
Report To:	Inverclyde Council	Date:	3 December 2020
Report By:	Head of Legal & Property Services	Report No:	GM/AS/LP/131/20
Contact Officer:	Anne Sinclair	Contact No:	01475 712134
Subject:	Review of The Inverclyde Council (Prohibition Of Alcohol In Designated Public Places) Byelaws 2010		

1.0 PURPOSE

- 1.1 The purpose of this report is to ask the Council to note that the current Byelaws for Inverclyde Council prohibiting the consumption of alcoholic liquor in designated places require to be reviewed in December 2020 and to seek authority for the Head of Legal and Property Services to commence the consultation process in connection with the review and to take all necessary action in connection therewith.

2.0 SUMMARY

- 2.1 Following confirmation by Scottish Ministers, The Inverclyde Council (Prohibition Of Consumption Of Alcoholic Liquor In Designated Places) Byelaws 2010 came into operation on 20 December 2010.
- 2.2 In terms of section 202A (a) of the Local Government (Scotland) Act 1973 a Local Authority shall, not later than 10 years from the coming into force of the byelaws, review the said byelaws and do so thereafter at intervals of not more than 10 years.
- 2.3 The existing byelaws will remain effective until amended or revoked following upon this proposed consultation.

3.0 RECOMMENDATION

- 3.1 That the Council notes the terms of this report and authorises the Head of Legal and Property Services to commence the consultation process in order to gain the views of Police Scotland, the Crown and Procurator Service, Community Councils, and relevant groups such as the Inverclyde Licensing Forum in order to determine if the existing alcohol byelaws should be amended or continue in the current form.
- 3.2 That a report be submitted to the meeting of the Council on 22 April 2021 on the results of the this first stage of the consultation process including any recommended amendments to the existing alcohol byelaws, prior to full public consultation on any proposals.

Gerard Malone
Head of Legal & Property Services

4.0 BACKGROUND

4.1 The Inverclyde Council (Prohibition of Consumption of Alcohol in Designated Public Places) Byelaws 2010 were confirmed by the Scottish Ministers as coming into force on 20 December 2010.

4.2 The existing Alcohol Byelaws apply to:

- 1) The whole of the Villages of Kilmacolm and Quarriers Village as shown outlined in red on Plan No 1 annexed to the Byelaws;
- 2) The whole of the town of Port Glasgow, Greenock and Gourock as shown in red on Plan Nos 2,3 and 4 annexed to the Byelaws;
- 3) The whole of the village of Inverkip and of the settlement of Wemyss Bay as shown outlined in red on Plan No 5 annexed to the Byelaws.

A copy of the Byelaws and relevant Plans are annexed to this report. As the maps are in fine detail, separate coloured copies have been issued to Members.

4.3 In terms of section 3 of the existing Byelaws:

- (1) Any person who consumes alcohol in a designated place or is found to be in possession of an open container containing alcohol in a designated place in circumstances whereby it is reasonable to infer that that person intended to drink from it whilst in a designated place shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) It shall not be an offence against these byelaws to do anything in any designated place which comes within the meaning of licensed premises.
- (3) It shall not be an offence against these byelaws to do anything in any designated place in respect of which an occasional licence is in operation during any period when alcohol may be sold there by virtue of that licence and for 15 minutes after the expiry of such period.

4.4 In terms of section 2 of the Byelaws they do not apply on 31 December, from 6pm until the end of that day; and on 1 January, until 6 am.

4.5 In terms of section 202A of the Local Government (Scotland) Act 1973 a local authority shall not later than 10 years from the coming into force of the Byelaws , review the byelaws and do so thereafter at intervals of not more than 10 years. The Council therefore requires to commence a review of the existing alcohol byelaws at this time.

