



Australian Food Sovereignty Alliance

Submission to the possible establishment of an independent Environmental Protection Agency (EPA) in Queensland

Queensland Government

Department of Environment & Science

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We thank the Queensland Government for initiating the opportunity to provide feedback and recommendations on the possible establishment of an independent Environmental Protection Agency (EPA) in Queensland. AFSA welcomes further opportunities to participate in consultation and the development of the EPA.

About the Australian Food Sovereignty Alliance

The Australian Food Sovereignty Alliance (AFSA) is a farmer-led civil society organisation of people working towards socially-just and ecologically-sound food and agriculture systems. The democratic participation of First Peoples, small-scale food producers and local communities in decision-making processes is integral to these efforts.

AFSA provides a balanced voice to represent small-scale food producers and local communities' interests at all levels of government. We connect small-scale food producers for farmer-to-farmer knowledge sharing, assist local, state and the federal government in instituting scale-appropriate and consistent regulations and standards, and advocate for fair access for small-scale food producers to local value chain infrastructure and markets.

We are part of a robust global network of civil society organisations involved in food sovereignty and food security policy development and advocacy. We are members of the International Planning Committee for Food Sovereignty (IPC), La Via Campesina (the global movement of peasant farmers), and Urgenci (the International Network for Community-Supported Agriculture). We also support the Australasian representative on the Civil Society and Indigenous Peoples' Mechanism (CSM), which relates to the UN Committee on World Food Security (CFS).

Our vision is to enable agroecological and regenerative farms to thrive. This has taken on an added salience in the face of the increasing impacts of the climate crisis and the ongoing COVID-19 pandemic. Australians care more than ever about the way their food is produced and how and where they can access it, with a growing awareness of its social, environmental, and economic impacts. Nutritious food produced locally in socially-just, ethical and ecologically-sound ways is increasingly in demand. Governments must facilitate and encourage the emergence and viability of agroecology and regenerative agriculture embedded in localised food systems with short and direct supply chains, thereby protecting the environment and human and animal health. Inextricable to this vision is the need to honestly and truthfully account for the land's needs. As such, AFSA works to increase understanding of and appreciation for Aboriginal and Torres Strait Islander Peoples' connection to and care for Country and the ongoing impacts of colonisation and development on Country. We aim to put First Peoples' knowledge first as best practice for healing Country and sustaining life, and as an organisation are committed to decolonising the food and agriculture sector.

The National Committee has consisted of farmers and allies from every state and territory in Australia, as well as academics from the University of Melbourne, RMIT, Deakin University, University of Tasmania, University of Sydney, QUT and UWA. We have also had representation on the National Committee by local advocates and campaigners such as Open Food Network, Food Connect, Friends of the Earth, the Youth Food Movement, Fair Food Brisbane, and the Permaculture Network.

Background and context

The following submission has been prepared on behalf of AFSA's farmer members with regard to the possible establishment of an EPA in Queensland.

AFSA commends the Queensland State Government Department of Environment & Science for taking steps to ensure the protection of the environment in line with other states and territories with established independent EPAs. We believe that transparency and accountability delivered through independent EPAs are critical to ensure governments, businesses and citizens act with respect to the environment, including land, water and native flora and fauna. In a changing climate, AFSA believes it is critical to mitigate any negative impacts on the environment.

The opportunity to participate in this stakeholder consultation for the possible establishment of an EPA aims to inform the Queensland Government on some of the challenges smallholders in other states and territories have faced under EPA regulations. AFSA represents small-scale food producers and advocates for their right to participate in and determine local food systems under legislation and regulation that is fair, consistent and reflects the scale of their operations. Underpinned by the principles of food sovereignty, we are proponents of socially-just, ecologically-sound food and agricultural systems through the application of agroecology. Agroecology is both a science and social movement which incorporates ecological methods with indigenous knowledge systems to establish holistic management of agricultural lands and waters. In the social context of Australia, First Nations people are considered at the heart of the food sovereignty movement and agroecological farming.

As such, the recommendations put forward in this submission aim to particularly inform the Queensland Government on scale-appropriate regulation for small-scale food producers under an independent EPA, with a focus on the importance of democratic participation in environmental protection and living and acting in harmony with nature.

AFSA has compiled this submission with reference to the possible establishment of an independent EPA based on discussion points and criteria under the Queensland Government:

- Independence: What is the actual and perceived independence of the governance model?
- Accountability: How clear and transparent are the roles, responsibilities and decisions under the governance model?
- Financial: Is financial sustainability/independence possible within the governance model? What are the financial impacts of implementation?
- Efficiency: How efficiently can services be delivered or transformed/optimised under the governance model?
- Effectiveness: How effective is the governance model in achieving the objectives of government and environmental legislation?
- Economic: To what degree can the governance model increase investor confidence for proposals that promote ecologically sustainable development?

