David Jinks
PO Box 471
Mudgeeraba Qld 4213
email: david@goldcoastbotany.com.au

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State Development, Infrastructure and Industry Committee
Vegetation Management Framework Amendment Bill
Parliament House
George Street
Brisbane Qld 4000
via email: sdiic@parliament.qld.gov.au

Dear Sir/Madam,

Submission to the Vegetation Management Act (VMA) review.

Please find following my submission on the review of the Vegetation Management Act.

I have a working knowledge of the VMA for several reasons:

- I was a member of the SEQ Vegetation Management Working Group over several years
- I work as a field-botanist and frequently use the maps associated with the Act
- As a teacher of Conservation and Land Management I instruct students in various aspects of the VMA and associated mapping

At the outset, it appears this review (as with others by the Newman Government) considers that any government process dealing with the environment and native vegetation is perceived as a burden, rather than an asset. A 'regulatory burden', as expressed by the government. I find it a burden to pay tolls on highways, yet recognise it as a simple responsibility as a road user. Similarly, appropriate regulation to ensure the environmental integrity of our natural areas is not a burden, but a responsibility. It is the duty of care expected of the government. It is the role of government to take whatever steps necessary, whether or not it is regarded a burden by some sectors, to protect our natural areas for future generations.

The expectation of the community is that governments would improve, not dismantle, legislation that provides such a vital role as vegetation regulation and protection. However, there is no improvement in this review for the protection of the environment. Rather, it will make matters worse. It seeks only to make it easier to clear native vegetation for economic or public safety gain and not to ensure the protection of important remnant vegetation. It allows for clearing of remnant vegetation for agriculture without considering the already cleared and often degraded lands that should be used before any further clearing is allowed. This, however, would be an economic 'burden', as cleared land is often more expensive. So why do economic concerns over-ride environmental concerns? How is that sustainability? No environment, no economy.

Additionally, of concern is the incredibly brief period allowed for review, 12 business days! A simple development application through Council has a 30 day review period, so why does something as important as the VMA have such a short review period? Particularly when compared to the length of time spent with Vegetation Management Working Groups to help determine the current codes. It also seems an uncanny coincidence that the review period, announced with almost no notice, occurred over the Easter break.

Sustainable land use is an interesting term used but this has nothing to do with maintaining biodiversity in natural areas. Natural vegetation communities are already "using" the land to

provide the planet with ecological services such as clean air, clean water and soil. Clearing such areas, particularly those in threatened ecosystems, under the guise of clearing for sustainable land use, is not protecting biodiversity. There is nothing sustainable about a land use that would see remnant vegetation cleared because it is more economical than repairing land degraded from previous clearing.

Of the various documents available for this review, the dot points relating to 'purpose' are different. Which are the correct points?

In the "Explanatory Notes: Policy Objectives" it states:

> **Policy objectives and the reasons for them**
>
> The policy objectives of the Vegetation Management Framework Amendment Bill 2013 are to amend the vegetation management framework, *Land Act 1994*, *Sustainable Planning Act 2009*, and *Wild Rivers Act 2005* to:
>
> - Reduce red tape and regulatory burden on landholders, business and government.
> - Support the four pillar economy – construction, resources, agriculture and tourism.
> - Maintain protection and management of Queensland's native vegetation resources.

In the "Proposed Vegetation Management Reforms – Staff Bulletin" it states:

> The Government has made the following commitments, which are the key impetus to the proposed reforms:
>
> - Reduce regulatory burden and red-tape for landholders, business and government
> - Develop a four pillar economy based on construction, agriculture, resources and tourism
> - Aim to double the value of food production by 2040

On the Qld Parliament web page[1] it states:

> **About the Bill**
>
> **The objectives of the Bill are to amend the vegetation management framework, Land Act 1994, Sustainable Planning Act 2009 and Wild Rivers Act 2005 to:-**
>
> - **reduce red tape and regulatory burden on landholders, business and government**
> - **support the four pillar economy - construction, resources, agriculture and tourism**
> - **maintain protection and management of Queensland's native vegetation resources.**

While the first two dot points are the same, unusually the third dot point differs. Each one ignores environment. This review (& others relating to the environment) appears to be "hiding under the skirt" of the flawed four pillar policy which ignores the environment.