4.6 The existing Byelaws will remain in force until amended or revoked following upon this review.

4.7 As part of the consultation process, the Head of Legal and Property Services will firstly require to consult with Police Scotland and the Crown and Procurator Fiscal Service in addition to other organisations within Inverclyde including the Community Councils and Inverclyde Alcohol Forum to ascertain if any amendment is proposed. It is important to ascertain that the byelaw offence is still sufficient for the purpose of prosecution. It is also necessary to establish if the boundary of any of the aforementioned Plans require to be expanded to include, for example, areas where future planning permission has been granted.

- 4.8 Should the Council, following the outcome of the first stage of the consultation process, consider amendment of the current alcohol byelaws, the process for doing so is the same process as applying for a new byelaw prohibiting the consumption of alcohol in a designated place. In terms of section 202 of the Local Government (Scotland) Act 1973 the Council requires to send a copy of the proposed amended byelaws to the Scottish Government for comment. The Scottish Government must respond with any comments and ensure that the Council has followed the procedures set out in section 202 of the Act, which includes consulting with the Police and local Procurator Fiscal to ensure that they are content with the proposed byelaw and plan, before the byelaws are advertised and draft byelaws are submitted to the Scottish Government. At the conclusion of this stage, a report will be submitted to the 22 April 2021 meeting of the Council for its consideration of any proposed amendment prior to full public consultation on any proposal.
- 4.9 Once agreement has been reached on the draft byelaws, the Council requires to advertise the intention to apply for confirmation of the byelaws and make both the byelaws and plan available for inspection to all members of the public. After a period of at least one month from the date of expiry of the advertisement period, a report will be submitted to the Council on the outcome of the public consultation. Thereafter, the Council may amend the byelaws and will require to submit these to the Scottish Government for confirmation by the Scottish Ministers. If confirmed, the Scottish Government will then agree a commencement date.

5.0 IMPLICATIONS

5.1 **Financial** – there are no financial implications at this stage.

5.2 **Legal**

The legal issues are contained within this report.

5.3 **Human Resources**

There are no HR implications related to this proposal.

5.4 **Equalities**

Equalities

(a) Has an Equality Impact Assessment been carried out?

	YES
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

X

YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.

NO

5.5 **Repopulation**

There are no repopulation implications arising from this report.

6.0 **CONSULTATIONS**

6.1 There has been consultation with the Clerk of the Licensing Board.

7.0 **BACKGROUND PAPERS**

7.1 None.

**THE INVERCLYDE COUNCIL (PROHIBITION OF CONSUMPTION OF
ALCOHOL IN DESIGNATED PUBLIC PLACES) BYELAWS 2010**

In exercise of the powers conferred upon them by sections 201 and 202 of the Local Government (Scotland) Act 1973, the Scottish Ministers hereby confirm the foregoing byelaws.

The Scottish Ministers hereby fix 20 December 2010 as the date on which the byelaws shall come into operation.



NIKKI BROWN
A member of the staff of
the Scottish Ministers

The Scottish Government
Justice Directorate
St Andrew's House
24 November 2010

**THE INVERCLYDE COUNCIL (PROHIBITION OF CONSUMPTION OF ALCOHOLIC LIQUOR IN
DESIGNATED PLACES) BYELAWS 2010**

The Inverclyde Council ("the Council") in exercise of the powers conferred on it by sections 201, 202 and 203 of the Local Government (Scotland) Act 1973, and of all other powers enabling it in that behalf, hereby makes the following byelaws:-

Interpretation

1. (1) In these byelaws, unless the context otherwise requires -

"alcohol" has the same meaning as in section 2 of the Licensing (Scotland) Act 2005;

"licensed premises" has the same meaning as in section 147(1) of the Licensing (Scotland) Act 2005 but does not include premises in respect of which there is a provisional premises licence (within the meaning of section 45(5) of that Act);

"occasional licence" has the same meaning as in section 56(1) of the Licensing (Scotland) Act 2005;

"designated place" means any place to which the public have access within the areas specified in Schedule 1 to these byelaws and shown outlined in red on the plans annexed and signed as relative hereto.