Questions

Question 1: Please rank in order of priority what you think are the most important factors for an environmental regulator?

Rank 1-6, where 1 is 'top priority'

Independence (decisions the regulator makes are not subject to external influence)	1
Accountability (the regulator's roles, responsibilities, and decisions are clear and transparent)	2
Financial (the funding for the regulator is stable)	5
Efficiency (the regulator's services are delivered efficiently)	4
Effectiveness (the regulator's actual achievement against the objectives of government and environmental legislation)	3
Economic (the regulator enables sustainable development)	6

Question 2: How much would you agree that adopting the EPA brand would improve awareness of the role of Queensland's environmental regulator?

AFSA would strongly agree that adopting the EPA brand would improve awareness of the role of Queensland's environmental regulator, as well as establish consistency with other states and territories across Australia.

Independence

Question 3: How much do you agree that establishing an EPA as an independent organisational form would improve the independence of the environmental regulator?

AFSA agrees that establishing an EPA as an independent organisational form could improve the independence of the environmental regulator, if it is not subject to influence from public or private entities in decision-making.

Question 4: How much do you agree that an independent organisational form would improve community confidence in the integrity of the environmental regulator?

Considering that AFSA represents small-scale food producers and our allies across the food system, it is possible that community confidence in the integrity of the environmental regulator might not improve if the EPA fails to deliver appropriate regulations that reflect the scale, size and nature of operations for food producers operating outside of industrial agriculture.

For example, NSW EPA reforms in 2017 raised issues for poultry farmers where the definition of “Livestock Intensive Industries” requires an environmental protection licence for all Designated Development applications no matter the scale of and grazing method used in operations. Small to medium-scale farmers pose significantly lower risks to the environment compared with large-scale, intensive poultry farms. In this case, we recommended that Small to medium-scale pastured poultry production should therefore be proportionately regulated according to risk-based analysis, and we propose this would be more effectively captured by a threshold of 450 birds/Ha. This number represents the upper limit of commercially viable, low-risk, small-scale poultry farms.

This example is given to highlight some of the key barriers small-scale food producers come up against when EPAs fail to consider scale-appropriate legislation. If an independent EPA in Queensland works collaboratively with a broad spectrum of stakeholders, including small-scale food producers, AFSA believes long-term community confidence in the integrity of the environmental regulator could be improved.

Question 5: How important is it to you that a regulator providing oversight to both public and private entities is established in a form that is independent and at ‘arms’ length’ from government?

AFSA believes it is important for an EPA to be established as an independent statutory body (led by a board or committee) to provide oversight to both public and private entities. In response to being at ‘arms length’ from government, read our response to question 16 regarding the degree to which we think government and the regulator can work collaboratively.

Accountability

Question 6: How much do you agree establishing a Board to oversee an independent EPA would improve accountability?

AFSA agrees with early stakeholder feedback that current environmental regulation in Queensland is not rigorous, transparent, or stable. The Queensland Government’s decision to approve the Adani Group’s Carmichael coal mine and Toondah Harbour development on internationally-recognised Ramsar wetlands are critical recent examples, where negative impacts on the environment and First Nations people have been made clear.

Establishing a Board to oversee an independent EPA could improve accountability if members represent a broad and diverse cross-section of stakeholders, including First Nations people. AFSA supports the establishment of a Board on the condition that members represent stakeholders beyond large-scale businesses and corporate entities, and that representation for civil society encompasses a broad range of constituencies (e.g First Peoples, small-scale farmers and fishers, environmental organisations, rural communities, etc).

Question 7: If Queensland were to adopt a model with a Board or Committee, what areas of expertise do you think are most important to be represented?

Rank in order 1–9 where 1 is ‘top priority’.

Business/industry	3*	*Where small to medium-scale businesses are represented by stakeholders.
Cultural	1*	*Where First Nations stakeholders should have a leading voice in all decision-making processes

		and structures.
Environmental/natural resources management	2	Small-scale farmers need a clear voice here as custodians of a significant proportion of this Country.
Finance/accounting	9	
Legal	5	
Local government	4	
Management	8	Why is this here?!
Science	6	
Technology	7	

Question 8: Are there any other areas of expertise that you think should be represented on a Board or Committee?

