Chapter 14: The Concept of Heritage

Australians came late to the realisation that their natural environment and the historical imprint of past generations upon the landscape were valued possessions to treasure. Such features comprised not only material traces, such as forests, geological monuments, buildings, ruins or archaeological sites, but also intangibles associated with past persons or events, symbolic of ideas, memory or spirituality.

Such intangible or non-material factors present alternative considerations, additional to potential economic development or that overworked catch-cry of ‘jobs’. When carefully assessed, these valued places may provide different opportunities for employment or development, such as tourism. Even when they cannot, once-off economic investment or temporary employment should not be the sole criterion in a balanced approach to Australia’s long-term cultural or ecological future.

A national sense of purpose in firming concepts of heritage became evident about 40 years ago. There was a coincidence in timing around 1965 of the formation of the Australian Conservation Foundation, the Australian Council of National Trusts, the Australian Institute of Aboriginal Studies (now AIATSIS) and, in South Australia, the first State to enact legislation (tentatively) aimed to regulate the preservation of Aboriginal and early historic places.

The landmark in Federal government cultural and environmental maturity was the Whitlam Labor government appointment of the Hope Inquiry into the National Estate, 1973-74. In an investigation unprecedented internationally, this report evaluated equally the wellbeing and future of the trio: the natural environment, Aboriginal places, and historical structures and landscapes. In its succinct letter to the Prime Minister following this stocktaking came a challenge: ‘here is our report on the nature and state of the National Estate and the means of conserving and presenting it’.¹

At the national level, the response resulted in the creation of the Australian Heritage Commission. Before its enactment, this statutory authority was modified by the incoming Fraser administration, but it was passed with bipartisan support. The Commission operated from 1976 and I had the honour to be appointed as an inaugural Heritage Commissioner. In those times UNESCO (United Nations Educational, Scientific and Cultural Organisation) and its two advisory bodies, IUCN (International Union for the Conservation of Nature and Natural Resources) on environmental issues, and ICOMOS (International Council on Monuments and Sites) on cultural matters, were institutions respected by the Australian government. Heritage Commissioners approved of the 1960 UNESCO
recommendation concerning the Protection of Cultural Property Endangered by Public or Private Works. Its advice was cited in the Hope Report:

Cultural property is the product and witness of the different traditions and of the spiritual achievements of the past and is thus an essential element in the personality of the peoples of the world. It is the duty of governments to ensure the protection and preservation of the cultural heritage of mankind, as much as to promote social and economic development.²

UNESCO’s sage advice on cost and benefit analysis is relevant to the issue of heritage components at Recherche Bay. The National Estate Inquiry recognised that it was difficult to quantify major conservation issues in a manner acceptable to a corporate boardroom. They stated firmly: ‘Subjective factors must enter into any decision, first on whether a building, group of buildings or natural area is worthy of preservation in the national interest; second on the real long-term costs of preserving it, or of deciding not to do so.’³ The crucial question posed was: ‘Can we afford, in the long-term, to lose it?’ To answer such a question requires systematic and objective field survey and documentary research, expert discussion of the pros and cons independent of political interference.

An election was fought in 1983 with this question in mind, the consequences of damming the Franklin River. A comparable question has dominated the last three years, although the media chose to ignore the issues on the mainland. Even when Recherche Bay featured prominently on Tasmanian ABC television and radio, mainlanders largely were kept in ignorance of this nationally significant matter. Similarly, in Hobart, while The Mercury and the Sunday Tasmanian frequently reported relevant developments, mainland newspapers rarely commented. This was not a parochial matter, but the media judged it to be so. The media should remember that Australia is a Federation and not a confusion of isolationist or uncaring States.

