



Department of
**Jobs, Tourism, Science
and Innovation**

WA Biodiscovery Bill

**Phase 1 consultation findings and
recommendations report**

March 2023





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About the WA Biodiscovery Bill and the Phase 1 consultation process



Note of appreciation

JTSI would like to sincerely thank everyone who participated in the phase 1 consultation process for the Biodiscovery Bill.

An intention of the Biodiscovery Bill is to recognise the value of traditional knowledge, held by Aboriginal people, in scientific endeavours and to provide protection for the future use of that knowledge.

Discussions during the consultation process included how traditional knowledge about WA genetic resources, our native plants and animals, has been obtained and used in the past. We recognise that these conversations caused deep feelings to emerge.

The involvement of Aboriginal people in the Bill's development is invaluable and we appreciate the contributions made by all consultation participants.



We acknowledge the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past and present.

Background

Biodiscovery is research into genetic resources, such as native plants, animals and microorganisms. The outcomes that are produced by biodiscovery may have a commercial or scientific value. WA has some of the world's most diverse plant and animal life and is home to 8 of Australia's 15 biodiversity hotspots. This presents opportunities for researchers and businesses from around the world to develop products like new medicines, cosmetics and biotechnologies using WA genetic resources. Accordingly, it is critical that biodiscovery legislation be developed in WA to regulate use of these highly sought after resources.

The WA Government is seeking to develop a Biodiscovery Bill (the Bill) which will provide a framework for accessing the State's genetic plant and animal resources. The Department of Jobs, Tourism, Science and Innovation (JTSI) is leading this development.

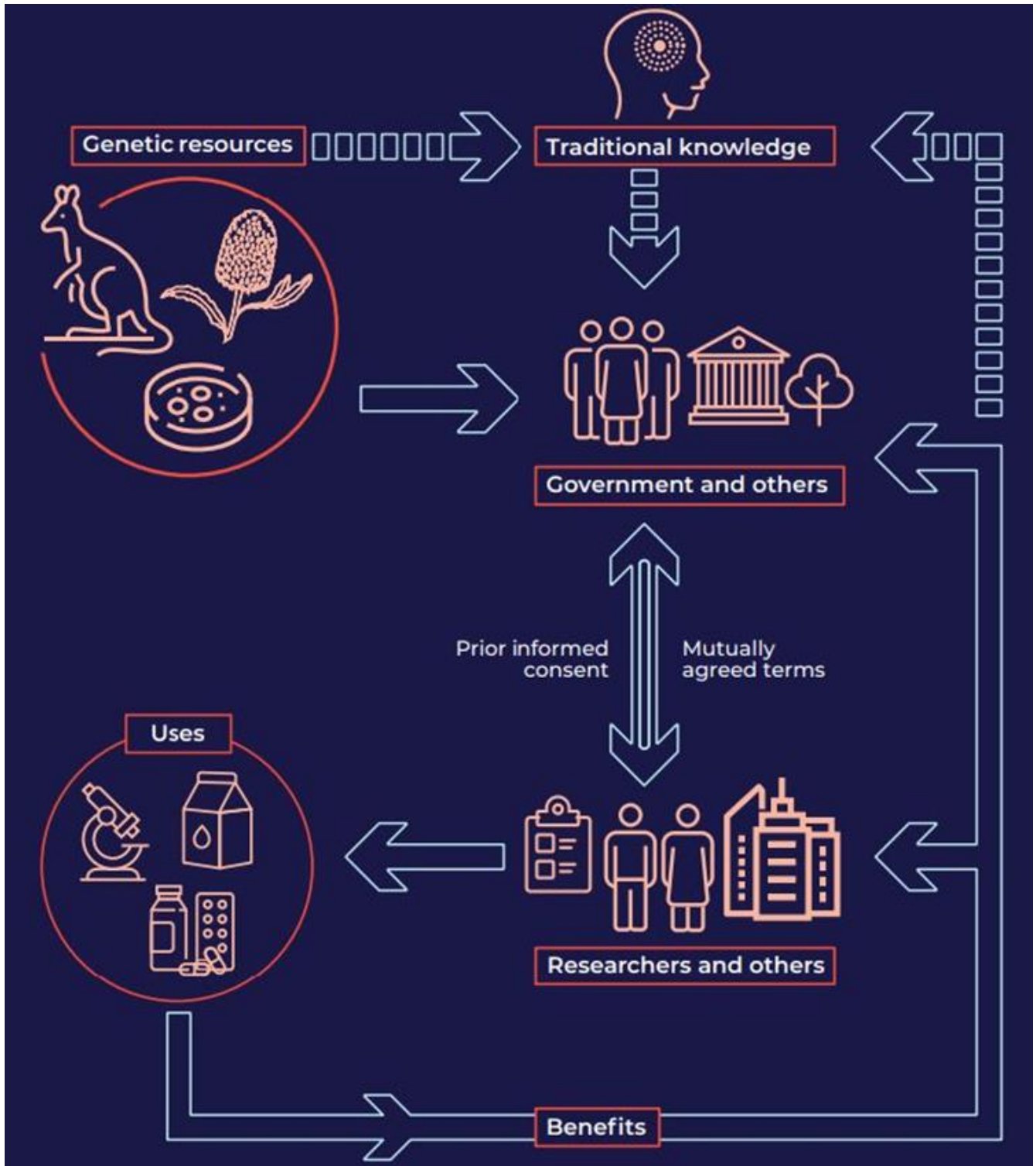
The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (Nagoya Protocol) is an international agreement that outlines how benefits arising from biodiscovery on genetic resources should be shared in a fair and equitable way. The Bill would provide a certification regime in WA that would give effect to requirements of the Nagoya Protocol. The key principles of the Nagoya Protocol central to the Bill includes the following.

- Authorised access;
- Mutually agreed terms;
- Benefit sharing; and
- Recognition and protection of traditional knowledge.

Where there is an intent to commercialise the outcome of a biodiscovery activity, it is envisaged the Bill will ensure that:

- Western Australia will share in the benefits; and
- Traditional Knowledge Custodians will share in the benefits on mutually agreed terms, when traditional knowledge is to be used in the biodiscovery activity.

A biodiscovery certification regime in WA would also allow researchers using WA genetic resources to hold their work up as consistent with the Nagoya Protocol. Given the growing awareness of the Nagoya Protocol globally, this may assist researchers in securing international funding and research partnerships and would support researchers in demonstrating environmental, social and governance credentials in relation to their research.



Consultation process

How participants contributed



8 face-to-face workshops around the State.



1:1 meetings with the Project Team.



Online surveys.



Written submissions.

How the consultation was promoted



Consultation papers, information sheet, flyer and poster.



Dedicated webpage.



Social media campaign that created 430,000+ impressions.



Email campaign.

Consultation details

The consultation approach was developed by JTSI with guidance sought from the Aboriginal Advisory Council of WA. The consultation period extended from August to December 2022.

Workshops with Aboriginal people and representative organisations were held in Kununurra, Broome, Karratha, Geraldton, Kalgoorlie, Albany and Perth, with the option to connect virtually. A further workshop with researchers and businesses was held in Perth.

The survey for Aboriginal people was open from 2 September to 21 November 2022 and the survey for researchers and businesses was open from 20 October to 16 December 2022.

The workshops were facilitated by an independent consultant, Graham Castledine of Castledine Gregory Law and Mediation. The seven workshops with Aboriginal people were supported by a graphic scribe, Will Bessen of Tuna Blue.

The social media campaign had a total reach of 150,486 people, created 430,627 impressions and delivered 12,865 clicks.

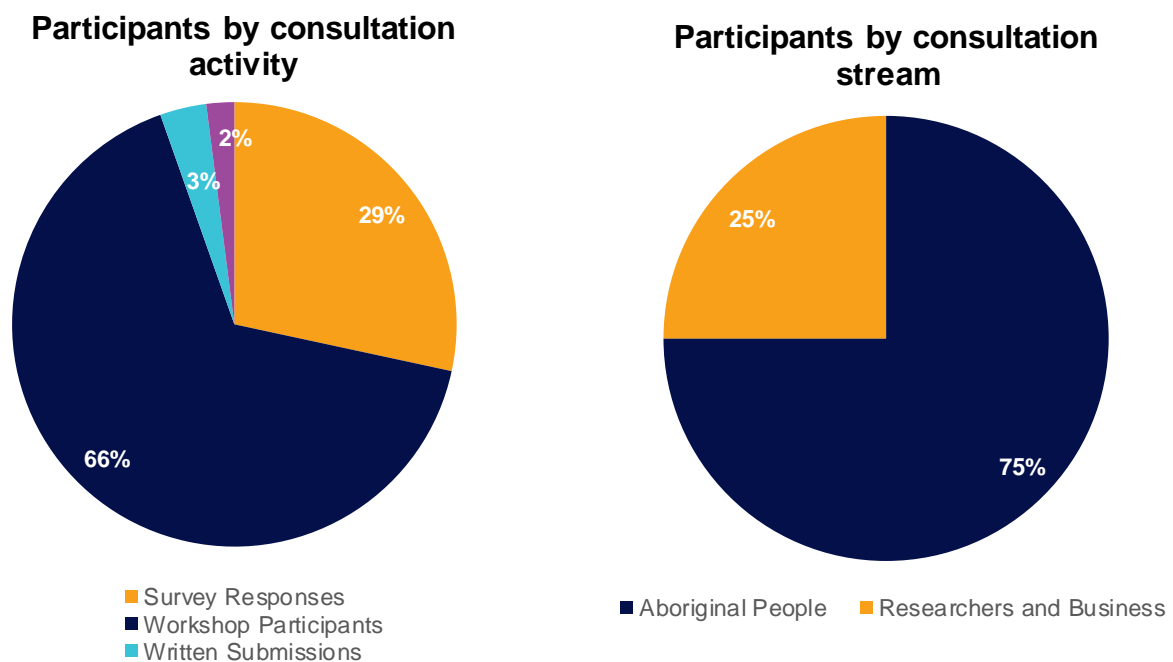
Feedback analysis process

Stakeholder feedback for this consultation was recorded in a variety of different formats. To assess the overall themes and issues it was necessary to categorise and standardise some of the information received. The majority of stakeholder feedback was collected through participant discussions at the consultation workshops and captured in detailed notes taken by the JTSI Project Team. These workshop notes were categorised to align with the key issues outlined in the public consultation papers. Participant comments made in the 1:1 meetings and written submissions, along with participant responses to the survey questions, were categorised in the same way. The participant comments and responses were then analysed to identify common themes, issues and ideas.

The consultation was separated into two streams: a stream for Aboriginal people; and a stream for researchers and businesses. The stream involving Aboriginal people included seven workshops, the survey for Aboriginal people, meetings with Prescribed Bodies Corporate (PBCs) and Native Title Representative Bodies (NTRBs) and written submissions from Aboriginal groups and representative organisations. The stream for researchers and businesses included a workshop for researchers and businesses, the survey for researchers and businesses and written submissions from researchers or businesses.

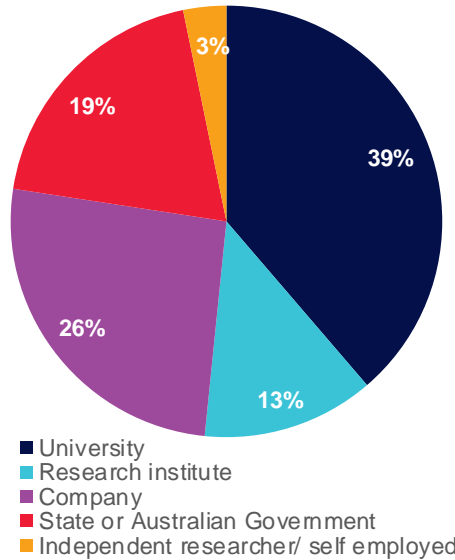
Consultation participants

The Phase 1 consultation, held in 2022, elicited 148 responses. Participants were involved through attending workshops, meeting with the Project Team, responding to the surveys and providing written submissions. Across the eight workshops, 514 participant comments were captured.

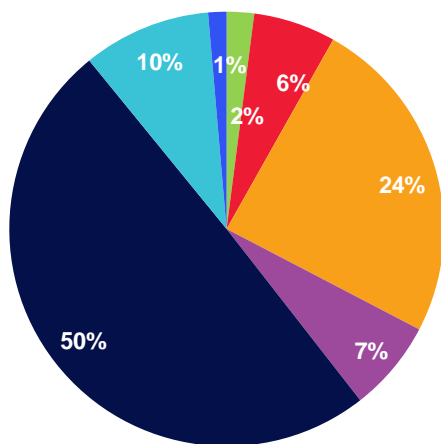


64 organisations participated and 44 participants identified themselves as Aboriginal.¹ Participating sectors included universities, research institutes, companies and Government agencies. Participants from locations across WA contributed to the consultation and the topics discussed are represented below.

