



Western Australia

Aboriginal Communities Act 1979

## **Kalumburu Aboriginal Corporation By-laws**



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Western Australia

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at 24 September 2004

Aboriginal Communities Act 1979

## Kalumburu Aboriginal Corporation By-laws

### Part 1 — Preliminary

**1. Citation**

These by-laws may be cited as the *Kalumburu Aboriginal Corporation By-laws*<sup>1</sup>.

**2. Commencement**

These by-laws shall come into effect when approved by the Governor and published in the *Government Gazette*<sup>1</sup>.

**3. Definitions**

In these by-laws unless the context requires otherwise —

*the Act* means the *Aboriginal Communities Act 1979*;

*community* means the Kalumburu Aboriginal Corporation;

*community land* means the land declared by the Governor under section 6 of the Act to be the community lands of the community;

*the Council* means the Council of the Kalumburu Aboriginal Corporation;

*member of the community* means any person who is accepted as a member of the community for the time being;

**bl. 3**

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*vehicle* has the same meaning as it has under the *Road Traffic Act 1974* (as amended).

## **Part 2 — Community land**

### **4. Permission required to enter and remain on community land**

- (1) Except as provided to the contrary in any Act or regulation a person who is not a member of the community shall not enter or remain on community land without the prior permission of the Council.
- (2) The Council may in its absolute discretion —
  - (a) grant or refuse permission for a person to enter community land orally or in writing;
  - (b) impose such conditions as it thinks fit in granting permission to enter community land; and
  - (c) revoke such permission at any time.
- (3) The Council may delegate its powers under this by-law to any community adviser or other officer in the employ of the community as the Council thinks fit and without prejudice to its own exercise of its powers under this by-law.
- (4) Except as provided to the contrary in any Act or regulation any person who —
  - (a) enters community land without the prior permission of the Council or its duly authorised delegate;
  - (b) having been granted permission to enter community land on certain conditions breaches any such condition; or
  - (c) having entered community land with permission of the Council refuses to leave when requested to do so by the Council or its duly authorised delegate,commits an offence.

**5.        Restriction of entry into areas**

Subject to the provisions of any Act or regulation to the contrary:

- (1)    The Council may place signs on community land for the purpose of prohibiting entry to the part of the land on which the sign is placed or to such part of the community land indicated by the inscription on the sign.
- (2)    An inscription on such a sign operates and has effect according to its tenor.
- (3)    Any person who fails to obey the directions in the inscription on such a sign commits an offence.

**6.        Homes**

- (1)    A person shall not enter the home of another person without obtaining the prior permission of that person.
- (2)    A person who is in a home other than his own shall leave that home if and when he is directed to do so by an occupier of that home.



## **Part 3 — Traffic**

### **7. Traffic signs**

- (1) The Council may cause signs called “traffic signs” to be erected on community land for the purpose of prohibiting, regulating or guiding vehicle traffic and the passage of pedestrians.
- (2) The inscription on a traffic sign operates and has effect according to its tenor.
- (3) Any person who fails to comply with the directions in an inscription on a traffic sign commits an offence.

### **8. Careless and dangerous driving**

- (1) A person shall not drive a vehicle on community land without due care and attention.
- (2) A person shall not drive a vehicle on community land at a speed or in any other matter that is, having regard to all the circumstances of the case, dangerous to the public or to any person.

### **9. Areas prohibited to vehicles**

- (1) The Council may declare any area of community land as an area to which access by vehicles or certain types of vehicles shall be prohibited.
- (2) Any person who drives a vehicle in an area declared to be a prohibited area by the Committee under this by-law commits an offence.

## **Part 4 — Offences relating to alcohol**

### **10. Prohibition of alcohol on community land**

Subject to the provisions of by-law 11, any person who —

- (1) brings alcohol onto community land;
- (2) possesses alcohol on community land;
- (3) supplies alcohol to another on community land;
- (4) enters community land in a drunken condition;
- (5) is drunk on community land;
- (6) consumes alcohol on community land; or
- (7) drives a vehicle on community land whilst under the influence of alcohol,

commits an offence.

