



**EDO** Qld.

Environmental Defenders Office  
*Using the law to protect  
our environment.*

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VIA EMAIL: ([sdiic@parliament.qld.gov.au](mailto:sdiic@parliament.qld.gov.au))

State Development, Infrastructure and Industry Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Sir/Madam,

**Vegetation Management Framework Amendment Bill 2013 (“Vegetation Bill”) –  
Submission**

**The changes would be the biggest leap backward in Queensland environmental  
regulation ever seen.**

**About EDO Qld**

The Environmental Defenders Office of Queensland (“EDO”) is a not-for-profit, non-government, community legal centre, specialising in public interest environmental law. Like other EDOs around Australia, the EDO provides specialised legal representation, advice and information to individuals and communities regarding environmental law matters of public interest. The office takes an active role in environmental law reform and policy formulation, and offer community legal education programs designed to facilitate public participation in environmental decision making.

EDO welcomes the opportunity to make a submission to the State Development, Infrastructure and Industry Committee in regards to the Vegetation Bill.

**Background on Vegetation Protection**

Protecting vegetation is essential for many reasons including to safeguard water quality, to protect soil quality, to protect biodiversity and to sequester carbon.

In Queensland the *processes* for obtaining development approvals for vegetation clearing are set out in the *Sustainable Planning Act 2009* (Qld) (SPA). The *detailed criteria* to be applied when an application is assessed are found in the policies and codes made under the framework of the *Vegetation Management Act 1999* (Qld) (VMA). Some projects that involve vegetation clearing, such as major mines in the GBR catchment, are assessed and approved under different legislation.



## Summary of Submission

The changes would be the biggest leap backward in Queensland environmental regulation ever seen.

The Vegetation Bill would allow hundreds of thousands of hectare of regrowth vegetation to be cleared. By increasing self- assessment of clearing and weakening enforcement provisions, the Vegetation Bill encourages flouting of remaining protections.

## Details

On 20th March 2013 the Vegetation Bill was introduced to the Queensland Parliament. Protection for regrowth vegetation 50 metres from certain watercourses in three Great Barrier Reef ('GBR') catchments will remain in place<sup>1</sup> but such watercourse regrowth in other Queensland catchments, such as the Fitzroy, would continue unprotected.

Further, the Vegetation Bill would significantly reduce protection of both regrowth and remnant vegetation in all GBR catchments and other areas of the state. Given that hundreds of thousands of hectares of currently protected regrowth and remnant vegetation would be exposed to clearing, passage of this Bill would be the biggest leap backward in Queensland environmental regulation ever seen.

The four key changes are:

1. Clearing applications could be made for additional relevant purposes<sup>2</sup> of high value agricultural clearing and irrigated high value agricultural clearing under section 22A VMA. While there are criteria that must be met for those purposes,<sup>3</sup> overall this means areas throughout the State<sup>4</sup> would be freshly vulnerable to extensive clearing of mature remnant forest including endangered regional ecosystems.<sup>5</sup>
2. A new map system called the *regulated vegetation management map* will lock in areas of vegetation as non-assessable Category X. High value regrowth vegetation on

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<sup>1</sup>Vegetation Bill cl 46 s22A(2B); cl24 20ANA and cl 65 Dictionary **regrowth watercourse area** means an area located within 50m of a watercourse located in the Burdekin, Mackay Whitsunday or Wet Tropics catchments identified on the vegetation management watercourse map.

<sup>2</sup> The purpose of the clearing matters. The VMA s22A identifies relevant purposes for which development applications to clear vegetation may be made. If an application is made to clear vegetation that is not for a relevant purpose it is prohibited development and cannot be made, SPA s239.

<sup>3</sup> Vegetation Bill cl 47 s22DAC(a)-(h).

<sup>4</sup> All areas, but for example in the Brigalow Belt or Northern Queensland or South-East Queensland.

<sup>5</sup> Vegetation Bill, cl 47.s22DAB (3)



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freehold and indigenous land which has not been cleared since 1989<sup>6</sup> is being moved into this Category X and will no longer be protected. *We understand this will expose hundreds of thousands of hectares of regrowth to clearing.*

3. All the wild rivers provisions are to be removed from the VMA<sup>7</sup> which means that clearing on those wild rivers high preservation areas will be assessed against codes under the VMA not the stricter wild rivers declared area codes. Declared wild rivers<sup>8</sup> in the GBR catchment that would have decreased protection from clearing if the Vegetation Bill comes into effect include Hinchinbrook, Lockhart Basin and Stewart Basin.
4. Much illegal land clearing occurs on large properties far from the public gaze, and is often only detected years later. Special compliance and enforcement provisions are therefore required in vegetation protection legislation, yet the Vegetation Bill proposes the following weakenings:
  - firstly, expanding defences to include “mistaken belief”, which would allow landholders to try to claim ignorance as a defence rather than taking responsibility to understand and comply with both law and facts;<sup>9</sup>
  - secondly removal of the assumption that the clearing is taken to have been done by the registered owner in the absence of contrary evidence,<sup>10</sup> which would make it easier for landholder to successfully claim that on their land some unknown person had carried out illegal clearing;<sup>11</sup>
  - thirdly, allowing a person to refuse to provide information that may incriminate them;<sup>12</sup> and
  - fourthly, the penalty provisions are removed that allow for forfeiture of lease if the lessee has more than one conviction for a vegetation clearing offence.<sup>13</sup>

<sup>6</sup> Vegetation Bill, cl 65 Dictionary ‘high value regrowth vegetation’.

<sup>7</sup> Vegetation Bill, Part 5 for example

<sup>8</sup> [http://www.ehp.qld.gov.au/wildrivers/declared\\_areas.html](http://www.ehp.qld.gov.au/wildrivers/declared_areas.html)

<sup>9</sup> Vegetation Bill cl 56

<sup>10</sup> Vegetation Bill cl56

<sup>11</sup> See s44 *Native Vegetation Management Act* 2003 (NSW); s34(2) *Native Vegetation Management Act* 1991 (SA) which include provisions that make the assumption clearing is done by registered owner

<sup>12</sup> Vegetation Bill cl 52 amending s51

<sup>13</sup> Vegetation Bill cl 67 cl 68



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The weakening of compliance and enforcement provisions, combined with the proposed increase in self-assessment of clearing, would encourage flouting of clearing rules.

*Jo-Anne Bragg.*

**Jo-Anne Bragg**

*Principal Solicitor*

Environmental Defenders Office (Qld) Inc.