

## **Why is my Timber and Fibro Shack Heritage Listed? I want to build Units!**

The AICOMOS web page described the aim of the “Working in the urban jungle” session is *“to bring to light stories of archaeologists dealing with extreme dilemmas”*. Whilst excavating cesspits or contaminated sites can indeed be extreme, what do you do when you are talking to a crying, 86 year-old woman who is convinced you are strong-arming her into heritage listing her house, thereby destroying her children's inheritance? How extreme do you call that?

The Townsville City Council Local Heritage Database has over 1200 houses and is constantly being reviewed and updated. The Local Heritage Database is part of the Townsville City Council's City Plan 2005.

The City Plan 2005 is the Council's planning scheme and contains each house that is listed on the Townsville Local Heritage Database (LHD). This inclusion in the City Plan 2005 gives the listing legal status and binds the owners of the property to the Cultural Heritage Features Overlay code, the CHFO.

This CHFO is the code written into the City Plan 2005 that protects the historic value of properties that are listed in the LHD. The basis of the CHFO is to prevent the demolition or removal of the listed property without the recommendation of the heritage section and only after being granted permission by a meeting of the full Council of Townsville.

Relocation requests are investigated individually with each building researched and reviewed before a recommendation is made. The recommendations are based on Queensland Heritage criteria, with allowances made for the way in which Townsville's architecture developed over time, any changes made to the buildings, where the buildings is being moved and what is going in its place. Houses on Townsville's LHD are not restricted in any way from additions, renovations or extensions. Council will in fact provide an architect to the home owner to assist in achieving a sympathetic design for any proposed work.

### **The Local Heritage Database and the City Plan 2005**

All properties in the LHD are controlled by the cultural heritage features overlay, the CHFO. The CHFO is the section of the City Plan 2005 that controls development on heritage properties. This restriction consists solely of clearing the site. Demolition and relocation are only permitted after approval from a full council meeting. All applications for development on any LHD property are forwarded to the Townsville

City Council Heritage section of the Special Precincts Unit. In most cases this is only to record the changes or work on the particular properties register listing thereby ensuring an accurate historical record is maintained. If the submitted changes or additions appear to be uncomplimentary to the house, heritage officers will contact the owner and offer alternatives up to and including free architectural advice to achieve an amicable result for all parties involved. If however, an application for demolition or removal is received, council heritage staff will first contact the property owner and try and negotiate a way to develop the property whilst keeping the heritage in area intact. This can take the form of alternate development arrangements, such as sub-division or repositioning the house on the block to allow more room. If the proposed development is unacceptable and the owner declines the offer of assistance the application may be rejected. The Townsville Council currently has a policy of the voluntary listing on the LHD; however, once the building is listed as part of the City Plan 2005, the removal process can be a long one. Should the owner decided to ask for the property to be removed from the LHD, they must first make a formal application to the Townsville City Council for the property to be removed. Once an application for removal is received the property in question undertakes a complete review of its history, design and significance. The review is completed by the Heritage Research Officer and submitted with a recommendation through a chain of managers and committees to a sitting of the full council for final decision. Feedback from LHD property owners suggests that they are generally happy with the listing requirements and any restrictions that apply. There was also anecdotal evidence to suggest that there may have been a general reluctance by some owners of listed properties to reveal that the house was listed on the Local Heritage Database when it was put up for sale. This was further enforced when, a general letter sent to all LHD properties sparked a spate of phone calls asking why a house was suddenly heritage listed, when in fact it most had been listed on the LHD from the mid-1990s.

Regardless of the ethics of past home sellers, the major problems that are encountered with local listed properties were:

- home owners did not know their house was heritage listed
- home owners were convinced that the house was subject to extreme restrictions
- the owners wanted to subdivide and develop their block

- an application is received for the removal or demolition of the heritage house.

I will deal with these problems individually with a case study for each included.

With regard to an owner at not being aware that their house is heritage listed, each house listing is public knowledge. The entire Townsville Local Heritage Database is available on the Internet or via a phone call to the Planning and Development department of the Townsville Council. Unfortunately there is no provision in the City Plan 2005 for the owner of a property that is listed on the Local Heritage Database to inform potential buyers of the listing status. However standard searches through council records should reveal all the houses that are heritage listed. Each property listed within the Townsville Local Government Authority area, regardless of its level of significance, will flash an alert to an operator everytime the property is accessed on the Townsville Council property database, "PROCLAIM"

Whilst employed the Townsville council as the Heritage Research Officer, I was confronted on an alarmingly regular basis about "sudden" heritage listing.

