

LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON CONSERVATION,
HERITAGE AND ENVIRONMENT**

**INQUIRY INTO NATIONAL AQUARIUM
PROJECT – ENVIRONMENTAL ASPECTS**

NOVEMBER 1989

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1. ESTABLISHMENT OF COMMITTEE AND INQUIRY

1.1 On 25 May 1989, the Standing Committee on Conservation, Heritage and Environment was established. Its terms of reference are to inquire into and report on:

- (a) matters referred to it by the Assembly; and
- (b) other matters considered by the committee to be matters of concern to the community.

1.2 On 29 September 1989, the Committee resolved to inquire into and report on the environmental aspects and consequences of the stocking of the National Aquarium.

1.3 The members of the Committee are:

Chairman	Mr Gary Humphries
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Deputy Chairman	Ms Carmel Maher
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Members	Mr Michael Moore Mr Bill Wood
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Secretary to Committee	Ms Peta Roberts
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2. PREFACE

The Committee undertook this inquiry because members felt that there was a need to satisfy community concern over the environmental aspects of the National Aquarium Project. Development works on the site are now at an advanced stage and it was felt by some that there had been no community consultation of the proposal initially.

When the application was made by O & E Da Deppo Holdings, Pty Limited the ACT was governed by the Commonwealth, with a single Minister responsible for the Territory. The National Capital Development Commission (NCDC) was responsible for all planning and the negotiations on the granting of the lease conditions with the principal of the company and proponent of the project Mr Geoff Da Deppo.

In relation to the offer and sale of the site, the Committee is satisfied that the proponent of the project, Mr Da Deppo has met the appropriate conditions which he has been asked to comply with by previous Ministers and administrations responsible for the Territory before self government. The Committee attributes no blame whatsoever to Mr Da Deppo about the perceived lack of public consultation on the project and congratulates him on the innovativeness of the project.

There appears also to be public perception that the nature of the project has changed substantially since the lease was granted. This has shown not to be the case, although the developer has requested a change in the lease purpose clause to enable him to display animals, other than fish and crustacea at the site. Members of the Committee also believe that the public perception is that the project has changed in emphasis from that of a fish farm to an aquarium. The aquarium is described in the lease purpose as "ancillary to" the fish farm. Mr Da Deppo in meetings with officials in March 1987 made it perfectly clear that the commercial production of trout aspect of the project had been dropped. It is quite clear that when the Commonwealth Department of Arts, Heritage and Environment in March 1987 assessed the need for an Environmental Impact Statement, it clearly understood this change in emphasis.

The Committee makes the recommendation in the report that amongst other things, if there is an application for a variation of the lease purpose clause (for which Mr Da Deppo has now applied) there should be an assessment of its environmental implications (see Recommendation 5).

The Committee urges the Government of the Australian Capital Territory to consider the drafting of the proposed environment and planning legislation as a high priority.

The Committee acknowledges the assistance of the ACT Minister for Industry, Employment and Education, the Commonwealth Minister for the Arts, Sport, Environment, Tourism and Territories, and the cooperation of Mr Da Deppo

3. INTRODUCTION

3.1 On 29 September the Standing Committee on Conservation, Heritage and Environment resolved to inquire into and report on the environmental aspects of the stocking of the National Aquarium.

3.2 ACT Administration Departmental leasing files on the project were handed to the Committee on 5 October 1989 for their perusal.

3.3 On 13 October 1989 Senator the Hon. Graham Richardson produced for the Committee relevant documents on the project from files held by the Department of Arts, Sport, Environment, Tourism and Territories.

3.4 The Committee in gathering evidence, has been briefed by officials in the Administration including officers who are responsible for administering the various Acts associated with the smooth running and licensing of utilities of the National Aquarium. The Committee also was briefed by Mr Geoff Da Deppo and his curator and toured the site on 15 October 1989. Opinions of aquatic biologists were also sought.