Researcher employment type

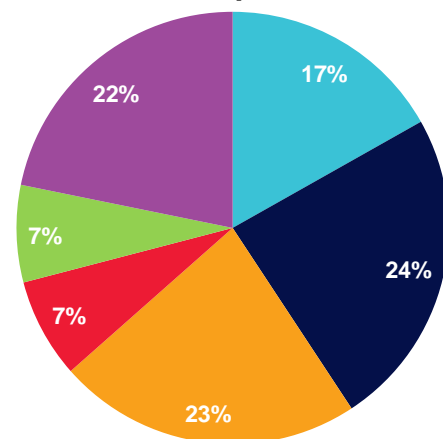


Breakdown of responses by region



- Gascoyne
- Great Southern
- Mid West
- Perth
- South West
- Other States
- Goldfields-Esperance
- Kimberley
- Peel
- Pilbara
- Wheatbelt

Breakdown of feedback topics



- Definitions
- Benefit Sharing Arrangements
- Traditional Knowledge in Public Domain
- Biodiscovery experiences
- Certification
- Other issues

¹ Provision of any information about organisational affiliations or identification as an Aboriginal person was voluntary and there were also opportunities to submit anonymous feedback via the online surveys.

Consultation feedback

The following provides a summary of feedback received during Phase 1 of the consultation for the Bill conducted in 2022.

Feedback received from across the range of consultation activities and two consultation streams is included.



Support for the proposed legislation

Proposals

Developing a Biodiscovery Bill in WA, that gives effect to the principles of the Nagoya Protocol, is a priority of the WA Government.

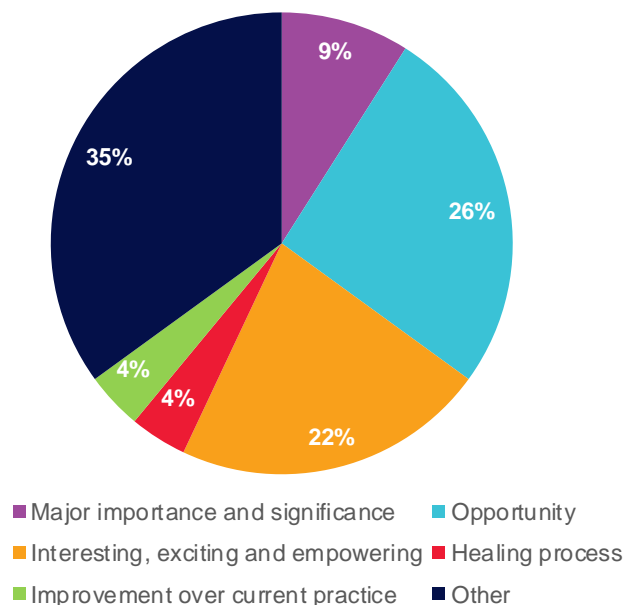


Feedback

Participants across the consultation streams were not specifically asked whether they support introduction of the proposed legislation. The consultation activities were conducted to gain input into the Bill's development and draw out issues that need to be considered when the Bill is being formed. Despite this, support for the Bill was provided across consultation streams and activities.

Support for the Bill was provided in 100% of the 1:1 meetings held, 63% of the workshops conducted and 60% of the written submissions received. The reasons participants provided for supporting the Bill are depicted below. This depiction is across consultation streams.

Reasons for supporting the Bill



Feedback received on the proposed legislation

Proposals

The main aims of the Biodiscovery Bill are to:

- Set out a way to manage biodiscovery in WA in a manner that is consistent with principles in the Nagoya Protocol;
- Provide certification for proponents when biodiscovery is conducted using WA genetic resources;
- Ensure that the State shares benefits when biodiscovery activities with a commercial purpose are conducted using WA genetic resources; and
- Ensure that Aboriginal people share in the benefits when traditional knowledge about a WA genetic resource has been shared and will be used in a biodiscovery activity leading to a commercial outcome.



Feedback

A range of issues with the proposed Bill were raised in both the consultation stream for Aboriginal people and the stream for researchers and businesses. In the consultation stream for Aboriginal people, 57 comments were captured in relation to issues with the Bill. The key themes of the issues raised are listed below in order of how often they were raised.

- Concern about past behaviours, feelings about mistreatment of Aboriginal people and mistrust of the process.
- Concern about loss of culture, identity, knowledge and genetic resources.
- Concern regarding the benefits of the legislation for Aboriginal people.
- Concern regarding the ability to reflect culture in westernised legislation and terms.

In the consultation stream for researchers and businesses, 10 comments related to issues with the proposed legislation were captured. Researchers and businesses were primarily concerned about the impact of the Bill on research and scientific discovery.

Biodiscovery experiences and activities

Proposals

Biodiscovery activities are currently being undertaken in WA and, without legislation, these activities are unregulated. Currently, traditional knowledge can be used in biodiscovery activities without benefits being shared with Traditional Knowledge Custodians.

It is important that past biodiscovery experiences of the different stakeholder groups is understood, along with the types of biodiscovery activities that are being conducted in WA.



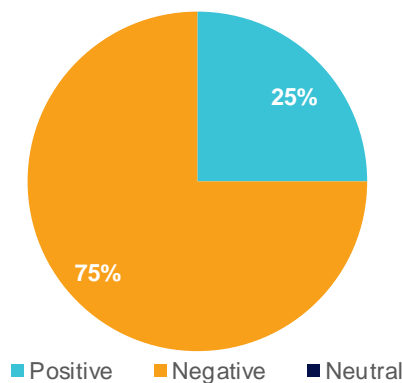
Feedback

Participants in both consultation streams were asked about their experiences with biodiscovery. Participants in the stream for researchers and businesses were also asked about their familiarity with the Nagoya Protocol and work opportunities.

Previous biodiscovery experiences of participants in the consultation stream for Aboriginal people were largely negative, potentially reinforcing the need for biodiscovery legislation.

In contrast, biodiscovery experiences of participants in the consultation stream for researchers and businesses were largely positive.

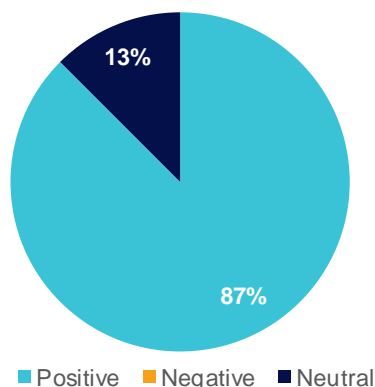
Biodiscovery experiences for Aboriginal people



Factors contributing to negative biodiscovery experiences for participants in the stream for Aboriginal people

- No benefits for Traditional Owners.
- Mismanagement of traditional owner rights.
- Agreements and contractual arrangements.
- Business size and commercial focus.

Biodiscovery experiences for researchers and businesses

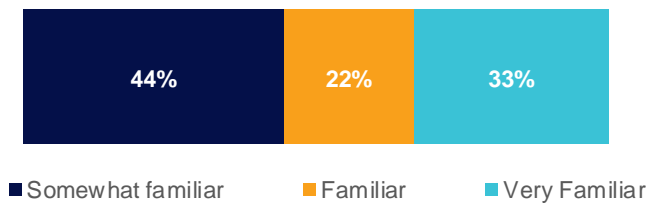


Factors contributing to positive biodiscovery experiences for participants in the stream for researchers and businesses

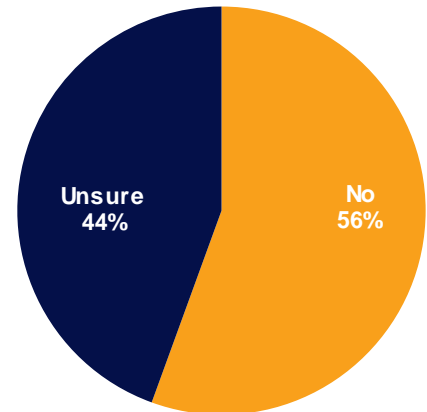
- Traditional knowledge enhanced research.
- Strong relationships with Traditional Owners.
- Co-designed research and community driven projects.
- Understanding of protocols.

Participants in the consultation stream for researchers and businesses were relatively familiar with the Nagoya Protocol but their work to date did not appear to have been affected by a lack of biodiscovery legislation.

Familiarity of the stream for researchers and businesses with the Nagoya Protocol



Have work opportunities been lost?



Accessing land and genetic resources

Proposals

The collection of WA genetic resources to be used in biodiscovery activities requires access to the land or locations where the genetic resources are situated.



Feedback

Participants asked a number of questions and raised a variety of issues related to land access. These questions and issues are listed below.

- Right to access land or use genetic resources.
- Ownership of genetic resources.
- Protection and preservation of genetic resources.

Participants in the consultation stream for researchers and businesses indicated that they access genetic resources through a range of ways.



Key definitions

Proposals

The Bill will need to define key concepts, including: Traditional Knowledge; Aboriginal Tradition; and Traditional Knowledge Holder or Custodian. Input from Aboriginal people about how these concepts are defined is crucial.



Feedback

Participants in the consultation stream for Aboriginal people were asked for their input about key definitions for the Bill.

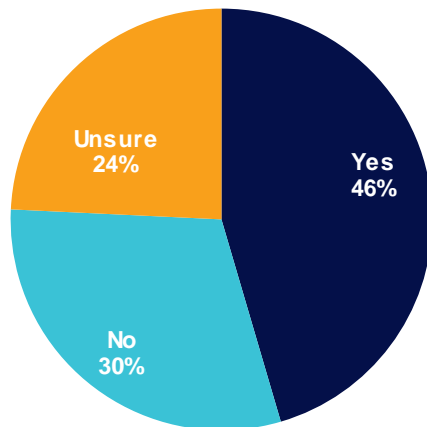
68 comments from participants were captured in relation to a definition of traditional knowledge, 14 comments were captured about a definition for Aboriginal tradition and 14 comments were captured regarding a definition for Traditional Knowledge Holder/Custodian.

When participants were asked what traditional knowledge means, the following key themes and concepts emerged.

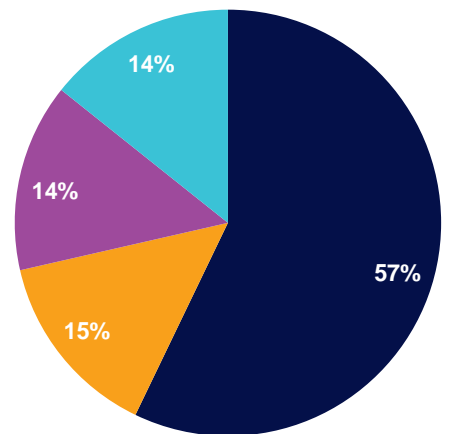
- Cultural knowledge, responsibility, obligation and practice.
- Ancestral, inter-generation and passed down.
- Holistic and connected to heritage, people, country, plants and animals.
- Knowledge, wisdom, awareness and experience.
- Learning, hearing, teaching and know-how.
- Sacred, religious and spiritual beliefs.
- Dynamic, evolving, living and ongoing.
- Collective, group, community, family and generations.
- Songs, stories, dance and dreaming.
- Regional, geographic and boundaries.

Participants were also asked whether it would be helpful to align definitions within the Bill with existing laws and their preferences when presented with definitions from other laws.

Would it be helpful to link or align definitions in the Bill to existing laws?



Which definitions were preferred?



- World Intellectual Property Organization
- Queensland Biodiscovery Act 2004
- Aboriginal Cultural Heritage Act 2021
- Native Title Act 1993

The World Intellectual Property Organisation defines traditional knowledge as: 'knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity'.

Some consultation participants discussed the distinction between the terms *Holder* and *Custodian*, with the majority of these participants preferring the phrase Traditional Knowledge Custodian. Participants discussed the cultural responsibility, obligation and authority that Custodians possess which Holders may not.

Using traditional knowledge

Proposals

Use of traditional knowledge is central to the Bill. The Bill aims to ensure that if traditional knowledge is shared and used in commercial biodiscovery activities, the Traditional Knowledge Holders or Custodians share in the benefits of the biodiscovery on mutually agreed terms.

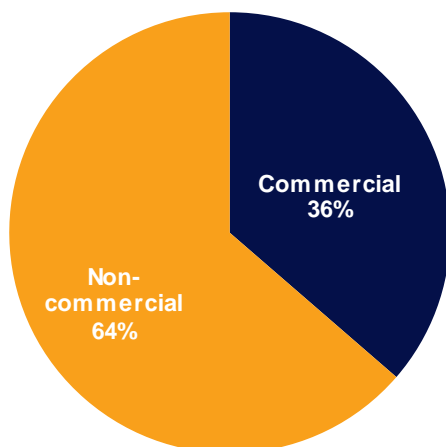


Feedback

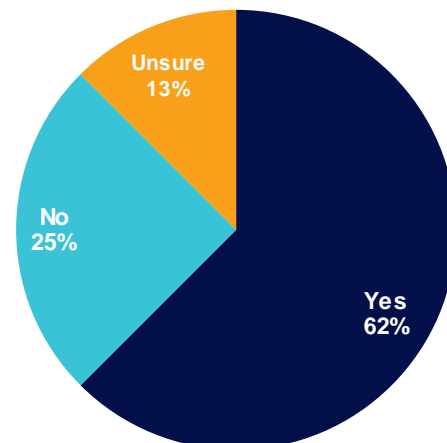
The Bill is intended to apply when biodiscovery activities have a commercial purpose or change of intent from a non-commercial purpose to a commercial purpose. Participants in the consultation stream for researchers and businesses reported whether their work or research is commercial or non-commercial. They also indicated whether they have used traditional knowledge for commercial purposes or as part of their work.

The findings suggest, that in the majority of cases, research appears to be non-commercial and traditional knowledge is often used.

Primary purpose of work or research



Have participants used traditional knowledge for commercial purposes or as part of their work?