Purpose of the Act

About the Bill

The objectives of the Bill are to amend the vegetation management framework, Land Act 1994, Sustainable Planning Act 2009 and Wild Rivers Act 2005 to:-

- *reduce red tape and regulatory burden on landholders, business and government*
- *support the four pillar economy - construction, resources, agriculture and tourism*
- *maintain protection and management of Queensland's native vegetation resources.*

1 www.parliament.qld.gov.au/work-of-committees/committees/SDIIC/inquiries/current-inquiries/10-VegetatationMgmtFramewk

Nothing in these objectives relates to the original purpose of the Vegetation Management Act which is (for example) to regulate the clearing of native vegetation, to preserve threatened vegetation communities, to maintain or increase biodiversity and to maintain ecological processes.

There is a clear watering-down of these important environmental values.

My following comments are based on Attachment 2 of the Staff Bulletin.

Attachment 2: Summary of the proposed vegetation management framework reforms

Amendment	Description	What does it mean?
New purpose of the Act	Insertion in Section 3: The purpose of the Act is to regulate the clearing of vegetation in a way that 'allows for sustainable land use'. This new purpose is similar to the provision that was contained in the Act, but which was removed in 2004.	Facilitates growth of a four pillar economy

Please see the following original purpose:

s 1 8
Vegetation Management
s 3
No. 90, 1999
The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title
1. This Act may be cited as the *Vegetation Management Act 1999.*
Commencement
2. This Act commences on a day to be fixed by proclamation.

Purposes of Act
3.(1) The purposes of this Act are to regulate the clearing of vegetation on freehold land to—
(a) preserve the following—
(i) remnant endangered regional ecosystems;
(ii) remnant of concern regional ecosystems;
(iii) vegetation in areas of high nature conservation value and areas vulnerable to land degradation; and
(b) ensure that the clearing does not cause land degradation; and
(c) maintain or increase biodiversity; and
(d) maintain ecological processes; and
(e) allow for ecologically sustainable land use.
(2) The purposes are achieved mainly by providing for—
(a) codes for the *Integrated Planning Act 1997* relating to the clearing of vegetation that are applicable codes for the assessment of development applications under IDAS; and
(b) the enforcement of vegetation clearing provisions.

The new purpose only deals with sustainable use of vegetation and not the protection of vegetation. Again, this is clearly not in keeping with the original intent of the Vegetation Management Act which is (for example) to regulate the clearing of native vegetation, to preserve threatened vegetation communities, to maintain or increase biodiversity and to maintain ecological processes. There is a clear and deliberate watering-down of environmental values under the false guise of a "burden". The "four pillar" excuse is again used to ignore any environmental purpose.

Reduced regulation of regrowth vegetation	The regulation of high value regrowth vegetation on freehold and indigenous land is being removed. This will return the protection of regrowth to a similar level to which existed prior to the 2009 reforms. The reef regrowth watercourse regulations are remaining in place.	High value regrowth will only be regulated on a lease issued under the *Land Act 1994* for agriculture and grazing purposes. Regrowth watercourse vegetation will also remain regulated.

High value regrowth is a critical stop-gap between remnant and non-remnant and has been recently included through recognition of the vital role it plays in the conservation and protection of biodiversity. Why is all this good work based on the latest science being removed to appease those that see vegetation as a burden?

Self-assessable codes	Head of power inserted in the VMA to allow the Minister to make 'self-assessable vegetation clearing codes' (SACs). The Regrowth Vegetation Code and Native Forest Practice Code, in addition to any codes made for a section 22A purpose are now identified as SACs. To streamline SAC requirements, all the SAC provisions in the Bill have been rolled into one section. Self-assessable codes must be developed for: • Non-native plants and declared pests • For 'relevant infrastructure activities' such as establishing and maintaining fences, firebreaks, roads, and built infrastructure • Fodder harvesting • Thinning • Encroachment • Extractive industry • 'Environmental clearing' (explained further below) • Native forest practice; and • In Category C (high value regrowth) and Category R (regrowth watercourses) SAC are approved under a regulation. They may also be made for additional purposes to those listed above.	Landholders can undertake clearing in accordance with SAC. Requirement to notify will be in the SAC, not the Act.