4. ASSESSMENT OF THE APPLICATION

Original Application

4.1 O & E Da Deppo Holdings Pty Ltd in April 1986 applied to the Department of Territories for a lease over block 1461, Belconnen. The project, was described as a "trout based fish farm and tourist attraction" where it was intended to "stock and display native fish and possibly some other exotic species". The main aim of the project was to cater for the tourist industry by way of a visual display and secondly to commercially produce fresh trout for the catering industry and private consumption. An open range "hands on" animal park was also included in the original application but this was later withdrawn.

4.2 Support for the project by Ros Kelly MP and the Canberra Development Board followed the application for the lease of the site.

4.3 The original site was 4 hectares adjacent to the Molonglo River with access from Lady Denman Drive immediately downstream of the Scrivener Dam. However, because of it being within the 1 in 100 year flood limit, careful siting would have been needed to keep the ponds out of the 1 in 100 flood plain.

Final Site Offer

4.4 In September 1987 the NCDC identified a more suitable site following legal advice on the liability associated with possible damage caused by floods. The new site (which is the current site) is above the 1 in 100 year flood level. Draft lease development conditions were supplied.

4.5 This site Block 1452 (previously known as 1496) Belconnen was finally offered and accepted as the site for the project. The lease was executed on 18 July 1988 in the name of O. & E. Da Deppo Holdings Pty limited. The developers named the project the National Aquarium. The site on the west side of the river, is almost 7 hectares. The buildings and aquarium are above the 1 in 500 year flood limit.

Assessment of the Project

4.6 The application in the first instance was assessed by the ACT Administration (ACTA). It was referred to various Branches within the Department and the NCDC for comment. The relevant issues of concern raised then which are of interest to this inquiry shall be dealt with below.

4.7 The ACTA believed that the project was

- . ideally located
- . would encourage greater use of the western end of the lake
- . attract significant interest from overseas visitors
- . be a valuable educational display

4.8 ACTA referred the matter to the (now) Department of Arts, Sport, Environment, Tourism and Territories (DASETT) in March 1987 for environmental assessment as required under the Environmental Protection (Impact of Proposals) Act (1974). The Act is a

Commonwealth Act which was operating in the ACT at the time of the application and administered by DASETT. Under this Act, any person who proposes a development has to satisfy the Act in relation to environmental assessments.

4.9 After considering the project, DASETT concluded that with careful planning and management (referring to the original site) it was environmentally acceptable. When assessing the project the Department held discussions with Mr Da Deppo about the operation of the project. It was at this stage that Mr Da Deppo informed officials that he had dropped the commercial fish farm aspect.

4.10 With this information that the commercial fish farm had been dropped and that the aquarium was still proposed, DASETT advised that to satisfy the object of the Environment Protection (Impact of Proposals) Act (1974), the preparation of an environmental impact statement (EIS) was not necessary. However DASETT suggested that the developer company:

- . retain existing mature deciduous trees on the site
- . satisfy water quality standards under the Water Pollution Control Ordinance (1984)
- . satisfy other conditions to be specified by the NCDC, etc.

These suggestions were included in the lease.

4.11 After the second and final site was identified, on 29 September 1987 the NCDC advised that the previous recommendation by DASETT would still be valid for the new site.

4.12 The development was consistent with allowable special developments for recreation and tourism in the NCDC's Metropolitan Plan (1984) which set out planning intentions for the National Capital Plan Open Space System.

5. ENVIRONMENTAL ISSUES AND INCLUSION OF LEASE CONDITIONS

5.1 The following environmental issues were considered by both DASETT and ACTA in their assessment of the application for a lease.

Landscape Value

5.2 DASETT concluded that there would be some loss of landscape value of the area and that the mature deciduous trees on site should be maintained. These concerns were taken up and the lease provides the following conditions –

Landscaping: The Lessee will provide and maintain landscaping on the land to the satisfaction of the Commonwealth (Territory).

Trees: The Lessee will not cut down fell ringbark or otherwise injure or destroy (or suffer or permit the same) any live trees or tree-like plant on the land without the previous consent (not to be unreasonably withheld) in writing of the Commonwealth (Territory).

Volume of water

5.3 Originally, total flow required was 0.4 cumecs water which is a large amount and several times the flow into the lake. ACTA was concerned that the level of water in the lake be maintained. They estimated that for 35% of the year, there is no outflow from the lake.

