

Levy Poll Advisory Committee 2021

Terms of Reference

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BACKGROUND

In accordance with the *Dairy Produce (Dairy Service Levy Poll) Instrument 2016* (the Instrument), Dairy Australia must form a Levy Poll Advisory Committee (LPAC) at least every five years which must, among other things, consider the levy rate payable by dairy farmers, and determine whether there should be a variation (increase or decrease) to this rate.

LPAC MEMBERSHIP

Composition of LPAC

The founding member of the LPAC is the LPAC Chair who is required by the legislation to be independent. An executive recruiter (Rimfire Resources) was briefed on the required competencies and undertook a search for suitable candidates. A selection panel reviewed the candidates and recommended a shortlist. The President of Australian Dairy Farmers (ADF) and Chair of Dairy Australia (DA) then jointly nominated the Chair as required by the legislation.

The LPAC Chair will invite Australian Dairy Farmers and Dairy Australia to provide two representative nominations each and invite Australia Dairy Products Federation to provide one representative nomination. These are known as the “initial LPAC members”.

Once this initial group is nominated, an independent selection panel will assist and recommend between five to ten levy payers for the initial LPAC members to appoint. This process will involve:

- Reviewing the applications received from levy payers and creating a shortlist of candidates with appropriate experience and skills to reflect the diversity of Australian levy payers
- Interviewing candidates
- Recommending a shortlist.

The initial members of the LPAC will then appoint the levy payer representatives.

The independent selection panel for the levy payers will comprise:

- LPAC Chair
- Recruiter for agribusiness/HR expert
- Independent advisor with dairy knowledge

The initial members of the Levy Poll Advisory Committee must seek to ensure that “membership of the LPAC includes a broad representation of dairy service levy payers” (section 15 of *Dairy Produce (Dairy Service Levy Poll) Instrument 2016*). In seeking this diversity, consideration will be given to factors such as:

- farm size
- farming system
- farming region (geography);
- years of farming experience; and
- other elements of diversity.

This will ensure the LPAC composition is a reflective representation of dairy levy payers nationally.

Required skills and experience of LPAC Members

LPAC members must be interested in and committed to seeking input from industry stakeholders on the issues outlined in the Terms of Reference and arriving at recommendations that represent the views from the industry.

Levy payer nominations

Levy payer nominations should be able to demonstrate the knowledge, experience and personal attributes listed below.

Knowledge and experience:

- knowledge and understanding of the role played by research, development and extension in supporting the strategic direction for the dairy industry as a whole
- business analysis, evaluation and profitability knowledge
- strong community networks within the dairy industry
- experience sitting and working collaboratively on a committee and being respectful of different opinions (including ones they do not agree with)
- ability to draw from the views of a broad cross section of dairy farmers

Personal Attributes:

- a genuine interest in, and commitment to, ensuring that the views of a broad cross section of dairy farmers are represented
- a desire to contribute to an important initiative to recommend future funding levels for research, development and extension for the Australian dairy industry
- a commitment to seeking input from industry stakeholders on the issues outlined in these Terms of Reference and arriving at recommendations that represent a broad consensus of views from the industry
- ability to be responsive to meet required timelines and time available to commit to requirements of the committee
- excellent written and oral communication skills

Conflicts of interest

Applicants are expected as part of their application to declare any conflicts of interest, whether actual, apparent or likely to arise.

RESPONSIBILITIES

Role of the LPAC members

LPAC members must ensure that the LPAC's obligations under the Instrument are carried out.

