



Western Australia

Aboriginal Communities Act 1979

**The Balgo Hills Aboriginal Community
Incorporated By-laws 1982**

The Balgo Hills Aboriginal Community Incorporated By-laws 1982

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The Balgo Hills Aboriginal Community Incorporated By-laws 1982

Part 1 — Preliminary

1. Citation

These by-laws may be called *The Balgo Hills Aboriginal Community Incorporated By-laws 1982*¹.

2. Definitions

In these by-laws, unless the context requires otherwise —
by-law means one of these by-laws;

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

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

sub-by-law means sub-by-law of the by-law in which the term is used;

the Act means the *Aboriginal Communities Act 1979*;

the administrative area means that part of community land described in Department of Lands and Surveys² Miscellaneous Plan No. 1111;

the Administrator means the person who is and is acknowledged by the Council to be the Administrator for the

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time being of the community or a delegate of that person appointed by him orally or in writing;

the community means the Balgo Hills Aboriginal Community;

the Council means the council constituted by the constitution of The Balgo Hills Aboriginal Community Incorporated.

Part 2 — Land

3. **Permission required to enter and remain on community land**

- (1) Except as provided to the contrary in any Act or regulations, 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 permission mentioned in sub-bylaw (1) —
 - (a) may be given or refused orally or in writing;
 - (b) may be given subject to such terms, conditions and restrictions as the Council thinks fit; and
 - (c) may be revoked by the Council at any time orally or in writing.
- (3) A person who enters or remains on community land contrary to sub-bylaw (1) or who, having been given the permission mentioned in sub-bylaw (1) subject to any term, condition or restriction, does not comply with that term, condition or restriction commits an offence.
- (4) In this by-law *community land* does not include the administrative area and nothing in this by-law prevents a person who has a *bona fide* reason for being on the administrative area, and is authorised by the Administrator to be there, from entering or being on another part of community land for the purpose of passing to or from the administrative area.

4. **Restriction of entry to areas**

- (1) The Council may cause signs to be placed on community land for the purpose of prohibiting entry to the part of community land on which the sign is placed or to the part of community land indicated by the inscription on the sign.
- (2) Except as provided to the contrary in any Act or regulations an inscription on a sign erected under sub-bylaw (1) operates and

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has effect according to its tenor and any person who does not obey a direction in the inscription commits an offence.

5. Homes

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

6. Traffic signs

- (1) The Council may cause signs called “traffic signs” to be placed on community land for the purpose of prohibiting, regulating or guiding vehicle traffic.
- (2) The inscription on a traffic sign operates and has effect according to its tenor and, subject to sub-by-law (3), any person who does not obey a direction in the inscription on a traffic sign commits an offence.

7. Careless and dangerous driving

- (1) No person shall 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 the public or to any person.
- (2) No person shall drive a vehicle on community land without due care and attention.

Part 4 — The regulation of other matters

8. Wilful damage

No person shall wilfully damage any tree, bush, flower, lawn, building, structure, vehicle or other thing.

9. Litter

- (1) No person shall leave any rubbish or litter in a home, or in an enclosure around a home, without the permission of an occupier of that home.
- (2) In places or areas other than those mentioned in sub-bylaw (1) no person shall leave any rubbish or litter except in a rubbish bin or area set aside by the council for leaving rubbish and litter.

10. Offensive behaviour

No person shall cause a disturbance or annoyance to other persons by using abusive language, fighting, or otherwise behaving in an offensive or disorderly manner.

11. Disruption of meetings

No person shall interrupt any meeting of the Council or the community, or any customary meeting, by noise or any other offensive or disorderly behaviour.

12. Alcohol

- (1) No person shall bring alcohol onto community land, or possess, use or supply alcohol on community land, without prior permission given under this by-law.
- (2) The permission mentioned in sub-bylaw (1) —
 - (a) may be given by the Council in relation to community land other than the administrative area and by the Administrator in relation to the administrative area;
 - (b) may be given or refused orally or in writing;

- (c) may be given subject to such terms, conditions and restrictions as the giver thinks fit;
 - (d) may be revoked by the giver at any time orally or in writing.
- (3) In determining whether or not to give the permission mentioned in sub-bylaw (1), the welfare of the community shall be the paramount consideration.
- (4) A person who brings alcohol onto community land, or possesses, uses or supplies alcohol on community land, contrary to sub-bylaw (1) or who, having been given the permission mentioned in sub-bylaw (1) subject to any term, condition or restriction, does not comply with that term, condition or restriction commits an offence.
- (5) A person who has the permission of the Administrator to bring alcohol onto the administrative area shall be deemed to have permission under this by-law to bring that alcohol onto another part of community land for the purpose of taking it to the administrative area.

13. 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-bylaw (1) does not apply to a fire for cooking or heating purposes in a fire place 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 5 — Enforcement and proceedings

14. 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.
- (2) A person shall not be removed from community land under sub-by-law (1) for a period longer than 24 hours and shall, in any event, be returned to community land if a Court is convened to deal with him according to law.
- (3) A member of the police force may request the name and address of any person who he believes on reasonable grounds —
 - (a) to be on community land in breach of by-law 3; or
 - (b) to have, while on community land, committed a breach of any by-law.
- (4) A member of the police force may take proceedings for any breach of a by-law.

15. Offences

A person who breaks or fails to comply with by-law 5, 7, 8, 9, 10, 11 or 13 commits an offence.

16. Penalties

- (1) A person who is convicted of an offence against a by-law is liable to a fine of not more than \$100.
- (2) In addition to any fine imposed under sub-by-law (1), the Court may order any person convicted of an offence against a by-law 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 16 amended: Gazette 14 May 2004 p. 1457.]

17. 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 29 October 2004 of the *The Balgo Hills Aboriginal Community Incorporated By-laws 1982* 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>The Balgo Hills Aboriginal Community Incorporated By-laws 1982</i>	15 Oct 1982 p. 4062-4	15 Oct 1982
<i>Sentencing Legislation (Short Sentences - Aboriginal Community By-Laws) Amendment Regulations 2004 r. 17</i>	14 May 2004 p. 1451-8	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
Reprint 1: <i>The Balgo Hills Aboriginal Community Incorporated By-laws 1982</i> as at 29 Oct 2004 (includes amendments listed above)		

- ² Department of Lands and Survey plans are now being held by the Western Australian Land Information Authority (see the *Land Information Authority Act 2006* s. 100).

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)
by-law	2
community land	2, 3(4)
member of the community	2
sub-bylaw	2
the Act	2
the administrative area	2
the Administrator	2
the community	2
the Council	2