5.4 By the time DASETT were considering whether there needed to be an environmental impact statement prepared for the site in March 1987, Mr Da Deppo dropped the commercial fish production aspect of the project which reduced the need for water amounted to 0.021 cumecs. This was considered by the NCDC and ACTA to be an acceptable level.

5.5 The lease provides the following conditions in relation to the drawing of water from the lake –

Taking of water from Lake Burley Griffin: The Lessee is permitted to take water from Lake Burley Griffin for a period of five years after which the Commonwealth (Territory) may grant approval for the Lessee to continue taking water for such term and conditions (including charging for the water) as may be permitted, provided always that approval will not be withheld during the term of the lease unless the Lessee has the option of taking water from the Molonglo River downstream of the Scrivener Dam.

Restriction of water: The Commonwealth (Territory) reserves the right to restrict the taking of water from the Lake upon notification in writing to the Lessee of one or more of the following occurrences

- . drought
- . top up of lake from Googong Dam
- . declared emergencies
- . failure of lessee to meet the requirements of the Commonwealth (Territory) relating to the taking of water from the Lake.

Taking of water is to cease if the level of the Lake falls below RL 555.93.

Quality of lake water

5.6 ACTA in assessing the quality of the lake water which is to be pumped to the site noted that –

- . the desirable ph range for fish was 6.7–7.7, yet the ph of the lake during 1986 averaged 7.9 with a peak of 8.6.
- . when the lake is dredged, the quality of water could not be guaranteed due to the heavy metal content
- . temperature of water of the lake is around 24–27⁰C which may cause ordinary trout to die or to accelerate disease of the fish

5.7 However the developer has overcome these problems through these measures –

- . for the aquarium, dechlorinated and clarified town water which is of a higher quality will be used.
- . the trout stream and farm will use lake water and will operate on a separate water system.
- . water from the separate systems will be recycled so that only minimal water is needed for topping up
- . a heat exchange system will be used for temperature regulation of water in each of the aquarium.

5.8 As well it appears that since that assessment, the quality of the water of the lake has improved somewhat.

6. SPREAD AND PREVENTION OF DISEASE

6.1 It was of concern to the Committee that with such a large scale fish display, that fish diseases might inadvertently be introduced to the Murrumbidgee–Darling system.

6.2 These concerns were also raised by ACTA in 1987 and some of the issues canvassed include:

- . Iridovirus had recently been confirmed in several Australian hatcheries. It affects trout and may affect native fish.
- . the Victorian Government (Australian Fish Health Reference Laboratory) warned that if an exotic disease was introduced and established in any Australian hatchery, it might spread in the same fashion as goldfish ulcer disease did (peromonas salmonicida) due to lack of decisive action by governments. The laboratory warned that State Governments should restrict interstate movements of fish or their products unless known to arise from healthy sources.

6.3 The lease provides for the importation of fish as follows:

Importing of Fish: The Lessee will seek approval in writing (not to be unreasonably withheld or delayed) from the Commonwealth (Territory) before importing any consignment of fish provided always that the fish must be certified by a qualified authority acceptable to the Commonwealth (Territory) as being free from any significant disease.

6.4 Mr Da Deppo gave evidence that he plans to buy trout from Gaden Trout Hatchery in New South Wales. This is the only government run hatchery and as such, is tested on a regular basis for the presence of fish diseases.

Notification of Diseases

6.5 To ensure that there were specific controls over the risk of disease, ACTA suggested specific conditions be covered in the lease. These were included and the lease now provides the following conditions in relation to the outbreak of disease –

Notification of Disease: The Lessee will at the Lessees own expense test the fish and crustacea for disease when directed in writing by the Commonwealth (Territory) to do so provided always that the Lessee will notify the Commonwealth (Territory) within twenty four hours after becoming aware of diseased or sick fish on the premises.

6.6 That in the event of the Commonwealth (Territory) or the Lessee identifying an outbreak of fish or crustacea disease or sickness the Commonwealth (Territory) may issue to the Lessee a notice in writing specifying the remedial action required to be undertaken by the Lessee to eradicate the disease and or cure the sickness and the Lessee shall forthwith cease discharging water from the premises into the Molonglo River system until such time as clearance is given by the Commonwealth (Territory) in writing to resume.

