Chapter 15: National Heritage Nomination

Under the new Heritage legislation nominations are invited for places to gain National Heritage status. Following evaluation by the Heritage Council, its advice is given to the minister. During the first week that the Act came into force, February 2004, I nominated the north-eastern peninsula of Recherche Bay. This was the main area of contact between the French and the Tasmanians, the collecting ground for flora, the location of the vegetable garden and scene of the geomagnetic observations. It also was the area likely to be destroyed. While the entire harbour has heritage values and merits listing, greater research was necessary at that time before a convincing nomination could be made.

I now realise that my nomination should have been elaborated to make a better case. However, as I had prepared a paper in June 2003 for the National Cultural Heritage Forum, which was discussed at length in the presence of the then Minister, Dr David Kemp, and contributed to a staff seminar at the Department of Environment and Heritage, I assumed that the data and significance were well understood in the Department. Further, I published two articles canvassing the subject in the *Canberra Times*. The *Environment and Heritage Legislative Amendment Act* 2003 provides that the minister may ‘ask the person who nominated the place to provide additional information’ [324E(4)]. I was never asked.

Subsequently the minister received at least two requests for the immediate emergency listing of the place in view of the announced plan to harvest timber across the peninsula. The minister must have received considerable expert opinion during the lengthy 20 months between my nomination and the announcement in October 2005 that the place was granted National Heritage List status. To my knowledge this included letters from the Presidents of the prestigious Australian Academy of Science and the Australian Academy of the Humanities. Several other Academy Fellows and scientists presented pleas, as did the Chair of the Australian Council of National Trusts and the Director of Research, Australian Institute of Aboriginal and Torres Strait Islander Studies. The Ambassador of France, His Excellency Patrick Hénault, actively pursued matters relating to the presence of the d’Entrecasteaux expedition, even personally visiting Recherche Bay and facilitating a visit to the site by Hélène Richard from the Bibliothèque Nationale de France and author of a valuable book on the d’Entrecasteaux expedition. Accompanying her was Jean-Christophe Galipaud, an archaeologist working on the La Pérouse wreck site on Vanikoro Island. He returned in 2006 and conducted excavations, but these are so far unreported.
The Chair of the Australian Council of National Trusts, Simon Molesworth, was active in attempts to convince the Commonwealth government to buy the land. His Council ranked Recherche Bay amongst the top ten historic sites in the nation. ‘Let’s not tinker around the edges,’ he stressed, ‘This site is as significant as the Mayflower and the landing [site] of the First Fleet.’

Dr Hugh Tyndale-Biscoe, a senior CSIRO biologist, published an article in the Australian Academy of Science Newsletter under the title ‘a site of great significance’.

Unfortunately politicians of all the main parties tend to scorn interventions by Senator Bob Brown and sneer at Greens Party expectations. Despite the vitriol poured by the Tasmanian timber interests and so readily marketed by the media, Brown and the Tasmanian Greens merit praise for their stand. These were not politically mischievous schemes to harm the timber industry and its employees. Tasmania is a political jungle where the critics do not see the valuable historical wood for the commercially exploitive trees. It is testimony to their sincerity that Bob Brown self-funded a fine photographic essay and booklet on Recherche Bay, while future Senator Christine Milne engaged in research in Paris on gardener Delahaye. Few of their parliamentary critics genuinely invest as much in heritage and environmental concerns. It is fitting that Dick Smith, whose environmental interests are well known, should accept the validity of Bob Brown’s approach and agree to assist in funding the purchase of the land.

At the local level in Tasmania, the debate over the Bay’s future engendered deep community concern — this was not the plot of a few Greens. Senator Eric Abetz, Federal Forestry and Conservation Minister, should feel ashamed of his outburst upon learning that this small timbered area would be preserved: ‘Recherche Bay has no biodiversity worth conserving,’ is a statement based upon ignorance and bias. The Register of the National Estate contains sufficient evidence to refute Abetz, particularly if the Southport Conservation Area is included, through which the timber access road winds for about three kilometres. Consider, also, the rally beside this track which scars the environment. In April 2005, almost 1,000 people assembled there on a Sunday morning to vote literally with their feet and to express their outrage.

