

AB302

ABORIGINAL COMMUNITIES ACT 1979

LOOMA COMMUNITY INC. BY-LAWS

Made by the Council of the Looma Community Inc. under the *Aboriginal Communities Act 1979*.

Part 1 Preliminary

Citation

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

Commencement

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

Definitions

3. 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 S6 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

Permission required to enter and remain on Community Land

4. (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.

Restriction of Entry into Areas

5. (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.

Homes

6. (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

Traffic Signs

7. (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.

Careless and Dangerous Driving

8. (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.

Areas Prohibited to Vehicles

9. (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

Prohibition of Alcohol on Community Land

10. 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

Wilful Damage

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

Litter

12. 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.

Offensive Behaviour

13. 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.

Disruption of Meetings

14. 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.

Fires

15. (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

Powers of Police and Wardens

16. (1) Any alcohol brought onto community land by any person contrary to Clause 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 twenty-four 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.

(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.

Procedure

17. Subject to the *Child Welfare Act 1974* proceedings for an offence against a by-law shall be commenced by way of complaint and summons under and in accordance with the *Justices Act 1902* and shall be commenced within six months after the offence was committed.

Offences

18. 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.

Penalties

19. A person who is convicted of an offence against a by-law is liable to a fine of \$100 or imprisonment for three (3) months or both the fine and the imprisonment.

Restitution

20. In addition to any penalty 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.

Defence of Acting under Custom

22. 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.

The Common Seal of the Looma Community Inc. was hereto affixed pursuant to a resolution of and by the authority of an absolute majority of the Council in the presence of:

B. WRIGHT.
R. JUBOY.
J. WATSON.