It is foolhardy to presume that those applying for clearing under such codes have the expertise across the wide range of criteria to enable them to self assess. That is why we have regulations, checks and balances to ensure that approvals and conditions are consistent and that site information is gathered by those with the appropriate expertise.

The SEQ Vegetation Management Working Group brought together a wide range of stakeholders and took several to produce clearing codes that were workable and acceptable to all parties. The proposed self-assessable codes make a mockery of this process and are an insult to those who participated.

Self-assessable codes will be used as a massive and apparently deliberate loophole that will not allow the proper scrutiny under which such applications should be subjected.

New 22A clearing purposes: High value	Landholders will be able to apply for High value agriculture clearing or Irrigated high value agriculture clearing. High value agriculture clearing means clearing carried out to establish, cultivate	The regional vegetation management codes will be amended to include code requirements for these purposes.

agriculture Irrigated high value agriculture	and harvest crops, other than grazing activities or plantation forestry. Irrigated high value agriculture means clearing carried out to establish, cultivate and harvest crops, or pasture, other than clearing for plantation forestry, that will be supplied by water by artificial means. Applicants will be required to provide the following information as part of the relevant purpose test: • Details of the extent and location of proposed clearing • Evidence the land is suitable for agriculture (i.e. topography, climate, soil) • A business plan showing the economic viability of development • Evidence that the development can't occur on already cleared land the subject of the application • Details about how adverse impacts of the clearing will be minimised or mitigated • Evidence the application does not involve clearing for the purpose of planting a high risk species • If the application involves clearing of endangered, or of concern, regional ecosystems, the applicant must show the nature and extent of any thing proposed to be done as well as the clearing that will have a significant beneficial impact on the biodiversity values of the land • If for irrigated agriculture, evidence that the owner has, or will have, access to enough water for establishing, cultivating and harvesting the crops The Minister may also declare an area to be a 'restricted high value agriculture area', if it considered necessary to impose restrictions in certain areas, such as on the type of crops grown, or on the property size for the proposed application.	Facilitates the growth of the agricultural sector and supports the government's target of doubling the value of food production by 2040.

- Creation of new clearing purposes for 'high value agriculture clearing', 'irrigated high value agriculture clearing' and 'necessary environmental clearing'.

This purpose completely disregards the importance of retaining threatened vegetation. It is an oxymoron to suggest that clearing vegetation could "*have a significant beneficial impact on the biodiversity values of the land*". This is patently absurd.

New 22A clearing purpose: Necessary environmental clearing	The environmental clearing purpose will allow clearing that is necessary to: • Restore the ecological and environmental condition of the land e.g. rehabilitating eroded areas or stabilising banks; or • Prepare for the likelihood of a natural disaster e.g. flooding • Remove hazardous contaminants from land e.g. mineral sand illuminate creating radioactivity • Divert existing channels in a way that replicates the existing form of the natural channel	To allow clearing to occur for purposes that will provide a beneficial environmental and/or social outcome.

"It will allow proactive clearing of vegetation in preparation for natural disasters."

Again, it is an oxymoron to suggest that clearing of native vegetation could provide a beneficial environmental outcome. I note the requirement is to provide "*a beneficial environmental and/or social outcome*", meaning the environmental outcome doesn't even need to be considered.

Also, under what circumstances would clearing native vegetation be beneficial in preparation of a natural disaster? How could such a disaster be pre-empted with such accuracy that clearing of any vegetation pre-emptively would make a measured difference? Under whose authority would such clearing be approved, and with what expert guidance?