Participants in the consultation stream for Aboriginal people provided feedback related to: obtaining consent to use traditional knowledge; concerns about traditional knowledge being used; and how traditional knowledge could be protected under the Bill. The key themes and concepts that emerged from this feedback is provided on the following page.

Consent to use traditional knowledge

- Approach with respect, observe cultural protocols and traditions.
- It may be a community or shared decision.
- Consent should be at the discretion of the Traditional Knowledge Holders or Custodians and may be withdrawn.
- Consent should be given by those with recognised authority or standing in the community.
- It cannot be assumed that PBCs and NTRBs always have authority to give consent.

Concerns and issues related to using traditional knowledge

- Past behaviours, feelings about mistreatment of Aboriginal people and mistrust of the process.
- Traditional knowledge misused, no consent provided or provided by an inappropriate person.
- Retrospective benefit sharing arrangements, where traditional knowledge use is identified after the fact.
- Loss of culture, identity, knowledge and genetic resources.
- Whether the legislation will benefit Aboriginal people.

What the Bill could do to protect traditional knowledge

- Recognise that ownership of knowledge is retained by Aboriginal people.
- Promote the protection and conservation of traditional knowledge.
- Prohibit commercialisation where sacred knowledge is involved.
- Enforcement and consequences for unauthorised use.
- Require acknowledgment of use of traditional knowledge.

Benefit sharing

Proposals

The Bill will ensure that the State shares benefits when biodiscovery activities with a commercial purpose are conducted using WA genetic resources. The Bill will also ensure that Aboriginal people share in the benefits when traditional knowledge about a WA genetic resource has been shared and will be used in a biodiscovery activity leading to a commercial outcome.

When benefits are to be shared with Aboriginal people, researchers will need to identify the relevant Traditional Knowledge Holders or Custodians for benefit sharing. A mechanism for this will need to be included in the Bill or the Bill's guidance materials.

Benefits between researchers and Traditional Knowledge Holders or Custodians will need to be negotiated on mutually agreed terms. In some instances, multiple Aboriginal groups may hold the same traditional knowledge. How this will be managed will need to be reflected in the Bill or the Bill's guidance material.

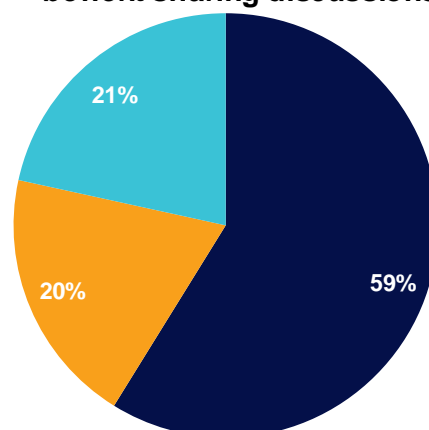


Feedback

Identifying Traditional Knowledge Holders or Custodians for benefit sharing

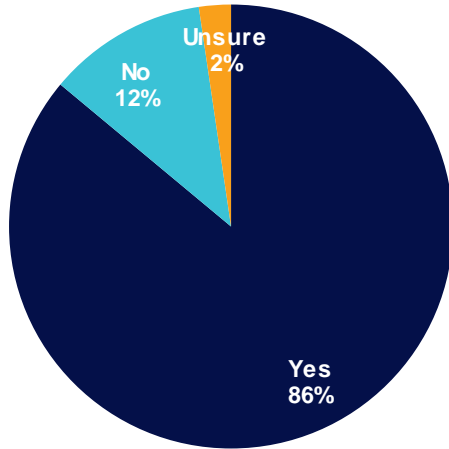
Participants provided suggestions for: how Traditional Knowledge Holders or Custodians could be identified; whether existing organisations could assist in this process; what organisations may be able to assist; and whether Local Aboriginal Cultural Heritage Services (LACHS) as will be established under the *Aboriginal Cultural Heritage Act 2021* could be an appropriate avenue of assistance. The feedback depicted below is across consultation streams.

Suggested starting points to identify groups for benefit sharing discussions

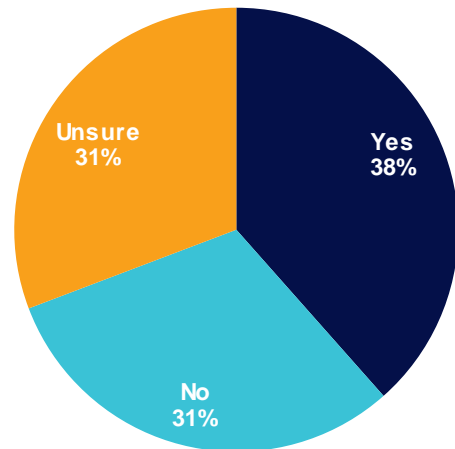


- Approach existing / established organisations
- Research groups in area to identify parties
- Approach individuals - contact for research, Elder, family groups

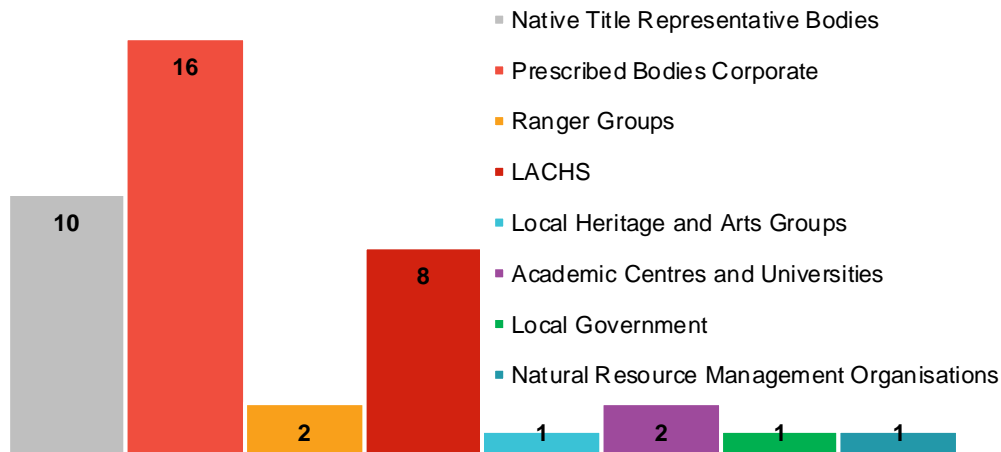
Could existing organisations help researchers identify the Aboriginal people they should share with for biodiscovery activities?



Could LACHS be appropriate organisations to assist researchers?



Suggested organisations



Negotiating benefits

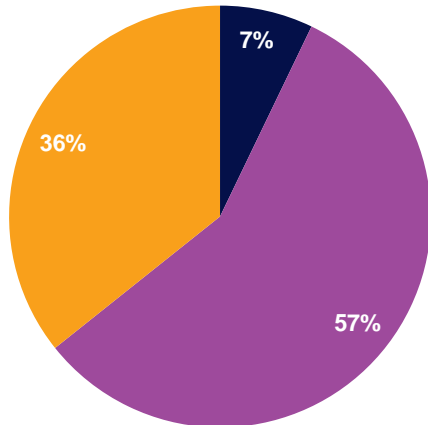
Key themes and concepts in the feedback received regarding how monetary benefits could be used are listed below in order of how often they were raised. The feedback depicted is across consultation streams.

- Benefits returned to community where the genetic resource is located.
- Compensation for use of genetic resources, regardless of intent.
- Compensation for use of traditional knowledge, regardless of intent.
- Establish a centralised fund.
- Capacity building for Aboriginal people.

Multiple groups with the same traditional knowledge

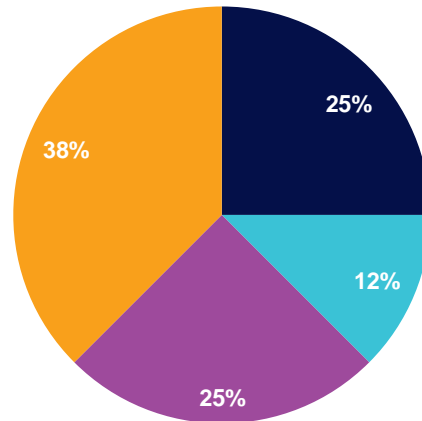
Participants provided feedback on how multiple groups sharing the same traditional knowledge could be addressed under the Bill. This feedback differed across stakeholder groups.

Consultation stream for Aboriginal people



- Benefits shared in an agreed portion to the community who shared the knowledge and those known to hold the same knowledge
- Benefits shared equally between all parties that have the knowledge
- Negotiation between all parties that hold the knowledge
- Only the community that shared the knowledge should benefit

Consultation stream for researchers and businesses

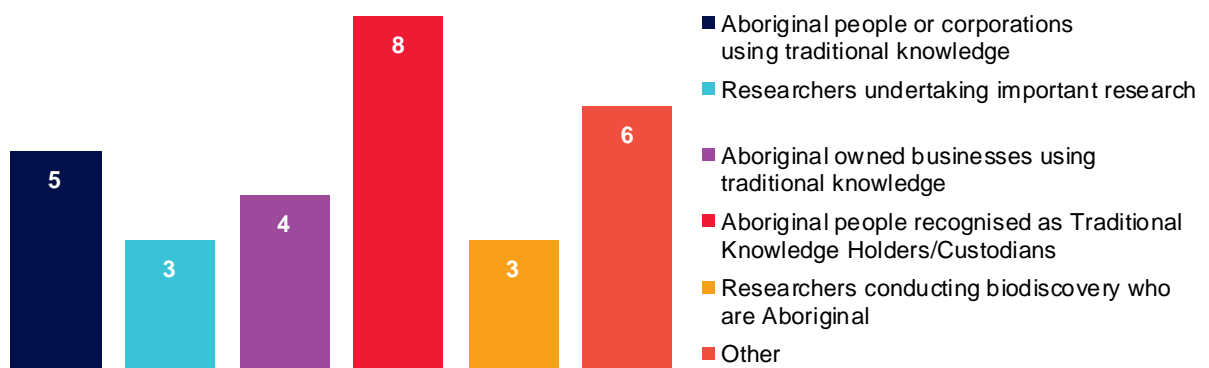


- Benefits shared in an agreed portion to the community who shared the knowledge and those known to hold the same knowledge
- Benefits shared equally between all parties that have the knowledge
- Negotiation between all parties that hold the knowledge
- Only the community that shared the knowledge should benefit

Exemptions for benefit sharing

Participants that completed the surveys across the two consultation streams were asked whether they thought that there should be exemptions for benefit sharing under the Bill. Participants, across both consultation streams, supported the idea of exemptions. The parties participants thought could be exempt are depicted below.

Parties that could be exempted from benefit sharing requirements



Issues in relation to benefit sharing

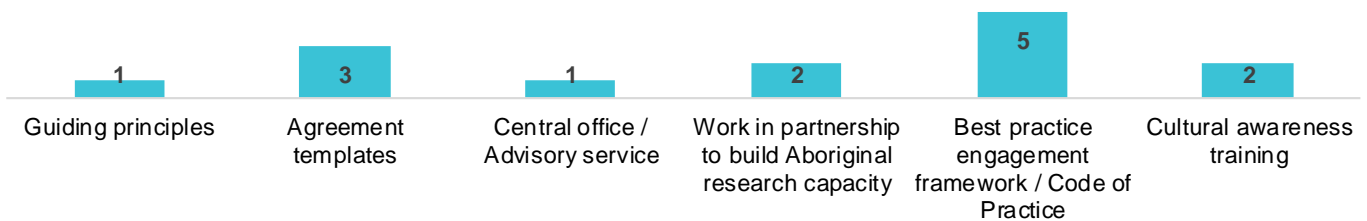
Participants across both consultation streams raised issues in relation to benefit sharing. The key themes of these issues are depicted in the table below and are listed in order of how frequently they were expressed.

Consultation stream for Aboriginal people	Consultation stream for researchers and businesses
<ul style="list-style-type: none"> Disputes between Aboriginal groups and families and agreements entered into by unauthorised parties. Funding, resources and access to expertise for Aboriginal organisations. Failure to utilise existing structures or align to existing laws. Awareness of cultural protocols. Regulation and oversight processes. Impacts on research and timelines. 	<ul style="list-style-type: none"> Disputes between Aboriginal groups and families and agreements entered into by unauthorised parties. Impacts on research and timelines. Regulation and oversight processes. Awareness of cultural protocols.

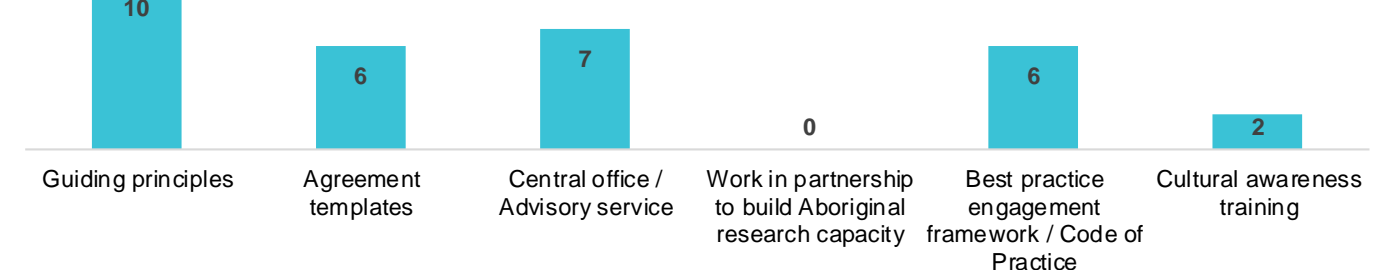
Supporting resources and guidance

Participants in the two consultation streams differed in the tools and resources they thought could assist parties in identifying Traditional Knowledge Holders or Custodians for benefit sharing. The feedback, separated by the consultation streams, is depicted below.²

Consultation stream for Aboriginal people



Consultation stream for researchers and businesses



² The survey for researchers and businesses, but not the survey for Aboriginal people, included a question about tools and resources for identifying Traditional Knowledge Holders or Custodians.