**Example 1:** The most positive result came from the Townsville suburb of West End. West End is one of Townsville's older suburbs and grew along the western transport corridor of Townsville, hence the name.



An owner of a locally listed property (Image 1), presented to the front desk of the Planning and Development department seeking clarification on why his house was heritage listed. I was duly summoned to explain the process. I confirmed that the house was listed on the LHD at the local level of significance and appears to have been identified in the 1994 study of West End. I then enquired how long he had been owner. To which he replied that he had purchased the property a few years before. I went on to explain that house had been identified in the mid-1990s and that the owners at the time had been advised and offered the choice to object to the listing. The conversation drifted onto his plans for the future for the property, to which the owner stated that they had bought into the area as it was close to the city, in a quiet area and they liked the style of house in

this particular street. The owner's main concern was to the restrictions that were imposed on him. I explained that the only restrictions on this level of listing were the demolition or removal of the house completely from the site. I went to great pains to describe the fact that the house was open to any form of development apart from the two mentioned before as long as it complied with all the normal planning scheme regulations. I will expand at this point, that I explained this three times before he either believed or heard me. The owner was but no means rude or abusive; he was more concerned and probably a bit upset at not being informed of the listing when he house was purchased. Nonetheless once he was informed that the CHFO protected his house with no real restrictions and will also allow a measure of control over any development undertaken on neighbouring properties. After this, he looked at the listing is a positive one and pondered that it may even add value to the house.

**Example: 2** This is a small corner shop located in the suburb of Garbutt.

(Image 2) The owner came in and complained about the heritage listing of her building. The building is a small timber and fibro shop from the 1950s. She did not like the



fact that her house was heritage listed and that this listing was preventing development of the site. Garbutt is a semi-residential area with houses and some light industry. She felt that she could build a small office block thereby increasing the rent potential of the property. The land area is quite small and after allowing for the standard 6 metre footpath setback required on all new buildings, the actual area for any construction was greatly reduced (approximately 295m<sup>2</sup>). If however, she restored the original building and extended in a sympathetic way she would increase the floor area and retain the building's original entry which opened directly onto the footpath. This was explained to her including showing diagrams and aerial photographs but she was convinced that he should be able to knock the building down and start from scratch. The suburb's history revolves around the building of houses, offices, factories and hangers and grew up around what became one of the major air force bases during World War II. There are sufficient buildings within the area to keep this heritage alive and by restoring her original shop and shopfront she

would add to the streetscape and possibly attract a more upmarket client for the building. The owner refused to listen and left the building with no resolution.



**Example: 3** Around the corner and still in Garbutt, is a 1970s ranch style house that is owned by the couple who live next door. (Image 3) They too presented to council inquiring about the restrictions on their property. The double block was meant to be their retirement nest egg and they were concerned about the restrictions that were imposed on their property. The block of land in question had an area of just over 2000 m<sup>2</sup> and is suitable for up to five units. I explained this to the owner again with diagrams and photographs and I was able to convince him that the heritage listing on the first house would not be a major obstacle to a self funded retirement. He would be able to either sell or rent any of the houses depending on the circumstances. We also went through a few other options, for example, subdividing all blocks and placing two new houses on the rear half of the blocks or subdividing one block leaving the heritage house intact and building sympathetic units to the side and rear of the heritage house giving one house and three to four units for his retirement. Also the double block could have been subdivided and another two houses placed on the rear of the block thereby giving them a four house backup to either rent or sell. He was quite happy with his outcome and I informed him that when he was ready he could access the councils free architectural advice programme to assist him in developing his block.

**Example: 4** By far the most problematic request we could receive would be for the removal or demolition of a heritage listed house. This has the added problem of possible bad press and public outcry, attacks from interest groups and also legal ramifications that if we let one do it, why not let anyone do it. In 12 months I personally processed six applications for relocation of heritage houses in of which I agreed with three of the requests. The best result was from a heritage house



next to a major shopping centre in Townsville. The shopping centre owners had been quietly buying up all the adjoining properties when we received an application for relocation. The shopping centre was either demolishing or relocating the houses it had purchased until the only one left was the lone heritage house in that precinct. The application for relocation was to one of Townsville's older suburbs and after reviewing the history of the house, it was recommended that the relocation be allowed. The destination lot was surrounded by houses of similar style and age and the relocated house was repositioned well and does not look out of place. However, a stipulation of the relocation being granted was that the house's heritage listing will continue in the new location. Discussions with the new owners of the house were productive and their opinion once it was explained, was that the listing will in fact be a bonus for them.