Simplified vegetation mapping Regulated vegetation management map (see Appendices 3a and 3b below)	The existing regional ecosystem, remnant, and regrowth vegetation, maps will be replaced with a single overarching map called the *regulated vegetation management map* which will contain the following vegetation management categories: • Category A - vegetation subject to compliance notices, offsets, voluntary declarations etc • Category B - remnant vegetation • Category C – high value regrowth vegetation on leasehold land for agriculture and grazing • Category R - a new category to display existing regrowth watercourse vegetation (all regrowth watercourses buffered) • Category X - areas not assessable under the vegetation management framework Key concepts: • The regulated vegetation management map will reflect the entire State as vegetation management categories. Amendment will only be by PMAV • It will lock-in all areas across the State all non-assessable areas as Category X areas • Areas previously Category C on freehold and indigenous land which post the reforms will not be regulated, will automatically be reflected as Category X. • The extent of assessable areas will only expand where it with the agreement of the landowner (e.g. offsets, voluntary declarations, altruistic individuals). • Existing PMAVs as at the date of assent will be incorporated into the regulated vegetation management map. PMAVs will no longer be a separate mapping layer. PMAVs will be the means of amending the regulated vegetation management map. • The regulated vegetation management map will be informed by both version 6 and 7 of the regional ecosystem map. The Queensland Herbarium will continue to carry out its regional ecosystem mapping program and the regional ecosystem or remnant map will continue to be used by landholders to inform the location of the vegetation communities and conservation status on the ground. The *Vegetation Management Regulation 2012* will also continue to be regularly updated to refer to regional ecosystems and their respective conservation	Greater certainty for landholders Potentially less PMAV applications, as Category X areas will be locked-in across the state, and the extent of remnant vegetation will not increase. New versions of maps will not be released in the future, once these changes commence. While PMAVs and Regulated Vegetation Management Map should be the same, where an inconsistency exists, PMAV prevails.
	status' to inform the framework. Therefore, the conservation status of regional ecosystems will still be part of the vegetation management framework, and this information will be readily available, either through online mapping tools or DNRM business centres.	

- Streamlining current mapping and creating a single 'regulated vegetation management map', with only essential information concerning assessable and non-assessable areas of vegetation, making it easier to understand.

The proposed 'streamlining' is an over simplistic approach to what is a complex subject matter. As a practitioner who regularly uses the RE mapping I can attest to the fact that the mapping has done a remarkable job in simplifying the complex issue of differing vegetation communities. The current mapping is relatively straightforward and its basis and descriptions are already very easy to understand! What a great leap forward Qld took, ahead of the rest of the country, when it introduced the concept of remnant vegetation and regional ecosystems, yet this review plans a backward step through supposed 'streamlining'.

It is not a burden to properly consider all vegetation with mapping as currently occurs, indeed, it is an exceptionally useful tool for all land managers.

Additionally, why is the proposed new vegetation mapping showing remnant vegetation as blue? Vegetation has traditionally been green on a map, not blue which is usually the colour of water!

Watercourse and wetland map	Heads of power are also being inserted in the VMA to allow the certification of a 'vegetation management wetland map' and a 'vegetation management watercourse map' (through a separate Bill - LWOLA). This will provide a clear head of power for these maps, and make them consistent with other vegetation management maps.	Improved reference for landholders

Will the "watercourse map" consider the appropriate stream order and will mapping be at a sufficient scale to capture all stream order no. 1's in upper catchments?

Compliance, offence and penalty provisions	Changes to offence and penalty provisions include: • Removal of the sentencing guide (s60B), following the outcomes of a Crown Law review. • Removing 'reversal of onus of proof' provisions in section 67A of the VMA, which states that, in the absence of other information, the liability for unauthorised clearing of vegetation is taken to be done by the registered owner in the absence of evidence to the contrary. • Reinstating the Criminal Code provisions when dealing with a vegetation clearing offence (s67B) – mistaken belief • Removal of provisions that do not allow a person to refuse to provide information on the basis that it may incriminate them • Removing the penalty provision in the *Land Act 1994* which allow for the forfeiture of a lease if the lessee has more than 1 conviction for a vegetation clearing offence regardless of whether any of the offences were committed on lease land.	