Following the creation of the Australian Heritage Commission, it was anticipated that the States would enact complementary legislation embracing the Natural, Cultural and Aboriginal environments. This was slow to eventuate, except in New South Wales, Victoria and South Australia. Such legislation also experienced different emphases, including adequate staffing, comprehensive coverage and the political will to implement it. Tasmania was said to be considering legislation in 1981, but it was not carried until 1995.⁴ The Tasmanian Heritage Council of 15 members resolved ‘to advise the Minister on matters relating to Tasmania’s historic cultural heritage and measures necessary to conserve that heritage’.

In 1979, Australia ICOMOS, a recently established branch of the UNESCO cultural heritage advisory body, acting in cooperation with the Australian Heritage Commission, produced the Burra Charter, a guide to cultural heritage ethics and
This charter has undergone evolutionary changes as practitioners better appreciate the great variety of heritage issues, both ethical and practical.

Within recent years, the concept of an entity termed ‘cultural landscape’ has emerged in international circles on the philosophy of heritage conservation. Rather than the normal listing of individual structures or elements, they often are better appreciated within a broad context of human activities and their consequences. The concept applies to landscapes that have been modified through human actions over time. Its focus is on the relationship between people and place.

Recherche Bay is such a cultural landscape. Although it was known as the French landing place, its role in providing a palimpsest of Tasmanian history was neglected until recently. It was the reported discovery of Delahaye’s 1792 garden, in January 2003, that highlighted the potential significance of the area. Whether it really was the garden became less important when historical sources were consulted on the totality of the French visits. In my case, it was the realisation that this ‘moment of contact’ between Europeans and Tasmanians took place across a confined area. The records of those encounters are vital for the human story in Tasmania. The French expedition undertook scientific studies, while subsequent European activities across almost two centuries left imprints upon the landscape, although often concealed beneath vegetation. It is important to stress that my reaction, and that of most people, was not an attack upon the forest industry or the rights of landowners. It simply was that this small area was too significant to destroy.

In 1992 the World Heritage Committee of UNESCO adopted modifications to the World Heritage cultural criteria drawn up in Paris in 1977 (at which I was an Australian delegate). It adopted a broad definition of cultural landscapes, consisting of three dynamic categories. The first consists of a landscape deliberately designed and created, such as those eighteenth century British landscapes created for nobility by Capability Brown. A second category is an organically evolved landscape, where continuing but unintentional human interaction creates a new landscape, such as Kangaroo Valley, New South Wales. The third class is an associative cultural landscape, such as New Norcia, Western Australia.

Recherche Bay fits the last definition. It has been modified through the various industrial and occupational activities across two centuries and archaeological evidence survives for each phase. Also associated are traces of Aboriginal occupation and links with significant events and people. Such associations include the d’Entrecasteaux episodes and interaction with the Aboriginal Tasmanian population. Then there is the connection with European science through Labillardière, Rossel and Beaupré. Even the visit by Lady
Jane Franklin and John Gould are linkages symbolic of notable people. Recherche Bay could truly be termed Tasmania’s Botany Bay.

Such reasoning implies that concepts require updating, to bring cultural landscapes within an Australian definition in order to include places of intangible but symbolic significance, even though physical traces may seem unimpressive. This is surely the case already with Captain Cook’s landing place at Botany Bay, or the Burke and Wills ‘dig tree’ on Cooper’s Creek. So why not the d’Entrecasteaux landing place?

The problem is that much Australian legislation has failed to keep pace with such changing international concepts as the category of a cultural landscape. Consequently, opponents of listing such a place are offered an easy legal technicality. As there is no reference in the relevant State Act to such a definition, this conveniently rules it out of consideration. Consequently, in 2004, Ken Bacon, Tasmanian Minister for Tourism, Parks and Heritage, stated that ‘the advice from his Department is that the existing Historic Cultural Heritage Act 1995 does not enable him to consider the issue of cultural landscapes’. As part of a current legislative review, however, he wisely requested that this matter be considered. The reality is, however, that the minister and his government lacked the political will to accede, and sought excuses.