### **Recent Activity**

In March 2006 a 19th century farmhouse was bulldozed flat when the owner wanted to build units. The resultant furore in the press highlighted to the Council that a large majority of the city had not been surveyed for possible heritage properties. The original surveys were done in the early to mid-1990s and were concentrated around the early habitation areas of the city. The destruction of the farmhouse implied that Townsville's early settlement was not just situated along the harbour area. This wake-up call led to a review of the contents of the LHD and a realisation that it needed to be extended. The suburb selected was Aitkenvale, which is where the destroyed farmhouse was located. The methodology for the assessment was that the council heritage staff, consisting of an architect and an archaeologist surveyed every street in the subject area and using established criteria and references from existing listed properties, compiled a list of buildings for further research. The current LHD, as stated before, consists of over 1200 properties. The types of buildings recorded range from classic Queensland bungalows, small workers dwellings and examples of buildings that are unusual in Townsville.

The Aitkenvale Study revealed a total of 151 houses that matched our primary search criteria and were marked for further investigation. Each house underwent preliminary research which included past building and planning files and records and obtaining copies of land titles to check the ownership history. Of this 151 eight were

rejected for varying reasons and 143 were settled upon for preliminary listing. This process involved approaching the owners with offers of listing on the Local Heritage Database. Each letter described the database, the type of restrictions and the benefits of listing at the local level. This was the first stage of the listing process and as the Townsville City Council has a policy of voluntary listing, it falls onto the heritage staff to convince home owners to allow the listing of their property.

Of the 143 letters sent only 49 replied to the Council, the breakdown of these replies being: Yes 10; No 30; Undecided 9.

The replies to these letters sparked the reason for this paper. Though we received 10 phone calls accepting listing, none of these people actually wrote to Council and therefore did not supply a written record of their decision which is required for the process to be transparent. Of the "No" replies, all were in writing, most were polite, though some threatened legal action and others had their solicitors contacts us.

Of these, there were two examples that stick out from the rest.

**Example: A** The first and most extreme was from the owner of the house shown at Image A. We received a phone call from the owner's son stating that his mother was not well and asking for clarification of the proposed listing, I explained the process, the restrictions and possible benefits. (xxx) We discussed the obvious work that had gone into the house and how the listing would protect the building. I also explained that the proposal was voluntary and if his mother did not agree all she had to do was submit a letter declining our offer. The son was happy with this and stated that his mother would most likely ring when she was out of hospital. This was

the case a few days later when the quite elderly owner rang me to discuss the letter she received regarding the listing of her house.( xxx) She was polite and inquisitive and supplied a great deal of information regarding the building of the house and how proud she was of it. The tone changed when she started talking



about her children and what they will have when she is gone. I explained that the listing was voluntary and if she did not agree all she had to do was write to us declining the offer of heritage listing. She then became very upset and started crying

over the phone. I was still trying to convince her we were not going to do anything to her house or drop some huge restrictions on the property, however she continued about her children then said she would get her solicitors to write to me to object to the listing. I again informed her that that was not necessary and really a waste of money as all we required was a letter from her to stop the process. By this time she was calm and I felt about 10 cm tall. I tried again to explain to her that she did not need to spend money on a solicitor and for her to write to us directly saving time, effort and money. At this point she thanked me for my time and for explaining the matter to her and hung up.

A letter duly arrived from the solicitors and when I rang them to explain what was required I was basically accused of causing the hospitalisation of the owner and that I should cease and desist the listing of her property. I explained to the solicitor in very small words and with an edge in voice that I felt she was wrong and that the involvement of her firm was an unnecessary waste of money on the owner's part and that the house had already been earmarked as not to be listed, due mainly from the intense reaction of the owner and that there were other examples of the type identified. Consequently, the house was removed from the listing process and the owner informed.



