

Cherbourg Aboriginal Shire Council Local Law No. 4 (Indigenous Community Land Management) 2021

Contents

- Part 1 Preliminary2**
 - 1 Short title 2
 - 2 Purpose 2
 - 3 Definitions—the dictionary 2

- Part 2 Authority to enter etc. trust area.....2**
 - 5 Authorisation of classes of persons 2
 - 6 Restricting access of individuals to parts of trust area 3

- Part 3 Camping sites3**
 - 7 Designation of camping sites 3
 - 8 Conditions on use of camping site 3
 - 9 Fee for camping approval 3
 - 10 Temporary closures 3

- Part 4 Parks and reserves4**
 - 11 Application to Aboriginal land 4
 - 12 Designation of parks and reserves 4
 - 13 Prohibited and restricted activities 4
 - 14 Notice of motor vehicle access areas and prohibited vehicles 5

- Part 5 Miscellaneous5**
 - 15 Approval to be produced on request 5
 - 16 Numbering of premises and allotments adjoining a road 5
 - 17 Subordinate local laws 6

- Schedule 1 Dictionary7**

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 4 (Indigenous Community Land Management) 2021*.

2 Purpose

The purpose of this local law is to enable the local government with jurisdiction over the trust area under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, to regulate the use of that area.

3 Definitions—the dictionary

The dictionary in the schedule defines particular words used in this local law.

4 Relationship with other laws¹

This local law is—

- (a) in addition to, and does not derogate from—
 - (i) the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*; and
 - (ii) other laws about Aboriginal interests in land; and
- (b) to be read with *Local Law No. 1 (Administration) 2021*.

Part 2 Authority to enter etc. trust area

5 Authorisation of classes of persons

- (1) For the purposes of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 53(1)(c), the local government may, by subordinate local law, specify a class or category of persons who are authorised to enter, be in or live in the trust area.²

Example—

The local government may specify that the customers of a particular tour operator or the employees of a particular construction company are authorised to enter a part of the trust area.

- (2) The subordinate local law—
 - (a) must state the parts of the trust area where the authorisation applies;³ and
 - (b) may state that the authorisation is subject to specified conditions.

¹ This local law and any subordinate local law made under it do not apply to the extent of any inconsistency with a law of the State or the Commonwealth. See the Act, section 27.

² The definition of "prescribed activity" in Schedule 1 of *Local Law No. 1 (Administration) 2021* includes "an activity for which a Local Government Act authorises the local government to grant an approval but does not make any provision about the process for the local government to grant the approval." Section 5(1) of *Local Law No. 1 (Administration) 2021* provides that a person must not undertake a prescribed activity without an approval granted by the local government. An approval to enter, be in or live in the trust area must be obtained under Part 2 of *Local Law No. 1 (Administration) 2021*.

³ See the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 53(3). See also section 53(2) regarding the requirement for written consent of the grantee of Aboriginal land before making a local law that authorises entry to that land.

- (3) A person must comply with the specified conditions for an authorisation.
Maximum penalty for subsection (3)—35 penalty units.

6 Restricting access of individuals to parts of trust area

- (1) An approval to enter a trust area under section 7 of *Local Law No. 1 (Administration) 2021* applies to the parts of the trust area specified by subordinate local law.⁴

Part 3 Camping sites

7 Designation of camping sites

- (1) The local government may, by resolution, designate a part of the trust area for the purposes of camping (a *camping site*).
- (2) However, a resolution under subsection (1) may only be made for a part of the trust area that is—
- (a) an accessible place; or
 - (b) a place that the local government has decided, by a resolution made under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 50(1)(b), to be a place to which persons who are not residents of the trust area may have access.
- (3) A resolution may be made under subsection (1) for a place that is Aboriginal land only with the written consent of the grantee of the land.
- (4) In this section—
accessible place see the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 50(7).

8 Conditions on use of camping site

- (1) The local government may, by subordinate local law, prescribe conditions regarding the use of a camping site, which may have regard to the traditional and cultural land uses of the residents of the trust area or persons who have a particular connection with the camping site under Aboriginal tradition and custom.
- (2) A person must not breach a condition prescribed under subsection (1) regarding the use of a camping site.
Maximum penalty for subsection (2)—20 penalty units.

9 Fee for camping approval

Prescribed fees fixed by the local government for approvals for the prescribed activity of camping within a camping site in a trust area under *Local Law No. 1 (Administration) 2021* may differ for residents and non-residents of the local government's area.⁵

10 Temporary closures

- (1) An authorised person may temporarily close the whole, or part, of a camping site—

⁴ See footnote 3.

⁵ See the Act, section 97, regarding the local government's power to fix cost-recovery fees.

- (a) if the authorised person reasonably believes that there is a likelihood of flooding, fire, other danger or emergency that may pose a risk to a person camping at the site; or
 - (b) if such closure is necessary for the observance of a traditional or cultural practice; or
 - (c) if such closure is necessary for maintenance or other work to be carried out; or
 - (d) if such closure is necessary for the rehabilitation of the place or site; or
 - (e) if such closure is necessary to conserve or protect the cultural or natural resources of the area or native wildlife.
- (2) A person must not camp in a camping site, or a part of a camping site, that is closed.
- Maximum penalty for subsection (2)—20 penalty units.