Traditional knowledge in the public domain

Proposals

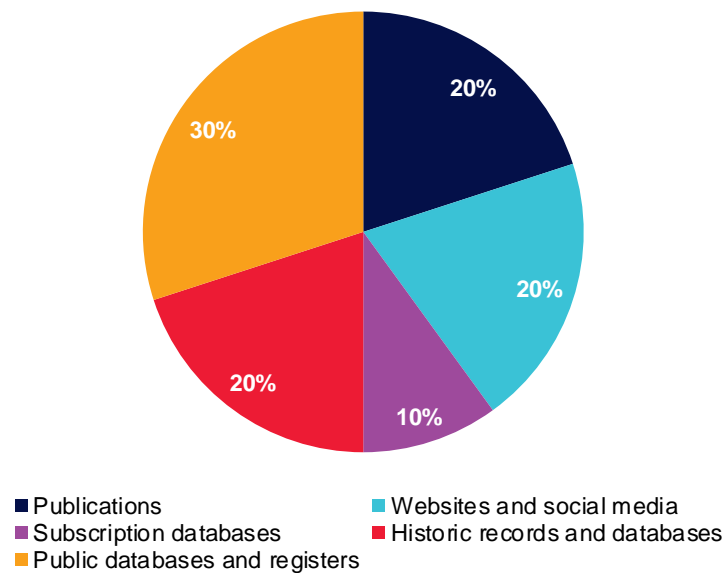
Some traditional knowledge is in the public domain. This knowledge has been published or made public in some way and is now accessible. It needs to be determined how the Bill will handle traditional knowledge that is in the public domain.



Feedback

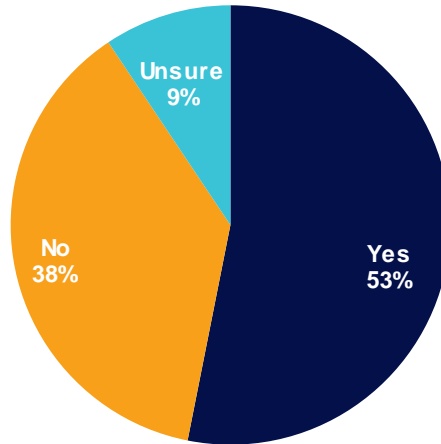
The source of traditional knowledge in the public domain is important. The sources represented below comes from both consultation streams.

Where have participants encountered publicly disclosed traditional knowledge about genetic resources?



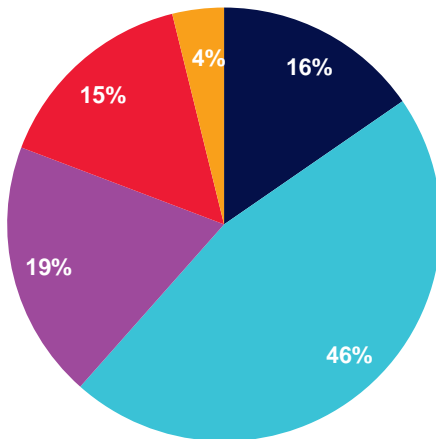
Participants indicated whether they thought traditional knowledge in the public domain should be treated differently to knowledge shared with a researcher. The depiction below is across both consultation streams.

Should traditional knowledge in the public domain be treated differently to knowledge shared with a researcher directly?



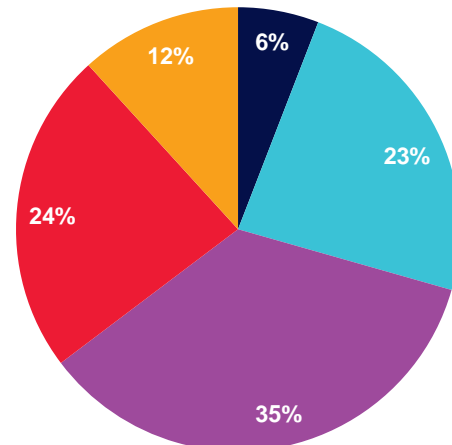
When asked what should happen when traditional knowledge has already been publicly disclosed, participants from the consultation streams differed in their perspectives.

Consultation stream for Aboriginal people



- Determine approach based on nature of Traditional Knowledge
- Acknowledgement
- Identify groups and obtain consent where possible
- Pay benefits to a consolidated fund or compensation scheme
- No longer deemed Traditional Knowledge

Consultation stream for researchers and businesses



- Determine approach based on nature of Traditional Knowledge
- Acknowledgement
- Identify groups and obtain consent where possible
- Pay benefits to a consolidated fund or compensation scheme
- No longer deemed Traditional Knowledge

Certification and administration

Proposals

A proposed WA Biodiscovery Certificate would enable proponents to show consistency with principles in the Nagoya Protocol and compliance with the Act. A WA Biodiscovery Certificate may also assist proponents in entering into international research partnerships and collaborations where consistency with the Nagoya Protocol is a prerequisite.

As the proposed approach would only require a proponent to apply for a WA Biodiscovery Certificate for commercial biodiscovery activities, they would have no formal way to demonstrate that non-commercial research has been conducted in accordance with principles of the Nagoya Protocol. One option to address this issue could be to include a process in the legislation for a proponent to apply for a non-commercial WA Biodiscovery Certificate.



Feedback

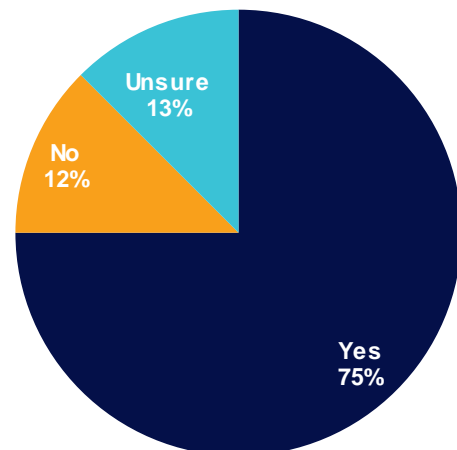
Only participants in the consultation stream for researchers and businesses were asked for their views about certification and administration.

Participants largely indicated that a WA Biodiscovery Certificate would be useful and that it would be helpful to include a mechanism within the Bill through which a non-commercial certificate could be requested.

How useful would it be to have a WA Biodiscovery Certificate?



Would it be helpful to include a mechanism for a non-commercial certificate?



Participants' main issues regarding the certification regime were the complexity of the certification process and the impacts on non-commercial research.

Scope of the Bill

Proposals

Some aspects of the scope of the Bill are still being determined and there are policy issues that still require resolution.



Feedback

There were 42 comments raised regarding the scope of the Bill across both streams of the consultation. The key themes of these comments included the following.

- Intellectual property, data sharing and data ownership.
- Genetic resources covered by the legislation.
- Retrospectivity.
- Extraterritorial application.
- Application to research.
- Application to bushfoods and other traditional practices.
- Alternative proposals.
- Protection of traditional knowledge.

Further consultation

Proposals

It is important that all stakeholders are adequately consulted about the Bill and genuinely involved in the Bill's development.



Feedback

There were 23 comments raised regarding the need for further consultation during the Bill's development. These comments were made primarily by participants in the consultation stream for Aboriginal people, in both the workshops and written submissions. The key themes of these comments included the following.

- Aboriginal people wish to be more involved in development of the legislation.
- The 2022 consultation was a good start but further discussion is required through additional information sessions or workshops.
- Consideration of an Aboriginal facilitator for subsequent consultation.
- Consultation activities should be promoted more broadly to engage older people, with adequate notice provided.
- Further discussion papers, questions and clear examples should be distributed.
- The consultation should not be rushed and Aboriginal people need to be heard.

Recommendations and next steps



Recommendations

A series of recommendations for development of the Bill, from Phase 1 of the consultation, are outlined below. These recommendations take into consideration the captured responses from consultation participants, along with the recommendations from the facilitator of the eight workshops.

- Use of the term Traditional Knowledge Custodian, rather than Traditional Knowledge Holder. It is important to distinguish between the ‘owner’ or ‘custodian’ of knowledge from a ‘holder’ of knowledge. A custodian will have the cultural authority to decide whether, and on what terms, traditional knowledge can be shared with others.
- The following draft definitions of key concepts for further testing with stakeholders.
 - **‘Traditional Knowledge’** means knowledge about the genetic resources that has its source in Aboriginal tradition and includes know-how, skills, innovations and practices relating to the genetic resources that have been developed and may continue to evolve in accordance with Aboriginal tradition.
 - **‘Aboriginal tradition’** means the living, historical and traditional observances, practices, customs, beliefs, values, knowledge and skills of the Aboriginal people of the State generally, or of a particular group or community of Aboriginal people of the State.
 - **‘Traditional Knowledge Custodian’** means an Aboriginal person who individually or collectively with others in accordance with Aboriginal tradition –
 - a) holds Traditional Knowledge; and
 - b) has cultural rights, interests and obligations in respect of the Traditional Knowledge.
- Development of a Code of Practice setting out guidelines for how to identify Traditional Knowledge Custodians for consent and benefit sharing.
- Inclusion of a hierarchy of entities in the Code of Practice to act as a first contact point for proponents attempting to identify a Traditional Knowledge Custodian. The hierarchy may include a: Registered Native Title Body Corporate designated in the area in which the genetic resource is to be collected from; LACHS; regional corporation where there have been settled indigenous land use agreements; native title claim group or native title representative body for the area; and relevant regional body.
- Inclusion of traditional knowledge in the public domain in the obligations under the Bill, with consideration of the distinction between secret traditional knowledge, narrowly diffused traditional knowledge and widely diffused traditional knowledge.
- Further consultation with Aboriginal people, and other stakeholders, is required.

Next steps for developing the Bill

A series of next steps for development of the Bill are outlined below.

- The findings and recommendations of Phase 1 of the consultation will be made available to stakeholders.
- The findings and recommendations of Phase 1 of the consultation will guide development of proposed key concepts and mechanisms for the Bill.
- A second phase of consultation will be held to communicate the Phase 1 consultation recommendations and test the proposed key concepts and mechanisms.
 - Round table meetings will be held with expert advisors.
 - Information sessions will be held in Perth and regional WA.
- The Bill will be drafted taking into consideration the findings of the two phases of consultation and a Cabinet submission will be prepared.
- The Bill will be introduced, debated and will hopefully be passed to become an Act of Parliament.
- A third phase of consultation will be undertaken with Aboriginal people and research stakeholders to develop a Traditional Knowledge Code of Practice or equivalent. Regulations and supplementary materials will also be developed.

Appendices

The following includes graphic scribe images from the workshops with Aboriginal people, promotion materials, posts from the social media campaign and links to the consultation papers



