

**Senate Community Affairs Committee**  
**ANSWERS TO ESTIMATES QUESTIONS ON NOTICE**  
**FAMILIES, HOUSING, COMMUNITY SERVICES AND**  
**INDIGENOUS AFFAIRS PORTFOLIO**  
**2012-13 Budget Estimates Hearings**

**Outcome Number: 7**

**Question No: 218**

**Topic:** Indigenous Business Australia - *Aboriginal and Torres Strait Islander Act 2005*

**Hansard Page:** 01/06/2012 - CA67

**Senator Scullion asked:**

Please provide the reference within the Act that enables IBA to consider social or cultural issues in relation to the financial viability of an organisation. Please also provide minutes of meetings where the Board has considered these factors.

**Answer:**

IBA's enabling legislation is the *Aboriginal and Torres Strait Islander Act 2005* (ATSI Act). Parliament's purposes in enacting this legislation are set out in the preamble to the Act (as follows):

WHEREAS the people of Australia voted overwhelmingly to amend the Constitution so that the Parliament of Australia would be able to make special laws for peoples of the aboriginal race;

AND WHEREAS the people whose descendants are now known as Aboriginal persons and Torres Strait Islanders were the inhabitants of Australia before European settlement;

AND WHEREAS they have been progressively dispossessed of their lands and this dispossession occurred largely without compensation, and successive governments have failed to reach a lasting and equitable agreement with Aboriginal persons and Torres Strait Islanders concerning the use of their lands;

AND WHEREAS it is the intention of the people of Australia to make provision for rectification, by such measures as are agreed by the Parliament from time to time, including the measures referred to in this Act, of the consequences of past injustices and to ensure that Aboriginal persons and Torres Strait Islanders receive that full recognition within the Australian nation to which history, their prior rights and interests, and their rich and diverse culture, fully entitle them to aspire;

AND WHEREAS it is also the wish of the people of Australia that there be reached with Aboriginal persons and Torres Strait Islanders a real and lasting reconciliation of these matters;

AND WHEREAS it is the firm objective of the people of Australia that policies be maintained and developed by the Australian Government that will overcome disadvantages of Aboriginal persons and Torres Strait Islanders to facilitate the enjoyment of their culture;

AND WHEREAS it is appropriate to further the aforementioned objective in a manner that is consistent with the aims of self-management and self-sufficiency for Aboriginal persons and Torres Strait Islanders;

AND WHEREAS it is also appropriate to establish structures to represent Aboriginal persons and Torres Strait Islanders to ensure maximum participation of Aboriginal persons and Torres Strait Islanders in the formulation and implementation of programs and to provide them with an effective voice within the Australian Government;

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AND WHEREAS the Parliament seeks to enable Aboriginal persons and Torres Strait Islanders to increase their economic status, promote their social well-being and improve the provision of community services;

AND WHEREAS the Australian Government has acted to protect the rights of all of its citizens, and in particular its indigenous peoples, by recognising international standards for the protection of universal human rights and fundamental freedoms through:

- (a) the ratification of the International Convention on the Elimination of All Forms of Racial Discrimination and other standard-setting instruments such as the International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights; and
- (b) the acceptance of the Universal Declaration of Human Rights.

The purposes of Indigenous Business Australia are set out in section 146 of the ATSI Act, as follows:

**146 Purposes of Indigenous Business Australia**

Indigenous Business Australia is established:

- (a) to assist and enhance Aboriginal and Torres Strait Islander self-management and economic self-sufficiency; and
- (b) to advance the commercial and economic interests of Aboriginal and Torres Strait Islanders by accumulating and using a substantial capital asset for the benefit of Aboriginal and Torres Strait Islander peoples.

IBA achieves its objectives through the performance of its functions which are set out at section 147 and include:

**147 Functions of Indigenous Business Australia**

- (a) to engage in commercial activities;
- (b) to promote and encourage Aboriginal and Torres Strait Islander self-management and economic self-sufficiency; and
- (c) such other functions as are conferred on it by this Act.

It is the function of the IBA Board, subject to any direction from the Minister under section 151, to ensure the proper and efficient performance of the functions of IBA and to determine the policy of Indigenous Business Australia with respect to any matter; see section 156.

The purposes and functions of IBA are broad and beneficial. In performing the functions, the IBA Board is required to have regard to certain matters which are set out at section 148:

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**Section 148      Performance of functions**

- (2) For the purpose of the performance of Indigenous Business Australia's functions, the Indigenous Business Australia Board must have regard to the desirability of:
- (a) encouraging and facilitating Aboriginal and Torres Strait Islander participation in commercial projects and enterprises;
  - (b) securing, as far as practicable, Aboriginal and Torres Strait Islander participation in the ownership and control of companies engaged in activities that are likely to have a significant impact on Aboriginal and Torres Strait Islander interests;
  - (c) promoting the development of industries and other commercial and economic activities that are likely to have a beneficial impact on Aboriginal and Torres Strait Islander interests; and
  - (d) making specialist expertise available to Aboriginal and Torres Strait Islanders engaged in commercial activities.