

CITY OF KARRATHA  
RECEIVED

- 4 MAY 2016

Action By: Adrian D'Amico  
File No: RV.8; A517  
Document ID: ICR143338  
CC: Sheridan Dryden  
Tishka Hanlon



**CHEEDITHA**  
**ABORIGINAL CORPORATION**

ABN 81 306 431 893 ICN 202

PO Box 123  
ROEBOURNE WA 6718

Cr Peter Long,  
Mayor  
City of Karratha  
PO Box 219  
KARRATHA WA 6714

28<sup>th</sup> April 2016

Dear Peter,

**Re: Cheeditha Group Aboriginal Corporation (CGAC) outstanding rates.**  
**Assessment number A5117.**

I write on behalf of the Chairperson of CGAC, Stanley Warrie, and the Directors with the intention of resolving the matter of the unpaid rates to the City of Karratha. In my role as Manager of Cheeditha Community, Stanley has given me the required authority to act on his behalf.

When I entered the role as Manager I inherited the problem of an excessively large overdue rate assessment. The Rates have not been paid since 2009 and the resulting penalties have placed the amount out of the reach of Cheeditha's income and budget.

The reasons for the non payment precede my time with Cheeditha but it is my understanding that there have, in the past, been some internal cultural and political issues and a lack of communication between funding entities. My understanding is that the Cheeditha land was to be leased to external parties and all financial commitments to the City would be resolved from that point.

As we are all aware, business opportunities in the Pilbara have declined and the land at Cheeditha remains vacant. Cheeditha provides low cost housing to economically disadvantaged Aboriginal people. In the absence of external business operations on the property it could be argued that Cheeditha is land used for 'charitable purposes' as defined in the Local Government Act 1995, particularly related to the following extracts.

- (9) Section 6.26(2)(g). of the Local Government Act exempts land used exclusively for charitable purposes from land defined as being rateable.

The Supreme Court decision in the matter of the Shire of Ashburton -v- Bindi Bindi Community Aboriginal Corporation (Unreported SC Library No. [1999] WASC108), held that land is not rateable where it occupied by a charitable organisation and is being used for "a charitable purpose". The Supreme Court decision recognised that the advancement of Aboriginal people generally is a charitable purpose.

Town Reserves land is considered to be held for "a charitable purpose" by virtue of the Supreme Court ruling in the above matter and is therefore exempt from rates.

The exempt status of Town Reserves is not affected by the process of regularisation of essential and municipal services.<sup>1</sup>

- Australian case law further establishes that poverty need not be destitution and may extend to the promotion of culture. Further, indigenous people have been judicially and statutorily recognised as being severely disadvantaged in Australian society and are a "class which, generally speaking, is in need of protection and assistance."

In relation to indigenous housing, the Supreme Court has granted a rates exemption because:

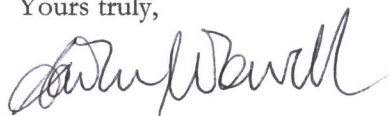
1. (a) the advancement of Aboriginal people was a charitable purpose;
2. (b) the activities conducted upon the land were exclusively charitable.

In this particular case, the land was used by an Aboriginal Corporation to provide low-cost rental housing for economically disadvantaged Indigenous people. The proceeds were used by the Corporation to pay bills, cover office costs and generally further the objects of the organisation, but not in order to generate profit. A number of not-for-profit projects were also undertaken on the land, which aimed to improve living conditions, keep people occupied, discourage excessive alcohol drinking, create self-respect and (theoretically) create income to further the Corporation's objects.<sup>2</sup>

- The *Bindibindi v Shire of Ashburton* case provides the most recent views of the Western Australian Supreme Court in relation to the determination of what is a charitable purpose. In this case, the Court determined that an Aboriginal corporation with the objective of the advancement of Aboriginal people with membership of around 25% of the local Aboriginal population was a charitable purpose. The Court determined that land was being used for a charitable purpose as it was being used to provide low cost rental housing for economically disadvantaged Aboriginal people. The accommodation was rented at rates that appeared to be significantly below those charged by Homeswest. The Court also considered whether the business pursuits being undertaken on the land would jeopardise the charitable purpose use of the land. Businesses included the operation of a plant nursery and the sale of art works. The Court considered that these operations had the object of training residents upon the land in the skills necessary for self care and for employment and for the generation of self reliance and self respect. It was determined that these businesses were incidental to the dominant charitable purpose.<sup>3</sup>

In light of this research I believe that there is a case for Cheeditha to be exempt from rates until such time as they are able to lease the land to an external party for commercial purposes. We therefore request the outstanding rates and penalties be cancelled. Cheeditha is happy to accept the charge for the Domestic Rubbish Service and commits to payment upon receipt of invoice for the service. Thank you for your consideration in this matter and we look forward to hearing from you.

Yours truly,



Carrie McDowell

---

<sup>1</sup> Extract from Hansard [COUNCIL - Wednesday, 11 September 2002] p740b-743a  
Hon George Cash; Mr Tom Stephens

<sup>2</sup> Community Housing Coalition WA. 'Community Housing Providers and Local Government Rates, Environmental Scan.' December 2013., Page 7

<sup>3</sup> Inquiry into the operation of section 6.26(2)(g) of the Local Government Act 1995, November 2005, page 10