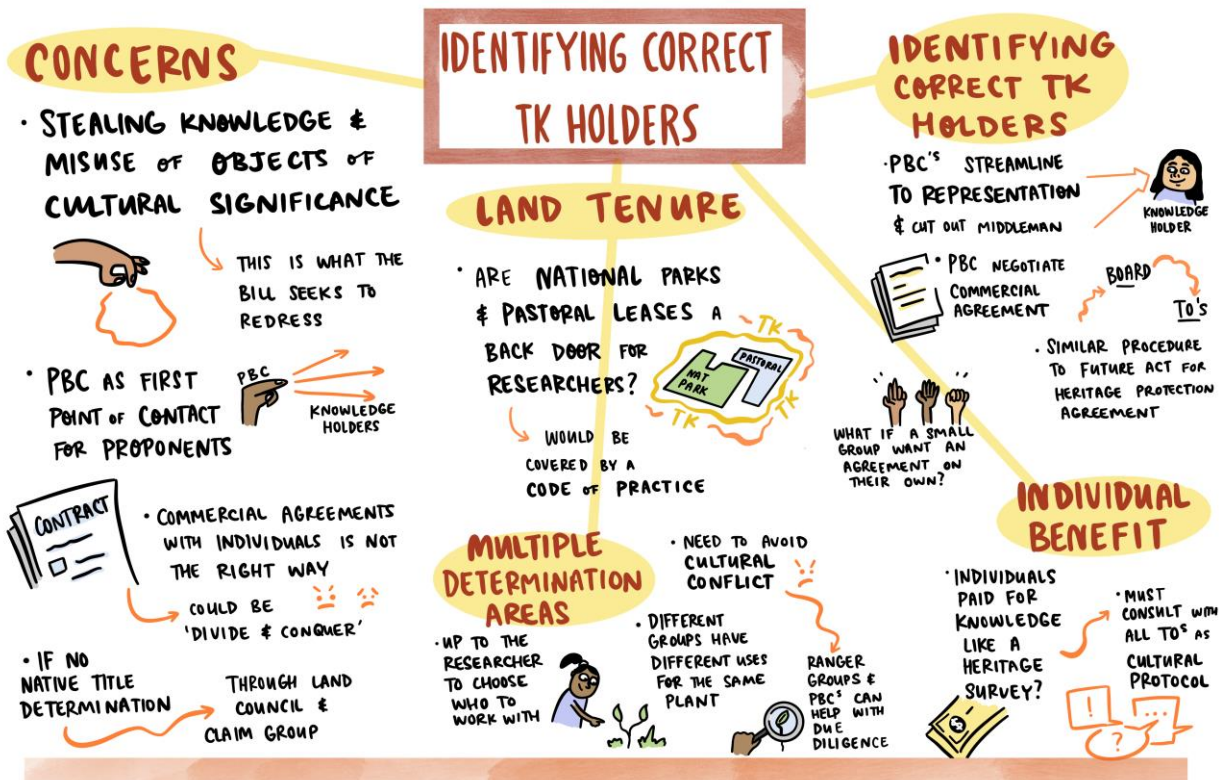
Appendix 1: Graphic scribing images



BIODISCOVERY BILL WORKSHOP - KUNUNURRA, 02 SEPTEMBER 2022



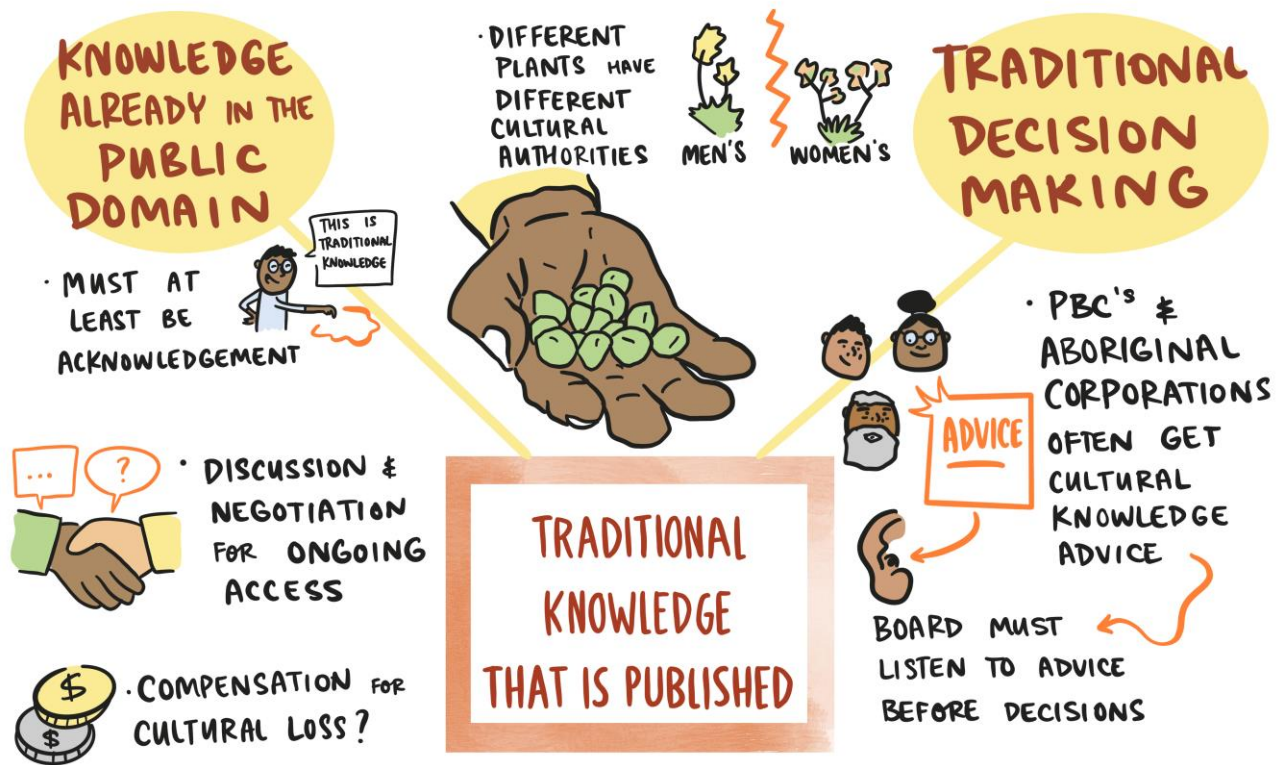
Government of Western Australia
Department of Jobs, Tourism, Science and Innovation



BIODISCOVERY BILL WORKSHOP - KUNUNURRA, 02 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation



TRADITIONAL KNOWLEDGE DEFINITIONS



IDENTIFYING CORRECT TK HOLDERS

GO TO THE PBC'S FIRST

- NOT GO UNDER THE RADAR TO THE CLINICS OR RANGERS
- PBC TO FACILITATE KNOWLEDGE HOLDER ACCESS

FIRSTLY, IDENTIFY TK HOLDERS

INDIVIDUAL vs COLLECTIVE IP

- GOVT & RESEARCHERS CAN PICK WHO THEY TALK TO
- HOLDING KNOWLEDGE VS GROWING UP AROUND IT

SECONDLY, SUPPORT THEM LEGALLY

COLLECTIVE ICIP

ETHICS APPROVALS CAN'T FOCUS ON GENETIC MATERIAL & CIRCUMVENT PEOPLE

KAMS HAVE EMBARGOED HEALTH RESEARCH BECAUSE OF OVERWHELMING DEMAND

KAHRA ORGANISATION SET UP TO ADDRESS & SYSTEMATISE THIS

HEALTH & PHARMA BIODISCOVERY WILL BE **HUGE**

BIG RESEARCH COUNCILS & INSTITUTES ARE WELL RESOURCED TO COMMERCIALISE NATIVE MATERIALS

- PBC'S ARE NOT

RESOURCING

- PAY PEOPLE FOR KNOWLEDGE
- RESOURCE ENGAGEMENT FROM THE OUTSET
- FUND 2-WAY SCIENCE NOT EXTRACTIVE SCIENCE

MULTIPLE GROUPS WITH IP?

- EOI PROCESS?

WHO DO I SPEAK TO?

CAPACITY BUILDING PACKAGE IS NEEDED FOR PBC'S

IT COSTS TO DO THIS ENGAGEMENT

- RESEARCHERS NEED TO FUND PROCESS FROM THE OUTSET

GOVT HELPDESK OR CENTRAL SUPPORT FOR PBC QUESTIONS

ISWAG → SET UP TO PROVIDE A BEST PRACTICE APPROACH FOR SALTWATER RESEARCH

BIODISCOVERY BILL WORKSHOP - BROOME, 16 SEPTEMBER 2022



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Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE THAT IS PUBLISHED

WHO OWNS THE KNOWLEDGE AT THE END OF IT ALL?

- PARTNER?
- CO-PATENT?

MUST COME BACK TO THE TRIBE

THIS IS ALL IN THE NEGOTIATION

CURRENTLY, IT'S BIO-PIRACY

- WE NEED TO KNOW WHERE THE LAW SITS NOW

AWFUL UNLAWFUL

PAINT THE BIG PICTURE FOR US FIRST

THEN DETAILED DISCUSSIONS ON THE DEFINITIONS ETC.

- BUILD OUR KNOWLEDGE
- IDENTIFY THE PROBLEM

WIPO

LEVELS OF TK

- SECRET
- NARROWLY DIFFUSED
- WIDELY DIFFUSED

NO-ONE BUT INDIGENOUS PEOPLE CAN OWN THIS KNOWLEDGE

YOU CAN OWN OR USE THE PRODUCT BUT NOT THE KNOWLEDGE

EVEN IF PREVIOUSLY COMMERCIALISED OR SHARED

GABBINGE

NEEDS A CULTURALLY SAFE WORKING GROUP

- ABORIGINAL PEOPLE
- EXPERTS

THEN REGIONAL WORKSHOPS

NEED CLARITY ON HOW THIS INFO WILL BE USED

NEEDS MORE CULTURAL SAFETY & PARTICIPATION

IS IT A WORKSHOP OR CONSULTATION AT THE 11TH HOUR?

THIS IS A WORKSHOP TO GATHER IDEAS.

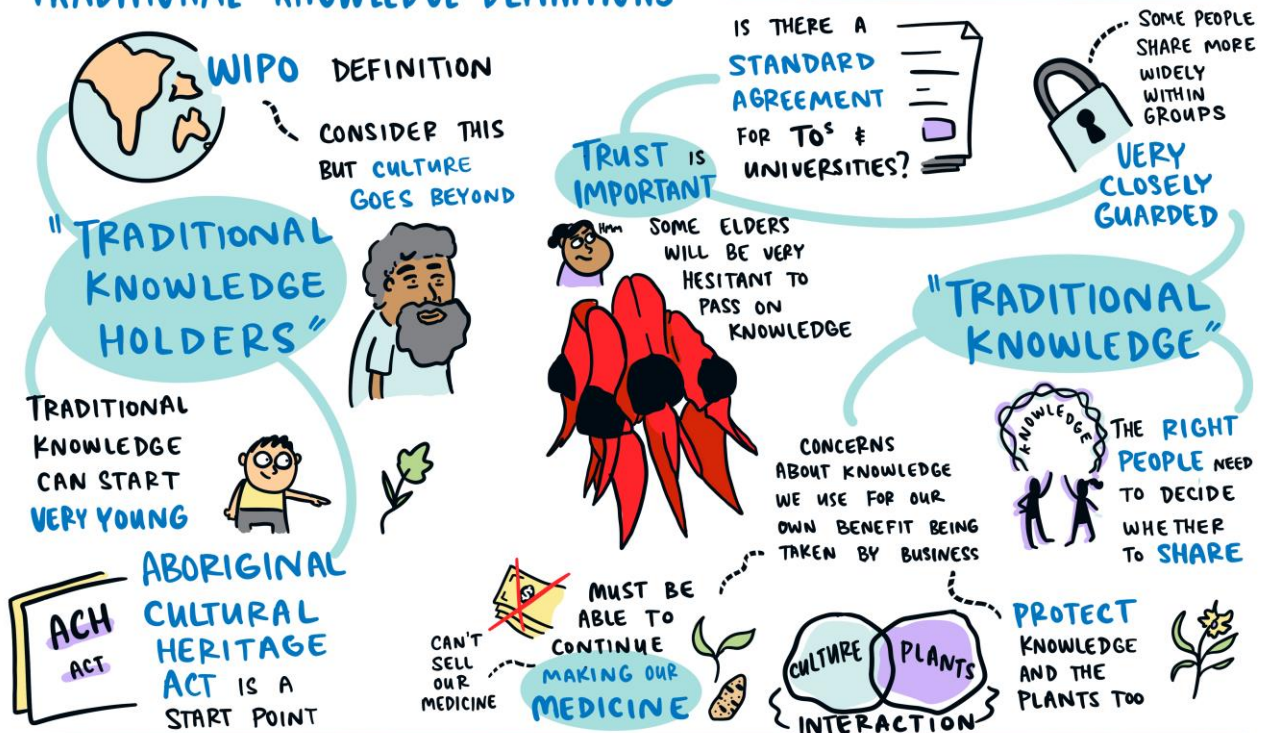
- THE **START** OF THE PROCESS

BIODISCOVERY BILL WORKSHOP - BROOME, 16 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE DEFINITIONS

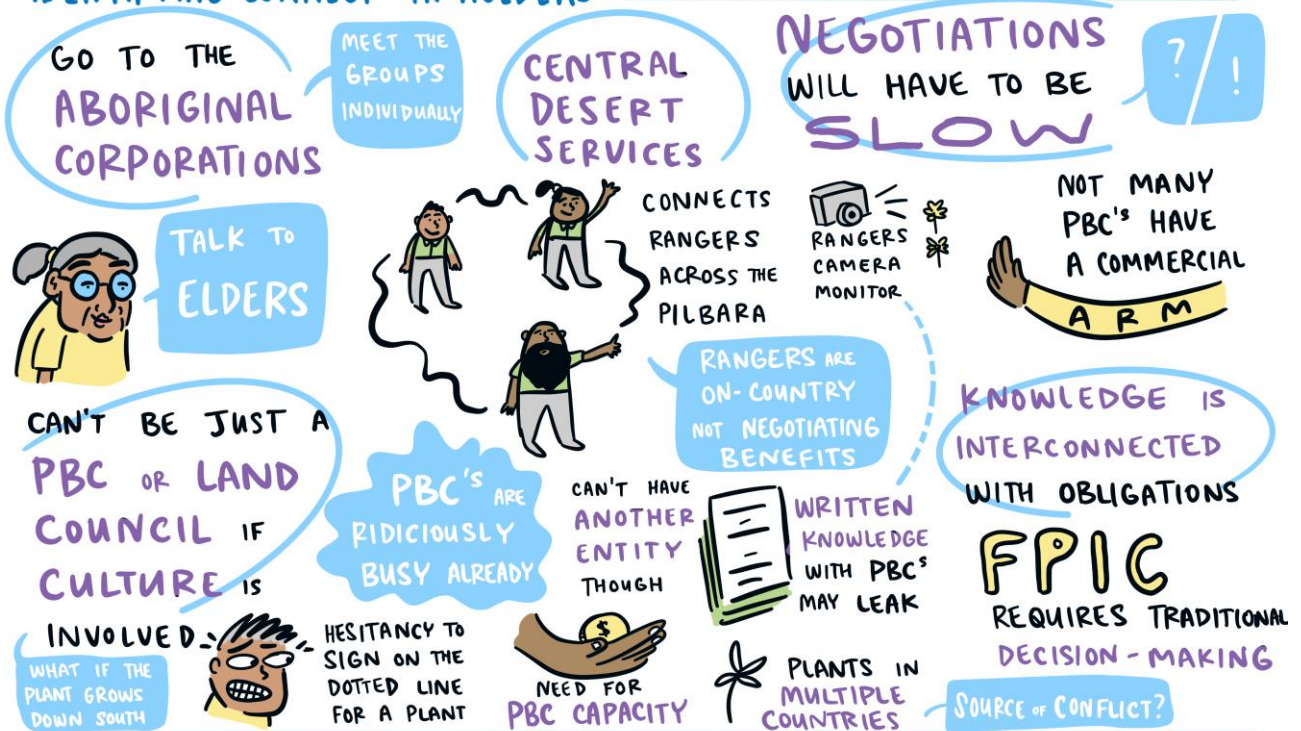


BIODISCOVERY BILL WORKSHOP - KARRATHA, 21 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

IDENTIFYING CORRECT TK HOLDERS



BIODISCOVERY BILL WORKSHOP - KARRATHA, 21 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE THAT IS PUBLISHED

SECRET KNOWLEDGE

MAY NEVER BE SHARED



WHAT IF A RESEARCHER SAYS THEY ALREADY KNOW A BIT ABOUT A RESOURCE?



