

**Senate Finance and Public Administration Legislation Committee**  
**ANSWERS TO QUESTIONS ON NOTICE**  
**Supplementary Budget Estimates 2016-17**

Prime Minister and Cabinet Portfolio

**Department/Agency:** Indigenous Land Corporation  
**Outcome/Program:** Outcome 2; Indigenous  
**Topic:** Sea Country - ILC's ability to invest in sea country

**Senator:** Siewert

**Question reference number:** 98

**Type of question:** FPA Friday 21 October 2016, Page 12 Hansard

**Date set by the committee for the return of answer:** 2 December 2016

**Number of pages:** One (1)

**Question:**

When we had the inquiry into my bill ... there was strong support for expanding [the ILC's remit] into sea country. How close are we to seeing the program? ... I am trying to look at how soon the changes can happen if they can happen, whether they are through a regulatory process for the definition of 'land' or through a legislative change?

**Answer:**

To date the ILC has given the word 'land' in the *Aboriginal and Torres Strait Islander Act 2005* (Cth) (ATSI Act) its ordinary legal meaning, which is the soil that can be surveyed and divided into allotments, constructed upon, and sold or leased, but not including any water that flows over such land. Under this definition 'land' does not extend to water licences or commercial fishing licences.

The ILC will seek external counsel advice on whether the word 'land' in the ATSI Act can be given a broader definition.

If the advice is that the ILC cannot broaden its current understanding of the meaning of 'land' in the ATSI Act then legislative change will be necessary to empower the ILC to acquire, manage and divest water and commercial fishing rights that are detached from a land base. There are no regulatory processes that will expand the ILC's legislative functions in this way.

It is impossible for the ILC to anticipate how soon such legislative changes can be achieved, if they are necessary at all.