- (2) These byelaws may be cited as "The Inverclyde Council (Prohibition of Consumption of Alcohol in Designated Public Places) Byelaws 2010.

Application

2. These byelaws shall not apply -
- (a) on 31 December, from 6 pm until the end of that day; and
 - (b) on 1 January, until 6 am.

Offence

3. (1) Any person who consumes alcohol in a designated place or is found to be in possession of an open container containing alcohol in a designated place in circumstances whereby it is reasonable to infer that that person intended to drink from it whilst in a designated place shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (2) It shall not be an offence against these byelaws to do anything in any designated place which comes within the meaning of licensed premises.
- (3) It shall not be an offence against these byelaws to do anything in any designated place in respect of which an occasional licence is in operation during any period when alcohol may be sold there by virtue of that licence and for 15 minutes after the expiry of such period.

Presumptions

4. (1) This byelaw applies for the purposes of any trial for an offence against these byelaws.
- (2) Any liquid found in a container shall, subject to the provisions of this byelaw, be presumed to conform to the description of the liquid on the container.
- (3) A container which is found to contain -
- (a) no liquid; or
- (b) insufficient liquid to permit analysis
- shall, subject to the provisions of this byelaw, be presumed to have contained at the time of the alleged offence liquid which conformed to the description of the liquid on the container.
- (4) A person shall not be entitled to lead evidence for the purpose of rebutting a presumption mentioned in paragraphs (2) or (3) above unless, not less than 7 days before the date of the trial, he has given notice to the prosecutor of his intention to do so.

Public Notice of Effect

5. (1) The Council shall erect one or more signs at or reasonably adjacent to each designated place for the purpose of giving notice of the effect of these byelaws.
- (2) It shall be no defence in proceedings against a person for an offence under these byelaws that the Council failed to comply with paragraph (1) of this byelaw.

Revocation of Previous Byelaws

6. The Inverclyde District Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) Byelaws 1997 made by the District Council on 15 May 1997 and confirmed by the Secretary of State on 4 August 1997 are hereby revoked.

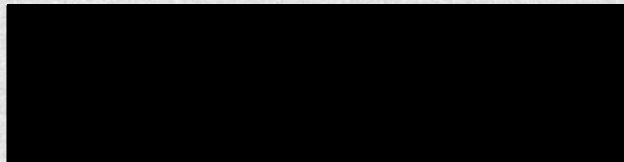
Given under the common seal of the Inverclyde Council and subscribed for them and on their behalf by Howard Robertson McNeilly, Proper Officer, all at Greenock on the Seventh day of October, Two thousand and ten.