SHOULD STILL SEEK OUT THE TK HOLDER



PROTECT CULTURE

SOME INFO HAS GOTTEN OUT OVER TIME & IS BEING USED THE WRONG WAY

RESPECT

SOME KNOWLEDGE SHOULD NEVER BE RESEARCHED OR COMMERCIALISED

BIODISCOVERY BILL WORKSHOP - KARRATHA, 21 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE DEFINITIONS

"TRADITIONAL KNOWLEDGE"

- PASSED DOWN THROUGH THE FAMILY VERBALLY
- GUIDANCE FROM THE ELDERS



"INTANGIBLE ELEMENTS"
TO ALIGN WITH CULTURAL HERITAGE
KNOWLEDGE

- MUST COME WITH THE CULTURAL AUTHORITY



"KNOWLEDGE HOLDER"

- ALIGN WITH CULTURAL HERITAGE ACT?



RIGHT PEOPLE FOR RIGHT COUNTRY



PLANTS & ANIMALS



"TRADITIONAL LAW HOLDERS"
VS
"TRADITIONAL CUSTODIANS"

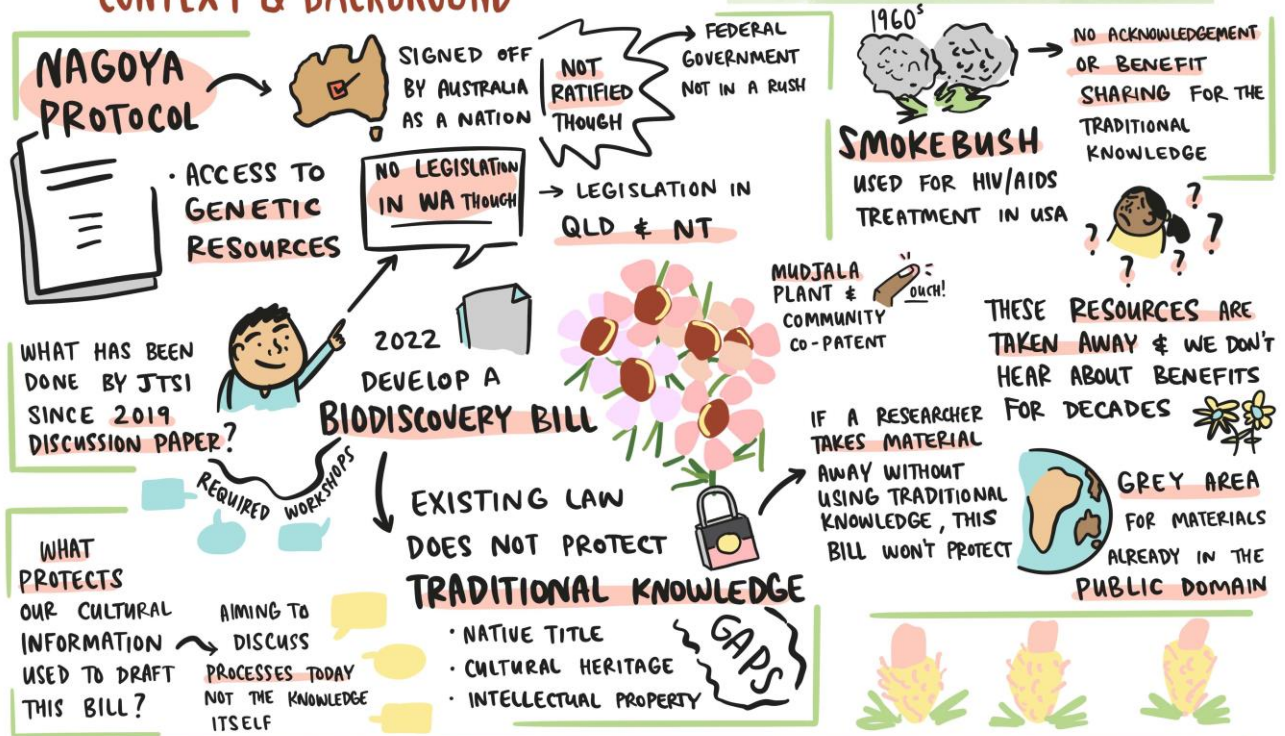
→ DIFFERENT IN DIFFERENT LOCATIONS

BIODISCOVERY BILL WORKSHOP - GERALDTON 29 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

CONTEXT & BACKGROUND

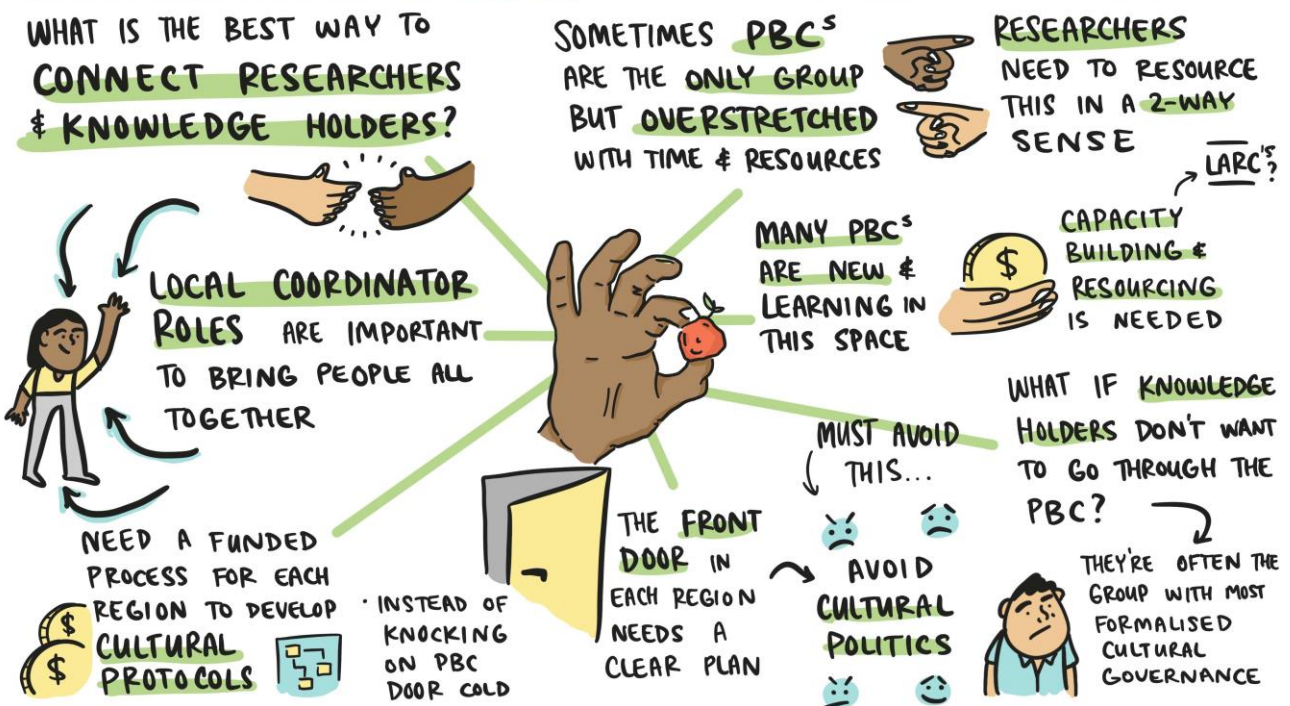


BIODISCOVERY BILL WORKSHOP - GERALDTON 29 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

