

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
Budget Estimates 2017 - 2018

Prime Minister and Cabinet Portfolio

Department/Agency: Indigenous Land Corporation

Outcome/Program: Outcome 2:

Topic: Divestment of Property

Senator: Siewert

Question reference number: 77

Type of question: FPA Friday 26 May 2017, page 11

Date set by the committee for the return of answer: 7 July 2017

Number of pages: 3

Question:

Senator SIEWERT: Why was that, when they had approached you with a divestment approach? Why did you reject it and then go out to the community? Is that what you do with all properties that you seek to divest?

Ms Button: We have not had a commercial tenant seek divestment of property in the past. I would have to take on notice the due diligence exercise and the factors that the board took into consideration when it made the decision.

Senator SIEWERT: If you could—if you could take us through, step by step, the time line and the process in that thinking, because I find it strange that they approached to divest and you said no but then you went out seeking a divestment approach.

Mr Maher: About saying no—what I understand is that they did approach us and as a matter of probity it was opened up to others that may have been interested as well, rather than just going to the first people that came to us for divestment.

Senator Scullion: There is some tension in middle Redfern about whether a commercial organisation like the congress would be those people who you would divest that land to. The tension lies between a number of other organisations who did not have the capacity at the time of the original offer to be able to take over. But they have now. It was the view certainly of those other organisations that this should not be divested until such time as they had the capacity to be able to compete, which they are doing now. So it was really the appropriateness of the nature of that permanent divestment that was the question.

Answer:

Prior to the ILC's constructing the Black Theatre Building in 2007, the ILC undertook extensive community consultation on any future use. During these consultations significant support was received for two key objectives: (i) that Gadigal Information Services (Gadigal) was to be accommodated in any future building; and (ii) that local Indigenous businesses and people were supported through the use of the building.

While Gadigal was accommodated immediately in Level 2, the ILC was unable (despite several attempts between 2007 and 2010) to identify an Indigenous lessee for the Ground Floor and Level 1.

Subsequently the ILC entered into a four-year commercial lease for Level 1 with the National Congress of Australia's First Peoples (Congress) on 2 September 2010. Congress was always regarded as a commercial tenant and not a future land owner. Congress occupied the building under a commercial lease agreement as opposed to the ILC's leasing-to-divestment arrangements. Congress's lease ended on 3 September 2014; after this date Congress occupied the building under a holding-over provision in the lease.

In March 2015 Congress submitted a proposal to the ILC that the Ground Floor and Level 1 be granted to it. At this time the ILC had been approached by a number of local Indigenous organisations concerning accommodation at the Black Theatre Building.

The ILC Board resolved to undertake an open Expression of Interest for the following reasons:

1. Congress occupied the building on a commercial arrangement and was not entitled to divestment.
2. A number of local Indigenous organisations exhibited strong evidence of interest in and need for use of the building, as well as the capacity to become property owners.
3. Prior community consultations revealed a strong view that local Indigenous businesses and people should benefit from use of the property.
4. The ILC had a probity obligation to go to the local market and give Indigenous organisations the opportunity to benefit from the building.

On the basis that Congress did not occupy the building under a divestment process, it was deemed prudent for the ILC to undertake an open and equitable process to seek expressions of interest in the divestment opportunity.

In May 2015 the ILC wrote to Congress advising them of the Board's decision to conduct an expression of interest (EoI); the reasons of openness, transparency and fairness to other interested parties were articulated to Congress. Congress was advised that it could participate in the EoI process. The process was, however, delayed.

At its June 2016 meeting, the ILC Board reaffirmed its commitment to commence a formal divestment process and seek submissions from Indigenous corporations that had the capacity to use and manage the properties to generate benefits for Indigenous people, including members of the local Redfern Indigenous community, with a view to becoming the future land owner. Notice of the impending EoI process was sent to local Indigenous stakeholders, including Congress.

Notifications seeking EoIs were placed in the *Koori Mail* and the *Central Courier* on 24 August 2016 and invitations were sent directly to organisations that had previously shown an interest in the property. Congress received a direct invitation to submit an EoI. The closing date for initial receipt of the EoIs was 9 September 2016.

The ILC undertook an assessment of the EoIs, focusing on presence and benefits at the local Redfern level, in that order of priority.

Eight organisations submitted an EoI. Two organisations were subsequently advised by the ILC that their proposals did not satisfy the ILC's criteria of (i) being Indigenous-controlled; and (ii) aspiring to be a land owner.

On 19 September 2016, the ILC invited the remaining six organisations to submit more detailed proposals.

During the EoI process, Congress was both invited to submit a tender and, after missing the initial deadline, given an extension of time to submit a proposal. Despite these opportunities, Congress did not submit an EoI.

An assessment panel, consisting of the ILC's Central Divisional Manager, Eastern Division Operations Manager, and an IBA-nominated property specialist, assessed Tribal Warrior AC (Ground Floor) and the New South Wales Indigenous Chamber of Commerce (NSWICC) (Floor 1) as best meeting the ILC's criteria. Tribal Warrior is a well-regarded local Redfern entity, and NSWICC is a state-based organisation with a strong Redfern footprint. NSWICC's occupancy in the building is also consistent with the results of the community consultations, where the need for commercial business opportunities was emphasised. NSWICC will provide office accommodation and support to Indigenous enterprises, growing the local Indigenous business presence.