Bank Guarantee: The Lessee shall provide a \$50 000 bank guarantee against which the Commonwealth (Territory) may claim in the event the Lessee does not take remedial action as specified to control disease.

Fish Disease Legislation

6.7 There is no specific fish disease legislation in the ACT. Control of disease depends on the conditions and relevant sections of the Nature Conservation Act 1980 but above all upon the cooperation of the licence holders.

Quarantine Measures

6.8 The curator plans to quarantine all fish for one month before introduction to the main aquarium. It was also specified that aquariums have to be able to be separated from one another which the Committee understands is incorporated into the management plan of the aquarium.

Right of Inspection of Site

6.9 The lease also provided for a right of inspection –

Right of Inspection: Any person or persons authorised by the Commonwealth (Territory) to enter and inspect the premises and or the fish and crustacea at all reasonable times and in any reasonable manner.

Importation of Fish to the ACT

6.10 With respect to the importation of fish to the ACT, controls are provided by the Nature Conservation Ordinance (1980). This Ordinance under section 34 makes it an offence to import live fish into the Territory without a licence. The Act sets out the requirements that must be fulfilled in applying for a licence.

6.11 As well under section 66 of the Act, certain conditions shall be specified, including the species and number of fish to which the licence applies. Mr Da Deppo has been advised of these requirements.

Importation of Exotic and Non-Indigenous Species

6.12 It was the concern of interstate authorities as well as Commonwealth and ACT authorities that importation of non-Australian fish and crustacea would occur on a wide scale thus posing a risk if any species escaped.

6.13 However Mr Da Deppo assured the Committee that the only species to be brought into the ACT will be species native to Australia with the exception of trout (which are already in the waterway), redfin and carp.

7. POSSIBILITY OF ESCAPES FROM THE AQUARIUM

Aquarium Displays

7.1 Mr Da Deppo explained that the aquarium displays will dictate the type of species displayed –

- (i) marine (saltwater) display which will include sharks and marine life typical of the South Coast of New South Wales
- (ii) Barrier Reef display including tropical fish – the display will require a temperature of 28⁰C
- (iii) marine tidal rock pool display which will include anemones, shell life, sea urchins etc.
- (iv) circular freshwater tanks containing golden perch, silver perch barramundi etc.
- (v) tanks containing species of freshwater species from northern Australian riverways
- (vi) a 'touch and feel' pond
- (vii) two small aquariums to display the red fin and carp as examples of pests of Australian waterways.

Potential Escapes into the Molonglo River

7.2 It was the concern of the Committee that it may be possible for fish to escape into the Molonglo River and cause damage.

7.3 The Committee is satisfied that

- . the saltwater species would be unable to survive in the freshwater because of their need for a high level of body salt
- . additionally Barrier Reef species need a water temperature of 28⁰C and thus would not survive in the river.

7.4 It was claimed by the Curator that no accidentally introduced fish life would be harmful to the waterways.

7.5 The members of the Committee were not entirely satisfied that the species from the northern Australian riverways, even though they have not penetrated the southern waterways would not survive. Evidence was presented to the Committee that they would probably die because such fish are not adapted to the region.

7.6 Under the Nature Conservation Act, the Conservator in issuing a licence, must take into account –

- "(a) the effect the carrying on of the activity in respect of which the permit or licence is sought is likely to have on
 - (i) a species of wildlife already found in the Territory; and
 - (ii) the significant ecosystems of the Territory"
- (b) the degree of distress, and the rate of morbidity or mortality, that is likely to be suffered by the fish
- (e)
 - (i) the likelihood of the fish becoming a threat to the continuance of a species of fish already found in waters of the Territory; and
 - (ii) the likelihood of the fish having any other harmful effect whatsoever
- (f) the place/s at which the fish are proposed to be kept and the suitability of the facilities at that place or places for the keeping of fish, as the case requires.

7.7 The Committee has no conclusive evidence about the impact of freshwater species on the surrounding region. Such an assessment of the impact of the proposed species to be displayed in the National Aquarium lies with the Conservator, who under the Act, has to satisfy themselves of the "harmful effects" of the fish (and crustacea).