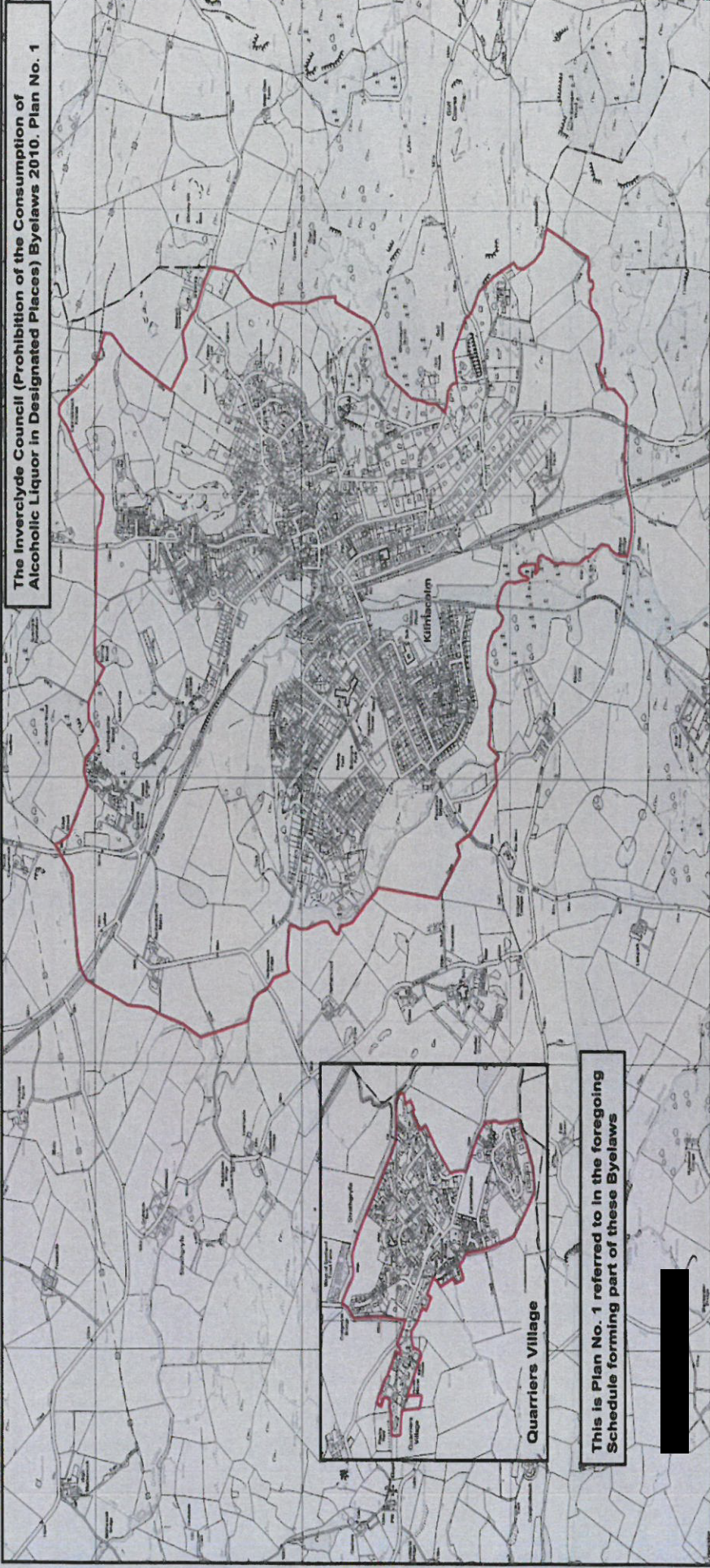


SCHEDULE

DESCRIPTION OF AREAS

1. The whole of the villages of Kilmacolm and Quarriers Village as shown outlined in red on the attached Plan No 1.
2. The whole of the towns of Port Glasgow, Greenock and Gourock as shown outlined in red on the attached Plans Nos 2, 3 and 4.
3. The whole of the village of Inverkip and of the settlement of Wemyss Bay as shown outlined in red on the attached Plan No 5.





The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010. Plan No. 1

This is Plan No. 1 referred to in the foregoing Schedule forming part of these Byelaws

Quarriers Village

Inverclyde Council
Planning & Housing

SCALE 1:10,000
Drg. No. 12/464
GMCC NOV 09

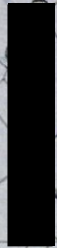


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The Inverclyde Council (Prohibition of the Consumption of
Alcoholic Liquor in Designated Places) Byelaws 2010. Plan No. 2



This is Plan No. 2 referred to in the foregoing
Schedule forming part of these Byelaws



**Inverclyde Council
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(100023421)(2009)

The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010, Plan No. 3

GREENOCK

This is Plan No. 3 referred to in the foregoing Schedule forming part of these Byelaws

Inverclyde Council
Regeneration & Planning

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The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010, Plan No. 4



This is Plan No. 4 referred to in the foregoing Schedule forming part of these Byelaws