In determining whether there should be a variation (increase or decrease) to the levy rate payable by dairy farmers, the LPAC must:

- review and decide what level of funding is required to underpin the long-term research, development and extension strategy for the dairy industry
- review materials provided to the LPAC to assist it in making a determination regarding the appropriateness of the levy rate or whether a variation (increase or decrease) to this rate is appropriate. This will include reviewing and assessing any research commissioned by the LPAC and the recommendation submitted to the LPAC by Dairy Australia and/or Australian Dairy Farmers
- engage in whatever research the LPAC considers necessary to assist in reaching a view as to the appropriateness of the current levy and structure
- attend meetings with stakeholders
- test with dairy levy payers any ideas and proposals about the levy poll to ensure that the changes to the rate or structure of the levy proposed at the levy poll accurately reflect the views of levy payers
- come to a considered final view with respect to whether a levy poll will be held
- provide input to the written documented form of the Levy Poll Advisory Committee's determination
- review and comment on a pre-poll consultation plan which is to be submitted to the LPAC by Dairy Australia. (Dairy Australia must then take into account any comments provided by the LPAC in carrying out the consultation plan.)
- assist in maximising levy payer consultation, including by drawing on LPAC member networks to encourage participation in consultation

Members of the LPAC are expected to work together to carry out its functions, which will include:

- attending meetings of the LPAC and treating information confidentially
- working to ensure the LPAC responds to all levy payers appropriately, helping to maintain positive working relations with them
- publicly presenting a commitment to the aims and objectives of the review and a desire to work to achieve outcomes that will be viewed positively by the industry
- being prepared to consider and debate matters within the confines of the LPAC with informed and meaningful arguments, and to publicly support the LPAC's final decisions
- if the LPAC determines that a levy poll should be held:
 - overseeing and approving the consultation process implemented by the Dairy Australia to inform levy payers of the options presented to change the rate or structure of the levy
 - overseeing and approving the ballot paper, voting instructions and Information Memorandum detailing the proposed options for changes to the rate or structure of the levy
 - overseeing and approving the development and implementation of a communications strategy regarding the options to be presented to levy payers in the levy poll
 - endorsing any proposed electronic voting facility
- if a levy payer petition to request a levy poll is successful:
 - reviewing the petition to ensure that the proposal is supported by appropriately detailed information
 - determining whether any other options to change the rate or structure of the levy should be included in the ballot paper for the levy poll
 - directing Dairy Australia to conduct a levy poll.

Role of the LPAC Chair

Among other things, the role of the LPAC Chair is to:

- chair all LPAC meetings
- invite nominations from Dairy Australia (two), Australian Dairy Farmers (two) and Australian Dairy Products Federations (ADPF) as initial members of the LPAC.
- invite levy payers to nominate candidates to be appointed as additional members of the LPAC, and ensure that the membership of the LPAC includes a broad representation of levy payers
- facilitate the professional and timely conduct of the LPAC's meetings
- ensure all LPAC members have an equal opportunity to contribute at meetings
- ensure that LPAC's obligations under the Dairy Produce (Dairy Service Levy Poll) Instrument 2016 are carried out
- request Dairy Australia and Australian Dairy Farmers to make a recommendation and ensure the LPAC has the necessary information it requires and sufficient stakeholder consultation to make a decision on levy review
- where possible, facilitate the development of a consensus recommendation within the LPAC on whether there should be a variation (increase or decrease) to the rate of the dairy levy payable and whether a levy poll is required
- settle and confirm the final version of the minutes taken at LPAC meetings
- if a petition by levy payers is endorsed by members of Dairy Australia at a general meeting of Dairy Australia, lead the LPAC in determining whether any other levy options should be included in such a levy poll
- advise Dairy Australia in writing of the final decision of the LPAC on whether to conduct a levy poll.

INTERNAL LPAC DECISION MAKING

Where possible, the LPAC must strive to develop consensus recommendations. Where a consensus is not possible, the LPAC will operate under majority decision making of one vote per LPAC member.

MEETING ARRANGEMENTS

Timing and frequency of meetings

The LPAC will meet as required to fulfill its obligations under the obligations under the Instrument. The first LPAC meeting is anticipated to be held in April 2021 with the initial LPAC work focused on:

- assessing and determining whether there should be a variation (increase or decrease) to the rate of the dairy levy; and
- determining whether a levy poll should be conducted,

Meeting dates will be organised with input from LPAC members. As a guide, it is expected that 3-4 meetings will be required over April-May in reaching a decision on whether a Poll Is held. Should a Poll or Petition proceed, then it is expected a further 4-8 meetings may be required over the June 2021 to April 2022 period.