Such popular support had been spearheaded by citizens living in the Huon region (some of whom feared threats to vandalise their homes). Calling itself the Recherche Bay Protection Group, it sponsored a meeting in Southport as early as November 2002. This meeting of 70 people assembled some weeks before the discovery of the supposed garden received interstate media attention.

‘The axe had never sounded’
Mulvaney addressing the April 2005 rally.

John Mulvaney addressing the protest rally near Recherche Bay, April 2005. Photograph by Tom Baxter.

One of the discoverers of this site, Bruce Poulson, in 2004 published a well-researched and illustrated history of Recherche Bay. He demonstrated that this was a genuinely significant place in Aboriginal and European Australian history. That commercial logging interests persisted in their plans to harvest timber suggests that issues of cultural heritage are not a priority.

A group of local enthusiasts produced a play centred around Louise Gerardin. Another group of local female musicians showed imagination and verve by forming The Recherche Baybes group. They dressed in French period costumes and sang witty refrains such as the following words dedicated to gardener Delahaye. They attracted widespread interest.\(^7\) The point is that there was deep grass roots concern within the Tasmanian community which government ignored at its peril.

\textbf{Le Jardin}

by the Recherche Baybes

\textit{Chorus}

Nine by seven
It’s nine by seven
Grey mossy rocks
Laid out in straight lines
And divided in four by a gardener’s hand
A lovely French garden in our Southern land.
In seventeen-hundred and ninety-two
The *Recherche* and *Espérance* with scientists and crew
Found a beautiful harbour in Van Diemen’s Land
The best things in life are so rarely planned.

There was water and wood and shellfish and game
And wondrous plants to study and name
The astronomers charted the stars by night
The mapmakers charted each island and bight.

The gardener on board was young Felix LaHaye
At times his thoughts fled to his home far away
I will build a garden that’s pretty and neat
Overlooking the bay where the soil is sweet.

*Chorus*

He paced out the plot and he called for some aid
They dug up the ground and the stones they did lay
He planted some cabbages, sorrel and peas
So Indigenous people could harvest with ease.

Several weeks later they all sailed away
Returning again eight months to the day
Young Felix returned to his garden fair
And was saddened to find there was so little there.

Some of the plants were stunted and pale
The weeds and the weather’d insured that they’d fail
But he gathered potatoes and lettuce and cress
While wallabies made a meal of the rest.

*Chorus*

The quiet returned to the plot on the Bay
The Indigenous people were driven away
The fires they razed the last of the plants
Long after young Felix returned home to France.

Many years on as history passed by
The rocks in the garden were lost to the sky
Protected and safe as the trees grew around
Just waiting for the moment that they would be found.

The sound of the bulldozers were coming this way
To threaten the garden o’erlooking the Bay

"The axe had never sounded"
Old Felix LaHaye he stirred in his grave
You must do what you can, my garden to save.

Some kind, caring people came looking around
Then one of them saw the stones on the ground
They were all lying there from the first to the last
Young Felix’s garden, a gift from the past.

Chorus x 2

The Environment and Heritage Legislation Amendment Act (NOI) 2003 stated that ‘a place may be included in the National Heritage List only if the minister is satisfied that the place has one or more National Heritage values’ (324C, 2). However, only one National Heritage value is required to meet the criteria (324D, 1). The Australian Heritage Council is obliged to assess and convey its advice to the minister within twelve months of his request (324G, 2).

Under this Act, provision exists for emergency declaration should a place be in imminent risk of destruction. Through 2004, when timber harvesting appeared probable, the place was at risk. Concerned groups applied to have the area declared under the emergency legislation. It is stressed that it was the risk to the place, and not its heritage values, which required a ministerial decision.