IDENTIFYING CORRECT TK HOLDERS

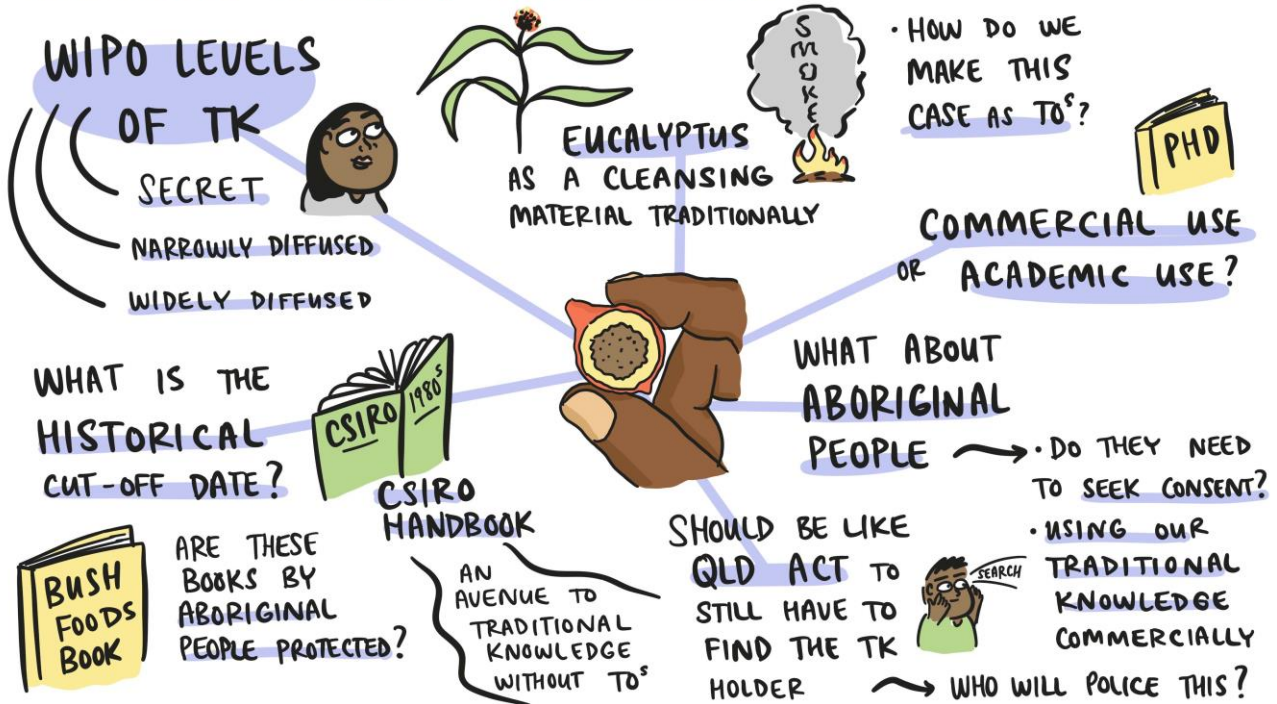


BIODISCOVERY BILL WORKSHOP - GERALDTON 29 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE THAT IS PUBLISHED

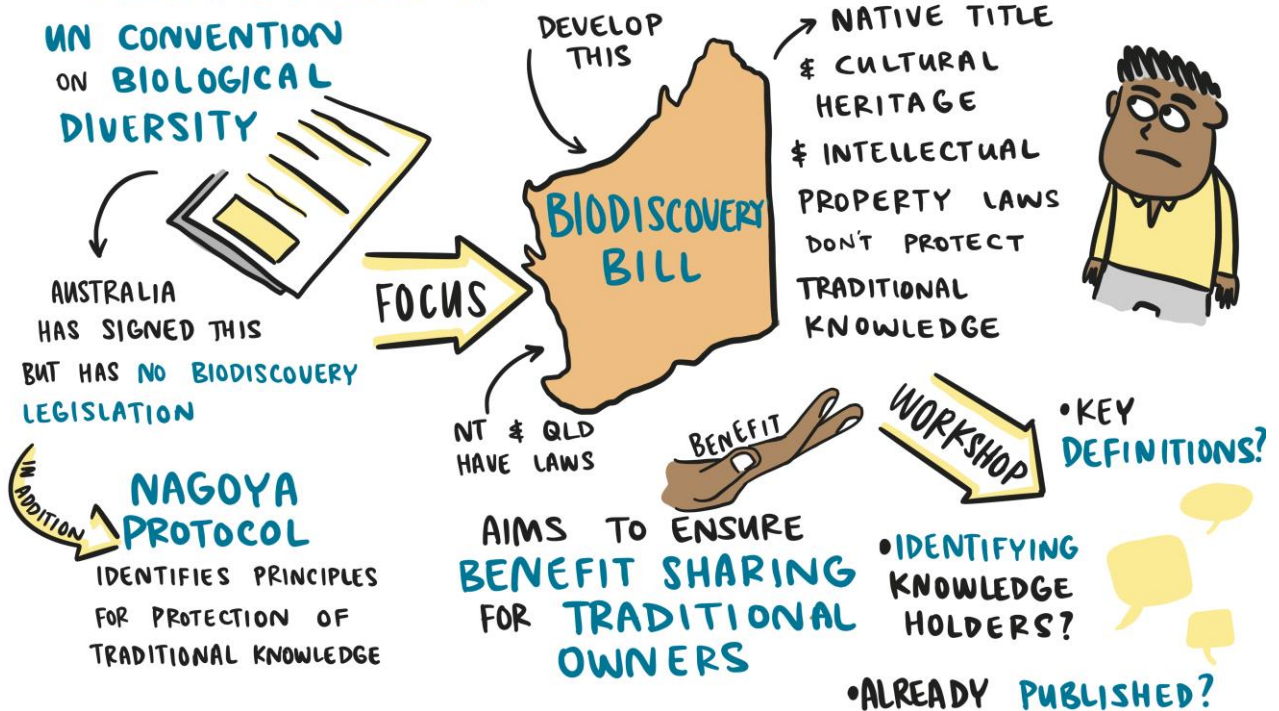


BIODISCOVERY BILL WORKSHOP - GERALDTON 29 SEPTEMBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

CONTEXT & BACKGROUND



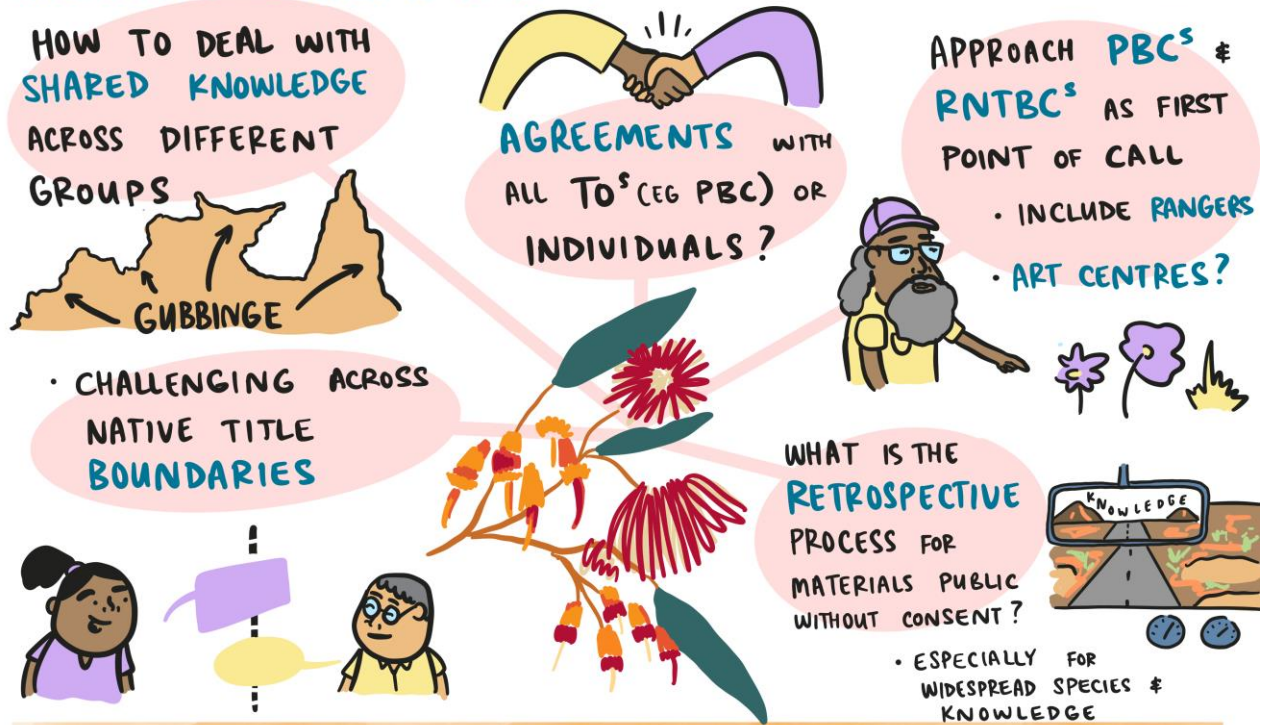
BIODISCOVERY BILL WORKSHOP

KALGOORLIE 11 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE DISCUSSION



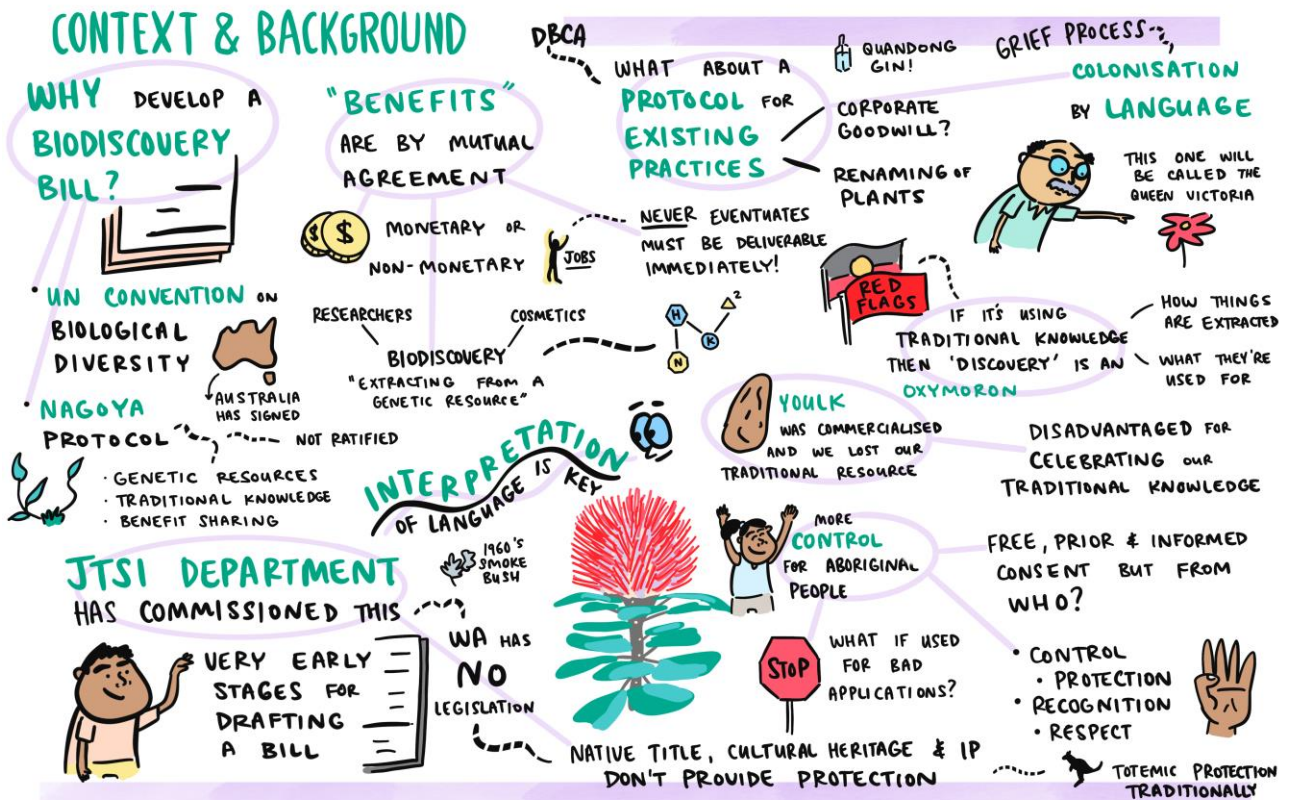
BIODISCOVERY BILL WORKSHOP

KALGOORLIE 11 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

CONTEXT & BACKGROUND

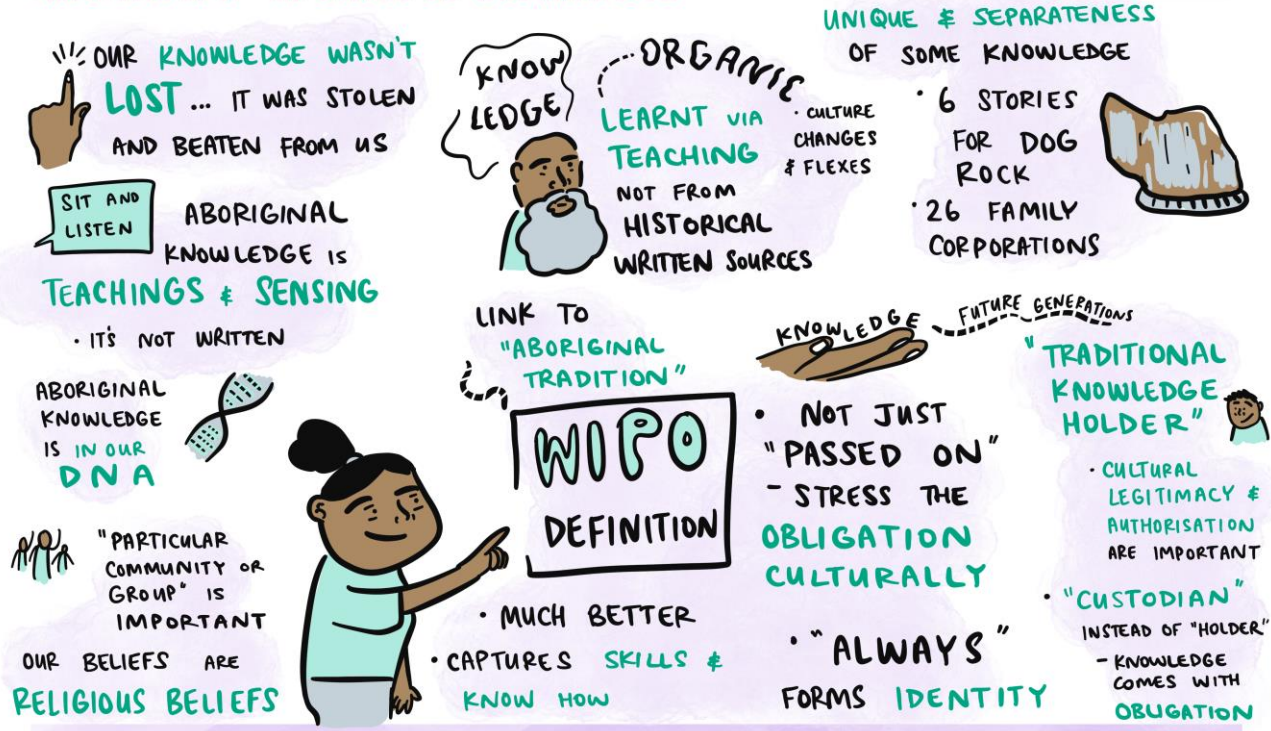


BIODISCOVERY BILL WORKSHOP - ALBANY, 18 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE DEFINITIONS



BIODISCOVERY BILL WORKSHOP - ALBANY, 18 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

IDENTIFYING CORRECT TK HOLDERS



BIODISCOVERY BILL WORKSHOP - ALBANY, 18 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

