your website, you should remove names and other identifying features from the objection.

At the end of the objection period you should advise the department in writing about:

- all objections you received during the objection period (the department will have informed you of any it received)
- how you have addressed or resolved each objection
- why any objections should not alter the proposed rate or other aspects of the proposal
- where an objection has led to changes to the levy proposal, a further notification and objection process in line with [7.1.2 Notify levy payers that you intend to activate or deactivate the levy](#) and [7.1.4 Begin your 30 calendar day objection period](#) will be required.

When this process is completed, the steps in [After you submit your proposal](#) will apply.

8 Review your levy

Levy arrangements should be dynamic and responsive to industry needs to support industries' ability to respond to opportunities and problems.

Industries should review their levies regularly to ensure levies are meeting industry priorities and needs, and the levy continues to deliver benefits to levy payers.

Reviews can be formal or informal. They can be conducted by any industry member affected by the levy arrangements and take into consideration multiple aspects, including technical elements, the rates and revenue, industry priorities and levy history.

8.1 Questions to consider when reviewing your levy

8.1.1 Levy history

- When was the levy last reviewed or changed?
- How did levy payers respond?
- Was a change implemented?

8.1.2 Levy design and technical elements

- Is the levied commodity defined in a way that is modern, equitable and accurate?
- Is the levy collected at the most efficient point in the supply chain? What are the alternatives?
- Is the levy subject to any minimums or exemptions? Are these still relevant and appropriately set? Should minimums be introduced?
- Are levy returns due at the most effective and efficient interval (monthly, quarterly, annually)?
- Is there benefit in consolidating with another levied industry?

8.1.3 Levy rate and revenue

- How much does the levy raise each year?
- How have the number and average size of levy returns changed?
- Is the unit and rate, for example the weight, value, per head, still relevant?
- Have input costs changed?
- Does the levy support a balanced portfolio of strategic activities such as R&D, marketing, NRS and/or biosecurity activities in line with industry priorities?
- How much is cost recovery? Are there ways to improve this?
- What is the level of voluntary contributions in industry and what are they used for?

8.1.4 Industry priorities

- Are industry priorities accurately captured in the types and amounts of levies collected?
- Are there alternatives to a levy that could be explored?

The department can help

We can provide information about how much your levy collects, how much it costs, and how this has changed over time.

For information about your levy:

Email leviestaskforce@agriculture.gov.au, your case manager or your usual contact.

Telephone the switchboard 02 6272 3933, your case manager or your usual contact.

If the review indicates your levy and charge arrangements need to change, see [Step 1 Define the problem or opportunity](#) and [Step 2 Design your levy](#).

8.2 Ceasing an unneeded levy

Agricultural industries are always changing, and the department works closely with industries to ensure their levies continue to reflect industry arrangements in the most efficient and effective way.

Many aspects of a levy can be adjusted to account for changing problems or opportunities in an industry, including:

- the way the commodity is defined
- the point in the supply chain at which the levy is collected
- the levy rate
- when the levy is due for payment.

Sometimes, a combination of significant changes—for example, changes to production methods, supply chains or industry structures—might make a levy inefficient. This is rare but it can happen.

Ineffective levies have a suboptimal cost–benefit ratio. For levy payers, this may mean returns on investment too low to justify continuing the levy. If this is the case in your industry, and levy payers wish to cease collection of the levy, please contact the department.

The minister may decide to cease an inefficient levy without requiring a formal proposal from industry. This would be a decision for the minister on a case-by-case basis.

The department can help

If levy payers in your industry want to cease a levy, contact the department.

For how to cease a levy:

Email leviestaskforce@agriculture.gov.au or your usual contact.

Telephone the switchboard 02 6272 3933 or your usual contact.