Part 4 Parks and reserves

11 Application to Aboriginal land

A subordinate local law under this part may be made in relation to a place that is Aboriginal land only with the written consent of the grantee.

12 Designation of parks and reserves

- (1) The local government may, by subordinate local law, designate land under the local government's control as a ***park***.
- (2) The local government may, by subordinate local law, designate land under the local government's control as a ***reserve***.
- (3) Land should be designated as a park (rather than as a reserve) if it is to be used predominantly for public recreation.

13 Prohibited and restricted activities

- (1) The local government may, by subordinate local law, declare an activity to be—
 - (a) prohibited in a local government controlled area or road (a ***prohibited activity***); or
 - (b) restricted in a local government controlled area or road (a ***restricted activity***).

Example for paragraph (a)—

The local government may declare that the lighting of fires is a prohibited activity in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

Example for paragraph (b)-

The local government may declare that the playing of sport generally, or the playing of certain sports, is a restricted activity in that it is restricted to particular times of the day, week, month or year in all local government controlled areas, in a particular local government controlled area or in a part of a local government controlled area.

- (2) The local government must take reasonable steps to provide notice to members of the public regarding restricted activities declared for local government controlled areas or roads.

- (3) In this section—
- reasonable steps* may include the display of a notice at a prominent place within each local government controlled area for which a declaration under subsection (1)(b) has been made, stating—
- (a) if the declaration relates to the whole area—the restricted activities for the area; and
 - (b) if the declaration relates to a part of the area—the restricted activities and a description of the part of the area to which the declaration applies; and
 - (c) in general terms, the provisions of subsection (4).
- (4) A person must not engage in a prohibited activity or a restricted activity.
- Maximum penalty - 20 penalty units

14 Notice of motor vehicle access areas and prohibited vehicles

- (1) The local government must take reasonable steps to provide notice to members of the public regarding—
- (a) declarations of motor vehicle access areas for the purpose of the definition of *motor vehicle access area*; and
 - (b) declarations of prohibited vehicles for the purpose of the definition of *bringing or driving* prohibited vehicles onto motor vehicle access areas, *Local Law No. 1 (Administration) 2021, Schedule 2*.
- (2) *reasonable steps* include, as a minimum, the display of a notice at a prominent place within each declared motor vehicle access area, stating—
- (d) a description of the declared motor vehicle access area; and
 - (e) a description of prohibited vehicles for the area.

Part 5 Miscellaneous

15 Approval to be produced on request

- (1) Where an authorised person reasonably believes that a person present in the trust area is a person who requires approval to be in a place⁶, camp at a camping site⁷ or conduct an activity,⁸ the authorised person may request the person to produce the relevant approval for inspection.
- (2) A person must comply with a request under subsection (1).
- Maximum penalty for subsection (2)—40 penalty units.

16 Numbering of premises and allotments adjoining a road

- (1) An owner of land must not adopt a number for a building or allotment that is inconsistent with a numbering system adopted by the local government under this section.
- Maximum penalty for subsection (1)—10 penalty units.

⁶ See section 7.

⁷ See section 5 of *Local Law No. 1 (Administration) 2021* for the prescribed activity of *camping within a camping site within a trust area*.

⁸ See section 5 of *Local Law No. 1 (Administration) 2021* for the prescribed activity of *undertaking scientific research in a trust area*.

- (2) An owner of land (other than vacant land) must display the number allocated so as to be easily identified from the adjoining road.

Maximum penalty for subsection (2)—10 penalty units.

17 Subordinate local laws

The local government may make subordinate local laws about—

- (a) the classes or categories of persons who are authorised to enter, be in or live in the trust area;⁹ and
- (b) the parts of the trust area to which an authorisation under section 5(1) applies;¹⁰
- (c) the parts of the trust area to which an approval to enter a trust area under *Local Law No. 1 (Administration) 2021*, section 7, applies.¹¹
- (d) conditions regarding the use of a camping site;¹² and
- (e) designating land as a park;¹³ and
- (f) designating land as a reserve;¹⁴ and
- (g) declaration of prohibited or restricted activities for a local government controlled area or road.¹⁵

⁹ See section 5(1).

¹⁰ See section 5(2).

¹¹ See section 6.

¹² See section 8(1).

¹³ See section 12(1).

¹⁴ See section 12(2).

¹⁵ See section 13(1).

Schedule 1 Dictionary

Section 3

Aboriginal land see the *Aboriginal Land Act 1991*, section 10.

authorised person see *Local Law No.1 (Administration) 2021*, schedule 1.

camping site see section 7.

motor vehicle access area see *Local Law No. 1 (Administration) 2021*, Schedule 1.

park includes part of a park.

prescribed fee see *Local Law No.1 (Administration) 2021*, schedule 1.

reserve includes part of a reserve.

resident means a member of the community residing in the trust area.

trust area means a part of the local government's area that is a trust area within the meaning of the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act 1984*, section 48.

the Act means the *Local Government Act 2009*.