7.8 **The Committee recommends that –**

The Minister with portfolio responsibilities for the Environment should provide the Conservator with the necessary resources for him/her to determine the impact on the region of the freshwater species and organisms which are not indigenous to the area and proposed to be displayed in the aquarium, before any licence to import is issued; and

- that the Minister responsible inform the Assembly (or the Speaker) the results of such an assessment**

8. CONTROL OF WATER DISCHARGES FROM THE SITE

8.1 Another major concern of the Committee was that it was possible that fish eggs, or fish, crustacea or other water animals which are not indigenous to the Murray–Darling waterways would be able to move through the discharged water and into the Molonglo River. The Committee is keen to ensure that such an event did not happen because of the possible dire environmental consequences that may arise.

8.2 The lease currently provides the following conditions in relation to the quality of water discharged

Environmental Controls: The Lessee will meet all the requirements of the Water Pollution Ordinance for the discharge of water into the Molonglo River and will if so instructed by the Commonwealth construct a treatment plant to the requirements of the Commonwealth.

Issue of Licence to Discharge

8.3 The Environment Protection Authority within the ACT Administration is responsible for administering the Water Pollution Act. Under sections 20 and 21 of the Act the Authority may issue a licence and set conditions on water discharge to the stormwater which runs into the Molonglo River. It is an offence under the Act to discharge to the Molonglo River without a licence.

Three Water Discharge Areas

8.4 There are three areas of the facility from which water will be discharged from the site –

- . aquarium
- . trout stream and ponds
- . all other areas which don't have fish

8.5 A licence was issued on 7 February 1989 to O. & E. Da Deppo Holdings Pty Ltd to carry out the works on the site. This enabled run off water which had no contact with fish to be discharged. On 6 October 1989 a licence was granted for discharge of wastes from the site for the operational phase of the project. This sets out the manner in which water from the aquarium and trout streams is to be discharged.

8.6 A blanket prohibition exists on the discharge of wastes to the stormwater from the "marine aquarium and other ancillary areas". Hence the water must be discharged through the sewer. The licence for the operational phase also includes the following conditions:

- . the licence holder is to install all control measures and treatment works as specified or approved
- . the licensee is required to obtain written permission from the Authority to install works which relate to the treatment or discharge of wastes from the premises into the waters

- . the licensee is required to give 24 hours when proposing to discharge wastes. Wastes have to be analysed and the written results lodged with the Authority 24 hours prior to discharge. Certain standards are specified in the licence.
- . any wastes suspected to be infectious must be treated before discharge.

8.7 Salty water is to be diluted 40:1, but is not specifically noted in the conditions of the licence.

8.8 The Committee visited the site on Sunday 15 October 1989 for inspection. Mr Da Deppo and the curator, explained the water reticulation system. As well, the Committee took the opportunity to view the approved plumbing plans for the site.

Water Recycling System

8.9 The aquariums in the main building has its own closed water system. Water may be drawn from the lake or the town water supply which is then dechlorinated and treated, then pumped into the aquarium.

8.10 Once in the aquarium, water is continually pumped through filters to get rid of fish excreta, eggs, food etc that becomes suspended in the water thus destroying clarity.

8.11 All water from the aquarium is treated prior to discharge. The water is passed through a filter, into a settling tank where precipitate is skimmed off. This precipitate is then treated biologically and treated with ozone which is strong oxidant which kills bacteria. It is this water which is discharged via the sewer.

8.12 Once discharged water is passed into the sewer, it becomes the responsibility of the ACT Electricity and Water Authority. Sewer discharge is treated at the Lower Molonglo Water Treatment Plant where all particulates are taken out. The Authority have not yet been approved the plumbing plans for the discharge from this system.

8.13 It is also possible as mentioned previously that individual aquariums may be closed off. Such a system is in the best interest of the aquarium as a matter of good aquarium practice.

8.14 The water system for the trout stream is another closed system. Water may be drawn off the lake for use. The flow into the site itself from the lake must not exceed the flow into the lake generally. These conditions are set out in the lease conditions.