Minister Ian Campbell’s decision not to include the north-east peninsula under the Act’s emergency provision was announced on 28 January 2005. It mentions that the Heritage Council had advised him on 22 October 2004 (par. 25) that the ‘place might have one or more National Heritage values’. In fact, a reading of his report indicates that seven values met possibly five of the criteria in the Council’s opinion. Even so, one year elapsed before it was listed as a National Heritage place in October 2005, making the time elapsed since nomination 20 months. For supporters like myself it proved a fraught time, but another four months elapsed before the place was secured from timber harvesting and so preserved for future Australians.

In light of the evidence surveyed in the early chapters of this book it is appropriate to examine the reasons given by the minister in January 2005 for rejecting the listing under emergency provisions. Under section 324D of the Act the criteria for listing are as follows:

The National Heritage criteria for a place are any or all of the following:

a. the place has outstanding heritage value to the nation because of the place’s importance in the course, or pattern, of Australia’s natural or cultural history;

b. the place has outstanding heritage value to the nation because of the place’s possession of uncommon, rare or endangered species of Australia’s natural or cultural history;
c. the place has outstanding heritage value to the nation because of the place’s potential to yield information that will contribute to an understanding of Australia’s natural or cultural history;

d. the place has outstanding heritage value to the nation because of the place’s importance in demonstrating the principal characteristics of:

   i. a class of Australia’s natural or cultural places; or

   ii. a class of Australia’s natural or cultural environments;

e. the place has outstanding heritage value to the nation because of the place’s importance in exhibiting particular aesthetic characteristics valued by a community or group;

f. the place has outstanding heritage value to the nation because of the place’s importance in demonstrating a high degree or creative or technical achievement at a particular period;

g. the place has outstanding heritage value to the nation because of the place’s strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;

h. the place has outstanding heritage value to the nation because of the place’s special association with the life or works of a person, or group of persons, of importance in Australia’s natural or cultural history;

i. the place has outstanding heritage value to the nation because of the place’s importance as part of indigenous tradition.

The minister’s decision was conveyed in a detailed 23-page document.9 Firstly, consider the criteria accepted by the minister:

• Because of the importance, nature and records of the French contact with Tasmanians, the minister agreed that this probably met criterion (a).
• So also, Labillardièrè’s botanical collection could meet (a).
• If investigations confirmed the garden site it might meet criterion (b).
• Rossel’s geomagnetic measurements were sufficiently important to meet criterion (f).
• The area’s association with the Aboriginal community for social, cultural and spiritual reasons may meet criterion (g).
• Association with Labillardièrè’s work probably meets criterion (h).
• The same applies to Rossel (h).

Consequently, in January 2005, the north-eastern peninsula was seen to probably possess National Heritage values under criteria (a), (b), (f), (g) and (h). Only one criterion under the Act is required for listing. However, the minister refused listing under the Emergency provision. A summary of his reasons would include the following: the major encounters with the Aborigines occurred outside the boundary of the private land; the 100 metre buffer zone protected the known
features; the *Forest Practices Code* ensured adequate identification and protection should new evidence be uncovered during timber harvesting.

I turn now to discuss those features in the nomination which the minister rejected:

- The assessment ignored the evidence that both French and Aborigines criss-crossed over the peninsula, so that camping places or material objects may exist, and would be hopelessly disturbed, by modern timber harvesting techniques.
- Piron’s art was rejected as significant because, it was asserted, Piron did not depict ‘hard primitives’, but classical figures. Readers should consult the plates in this book and note the detailed ethnography of Tasmanian society at this dramatic moment of first contact. Other meetings with British crews are mentioned as being friendly, but none were as ‘friendly’ as this episode. While allowance should be made for the possibility that the engraver accentuated the conventions of classical art. This was a one-off record of Tasmanian life as it was.
- The minister deferred consideration on whether the area constitutes a cultural landscape. It is a priority for the Australian Heritage Council to produce criteria for assessing cultural landscapes. They must include associations with intangible significant persons, concepts and symbols. Such criteria are explained in the 2004 *Illustrated Burra Charter* of Australia ICOMOS.
- The evidence for the floral diversity and integrity of the area is questioned. Undeniably this is an area of regrowth, but the harvesting was by less-damaging traditional pre-1940 methods. Despite the minister’s doubts, this is the type site for type specimens which still survive in European museums, so the area is a potential biological reference which may become relevant in the future. Prudence would retain it.
- The question of a cultural landscape association with *Eucalyptus globulus* merits consideration. This species is grown widely around the world and is the tree by which eucalypts are best known. (What species did Mussolini and his predecessors plant to drain the Pontine marshes?)
- It was in the assessment of Beaupré’s hydrographic survey that the minister’s decision was surprising. He ruled that this survey did not confer outstanding heritage value to the nation under criterion (f). This survey demonstrated that Bruny and other islands were separated from Tasmania, while d’Entrecasteaux Channel opened a new and shorter route to eastern Australia and the future Hobart. New instruments and new surveying techniques were applied here first, before sailing to Santa Cruz. That the minister stated that this latter smaller island was used by Beaupré to illustrate a model application of his techniques is hardly relevant. An island offered a more convenient example than a long
and sinuous channel. It is the quality of the work and its consequences that matter. Remember, also, that Flinders thought this survey the best ever done in a new country. As Recherche Bay was the base for most of this survey, it offers another cultural association.

The point of all this discussion is that a reassessment in the light of the evidence provided in this book would confirm all those criteria accepted as probable by the minister, but add further to that list. It was placed on the National Heritage List on 7 October 2005, essentially following those elements that were discussed and accepted in the minister’s rejection of the previous discussion. Surveying remained unrewarded. It met criteria (a), (c), (f), (g) and (h), criterion (c) replacing (b) of the emergency provision. Tasmania’s Recherche Bay is a place to cherish for all Australians.

The Dénouement

Senator Bob Brown completed three years of selfless campaigning to save the peninsula from logging with a desperate action. During November 2005, he circulated an appeal for pledged funding to purchase the land from the Vernon brothers. ‘Unlike most of Tasmania’s contentious forests,’ he wrote, ‘this one is privately owned. So it has an unusual rescue option: to buy it! We are aiming to do this by public subscription. I am writing to seek your help.’

While many wellwishers pledged contributions, in the circumstances this amounted to the equivalent of many widows’ mites. The appeal became a practicality when Dick Smith contributed $100,000 with a promise to underwrite a further $1.9 million. If that sum was not subscribed and repaid within a year, he and his wife, Pip, generously promised to meet the budgetary deficit. Entrepreneur Dick Smith is a well-known global adventurer, a champion of things Australian and deeply interested in environmental issues. It possibly helped his decision that previously he spent some time at Recherche Bay in his boat. Like the French in 1792, he witnessed the awesome beauty of nature.

It is a sad reflection on Australian cultural mores that such altruism is so rare amongst wealthy Australians. In its relative isolation Smith’s benefaction is magnified. ‘I am not a rabid anti-logger,’ Smith stated reasonably, ‘and I understand that Tasmanians need to be employed. But this is an exceptional area of Tasmania … that must be saved.’

Following some weeks of negotiation between the owners, Bob Brown and the Tasmanian Land Conservancy, an amicable settlement was near. At this last minute the Tasmanian government decided to act positively. Only as recently as 12 December 2005, the Minister for Parks and Heritage, Judy Jackson, informed Bob Brown that the Tasmanian government would not provide any funds for land purchase. Obviously unaware of the archaeological issues at stake,
she blandly relied upon the *Forest Practices Code* to ensure ‘that any significant cultural heritage sites ... are conserved’.  