Despite the minister’s expedient decision, the Historic Cultural Heritage Act includes a definition of a ‘place’, to include a ‘precinct or parcel of land’ (1, 3). Given ministerial will there were ways around this technicality. Criteria for entry in the Tasmanian Register include those that admirably fit the Aboriginal significance of this place (a cultural landscape without applying that term)

- 16 (c) ‘it has potential to yield information that will contribute to an understanding of Tasmania’s history’.
- 16 (f) ‘it has strong or special meaning for any group or community because of social, cultural or spiritual association’.
- 16 (g) ‘it has special association with the life or work of a person, a group or an organization that was important in Tasmania’s history’.

This surely describes the significant roles played by d’Entrecasteaux, Labillardière, Rossel and Beaupré.

It is obvious that the Tasmanian government used ‘cultural landscape’ as a device to obscure adopting one or more of the above options. Behind this facade loomed the Forest Practices Act 1985, the Tasmanian Regional Forest Agreement 1997 and the Forest Practices Code set up under the Act. The Forest Agreement separated the timber industry from all other industries and heritage considerations. The Forest Practices Code provides that industry with independence, so concerning heritage matters (including cultural heritage), it became a self-investigating and self-approval granting authority.
The Chair of the Tasmanian Heritage Council proved more outspoken than the minister, when he stated in 2003:

Listing [of part of Recherche Bay] would protect everything except forest practices. We can’t control forest practices because they’re specifically excluded. So listing is virtually pointless in this situation.7

Surely the Commonwealth government ignored prudent administration of cultural heritage, if not natural heritage justice also, by agreeing to this monopolistic agreement outside the mainstream approval process. Presumably another consideration within Tasmania’s government was the reluctance to set a precedent by paying compensation to private landowners when conservation issues require cessation of logging.

Much of the land surrounding Recherche Bay was surveyed and subdivided for private sale from the 1830s, when ambitious plans resulted in the layout of the abortive township of Ramsgate on the south-western shore. The 1863 survey of the north-eastern peninsula suggests that much of the land had been sold, while Bennetts Point bore its present name.

The area that was harvested for the Leprena mill has been largely included in the 4,280 hectare Southport Lagoon Wildlife Sanctuary, proclaimed in 1976 and subsequently expanded. It includes Southport and Blackswan Lagoons and a coastline of some 16 kilometres. It is a poorly drained area supporting an unusual complex of heath, sedgeland and forest communities. As this and the private land on the peninsula provided the floral collection ground for Labillardiè, it is the type locality for many Australian plants and therefore an important biological reference area. The Sanctuary also is an important waterfowl habitat and breeding area. It was the numerous black swans reported, drawn (and eaten) by the d’Entrecasteaux personnel which are believed to have inspired Delahaye to introduce black swans into Empress Josephine’s Malmaison gardens in Paris. Innumerable black swans can still be seen today on the surface of Blackswan Lagoon, so it was truly well named.

Southport Lagoon Wildlife Sanctuary is the refuge for *Euphrasia gibbsiae* subsp. *psilanthera*, swamp eyebright, a short-lived perennial herb listed through the *Environment Protection and Biodiversity Conservation Act 1999* as a Critically Endangered plant. Its only known occurrence is a 50 by 50 metre area north-east of Blackswan Lagoon. It was listed in the *Tasmanian Regional Forest Agreement 1997* (attachment 2, part B), consequently by ignoring its presence to construct an access road surely violated that Agreement. Another plant species that grows only in Tasmania, *Thelymitra jonesii* (sky-blue sun orchid), is approaching critical endangered status.

The Sanctuary was included on the Register of the National Estate in 1978. The 146-hectare area then owned by David and Robert Vernon is bordered on two
sides by this Sanctuary and access to their land could be gained only through the Sanctuary. Conservation prudence would have suggested the acquisition of their land at an early stage, either from relevant State or Commonwealth budgets, and its incorporation within the Sanctuary.