8.15 The trout stream has drains which are there to cut off the rain water which otherwise would flow into the stream. The ponds associated with the stream are to be kept 300mm below the operating levels so that during periods of heavy rain, the ponds/stream don't flood over.

8.16 Water from the trout stream can be discharged to the stormwater drain as per the license conditions (see above) which set out that 24 hours notice must be given. This limited permission was given to enable the de-siltation of the pond to occur every few years. Even then the water is to be irrigated up onto the grassed areas of the facility.

8.17 All other rain water is caught in the cut off stormwater drains which are diverted around the ponds and flows directly into the Molonglo. A diversion pipe connected at the top of the site diverts water running off from the road and parking area, through the site, to the Molonglo.

8.18 It was impressed upon the Committee that given the filtering system, the ozonation of aquarium water before discharge, no fish eggs or fish diseases could survive the process to enter the river system.

8.19 Indeed once in the sewer system, all wastes are treated to a standard which allows for discharge then into the Molonglo. The Committee was assured that inspectors would be visiting the site occasionally to monitor the discharge of waste into the sewer. Even if the standards were not abided by, operators at the treatment works, through chemical tests, would be able to detect these changes quite quickly, thus initiating action.

8.20 Even with these written agreements, the Committee believes that the water systems need to be well designed to prevent contamination of the Molonglo River.

8.21 The Committee recommends that –

An assessment should be carried out by an independent person/body on the operation of the aquarium systems two months after operations begin. If any necessary work needs to be carried out a second assessment is to be carried out four months later. In the assessment the assessor shall take into account the operation of the aquarium water system.

9. MANAGEMENT OF THE FACILITY

9.1 Mr Da Deppo as requested set out in the application relevant experience of himself and the company as developer. Such experience includes construction of bridges, sewerage treatment works, reticulation, pipelines, water mains, and stormwater drainage. Concern was expressed by ACTA that the developer did not demonstrate experience in managing fish production or a tourist facility.

9.2 The company's good reputation as a constructor of projects and the experience of the then manager of the trout farm was used favourably in arriving at the judgement that the facility would comply with the Water Pollution Control Ordinance.

9.3 Given that the process depends very much on notifications of proposals, close liaison needs to be maintained between the lessee and the Authority.

9.4 Under section 65 of the Nature Conservation Ordinance the Conservator in issuing a licence to import fish into the Territory must take account of –

- (h) the qualifications and experiences possessed by the officers or employees of the applicants relating to the handling, keeping or breeding of the fish.

9.5 The Committee accepts that the Conservator (under the Nature Conservation Act) and the Environment Protection Section (which is responsible for the Water Pollution Control Ordinance) has a difficult task in enforcing any conditions attached to the licenses/permits issued by them in relation to the importation of fish and discharge of aquarium water without the full cooperation of license holders.

9.6 The Committee appreciates that Mr Da Deppo is keen to ensure he meets any obligations relating to current environmental controls and congratulates him for the sensitivity he has shown in organising the aquarium display, of which the city of Canberra will undoubtedly be proud.

10. GRANTING OF THE LEASE

10.1 On 15 January 1988 NCDC provided the final lease development conditions. Mr Da Deppo accepted the conditional lease offer on 27 January 1988 and accepted the final lease in March 1988 for Block 1452, Belconnen. The lease set out a number of conditions (the clauses relevant to this inquiry are set out in this report).

10.2 In its submission to the Commonwealth Parliamentary Joint Sub-Committee of the variations of the Plan of the City of Canberra, ACTA detailed the process by which the site was offered to the developer. ACTA has a long standing policy which "permits sites to be offered for direct sale for on-off tourist oriented developments which involve a unique concept and special effort on the applicant's part in having a suitable site identified, in overcoming environmental issues and in putting the proposal together." Sites which are otherwise identified on the initiative of the Commonwealth are offered for sale publicly. It was considered that the project "would contribute significantly to the Canberra tourist industry". The site was valued by the Australian Valuation Office in addition to the valuing of off-site works which the lessee was required to undertake.