### **11. Mission staff**

Any person in the employ or service of the Roman Catholic Bishop of Broome and stationed at Kalumburu Mission, may transport alcohol through community land for the purposes of its consumption at the Mission by people who are not members of the community or its use in the sacraments of the Church without breaching the provisions of by-law 10(1), (2), (3) and (6).

## **Part 5 — Regulation to other matters**

### **12. Wilful damage**

A person shall not wilfully damage any tree, bush, flower, lawn, building, structure, vehicle or other thing.

### **13. Litter**

A person shall not leave any rubbish or litter —

- (1) in any home or in an enclosure around a home without the permission of the occupier of that home; or
- (2) in any other area of the community land except in a rubbish bin or in an area set aside by the Council for leaving rubbish and litter.

### **14. Offensive behaviour**

A person shall not cause a disturbance or annoyance to other persons by using abusive language or fighting or otherwise act in an offensive or disorderly manner.

### **15. Disruption of meetings**

A person shall not interrupt any meeting of the Council or the community or any customary meeting by noise or any other offensive or disorderly behaviour.

### **16. Fires**

- (1) A person shall not without the permission of the Council kindle, light, make or use a fire other than in a place set aside by the Council for that purpose.
- (2) Sub-by-law (1) does not apply to a fire for cooking or heating purposes in a fireplace or store in a home or used in conjunction with a home.
- (3) Nothing in this by-law authorises a person to light a fire in an open fireplace in contravention of the *Bush Fires Act 1954*.

## **Part 6 — Enforcement and proceedings**

### **17. Powers of police**

- (1) Where any person has committed or is committing an offence against a by-law and it appears likely that injury to persons or damage to property will be caused by that person, a member of the Police Force may apprehend and remove that person from community land for a period not exceeding 24 hours and in any event that person shall be returned to community land if a Court is convened to deal with him according to law.
- (2) A member of the Police Force or a warden appointed pursuant to these by-laws may request the name and address of any person who he believes on reasonable grounds to have committed a breach of any of these by-laws.
- (3) Any person who when called upon to give their name and address under this by-law fails to give their name and address commits an offence.
- (4) A member of the Police Force or a warden appointed under these by-laws may commence proceedings for any breach of a by-law.

### **18. Wardens**

- (1) The Council may appoint such members of the community as it thinks fit to be wardens.
- (2) It is the duty of the wardens to inquire into alleged breaches of these by-laws, co-operate with members of the community, the Council and members of the Police Force in the enforcement of the by-laws and to enforce the provisions of the by-laws generally.
- (3) Any person who obstructs a warden in the lawful execution of his duty under these by-laws commits an offence.

**19. Offences**

A person who breaches or fails to comply with any of the provisions of by-laws 6, 8, 12, 13, 14, 15 and 16 commits an offence.

**20. Fine**

A person who is convicted of an offence against a by-law is liable to a fine of \$100.

*[By-law 20 inserted: Gazette 14 May 2004 p. 1454.]*

**21. Restitution**

In addition to any fine imposed for breach of the by-laws the Court may order a person convicted of an offence against these by-laws to pay compensation of not more than \$250 to the community or another person where, in the course of committing the offence the person convicted has caused damage to the property of the community or of that other person.

*[By-law 21 amended: Gazette 14 May 2004 p. 1454.]*

**22. Defence of acting under custom**

It is a defence to a complaint of an offence against a by-law to show that the defendant was acting under the excused by any custom of the community.

### Notes

- <sup>1</sup> This reprint is a compilation as at 24 September 2004 of the *Kalumburu Aboriginal Corporation By-laws* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

### Compilation table

Citation	Gazettal	Commencement
<i>Kalumburu Aboriginal Corporation By-laws</i>	26 Apr 1991 p. 1846-9	26 Apr 1991 (see bl. 2)
<i>Sentencing Legislation (Short Sentences - Aboriginal Community By-Laws) Amendment Regulations 2004</i> r. 10	14 May 2004 p. 1451-8	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)

**Reprint 1: The *Kalumburu Aboriginal Corporation By-laws* as at 24 Sep 2004**  
(includes amendments listed above)

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
community .....	3
community land .....	3
member of the community .....	3
the Act.....	3
the Council.....	3
vehicle.....	3