To justify selections in the table above, AFSA believes it is important that representatives on a Board or Committee for an EPA in Queensland should be composed of a diversity of stakeholders from a broad spectrum of sectors, cultures and disciplines. It is not clear in Question 8 as to whether ‘Cultural’ refers specifically to First Nations people or people from multi-ethnic backgrounds. We believe that First Nations people should be leaders of decision-making processes, and collaboration with First Nations stakeholders should be approached in a culturally-appropriate manner. Further to this, we note the disconnect between the potential for a diverse governance structure under an independent EPA, and the types of skills and industries identified in Question 7. There is reference to generic terms such as “business/industry”, “management” and “finance/accounting”, which raise concerns about leadership consisting of representatives from large businesses and corporations. What about local communities as well as local government? Are small-scale farmers and other independent producers eligible to join the board/committee as a business/industry representative? We recommend that the Government should seek to further clarify these terms and ensure they are inclusive to civil society, not just those who hold financial power and influence.

55% of Australian land is managed by farmers ([ABARES 2022](#)), so they should be considered as a distinct area of expertise in land management with a voice on a proposed EPA Board or Committee. However, given the extreme variation in scales, the variable environmental risk profiles between agroecological and industrial agriculture, and their diverse roles in rural communities, there should be representation for both small-scale (under 50ha) and medium to large scale.

Business and industry has been ranked third, on the condition that small to medium-scale businesses are represented on the Board or Committee. AFSA acknowledges that activities from businesses and industry contribute to significant impacts on the environment. However, representation from small-scale businesses operating outside of large-scale businesses and corporate entities provides opportunities for feedback on scale-appropriate regulation across sectors.

We recommend reference to the [FAO's Strategy for Partnerships with Civil Society Organisations](#) as a model to ensure all relevant constituencies and regions are engaged in decision making processes.

Question 9: How much do you agree that the environmental regulator should publish its own separate annual performance report distinct from the broader department?

AFSA supports the publication of a separate annual performance report distinct from the broader department in the interest of accountability and transparency.

Financial

Question 10: What level of risk (in terms of a conflict of interest) do you think would exist if an independent EPA fully controlled its own industry-sourced revenue?

Primesafe has this model - a statutory authority operating on a cost-recovery basis - and there are plenty of allegations of control by the industrial meat sector. The only way to avoid this obvious conflict is to ensure more democratic representation in the Board constitution.

Question 11: How much do you agree that funding of environmental regulation should be supported by revenue collected from regulated industries through fees (e.g. licence fees)?

This is a tricky one because of the question of 'regulated industries' and their risk profiles. So while we would love to see extractive industries such as mining pay for environmental regulation through licensing fees, where does agriculture fit in this model? Should intensive industrial agriculture pay licence fees to be able to run feedlots and sheds of pigs and poultry given the known environmental (in addition to other) risks of these systems? How do you achieve this in a risk-based model that acknowledges the scaled risks related to size, concentration, and production models?

Question 12: How much do you agree that inclusion of an EPA's financial reporting within departmental financial statements would provide sufficient transparency of financial performance?

AFSA supports any measure that ensures the environmental regulator remains accountable and transparent with regard to funding and financial performance.

Efficiency

Question 13: How much more efficient do you think an environmental regulator would be if it was independent?

How efficient an independent regulator would be if it was independent relates to how its governance structure is established. If an independent EPA is determined as a statutory body governed by a board or committee that is democratically selected from a broad cross-section of civil society, not merely businesses and corporate entities, then we believe the efficiency would be improved. Leadership from a board or committee that includes representation from civil society would involve input to policy, legislation and regulation that is fit-for-purpose. As mentioned in previous questions, AFSA's farmer members frequently face setbacks due to inefficiency of EPA and other agencies or departments, due to regulation being geared towards large-scale, industrial agricultural businesses. Queries and appeals from smallholders can take months and even years to resolve, prompting the need for diverse leadership to inform scale-appropriate regulation.

Question 14: Would making an independent regulator accountable to a multi-skilled Board further improve its efficiency?

As previously mentioned, we believe that a Board or Committee that includes a broad cross-section of skills, sectors and civil society would keep an independent environmental regulator accountable and improve its efficiency. The opportunity for a diversity of stakeholders from civil society to be involved in all decision-making processes could eliminate some of the common challenges in other states and territories, where regulation is not fit-for-purpose.

Question 15: Would separating the policy and regulatory functions create any risks for your sector?