Inverclyde Council
Regeneration & Planning

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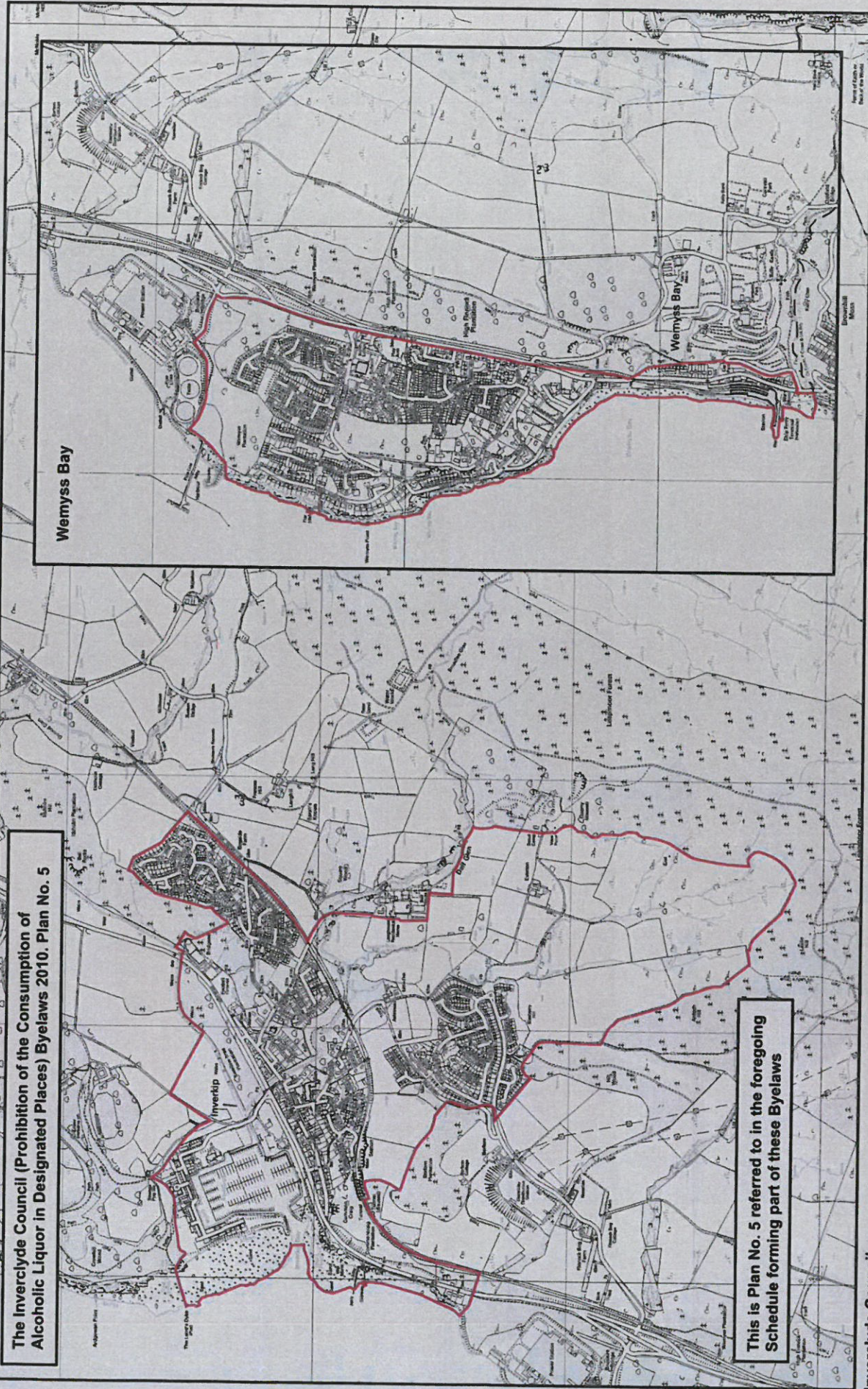
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The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010, Plan No. 5

This is Plan No. 5 referred to in the foregoing Schedule forming part of these Byelaws

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