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The Secretary
Heritage Inquiry
Productivity Commission

Personal Submission

I was a member of the Australian Heritage Commission 1976-82. In 2000 I made a submission to the Senate ECITA Reference Committee concerning the Australian Heritage Council Bill 2000 and subsequently appeared before that Committee, published in Hansard.

In my submission I voiced concern that the proposed Council was advisory to the Minister, and therefore would have little power in controversial issues. We were assured that the Act was much superior to the existing one.

This submission is a case study of one place nominated for the National List, which shows the disadvantages of an advisory council and the apparent delaying tactics resorted to by the Minister. This makes a mockery of the new legislation.

On 2 February 2004 I nominated an area of Recherche Bay, Tasmania, for the National List. I stress that this was during the first week available under the new legislation. I believe that it was the sixth or seventh nomination (Anzac Cove being the first).

Much of the area is on private land, and from at least early 2003 it was known that the owners planned to cut timber over the area. I nominated it because of its significance for French activities in Australia. In 1792 and 1793, the D'Entrecasteaux expedition spent several weeks here. During that time:

1. They made internationally significant measurements of terrestrial magnetism.
2. Hundreds of botanical specimens were collected, and they survive today in Europe. They include the type specimens of blue gum (Eucalyptus globulus), the floral emblem of Tasmania, and heath (Epacris impressa) Victoria's floral emblem.
3. They planted a garden of European vegetables, which probably was identified in 2003.
4. Most significant of all, in my opinion, they met and described aspects of Tasmanian people. The French contact was more prolonged, conducted in great friendship, and scientists and officers described these meetings in some detail while an artist drew them. As a major source of information about Tasmanian Aborigines, collected in this restricted area, it has great significance.
5. The French explored and charted in accurate detail the D'Entrecasteaux channel and proved that Bruny Island was not part of the Tasmanian island.

6. The social-cultural associations are significant - the D'Entrecasteaux expedition was a major scientific venture; Labillardiere, the botanist, was a man of international stature. His publication on the botany (from 1804) were the first detailed account of Australian flora (with priority over detailed British publications). De La Haie, the gardener, later became head gardener at La Malmaison, palace of Empress Josephine, and Tasmanian plants were in the palace gardens. In 1838 Lady Jane Franklin and John Gould (ornithologist) sought the Recherche Bay garden's location, without success.
7. Piron, the artist, drew scenes of Aboriginal activities and the friendly interaction with the French. They were depicted in classical mode, but still with dignity, sympathy and fair accuracy. They reflect the philosophical attitude of savage nobility, but in a state of 'hard primitivism', a significant addition to the journal descriptions.

Tasmanian government decisions

Despite considerable public protest and reports in the Hobart Mercury, the Tasmanian Minister has permitted the owners to harvest timber. A 100 metre fringe is reserved, claimed by the Minister to preserve all areas of significant French activities. This is untrue, as a reading of Labillardiere's journal indicates. No archaeological survey has been undertaken, either to establish the garden's identity or to test Aboriginal sites.

The Tasmanian Minister also granted permission for an access track to be constructed across the Southport Lagoon Conservation (Wildlife) Area. This track is over three kilometres in length, it has been shoddily constructed, so that timber trucks will cause much damage. I have visited the area and noted 4-wheel drive tyre tracks over the 'conservation' area.

Most telling of all, concerning Commonwealth disinterest, is the fact that this area contains endangered plants, listed on the Department of Environment and Heritage web site!

These include Euphrasia gibbsiae subspecies psilantha. Its sole known occurrence is a 50 x 50 metre patch in this conservation area. This herb is on the Critically Endangered list of Australian flora. In this area is another Endangered plant Thelymitra jonesii (sky-blue Sun-orchid), of which only four locations are known. The area of timber is included in the 4000 hectares known to be the breeding habitat of the Endangered Swift Parrot.

The Federal Minister has expressed confidence that the Tasmanian forestry activities 'if properly applied... will adequately protect the potential National heritage values'. This is tantamount to accepting vandalism.

During 2004 the Federal Minister received requests to place the nomination on the Emergency National list, under the Environment Protection and Biodiversity Conservation Act 1999.

On 28 January 2005, he issued a 23 page document providing reasons for his refusal to so act. In it, he chose to refer to my nomination. It should be read by your

committee because it reveals a legalistic attitude which discounts cultural issues by making erroneous comparisons or reaching false conclusions. It seems to be a deliberate attempt to minimise the significance out of its environmental context.

Even so, there are two very significant admissions by the Minister

1. That there are at least four criteria which have potential National listing values (under the Act, only one value suffices for listing)
2. He admits that the Council advised him in October 2004 that it 'has formally agreed that the place might have one or more National Heritage values'.

Conclusions

In the light of this recital concerning a place which has great claims for National listing, I retain no faith in the working of the new legislation.

1. The Minister has tacitly permitted logging which will be destructive to archaeological values and ignores the symbolic values for Aboriginal Australians.
2. I nominated the place during the opening week for nominations. Yet this clearly gave it no priority.
3. Although the Act requires the council to deliver its decision within a year, the Minister used his powers to extend the period by three months - and this was five months after the Council said claims for listing seemed considerable.
4. These actions must be interpreted as time-wasting. Provided that the Tasmanian weather holds fine, the destructive forestry work will proceed.
5. This is a case, within the first year of operation, where State wishes (and political considerations) have proved too strong to ensure National listing. This test example demonstrates the hollowness of the Act and a failure to implement it with a sense of purpose.

Yours sincerely

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Emeritus Professor.