With the scent of a mid-March 2006 election in the air, the Premier, Paul Lennon, presumably smelt political advantage in making a total reversal of policy. This came after years of adverse policy towards this heritage place and determination to support the timber industry at any price. Evidently the fear of creating a precedent by saving this small, isolated property was forgotten. The irony of the Premier’s verdict is best overlooked in the welcome relief of this positive outcome. ‘This is a good result for Tasmania today and for future generations,’ Premier Lennon observed, ‘I’m pleased that commonsense has prevailed and we have been able to arrive at a sensible agreement.’ Indeed, those who fought to save the place for three years were pleased that commonsense finally prevailed.

Matters approached finality as this paragraph was being written. David and Robert Vernon merit praise for agreeing to this honourable solution, which presumably sees them both millionaires even though their three-year harvest of 30,000 tonnes of woodchips and 5,000 tonnes of sawlogs remain uncut. The Tasmanian government deserves credit for not only changing its policy, but for assisting financially, particularly with the costs of rehabilitation of the disastrous access logging road through the Southport Wildlife Conservation Area. Gunns Ltd is to be recompensed by $200,000. While the north-eastern peninsula is now secure and could be considered for amalgamation into the Southport Wildlife Conservation Area, readers of this book will be aware of the extent of human activities around the Bay. In 1793 the French land operations were conducted around the shore in the Cockle Creek area. Somewhere in that vicinity the first European burial in Tasmania occurred, following the death of a French crew member. Around the shore lies evidence for at least 15 whaling sites; coal mining and timber milling were based near Catamaran and d’Entrecasteaux rivers; trackways trace networks through the forest; foundations of jetties disappear into the sea; through much of the twentieth century the homes and activities of communities who lived here have left archaeological traces.

During July 2005, Senator Ian Campbell, the Commonwealth Minister for Heritage and Environment, wisely visited Recherche Bay to experience the nature of the place for himself. He described his time there as ‘absolutely fascinating’. As he toured the western and southern areas of the harbour, he correctly judged that my National Heritage nomination was deficient. ‘While clearly the area has got a lot of protection from the Tasmanian Government,’ he observed tactfully, ‘I did indicate that I thought the heritage nomination was incomplete because it ignored or failed to incorporate some historic sites on the western side of the bay as well.’
It is rewarding to learn that the minister requested the Australian Heritage Council to investigate the heritage claims of this area, part of the cultural landscape of the harbour. Unfortunately, prior to the heritage interest in Recherche Bay, the Tasmanian government granted a permit for an ecotourism development in the Cockle Creek area. It is an ambitious project with possibly 80 units, which could impact adversely upon the 1793 French occupation area and also impair the landscape vista, together with its necessary road system.

There is no doubt that the Tasmanian government now needs to re-evaluate this project and link it with a systematic management plan for the entire harbour precinct. There has been such publicity concerning the north-eastern peninsula, with more likely once archaeological investigations commence, that ecotourism is likely to burgeon. After all, it is only two hours drive from Hobart. It is important to ensure that such tourism is not piece-meal and management plans are developed for visitation to significant places.

So, the Recherche Bay saga has a happy ending, as it is now owned by the Tasmanian Land Conservancy. It is an object lesson to all governments and particularly timber and mining industries, that development or exploitative plans need to take significant cultural landscapes, or specific cultural assets, (even when intangible), into account before they announce projects. It proves less costly, less emotive and conserves heritage for future generations. While the sound of the axe was loud in these forests a century ago, the whirr of powered saws has been silenced in perpetuity. Should Labillardière return here even today, he could still sense the awe within this forested landscape and its mountainous backdrop. Now that its continued regeneration is assured, the tercentenary of the French arrival should produce a forested landscape on the peninsula approximating to that of 1792.

ENDNOTES

4 Brown, Tasmania’s Recherche Bay, 2005.
5 ABC Online, 9 February 2006.
6 Poulson, Recherche Bay, 2004: 75.
7 Ibid.: 71.
9 Ibid.
10 J. Jackson, Minister for Parks and Heritage to B. Brown 12 December 2005.
11 The Mercury, 6 February 2006.
14 The Mercury, 6 July 2005.