**Example: B** The next example was the second house identified. This magnificent Queenslander Villa was discovered in one of the back streets. Well known to the locals it was totally unknown to the Council's heritage staff. (Image B.) The house sits on a triple block of land and appears to be in an excellent condition. A search of Council and State records traces the building back to the late 19<sup>th</sup> Century and the history is known to the local National Trust branch. A conservation with a local historian revealed that the owner was very house proud and that they would welcome any assistance in protecting the property. The owners were notified as part of the initial mailout and when the reply was received it was not what we expected. We received just one letter, which was a definite no with the threat of legal action



thrown in for good measure. (xxx) The house consequently removed from the proposed list as per Council policy and the owners informed. Due to directions received, there was no attempt at contacting the owners to try and convince them to reconsider.



**Example: C** Image C. shows a lowset, rendered cement brick house with some unusual air vents which appear to be situated above floor level; casement windows; front porch and rear area extensions. The house was built by Mr Johann Tschichhrak circa 1952. Mr Tschichhrak still lives in the house which was constructed from cement blocks he hand-made on site. (2007, Tschichhrak) Apparently because he was sick of waiting for someone to make them for him and he was keen to finish the house so he could move in. The phone call from Mr Tschichhrak's daughter confirmed these details and also that the family was very interested in preserving the house, which, apart from additions at the rear of the house was in excellent condition including the original kitchen from the 1950s. The phone call was noted, but at the time of my leaving the Council, there had not been an official reply to the proposed listing.



**Example: D** The final example was selected as it was a good example of the type of house that was built in one of Townsville's earliest housing estates. (Image D) John Bartlett Constructions developed the Bartlett Estate in the early 1960s and built many homes in the area, all of a similar size, shape and design. This house has been owned by the current owners for only six years. When they received the offer of heritage listing they rang to enquire on what that meant. After the same reasons and descriptions were given as the rest the owner relaxed and opened up more about the history of the building. It had been built by someone named Barry in 1963 (unconfirmed as at 01 June 2007), The current owners then went on to describe him and his family in details. When I asked if they had purchased the property from

“Barry” they replied no, they had in fact purchased it from the former owners who were not related. The owner then went on to describe that “Barry” was from a ghost who haunted the backyard and sometimes the house. They first became aware of him when “Barry” was seen in their backyard and after being challenged by the owners he insisted on them removing a stone from the backyard. When they did this they discovered that the stone was a memorial for the death of a child. What made the story more interesting was the appearance of “Barry’s” grand daughter shortly after who described him to the owners and asked if she could look around the building for old time’s sake. As they discussed the house, the granddaughter mentioned the story of the death of one of Barry’s children and when she mentioned the name, the owners showed her the memorial with the same name engraved on it. She confirmed the name and the death of the child. The owners of the house are happy enough with “Barry” he apparently doesn’t bother them and they now perceive him as a friendly spirit that looks after the house. The owners were happy to have the house heritage listed as they thought that its demolition would mean they fail in their responsibility to protect the history of the house and its occupants. They also liked the idea that the listing the building would protect it and control development on adjoining properties. At the time of writing, there had been no official reply from the owners agreeing to the listing and, the facts surrounding “Barry” have not been confirmed.

Heritage properties in the Townsville Local Government Authority are listed on the Council’s Local Heritage Database and the accompanying cover under the City Plan 2005, protects these properties from demolition and also from inappropriate development on adjacent land. Once a property is listed on the Local Heritage Database it is protected from demolition and development on the site and adjacent land is controlled.

Owners who want to ensure their house stays “as is” with extra controls over what is built next door, see the listing of their house as a blessing. On the other side of the coin, owners are bombarded by stories in the press by outlandish claims of restrictions by regulatory authorities with some seeing heritage listing as a curse. Though, if a heritage house is damage, destroyed or removed, the press are suddenly the defenders of history. However, trying to expand the list in a political environment is very difficult. With local politicians thinking ahead to the next election,

any adverse press is instantly spin doctored to get a positive result. The majority of older houses in Townsville that were identified in the latest Urban Study were still owned by their builders. These are elderly people who through misconception, ignorance or bad advice from relatives see heritage listing and a total restriction on their way of life and excessive controls on their home ownership. Consequently having to deal with a distraught pensioner, or angry developer whose only concept of heritage is how much money they can make out of it, is right up there in the extreme range. In fact give me a nice safe little cess pit any time.

**Note:**

**This document is a draft only. The references have not been added and further research and refinement is required before it is ready to be published.**

**I apologise for it being late, my only reason being I have been too busy to scratch myself. If you have any questions with regard to this document please feel free to contact me on the number below.**

**Thank You**

**Ken Hogan**

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