10.3 The Committee recommends that –

- **The Government review the past policy of directly negotiating the sale of sites for one-off tourist attractions with developers.**

10.4 The Committee during its investigation found no irregularities on the part of any party, including the developer and its proponent Mr Geoff Da Deppo in relation to any matters. Subject to –

- (i) the project meeting operational requirements, and
- (ii) the competent administration of the relevant Acts (refer to 7.6 and 8.6),

the Committee believes that there is no environmental harm likely.

10.5 Through this inquiry, it has become clear that the Territory has no clear environment protection legislation (apart from Federal legislation). In relation to planning matters generally, the Committee would make the following recommendations which would ensure that the community had clear guidelines about the laws of the Territory on the scope of planning legislation. These recommendations would also allay fears of other developers–

10.6 The Committee recommends that –

- **There be a requirement that an assessment be undertaken of projects which have a potential impact on the amenity of the community/environment and that such an assessment be incorporated in the planning legislation to be considered by the Assembly in 1990. Such an assessment may take the form of a formal environmental impact statement or an inquiry or assessment on a smaller scale. The findings of assessments should be announced publicly and be made readily available.**

Large developments, such as the National Aquarium project, be brought before the attention of the Assembly or one of the relevant Assembly Committees before an offer of a lease is made. This is to ensure adequate time for opposing views and the need for an environmental assessment can be considered.

Status of the Lease Purpose Clause

10.7 The lease currently sets out the purpose as follows –

Lease Purpose: To use the premises only for the purpose of a fish farm for the production, display and sale of trout and other approved species of fish or crustacea and ancillary thereto a tourist service facility constituting an aquarium, visual display facility, a restaurant, a kiosk and concessions and a managers residence. (Commercial concessions is defined as any retail trade directly related to the trout farm as a tourist facility).

10.8 In March 1987 Mr Da Deppo confirmed that the commercial trout component had been dropped due to the unacceptably high amount of water needed. However it was still intended by Mr Da Deppo to maintain sufficient trout to display the various stages of trout culture in a meaningful and effective presentation.

10.9 In March 1987, Mr Da Deppo also confirmed that the open range hands on animal park had been dropped from the initial application because of stringent requirements in obtaining and caring for native species, the expense of their upkeep and because of expected opposition from existing fauna parks in the region. In any event, such a purpose was not included in the lease.

10.10 However in early 1989, negotiations began between the developer and the ACTA in relation to the change in lease conditions over the site to enable the display of native animals and waterfowl. Mr Da Deppo told the Committee that some of the other animals he wished to bring to the site included the tropical pig-nosed turtle, green loggerhead turtle and the long-necked tortoise. He also wanted to show sea snakes and three freshwater Johnson River crocodiles. The crocodiles which grow to 1200–2000mm in length would be housed inside a building – ideas of bringing in saltwater crocodiles have been abandoned due to the extensive pens needed.

10.11 ACT Parks and Conservation advised Office of Industry and Development of necessary changes to be included in the lease to take account of the additional environmental and animal welfare concerns that the extended activities may generate and to provide for the long term professional management of the animal display facilities. They noted that the introduction of animal welfare legislation would provide the Government with a better platform to effectively control animal displays of the nature planned.

10.12 The Committee recommends that–

Animal welfare legislation be introduced into the Assembly as a matter of priority.

10.13 Proposed changes to the lease were drafted along with guidelines for the establishment and approval of animal displays in the ACT. The lease changes proposed were commented upon by the government solicitor.

10.14 The Committee recommends that –

- . Before any change in the lease purpose clause is granted to enable the developer to display waterfowl and other animals as proposed:–**
 - . the Minister for Industry, Employment and Education be responsible for an assessment to be undertaken on the impact on the site which will be caused by the introduction of waterfowl, reptiles and other animals; and**
 - . this assessment be tabled in the Assembly for a period of time to ensure adequate time for public comment.**

10.15 In June 1989, permission was sought to increase the gross floor area (GFA) which would also require a change to the lease. The reason for the change was to

- "(i) improve the number size and quality of exhibits
- (ii) enhance the commercial viability of the facility"

10.16 It was the view of the Interim Territorial Planning Authority that it would be preferable for the present development to be completed and the landscape to be established and be demonstrated that the project is operating in accordance with the conditions before any increase in GFA is permitted.

