



Western Australia

Aboriginal Communities Act 1979

Looma Community Inc. By-laws

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Defined terms

Looma Community Inc. By-laws

Part 1 — Preliminary

1. Citation

These by-laws shall be called the *Looma Community Inc. By-laws*¹.

2. Commencement

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

3. Definitions

In these by-laws unless the context requires otherwise —

the Act means the *Aboriginal Communities Act 1979*;

community means the Looma Community Inc.;

community land means that 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 Looma Community Inc.;

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

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

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 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 person 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;
 - (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

- (1) Subject to the provision of any Act or regulation to the contrary, 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 manner that is, having regard to all the circumstances of the case, dangerous 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 Council under this by-law commits an offence.

Part 4 — Offences relating to alcohol

10. Prohibition of alcohol on community land

Any person who —

- (1) brings alcohol onto community land;
- (2) assists another person to bring alcohol onto community land;
- (3) is in possession of alcohol on community land;
- (4) sells or supplies alcohol to another person on community land; or
- (5) enters community land in a drunken condition;

commits an offence.

Part 5 — Regulation of other matters

11. Wilful damage

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

12. 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.

13. 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.

14. 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.

15. Fires

- (1) A person shall not kindle, light, make or use a fire other than in a place set aside by the Council for that purpose without the permission of the Council.
- (2) This by-law does not apply to a fire for cooking or heating purposes in a fireplace in a home or used in conjunction with a home.
- (3) This by-law does not authorise a person to light a fire in an open fireplace in contravention of the *Bush Fires Act 1954*.

Part 6 — Enforcement and proceedings

16. Powers of police and wardens

- (1) Any alcohol brought onto community land by any person contrary to by-law 10 shall be liable to confiscation.
- (2) A member of the Police Force may —
 - (a) seize any alcohol and any receptacle containing such alcohol that he reasonably suspects to be liable to confiscation under these by-laws;
 - (b) if he reasonably suspects that alcohol is in any vehicle in breach of these by-laws, enter and search that vehicle using such force as is reasonably necessary for the purpose;
 - (c) stop any vehicle for the purpose of carrying out a search in pursuance of sub-paragraph (b);
 - (d) upon confiscating any alcohol, dispose of the contents of any receptacle containing such alcohol, if he is of the opinion that such action is necessary or conducive to the preservation of good order on the community land or the prevention of any offence under these by-laws or under any law of the State of Western Australia;
 - (e) subject to sub-paragraph (d) keep any confiscated alcohol in his custody or control for such period of time as is necessary in the interests of justice.
- (3) 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.

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- (4) A member of the Police Force 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.
- (5) 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.
- (6) A member of the Police Force may take proceedings against any person for any breach of a by-law.

17. Procedure

Subject to the *Child Welfare Act 1947* proceedings for an offence against a by-law shall be commenced by way of complaint² and summons under and in accordance with the *Justices Act 1902*³ and shall be commenced within 6 months after the offence was committed.

18. Offences

A person who breaches or fails to comply with any of the provisions of by-laws 6, 8, 11, 12, 13, 14, 15 commits an offence.

19. Fine

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

[By-law 19 inserted: Gazette 14 May 2004 p. 1455.]

20. 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 20 amended: Gazette 14 May 2004 p. 1455.]

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 and excused by any custom of the community.

Notes

- ¹ This reprint is a compilation as at 8 July 2005 of the *Looma Community Inc. 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>Looma Community Inc. By-laws</i>	10 May 1991 p. 2360-2	10 May 1991 (see bl. 2)
<i>Sentencing Legislation (Short Sentences - Aboriginal Community By-Laws) Amendment Regulations 2004</i> r. 12	14 May 2004 p. 1451-8	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
Reprint 1: The Looma Community Inc. By-laws as at 8 Jul 2005 (includes amendments listed above)		

- ² Under the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* s. 81 a reference in a written law or book, document or writing to a complaint in the context of commencing proceedings in a court for an offence is, unless the contrary intention appears, to be taken to be a reference to a prosecution notice under the *Criminal Procedure Act 2004*.

- ³ The short title of the *Justices Act 1902* was changed to the *Criminal Procedure (Summary) Act 1902* by the *Courts Legislation Amendment and Repeal Act 2004* s. 23.

The *Criminal Procedure (Summary) Act 1902* was then repealed by the *Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004* s. 4. Under that section, a reference in a written law or book, document or writing to the *Criminal Procedure (Summary) Act 1902* is, unless the contrary intention appears, to be construed as if it had been amended to be a reference to the *Criminal Procedure Act 2004*.

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

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