

The Legal Regulation of Biodiscovery in Queensland

Biodiscovery is the process of collecting biological resources (e.g., plants, animals, microorganisms) in the search of active compounds or genetic materials that can be developed into useful products. Examples of products derived from biological resources include Indian snakeroot (*Rauwolfia serpentina*) which is used in the drug Reserpine to treat hypertension, and the Cinchona bark (*Cinchona*) which yields the quinine used in the treatment of malaria.

Biodiscovery in Queensland is regulated by the 2004 *Biodiscovery Act*. The Act governs the use of native biological resources collected from State land or waters in Queensland for commercial purposes. The Queensland Government extended the Act in 2020 to include biodiscovery activities that involve the use of traditional knowledge associated with native biological resources collected from any area in Queensland.

This fact sheet provides an overview of the regulation of native biological resources collected from State land or waters in Queensland. For the regulation of the use of traditional knowledge associated with native biological resources collected in Queensland, see Fact Sheet 25: Traditional Knowledge Code of Practice and Guidelines for Biodiscovery in Queensland.

When does the Queensland *Biodiscovery Act* apply?

The Queensland *Biodiscovery Act* applies when (1) non-human biological resources (2) that are native to Australia (3) are collected from State land or waters in Queensland and (4) used for biodiscovery research.

1. Non-human biological resources

The Act only applies to the collection of non-human biological resources, which include plants, animals, seeds, germplasm, microorganisms, and viruses.

2. Native to Australia

The Act only applies to the collection of biological resources that are native to Australia.

3. From State land or waters in Queensland

Unless the use of traditional knowledge is involved, the Act only applies to native biological resources collected from State land or waters in Queensland.

State land is defined as all land that is not freehold land, leasehold land or land subject to a native title determination granting rights of exclusive possession.

4. Used for biodiscovery research

The Act only applies when native biological resources are used for biodiscovery research. Biodiscovery research means 'the analysis of molecular, biochemical or genetic information about native biological material for the purpose of commercialising the material'.

Accessing native biological resources for non-commercial research, education, training, or consumption does not fall within the scope of the Act.

What are the conditions for biodiscovery entities?

Prior to collecting non-human native biological resources from State land or waters in Queensland for biodiscovery research, a 'Collection Authority' must be obtained from the Queensland Department of Environment and Science. The *Biodiscovery Act* imposes certain conditions on an applicant for a Collection Authority. Applicants must:

- comply with any conditions imposed on the collection of biological resources;
- execute a 'benefit sharing agreement' with the State government; and

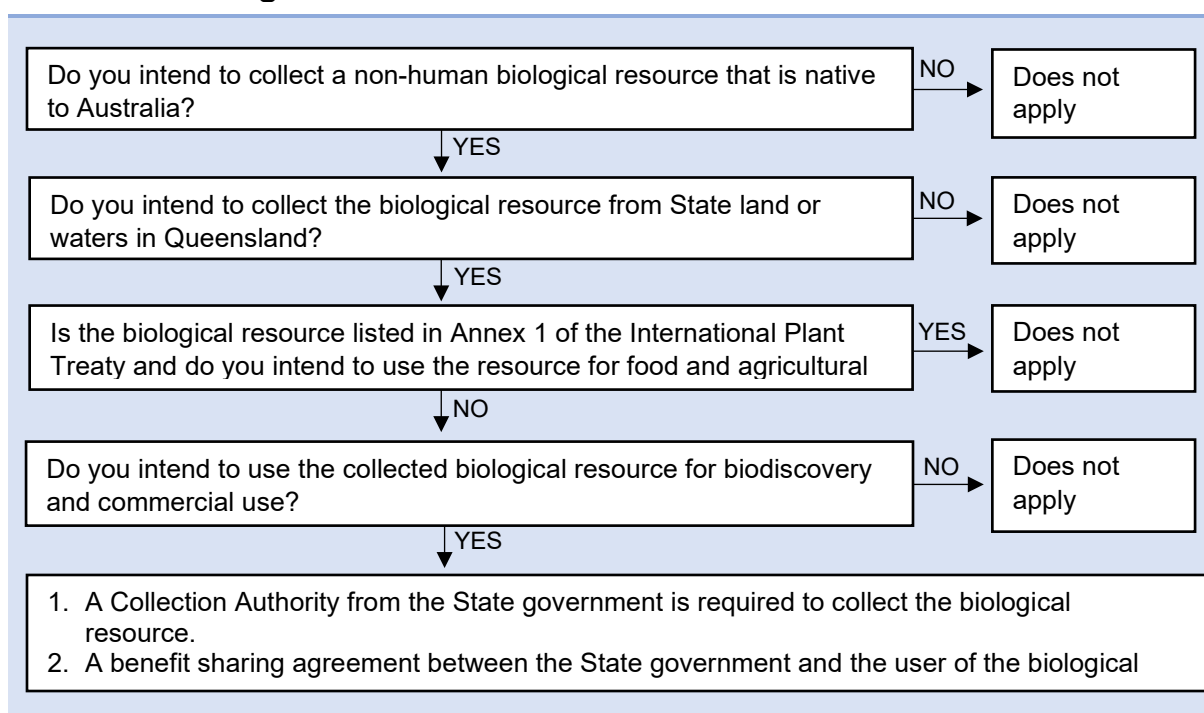
- ensure that when native biological resources are transferred to a third party, the third party is subject to the same conditions that were imposed on the original collector of the resources. This requirement is designed to ensure that people who collect native biological resources do not avoid their legal obligations by transferring the collected biological resources to third parties.

Exemption

The Queensland *Biodiscovery Act* does not apply when plant materials are:

- collected or used for food and agricultural purpose; and
- listed in Annex 1 of the International Treaty on Plant Genetic Resources for Food and Agriculture.

The applicability of the Queensland *Biodiscovery Act* for the collection of native biological resources from State land or waters in Queensland



Fact Sheet 24: The Legal Regulation of Biodiscovery in Queensland September 2022

This fact sheet is only for information purposes, and to assist you in understanding your legal rights and obligations in a general sense. It is not tailored to any particular fact, situation or specific requirements, and must not be relied on as legal advice.