The owners had acted correctly under the terms of the Forest Practices Act when they declared their property a Private Timber Reserve. It was then gazetted in 1996 as a Private Timber Reserve. They also stated that known heritage places would be protected. Although the Recherche Bay Protection Group was formed before the discovery of the ‘garden’ in 2003, because it was aware of the historical value of the area, more widespread awareness followed news of Delahaye’s garden. Perhaps that site should have been recorded long ago, but concern for historical archaeological field evidence only developed since the 1970s. Australia is a vast continent and workers in the archaeological research vineyard were few. (I was the first person at an Australian university to teach the pre-1788 history and archaeology of Australia and the Pacific, at the University of Melbourne in 1957. A decade later Historical Archaeology was first offered at the University of Sydney).

During my public and written interventions in controversies across the past three years, I stressed that the owners should be adequately recompensed should their property be acquired for the nation. I strictly observed their ban on my entering their property, following my first visit in February 2003. The ABC program, Catalyst, was filmed entirely on the beach later that year. Although they have claimed in the media that I encouraged people to invade their property on the occasion of the rally in April 2005, there are witnesses who can testify to the fact that I urged the very opposite, to the annoyance of some enthusiasts.

The obvious requirement, given the claims that the French garden had been located, was for archaeological research to test that claim. In February 2003, when the Heritage Council first discussed the matter it was stated that the Council lacked any funds for such a purpose. Neither the State nor the Commonwealth authorities bothered to consider funding field research. Three years later no fieldwork had been attempted, although subsequent to the completion of this text, archaeological fieldwork has been carried out, but so far is unreported.

Acting in ignorance of the existence of any archaeological evidence, except for the ‘garden’ and the observatory area, it was easy to claim that no other sites existed. Consequently, Minister Ken Bacon conceived a compromise solution. On 14 October 2004 he announced the establishment of a 100 metre protection zone around the coastline of the north-eastern peninsula and an additional 100 metre zone around the garden and the observatory sites. The listing applied for five years, allowing time for ‘heritage surveys’, but 15 months later no survey had been attempted. In the same news release, the minister granted permission for the landowners to construct an access road through the Southport Lagoon.
Wildlife Conservation Area. All this despite his admission that ‘further work is required to appreciate the area’s full significance’.  

The logging access track was constructed across the Conservation Area. When I visited there in April 2005, it appeared to violate the soil erosion precautionary procedures required by ignoring contours in the land and leaving gaping stretches in the banks beside the road. Such banks were intended to obstruct four-wheel drive access to the Area, but from the many tyre tracks they facilitated it. This made a mockery of the term ‘Conservation Area’.

The logging track through Southport Lagoon Conservation Area, 2005.

The Parks and Wildlife Service Tasmania, a branch of the minister’s own department, made available a draft management plan for public comment in July 2005. The cover image was the endangered swamp eyebright. In a discussion of management issues the report notes that: the plant grows ‘next to a vehicle track … the resulting track braiding is threatening the extinction of the species’; 11 also there is increasing risk from Phytophthora invasion, facilitated by vehicles. It is clear that the minister’s decision was contrary to any concept of best practice for park management. The draft management plan goes on to stress that: ‘Physical damage caused by the use of recreational vehicle [sic] is by far the single biggest management issue in the conservation area.’ In places tracks are up to 500 metres
wide where drivers have avoided bogs or deliberately created ‘mud play’ areas.  
This new track has opened up new areas to destruction.

Upon a visit to the area in March 2006, I noted the damage caused by four-wheel drive vehicles, together with erosion, along this track. Elsewhere, on the south-eastern part of the peninsula, it is heart-wrenching to walk the area between Quiet Cove and Blackswan Lagoon, which four-wheel drivers treat as their own. Dozens of empty beer cans strew the area where the French and Tasmanians fraternised in 1793. North-west of the bay, part of the Leprena track was impassable due to the mud games played by these irresponsible drivers.