These provisions appear to make it easier for a person to do the wrong thing. It is a mistaken belief to suggest that illegal vegetation clearing is not criminal?

Subsequent amendments to *Sustainable Planning Regulation 2009*, following VMFA Bill		
Material Change of Use (MCU) and Reconfiguring a Lot (RaL) assessment triggers	It is proposed to increase the lot size trigger of an MCU or RaL application from the current 2 hectares, to 5 hectares. This will mean that fewer of these applications are referred to DNRM to assess the vegetation clearing component. This reform will be progressed following the VMFA Bill, as part of amendments to the *Sustainable Planning Regulation 2009*.	Fewer concurrence agency applications, particularly in South-East Queensland where these reforms will have most effect.
Exemptions reform	It is proposed to introduce new exemptions, broaden some existing exemptions, and make exemptions more consistent across different land tenures. This reform will be progressed following the VMFA Bill, as part of amendments to the *Sustainable Planning Regulation 2009*. New exemptions will be created for: • Government supported transport infrastructure • Infrastructure on land which would meet the requirements for community infrastructure designation under the SPA • Geotechnical works and land survey works • Natural disaster events, to allow clearing in response to natural disaster events, to protect human life and prevent injury, and to minimise damage to property and the environment	Fewer applications for projects that fall under one of these new exemptions.
Miscellaneous streamlining reforms	A number of other streamlining reforms are proposed, including: • Removing the interactions between the VMA and *Wild Rivers Act 2005*, by removing all wild river provisions from the VMA • Amendments to Area Management Plans (AMP) to gain efficiencies, including the ability for the Department to initiate the development of an AMP, and removing the requirement for an AMP to only relate to a single or contiguous area • Authority to remove notices from the land title	Wild river high preservation areas will no longer be a declared area under the VMA, meaning assessment of clearing will be against regional vegetation management code and not the Wild Rivers declared area code. The ability for the Department to initative and create AMPs, which will allow regional land management issues to be addressed.

The removal of interactions between the VMA and the Wild Rivers Act is a step backwards for the protection of our natural resources. These are the last wild rovers in Qld and deserve better protection than to be used merely for high value agriculture,. Have we not learned lessons from mistakes from the past? Does this Government place no wilderness or natural values on the last of our Wild Rivers? How could turning remnant vegetation in these areas into agricultural land possibly promote the "pillar" of tourism?

Other considerations:

Why is it that near-threatened species are no longer being considered under the VMA? The hand-ball to the new provisions proposed under the NCA is not satisfactory. Such an omission weakens the legislative protection these species are given.

Land clearing is one of the biggest causes of land degradation and species loss. Clearing in remnant vegetation where there is allegedly high quality agricultural land should only be allowed to occur if all other cleared lands where the enterprise could take place are currently being sustainably farmed.

This bill appears to allow for economic factors to outweigh environmental factors e.g. where high quality agricultural land with remnant vegetation land is cheaper than cleared land.

For example (out of the Staff Bulletin):

The reforms address the findings of the Queensland's Office of Best Practice Regulation report to Government on 1 November 2012 that identified key areas of regulation for immediate review, including "*Vegetation management regulation that increases costs and prevents efficient use of property*".

This vegetation management was for the purpose of preserving remnant vegetation, not increasing "*use of property*". It should be argued that remnant vegetation is the MOST EFFICIENT use of property with regard to the ecological services it provides. We can not replace endangered regional ecosystems, but we can carry out agricultural practices in areas other than remnant vegetation.

In conclusion, it appears that this review does nothing about helping to preserve and enhance important remnant vegetation; it does nothing to ensure the 'sustainable use' of natural areas for the ecological services they provide. Rather, it focuses on economic development at the expense of conservation.

Should this bill be passed it will go down in history as being one of the more profound backward steps that a Government can take. Given that Australia has one of the worst extinction records in the modern world and what we know about the causes of land degradation, surely we should be reinforcing, not watering down, vegetation protection.

With grave concern for natural areas,

Yours sincerely,

David Jinks