Due to farming commitments, we appreciate the impact of having LPAC Committee members away from their farm. It will be up to the LPAC Chair, with input from LPAC members, to determine whether meetings should take place online or face-to-face, or a mixture of both. While LPAC has yet to be formed, applicants should plan on the expectation of a mixture of both. To the extent that LPAC may require face-to-face meetings, Dairy Australia will book travel and pay travel costs (mileage, meals, and accommodation if required), consistent with Dairy Australia's policies.

Expected time commitment

Generally speaking, it is important that prospective applicants do not underestimate the amount of time LPAC members will be required to commit. Given the nature of the LPAC's task, it is difficult to give a definitive estimate of the time commitment involved, as this will depend on the determination made by the full LPAC once established.

Remuneration

Each levy payer Levy Poll Advisory Committee member will be paid:

- a sitting fee for attending meetings (including meeting preparation)
- reasonable expenses when required to attend meetings in person
- a sitting fee for work requested of levy payers to be completed by the Chair.

Expenses must be claimed in accordance with Dairy Australia's policies.

DAIRY AUSTRALIA SUPPORT

Dairy Australia will assist the LPAC in the following ways:

- ensuring that its obligations under the Instrument are carried out
- provide secretariat support for the LPAC, including:
 - organising the LPAC meetings
 - drafting an agenda for LPAC meetings in consultation with the LPAC Chair

- circulating materials to LPAC members which are relevant to assessing the appropriate levy rate
- taking minutes at LPAC meetings and circulating those minutes to LPAC members for comment following the meeting. (Please note that the LPAC Chair is charged with settling and confirming the final version of the minutes taken at LPAC meetings.)
- should it be determined by LPAC that face-to-face meetings are necessary, Dairy Australia will book travel and pay travel costs (mileage, meals, and accommodation if required), consistent with Dairy Australia's travel policy
- develop a pre-poll consultation plan which is to be submitted to the LPAC and the Department of the Agriculture, Water and the Environment (DAWE) for review and comment. Dairy Australia must take into account any comments provided by the LPAC and the Department
- inform the Minister in writing of the decision of the LPAC with respect to any variation of the levy
- notify the Minister in writing if any levy payer petition that meets the requirements has or hasn't been received
- put any levy payer petition that meets the requirements, in the form of a resolution, to a vote at a general meeting of Dairy Australia
- if the LPAC deems a poll is necessary:
 - assist to determine poll process in consultation with the LPAC
 - draft ballot paper, voting instructions and the Information Memorandum to be approved by the LPAC
 - submit the ballot paper, voting instructions and Information Memorandum to the Minister for approval
 - develop a communication strategy in collaboration with the Levy Poll Advisory Committee to inform levy payers of their voting options
 - issue voting packs to levy payers no later than five weeks prior to the return date (if a poll is deemed necessary)
 - determine the cut-off date for eligibility to vote; and return date for ballot papers in accordance with timing requirements set out in the Instrument
 - determine eligibility of levy payers to vote in the levy poll
 - appoint a returning officer to conduct the levy poll in accordance with the Instrument and the poll procedure document
 - recommend to the Minister the adoption of the levy option voted upon in the majority via levy poll
 - make available to levy payers the results of the levy poll.

USEFUL LINKS

- Dairy Produce (Dairy Service Levy Poll) Instrument 2016:
<https://www.legislation.gov.au/Details/F2016L01999>
- Explanatory Statement of Dairy Produce (Dairy Service Levy Poll) Instrument 2016:
<https://www.legislation.gov.au/Details/F2016L01999/Explanatory%20Statement/Text>
- Dairy Produce Act 1986:
<https://www.legislation.gov.au/Details/C2017C00299>