This response justifies recommendations outlined in Question 16 regarding where policy and regulatory functions should be allocated to government and an independent EPA respectively, to mitigate risks for small-scale food producers. We believe an independent EPA should be responsible for policy/legislation development on the condition that its governance structure is implemented democratically. If the elected board or leadership committee includes representation from First Nations people, local communities and civil society, then policy/legislation development would be best determined by an independent EPA. Program delivery (eg.grants) can remain the function of both the Department and an Independent EPA, where each has the ability to manage and allocate

funds where possible (and suitable). For the purpose of accountability, we believe Assessment (recommendation) should be the responsibility of the Department to ensure alignment with existing or overarching policies. Approval (decision) should enable collaboration between the Department and an Independent EPA in adherence to any formal processes required by government. Compliance monitoring is costly and should therefore remain within the function of the Department where appropriate funding can be allocated. Enforcement should be deferred to judicial ruling, informed by the advice of experts within the Department and Independent EPA. In Victoria, small-scale food producers have faced challenges with PrimeSafe, which has been granted enforcement functions, which includes destruction of livestock on farms, product in butcher's shops, and prohibition of processing, selling or transporting meat, poultry, seafood and pet food without a licence.

Question 16: Where do you think the following functions are best located?

	Department	Independent EPA	Neither	Not sure
Policy/legislation development		XX		
Program delivery (e.g. grants)	X	X		
Assessment (recommendation)	X			
Approval (decision)	X	X		
Compliance monitoring	X			
Enforcement (decision)			X	

Effectiveness

Question 17: How much more effective do you think an environmental regulator would be if it is independent?

AFSA supports the establishment of an independent EPA as a separate, statutory body outside of government. We believe this provides an opportunity for more rigorous environmental regulation in Queensland, where government efforts have failed.

Question 18: Would making an independent regulator accountable to a multi-skilled board further improve its effectiveness?

As previously mentioned, we believe that a Board or Committee that includes a broad cross-section of skills, sectors and civil society would keep an independent environmental regulator accountable and improve its effectiveness. Further to this, we stress the importance of establishing a governance structure through democratic process. We have noted a disconnect in the discussion paper between the potential for a governance structure to allow for a diversity of stakeholders in decision-making, and the types of representatives identified in Question 7. Emphasis on “business/industry”, “management” and “finance/accounting” in particular suggest that this consideration is limited to large-scale businesses and corporations, which already maintain excessive control over sectors and industries. As such, we recommend that the Queensland Government should revise these definitions to ensure that democratic participation in leadership and decision-making is enabled through an independent EPA. Finally, we include a specific recommendation to expand or change the definition of “cultural” considerations in leadership functions to refer specifically to First Nations people. If the Government seeks to establish an independent EPA through democratic process, First Nations people must be considered first and foremost in all governance aspects.

Question 19: Would establishing Advisory Committees for specific focus areas, such as environmental science, improve the effectiveness of the environmental regulator?

AFSA strongly agrees with establishing Advisory Committees with specific focus areas to improve the effectiveness of the environmental regulator. Again, this should consider representation from civil society, such as small-scale farmers and food producers, on an agricultural committee.

This would enable stakeholders from all sectors with an opportunity to provide feedback on a consistent, regular basis, rather than waiting for opportunities to have their say through written submissions. An example of why Advisory Committees would improve the effectiveness of the environmental regulator refers to common issues small-scale producers in other states and territories come up against when regulation is not fit-for-purpose.

In 2021, the Victorian EPA proposed waste and resource recovery determinations, causing confusion and challenges for farmers regarding the use of manure on land. In this case, it was

unclear whether or not proposed determination would impact the use of manure for composting, and therefore captured in the solid organic waste determination. These proposals were open to feedback from farmers, who stated that determinations would be prohibitive and burdensome for those already complying with best practice waste management. In this case, it would be helpful for Advisory Committees - including representatives from civil society - to be involved in any proposed changes or amendments to regulation before releasing them to the public. In doing so, we believe this will improve the effectiveness and efficiency of implementing regulation that benefits all stakeholders in the long-term.

Question 20: Which of the following do you feel would be more effective?

An EPA with a targeted focus regulating against the risks to environmental values associated with industry and development

An EPA with a broader remit of responsibilities, incorporating nature conservation and natural resource management functions

Economic

Question 21: How important is public trust in the regulatory framework to industry's social licence to operate?

Refer to the response given in Question 6 for justification on how the regulator can increase/decrease public trust through one-size-fits-all approaches to regulatory frameworks. We believe public trust in the regulatory framework depends on how the regulator is set up in accordance with the needs of stakeholders subject to EPA regulation. Referring to how this impacts industry's social licence to operate, we believe that a regulatory framework should communicate clearly to the public that environmental impacts and risk analysis increase in line with the size, scale and nature of business activity.

Question 22: How much do you agree that establishing an independent environmental regulator would improve Queensland's environmental reputation?