10.17 On 11 September 1989 ACTA wrote to Mr Da Deppo advising that he should formally advise DASETT of any variations of the lease and to seek their advice as to any further action required

10.18 Although legal ownership of the aquarium site rests with the Commonwealth, rights, including the right to grant leases, liabilities, and management vests with the Territory. Apart from the Environmental Protection (Impact of Proposals) Act (1974) the Territory does not have its own distinct environment protection legislation. Under the administrative arrangements of that Act, the proponent is required to notify the Minister of any material changes to the project from that first assessed –

"3.2.2. If at any time before a proposed action to which paragraph 3.2.1. applies (which requires the proponent to keep under review environmental aspects of a proposed action) is completed, the environmental significance of the proposed action appears likely to be materially different from that expected at the time of the determination under paragraph 3.1.1 (which allows for an environmental impact statement to be undertaken), the proponent shall inform the Minister of the Department specifying the respects in which the environmental aspects of the proposed action appear likely to be materially different from that so expected."

10.19 It is not clear to the Committee what is the scope of the responsibilities of the Commonwealth Minister under this Act. The Committee has received advice from the Commonwealth Department that the developer has volunteered to provide additional information on the project if the Department so desires.

10.20 The Committee believes that the measures it has suggested the Government implement would ensure that the possibility of harm which might conceivably be caused to the environment from the operation of the National Aquarium project is minimised. The Committee believes that adequate environmental controls exist through these recommendations. Given that this project is so far advanced, the Committee believes that the implementation of these environmental controls achieve much more than a full environmental impact statement.

RECOMMENDATIONS

The Committee during its investigation found no irregularities on the part of any party, including the developer and its proponent Mr Geoff Da Deppo in relation to any matters. Subject to –

- (i) the project meeting operational requirements, and
- (ii) the competent administration of the relevant Acts (refer to 7.6 and 8.6),

the Committee believes that there is no environmental harm likely.

Through this inquiry, it has become clear that the Territory has no clear environment protection legislation (apart from Federal legislation). In relation to planning matters generally, the Committee would make the following recommendations which would ensure that the community had clear guidelines about the laws of the Territory on the scope of planning legislation. These recommendations would also allay fears of other developers–

The Committee recommends that –

- 1. There be a requirement that an assessment be undertaken of projects which have a potential impact on the amenity of the community/environment and that such an assessment be incorporated in the planning legislation to be considered by the Assembly in 1990. Such an assessment may take the form of a formal environmental impact statement or an inquiry or assessment on a smaller scale. The findings of assessments should be announced publicly and be made readily available (10.6).**
- 2. Large developments, such as the National Aquarium project, be brought before the attention of the Assembly or one of the relevant Assembly Committees before an offer of a lease is made. This is to ensure adequate time for opposing views and the need for an environmental assessment can be considered (10.6).**
- 3. The Government review the past policy of directly negotiating the sale of sites for one-off tourist attractions with developers (10.3).**

Specifically in relation to this development –

The Committee recommends that –

- 4. The Minister with portfolio responsibilities for the Environment should provide the Conservator with the necessary resources for him/her to determine the impact on the region of the freshwater species and organisms which are not indigenous to the area and proposed to be displayed in the aquarium, before any licence to import is issued; and**
 - that the Minister responsible inform the Assembly (or the Speaker) the results of such an assessment (7.8).**

RECOMMENDATIONS

- 5. Before any change in the lease purpose clause is granted to enable the developer to display waterfowl and other animals as proposed:–**
 - . the Minister for Industry, Employment and Education be responsible for an assessment to be undertaken on the impact on the site which will be caused by the introduction of waterfowl, reptiles and other animals; and**
 - . this assessment be tabled in the Assembly for a period of time to ensure adequate time for public comment (10.14).**
- 6. An assessment should be carried out by an independent person/body on the operation of the aquarium systems two months after operations begin. If any necessary work needs to be carried out a second assessment is to be carried out four months later. In the assessment the assessor shall take into account the operation of the aquarium water system (8.21).**
- 7. Animal welfare legislation be introduced into the Assembly as a matter of priority (10.12).**