TRADITIONAL KNOWLEDGE THAT IS PUBLISHED

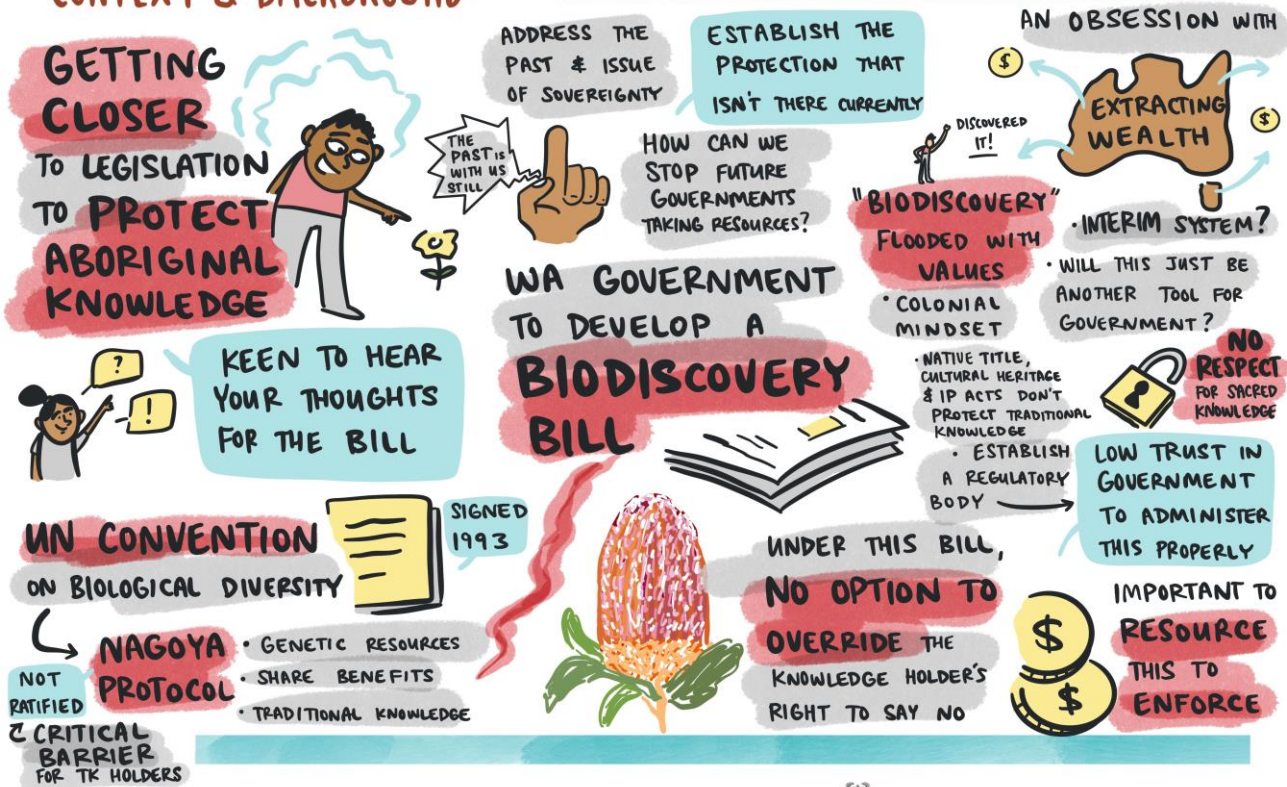


BIODISCOVERY BILL WORKSHOP - ALBANY, 18 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

CONTEXT & BACKGROUND



BIODISCOVERY BILL WORKSHOP - PERTH 31 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

DISCUSSION

HOW TO PROTECT TRADITIONAL KNOWLEDGE THAT OCCURS ACROSS:

- DIFFERENT LANGUAGE GROUPS?
- MEN'S & WOMEN'S BUSINESS?

CONCERNS ABOUT TRADITIONAL KNOWLEDGE USED INCLUDING THE HUMAN BODY

WHO OWNS THE GENETIC RESOURCE?

- LAND ACCESS RIGHTS
- THIS BILL FOCUSES ON THE TK
- COMPETITION OF RIGHTS
- AND WE OFTEN LOSE OUT UNDER NATIVE TITLE RIGHTS
- A GAME ON SOMEONE ELSE'S CHESSBOARD

WHO OWNS THE DATA IN THESE PROCESSES

- ACCESS FOR TK HOLDERS TO LEGAL SUPPORT

PRIOR, FREE & INFORMED CONSENT IS CRITICAL

A PLATFORM REQUIRED TO GIVE AUTHORITY TO OUR KINSHIP & CULTURAL GOVERNANCE UNDER THIS ENGAGEMENT PROCESS

- COLONISERS MUST RESPECT US AS LAWMAKERS

MINIMUM LEVEL OF RESOURCE NEEDED FOR OUR GROUPS

RETROSPECTIVE COMPENSATION!

- THIS TEAM NEEDS CULTURAL AWARENESS TRAINING

PRESENT DISCUSSION PAPERS BACK TO US THROUGHOUT

FRAMING & LEGISLATIVE INTERPRETATION OF OUR INPUT

WESTERN APPROACH CAN TAKE AWAY OUR RIGHTS

INCLUDE ELDERS IN REVIEWING THE DRAFT LEGISLATION

- SESSION WITH THE DRAFTING TEAM

UTILISING KINSHIP SYSTEM AS OUR CHESSBOARD

- RULES FOR CULTURAL ENGAGEMENT

BIODISCOVERY BILL WORKSHOP - PERTH 31 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

DISCUSSION

BETTER ARTICULATED IN LANGUAGE

TOO MANY WORDS RESTRICTS US

WILL BENEFITS GO TO INDIVIDUALS WITH THE KNOWLEDGE OR GROUPS?

"TRADITIONAL KNOWLEDGE"

- NEEDS REGIONAL APPROACH BASED ON LANGUAGE BOUNDARIES
- MULTIPLE VALUES & UNKNOWN OR UNTESTED SCIENTIFIC VALUES

"ABORIGINAL TRADITION"

- CONTINUING, ANCIENT & SACRED SYSTEMS OF KNOWLEDGE
- TRADITIONS THERE ARE MANY

KNOWLEDGE LIVES

- THROUGH KINSHIP, CLAN GROUPS & FAMILY SYSTEMS
- ONGOING MAINTENANCE & SURVIVAL

"KNOWLEDGE HOLDER"

- INTERGENERATIONAL TRANSFER IS KEY
- MUST ALWAYS INCLUDE KNOWLEDGE OF FIRST LAW

TRADITIONAL KNOWLEDGE MAY NOT ALIGN WITH NATIVE TITLE MAPS

- HOW WOULD COMPENSATION BE ATTRIBUTED?

KNOWLEDGE HOLDERS DON'T ALL SIT IN NATIVE TITLE GROUPS OR PBC'S

- NOT DUMPED IN PBC'S & LOST THERE
- HELD BY MANY
- KNOWLEDGE IS SPREAD WIDELY

KINSHIP IS INEXTRICABLY LINKED TO THIS

- THE INTENT OF THE LEGISLATION CAN'T JUST BE TO FACILITATE A WESTERN ECONOMY

BIODISCOVERY IS A SECONDARY PROCESS TO OUR CULTURE & BIODIVERSITY

CULTURE COUNTRY

- ACKNOWLEDGE WE ARE OWNERS NOT JUST HOLDERS OF KNOWLEDGE

"ANCESTRAL CONNECTION" GOES BEYOND PEOPLE & TRADITION

A LIVED PROCESS

"LIVING & ONGOING CULTURE"

BIODISCOVERY BILL WORKSHOP - PERTH 31 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation

DISCUSSION



BIODISCOVERY BILL WORKSHOP - PERTH 31 OCTOBER 2022



Government of Western Australia
Department of Jobs, Tourism, Science and Innovation



Appendix 2: Promotional flyer



Department of
Jobs, Tourism, Science
and Innovation

A Biodiscovery Bill for WA

Workshops for Aboriginal peoples and organisations

Your traditional knowledge is an important part of a new law being developed by the WA Government.

This is your opportunity to guide how Aboriginal communities will share the benefits when traditional knowledge about native plants or animals is shared and used to make money.

Come along to a workshop and have your say. Lunch and refreshments will be provided.

Visit www.wa.gov.au/biodiscoverybill to register for a workshop, learn how to connect to a workshop online or find out more about the WA Biodiscovery Bill.

Got questions?
Get in touch with the
Biodiscovery Bill Project Team
biodiscovery@tsi.wa.gov.au
+61 8 6277 3050





Department of
Jobs, Tourism, Science
and Innovation

A Biodiscovery Bill for WA

Workshops for Aboriginal peoples and organisations

Session details

<p>Kununurra 2 September 2022 9.00 am – 3.00 pm Mirima Dawang Woorlab-gerring Language and Culture Centre</p> <p>Broome 16 September 2022 10.00 am – 4.00 pm Liyang-ngan Nyirra Cultural Wellbeing Centre at Nyamba Buru Yawuru</p> <p>Karratha 22 September 2022 9.30 am – 3.30 pm Pilbara Universities Centre</p> <p>Geraldton 29 September 2022 9.30 am – 3.30 pm The Gerald Apartment Hotel</p>	<p>Kalgoorlie 11 October 2022 9.30 am – 3.30 pm Goldfields Art Centre</p> <p>Albany 18 October 2022 9.00 am – 3.00 pm Kalyenup Studio Albany Entertainment Centre</p> <p>Perth 31 October 2022 10.00 am – 4.00 pm Department of Jobs, Tourism, Science and Innovation</p>
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The date of the workshop in Karratha was changed to 21 September 2022 due to announcement of a public holiday on 22 September 2022.



Appendix 3: Promotional poster



Department of
Jobs, Tourism, Science
and Innovation

A Biodiscovery Bill for WA

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Get in touch with the
Biodiscovery Bill Project Team
biodiscovery@jtsi.wa.gov.au
+61 8 6277 3050



Session details

Kununurra

2 September 2022
9.00 am – 3.00 pm
Mirima Dawang Woorlab-gerring
Language and Culture Centre

Broome

16 September 2022
10.00 am – 4.00 pm
Liyan-ngan Nyirrwa Cultural Wellbeing
Centre at Nyamba Buru Yawuru

Karratha

22 September 2022
9.30 am – 3.30 pm
Pilbara Universities Centre

Geraldton

29 September 2022
9.30 am – 3.30 pm
The Gerald Apartment Hotel

Kalgoorlie

11 October 2022
9.30 am – 3.30 pm
Goldfields Art Centre

Albany

18 October 2022
9.00 am – 3.00 pm
Kalyenup Studio Albany
Entertainment Centre

Perth

31 October 2022
10.00 am – 4.00 pm
Department of Jobs, Tourism,
Science and Innovation





Appendix 4: Social media posts

The image displays six social media posts arranged in a 2x3 grid. Each post is a sponsored advertisement for a workshop related to the WA Biodiscovery Bill. The posts are as follows:

- Post 1 (Top Left):** Title: "Western Australia - Like No Other". Description: "Free workshops to hear what Aboriginal people and representative organisations think about the Biodiscovery Bill for WA." Graphic: "WA Biodiscovery Bill workshops". Call to action: "Learn more" (wa.gov.au).
- Post 2 (Top Middle):** Title: "Western Australia - Like No Other". Description: "Come to a workshop to have your say on a new biodiscovery law for WA." Graphic: "WA Biodiscovery Bill Perth workshop". Call to action: "Apply now" (eventbrite.com).
- Post 3 (Top Right):** Title: "Western Australia - Like No Other". Description: "Come to a workshop to have your say on a new biodiscovery law for WA." Graphic: "WA Biodiscovery Bill Albany workshop". Call to action: "Apply now" (eventbrite.com.au).
- Post 4 (Bottom Left):** Title: "Western Australia - Like No Other". Description: "Come to a workshop to have your say on a new biodiscovery law for WA." Graphic: "WA Biodiscovery Bill Kalgoorlie workshop". Call to action: "Apply now" (eventbrite.com.au).
- Post 5 (Bottom Middle):** Title: "Western Australia - Like No Other". Description: "Come to a workshop to have your say on a new biodiscovery law for WA." Graphic: "WA Biodiscovery Bill Geraldton workshop". Call to action: "Apply now" (eventbrite.com).
- Post 6 (Bottom Right):** Title: "Western Australia - Like No Other". Description: "Come to a workshop to have your say on a new biodiscovery law for WA." Graphic: "WA Biodiscovery Bill Karratha workshop". Call to action: "Apply now" (eventbrite.com).



Western Australia - Like No Other
Sponsored · 🌐

Come to a workshop to have your say on a new biodiscovery law for WA.

eventbrite.com
WA Biodiscovery Bill
Come to a workshop to ha...

[Apply now](#)

Western Australia - Like No Other
Sponsored · 🌐

Come to a workshop to have your say on a new biodiscovery law for WA.

eventbrite.com
WA Biodiscovery Bill
Come to a workshop to ha...

[Apply now](#)

Department of Jobs, Tourism, Science and Innovation
14,186 followers
Promoted

A Biodiscovery Bill will set out a way to manage biodiscovery in Western Australia that follows principles contained in the Nagoya Protocol.

The aim is to ensure that when WA genetic resources are used in a commercial biodiscovery activity the State and Aboriginal people, in certain circumstances, will share in the benefits.

A series of free workshops will be held to hear what Aboriginal people and representative organisations think about the Bill.

WA Biodiscovery Bill

[Attend](#)

wa.gov.au

Department of Jobs, Tourism, Science and Innovation
14,187 followers
Promoted

Free workshops to hear what Aboriginal people and representative organisations think about the Biodiscovery Bill for WA.

WA Biodiscovery Bill Workshops

[Attend](#)

wa.gov.au



Prof Peter Klinken @ChiefSciWA · Oct 27, 2022

...

Workshops have been held across regional WA in Sept/Oct to consult with Aboriginal people about the Biodiscovery Bill. The Bill will provide a framework for fair & equitable access to WA genetic resources. The final one is in Perth at the PCEC, Mon 31 Oct: wa.gov.au/biodiscoverybi...



1



4



Prof Peter Klinken @ChiefSciWA · Oct 17, 2022

...

Workshops are being held across WA in Oct to consult with Aboriginal people about the Biodiscovery Bill, which will set out a framework for fair & equitable access to WA genetic resources. The next is in Albany on Tuesday 18 October. More info: wa.gov.au/biodiscoverybi...





Appendix 5: Links to the consultation papers

[Consultation paper for Aboriginal people](#)

[Consultation paper for researchers and businesses](#)



Department of
**Jobs, Tourism, Science
and Innovation**

Contact

Level 11, 1 William Street
Perth, Western Australia, 6000
Ph: +61 8 6277 3000
Email: biodiscovery@jtsi.wa.gov.au
Web: <https://www.wa.gov.au/biodiscoverybill>