Permission having been granted to harvest the timber, on 6 April 2005, the Secretary of the Department of Tourism, Parks, Heritage and the Arts, Mr S. Gadd, informed the Commonwealth Department of Environment and Heritage of the safeguards proposed. Citing the Forest Practices Code, he stated that the Forest Practices Board Senior Archaeologist would ‘undertake periodic inspections during operations’. Discovery of ‘any new historic features’ would result in cessation of operations near that feature and the archaeologist would be summoned. That heavy machinery moving through the landscape would leave ‘features’ intact is impossible, or that workmen would be able to recognise one is equally implausible. I was quoted in The Mercury as dismissing the proposal as ‘stupidity’, and I emphatically repeat that verdict here. It reveals the Forest Practices Code for what it is, a high sounding but hollow policy designed to access timber with token attention to cultural heritage.

It is time to discuss the Howard Coalition government’s attitude to heritage issues. In its stance over international heritage concerns its policy is at variance with that of previous administrations. It is best described today as an unfortunate isolationist nationalism. This was highlighted in 1998-99, when an expert UNESCO committee reported upon the potential adverse impact of uranium mining at Jabiluka upon the World Heritage Kakadu National Park. The committee firmly recommended that it should be listed on the ‘World Heritage in Danger’ register.

The government’s reaction was one of no-holds-barred. It disparaged the expertise of the prestigious committee, having ensured that during its visit to Kakadu the committee’s contact with critics was minimal. As a person giving evidence to that committee I can vouch for the contrivances employed by the host department to achieve that end. Nations on the World Heritage executive committee were extensively lobbied while taxpayers funded a three-week visit to Paris by the minister and several senior staffers. They secured a reversal of the recommendation. Meantime, Australia ICOMOS, expert advisor to Paris ICOMOS on cultural matters, was represented in Paris by a conscientious self-funded member.
It possibly was government petulance over this affair that contributed to its decision to abolish the independent statutory authority, the Australian Heritage Commission. In its original scheme the government proposed also to scrap the Register of the National Estate. This list of over 13,000 places worth keeping was a prudential stocktake. It is not legally binding, but it does pose a moral reminder to developers and the public. It was intended to abandon the Register as a Commonwealth entity and return relevant listed places to individual State control.

For some States this was possibly an acceptable outcome, but notoriously inappropriate for others. A reading of the *Tasmanian Forest Agreement* 1997, attachment 1 (7-11), for example, gives cause for concern. Note the cosy comment by Tasmanian Resources Minister, Bryan Green, on Recherche Bay, concerning cultural heritage and biodiversity: ‘the forest practices and management system has ensured all those protections are afforded’. In the final outcome, in the face of much criticism, the Commonwealth wisely agreed to retain the Register of the National Estate. Consequently, under the *Environment Protection and Biodiversity Conservation Act* 1999, the minister must have regard to information in the Register before making any decision to which the information is relevant. The access road to the peninsula ignored the Register list.

*The Australian Heritage Council Act* 2003 came into force early in 2004. Like the Tasmanian Heritage Council, it has been gilded, because it is only advisory and the minister is not obliged to take its advice. At the same time, the *Environment and Heritage Legislation Amendment Act* incorporated relevant matters in the *Environment Protection and Biodiversity Conservation Act*. Amendments to that Act late in 2006 regrettably abolished the Register of the National Estate, conflicting with earlier promises to retain it. While it is a relief that the inspirational and historical landscape at Recherche Bay is now a registered National Heritage place, the future of many places on the Register of the National Estate is less promising.

ENDNOTES

2 Ibid.
3 Ibid.
10 Ibid.
11 Southport Lagoon conservation Area, Draft Management Plan, 2005: 10, 47.
12 Ibid.
‘The axe had never sounded’

14 The Mercury, 17 April 2005.
16 ABC Online, 17 April 2005.