



Reform of Queensland's biodiscovery laws: key questions for Aboriginal and Torres Strait Islander peoples

What is biodiscovery?

Biodiscovery is the collection of native plants or animals from State land or Queensland waters, for use in research that can be turned into a commercial product. Examples include using native grasses to learn how to create more drought-resistant crops or collecting venom to produce antivenom.

In Queensland, the *Biodiscovery Act 2004* controls biodiscovery activities. Its key aims are to:

- allow access to small amounts of native plants and animals on State land or Queensland waters, for use in biodiscovery
- encourage biodiscovery that adds value to the state and promotes conservation of the natural environment
- ensure that the benefits from biodiscovery are shared equitably with the State.

Before anyone can begin biodiscovery, they need government approvals to make sure it is done in a fair and sustainable way.

Currently, the Biodiscovery Act only applies if the plants or animals collected come from State land or Queensland waters, and are native to Australia.

What is the Queensland Government doing?

The Queensland Government is reforming the Biodiscovery Act so that it is more consistent with international agreements that require Aboriginal

and Torres Strait Islander peoples' consent, and that benefits are shared with Aboriginal and Torres Strait Islander peoples.

The government has reviewed the Biodiscovery Act, and has now released an options paper to learn more from interested people about how the Biodiscovery Act could be changed. The paper covers important questions like:

- how to include the rights of Aboriginal and Torres Strait Islander peoples about the use of their resources and traditional knowledge for biodiscovery
- whether the Biodiscovery Act should apply to private land, land with exclusive possession native title and/or to non-commercial research
- how to simplify the framework for access and benefit sharing.

These important topics affect Aboriginal and Torres Strait Islander peoples' ability to protect and benefit from their resources and knowledge. The government also aims to create more opportunities for Queenslanders to benefit from biodiscovery by supporting the industry to grow.

It is important we get your feedback so we can design the best laws possible.

Important questions for Aboriginal and Torres Strait Islander peoples

We are mainly seeking your views on three important questions:

- Should consent and benefit sharing be required under the Biodiscovery Act if someone wants to access Aboriginal and Torres Strait Islander peoples' resources and traditional knowledge?
- Should Aboriginal and Torres Strait Islander peoples' land and traditional knowledge be defined in the Biodiscovery Act? If so, how?
- Should activities in exercise of native title rights not require approval under the Biodiscovery Act?

There is more information on each of the questions below. You can also read the full options paper on the Department of Environment and Science website (www.qld.gov.au/BiodiscoveryActReform).

Should consent and benefit sharing be required under the Biodiscovery Act if someone wants to access Aboriginal and Torres Strait Islander peoples' resources and traditional knowledge?

At the moment, the Biodiscovery Act does not require consent or sharing of benefits from the use of native plants and animals on Aboriginal and Torres Strait Islander peoples' land or where traditional knowledge is used.

International agreements require informed consent from Indigenous communities before a biodiscovery project starts, and that benefits are shared fairly with Indigenous communities. These international requirements apply to plants and animals that Indigenous communities have an established right to grant access to, and to using traditional knowledge.

We would like to know if you think Queensland's biodiscovery laws should require consent and benefit sharing with Aboriginal and Torres Strait Islander peoples. If you think changes should be made, do you think the government should deliver these changes by:

- amending the Biodiscovery Act to make these requirements under law, or
- developing guidance material so that biodiscovery entities and Aboriginal and Torres Strait Islander communities are aware of the international obligations and can be supported in the negotiation process?

We are also interested in your views about what types of land should be included if there are new requirements for consent and benefit sharing. For example, should the requirements apply to land where:

- exclusive possession native title rights exist,
- non-exclusive native title rights exist,
- a registered native title claim exists but native title has not been determined, and/or
- there is a reserve?

Should Aboriginal and Torres Strait Islander peoples' land and traditional knowledge be defined in the Biodiscovery Act? If so, how?

To recognise the rights of Aboriginal and Torres Strait Islander peoples, we may need to define 'traditional knowledge', 'Aboriginal and Torres Strait Islander people', and 'Aboriginal and Torres Strait Islander peoples' land'. Do you think it is important to define these terms?

We would like to know what you think the definition of traditional knowledge should be. As a starting point, the options paper sets out some definitions of traditional knowledge already used in other laws. For example, possible definitions of traditional knowledge include:

- the knowledge, innovations and practices of Indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity, or;
- knowledge or practices, passed down from generation to generation, that forms part of the traditions of Indigenous communities, knowledge or practice, for which Indigenous communities act as the guardians or custodians.

We are also interested in what you think the government's role should be in relation to traditional knowledge. For example, should the government support Aboriginal and Torres Strait Islander peoples to manage their own traditional knowledge, or should government control who can access traditional knowledge and how?

Should activities in exercise of native title rights be exempt from requiring approval under the Biodiscovery Act?

Currently, the Biodiscovery Act does not provide an exemption for activities an Aboriginal or Torres Strait Islander person carries out in exercise of native title rights.

International agreements on biodiscovery say that the customary use and exchange of traditional knowledge and resources amongst Indigenous communities should not be restricted.

We are seeking your view on whether Aboriginal and Torres Strait Islander peoples exercising their native title rights should be exempt from the Biodiscovery Act. This would mean that the native title holder would not require permits and approvals that other biodiscovery projects need.

We are also interested in your views on how best to manage the interaction between biodiscovery and native title laws.

Have your say

To design the best biodiscovery framework possible, we need your feedback on the areas of reform you view as most important.

To have your say, you can:

- email QldScience@des.qld.gov.au
- complete the survey at the Get Involved website (www.getinvolved.qld.gov.au/gi/consultation/5504/view.html)
- send us a video or voice recording to QldScience@des.qld.gov.au or 0436 622 321 (This recording does not need to be high quality, for example, it can be made using your phone)
- post your response to:
Biodiscovery Reform Team
Department of Environment and Science
PO BOX 2454
BRISBANE QLD 4001.

The Queensland Government may publish submissions received. For voice or video recordings, a transcript of the recording may be published. Please state in your submission if you do not agree to publication of all, or parts, of your submission.

For more details, you can read the full government options paper on the Department of Environment and Science website (www.qld.gov.au/BiodiscoveryActReform) and respond to those questions most relevant to you.

**Consultation is open
until midnight
on Friday 1 February
2019**