We believe establishing an independent EPA in Queensland would strengthen environmental regulation and reputation, where the State Government's track record has failed up until this stage. Recent developments such as its approval of the Adani Carmichael coal mine, Toondah Harbour development on Ramsar recognised wetlands of international importance and the projected impacts of climate change are a call to action that can be answered by an independent EPA. We strongly recommend that an independent EPA is set up to prioritise the environment and input

from First Nations people, local communities and civil society for the purpose of improving the State's reputation on environmental protection.

Question 23: How important do you think Queensland's Environmental Social and Governance (ESG) credentials are to its future economic prosperity and job creation?

AFSA is cautious about blindly supporting the importance of ESG credentials without further clarification on how businesses, and in some cases Government, intend to achieve these objectives. As an organisation, we are part of a local and international movement of small-scale food producers advocating for democratic determination of agricultural systems. AFSA is a member of La Via Campesina, the global movement of peasant farmers, and has been involved in advocacy against "nature-based solutions"¹, which are often used as a vehicle for corporations to maintain control over food systems and agricultural land. Further to this, we exercise concern with approaches to obtaining ESG credentials, such as carbon offset and biodiversity credit schemes, which view the environment through the lens of natural capitalism. We believe that putting a price on nature fails to consider the cultural and spiritual significance of the environment to First Nations people, and ignores the rights of smallholders to put control over food systems in the hands of local producers.

AFSA welcomes further opportunities to discuss this with the Queensland Government, to ensure that any implementation of ESG credentials by an environmental regulator is not subject to corporate greenwashing.

Final questions

Question 24: How supportive are you of establishing an independent EPA in Queensland?

AFSA supports the establishment of an independent EPA in Queensland, on the basis that this approach prioritises the protection of the environment over economic interests and job prosperity from the expansion of large-scale, corporate businesses. We believe establishing an independent EPA as a statutory body (with board or committee) is an opportunity for Queensland to improve its track record on environmental protection and regulation. However, AFSA also stresses that a governance structure must consider democratic participation from civil society stakeholders to ensure it is effective in achieving its objectives.

¹https://greencloud.gn.apc.org/index.php/s/2XrdY5dx9W4EACw?fbclid=IwAR39YAWTcNNLWzi5BfiM7KWJmeHIO_M8xBckuVZ3o4f6YEG9mmJvzzDBfxl

Question 25: On the balance of information presented within the discussion paper do you see a preferred model?

- No preference
- Maintain current state
- Model 1 create EPA identity in departmental form
- Model 2a Statutory Authority (with board)
- Model 2b Statutory Authority (without board)
- **Model 3a Statutory Body (with board)**
- Model 3b Statutory body (without board)

Question 26: Are there any final comments you would like to make about an independent EPA in Queensland?

We would like to thank the Queensland Government for the opportunity to provide feedback on the discussion paper on the possible establishment of an independent EPA and believe this is long-overdue. We commend the Queensland Government for allowing stakeholders to provide input on what an EPA should look like, who should be considered in governance roles and where its function lies. Setting up consultation in this way enables a diversity of stakeholders to shape the future of environmental regulation in Queensland that is rigorous, inclusive and democratic.

We would like to close our submission with final comments to reiterate the critical need for considering scale-appropriate regulation under an independent EPA. AFSA asks that Government considers how large-scale, corporate industry poses far greater risk on the environment compared with small-scale businesses who act with ecological preservation in mind. Referring specifically to EPA regulation on food and agricultural systems, we take this opportunity to advocate for the rights of our farmer members in Queensland: small-scale farmers who feed local communities through the principles of food sovereignty and agroecology. Agroecology is both a social movement and a science, whereby farmers establish holistic systems to manage farms to produce socially-just, ecologically-sound and culturally appropriate food. Government must understand the fundamental differences between the corporate, industrial model of agriculture versus the agroecology of smallholders. In smallholder systems (that have not been forced to convert to industrial cash crops sold into commodity markets), diversity at the genetic, species, and ecosystem levels is common and valued – biodiversity feeds, clothes, and provides shelter and medicine for families and communities, is nurtured for its cultural and spiritual values, and provides ecological and economic resilience. Our farmer members respect the environment in principle and in practice. We ask in return that Government recognises the critical role they play through regulation that is fit-for-purpose.

To reiterate the recommendations put forward in responses throughout this submission, we believe this starts with establishing a governance structure that is democratic and determined by First Nations people first and foremost. Further to this, a democratic governance structure should allow for local communities and civil society representatives on a board or committee, to help develop

appropriate measures for an independent EPA to carry out its functions. In doing so, AFSA believes this is an exciting step for Queensland to create a leading example of environmental protection on a global scale.