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<b>Report To:</b>	<b>Inverclyde Council</b>	<b>Date:</b>	<b>10 June 2021</b>
<b>Report By:</b>	<b>Interim Head of Legal Services</b>	<b>Report No:</b>	<b>LS/063/21</b>
<b>Contact Officer:</b>	<b>Anne Sinclair</b>	<b>Contact No:</b>	<b>01475 712710</b>
<b>Subject:</b>	<b>Review of The Inverclyde Council (Prohibition of Alcohol In Designated Public Places) Byelaws 2010</b>		

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## 1.0 PURPOSE

- 1.1 The purpose of this report is to update the Council on the outcome of the first stage of the consultation process undertaken by the Head of Legal and Property Services in connection with the review of the current Byelaws for Inverclyde Council prohibiting the consumption of alcohol in designated public places and to recommend amendments to the Byelaws to the Council.

## 2.0 SUMMARY

- 2.1 Following confirmation by Scottish Ministers, The Inverclyde Council (Prohibition of Consumption of Alcohol in Designated Public Places) Byelaws 2010 came into operation on 20 December 2010. A copy of the existing byelaws forms Appendix 1.
- 2.2 In terms of s202A(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 Head of Legal and Property Services carried out a review and consultation on the Byelaws between 18 December 2020 and 6 February 2021 in which Police Scotland; the Crown and Prosecutor Fiscal Service; Community Councils; Members of the Inverclyde Licensing Board; HSCP and Inverclyde Alcohol Forum were consulted. Police Scotland has confirmed that the Byelaws are still appropriate but has requested that the boundary is extended to cover the entire area of Inverclyde.
- 2.4 The byelaws are intended to cover public places. Therefore it is considered that the byelaws be extended to cover areas where housing developments have been built, or where planning permission has been granted for developments to be built, since 2010. The areas not presently covered, but which it is considered should be covered by the Byelaws, include Spango Valley and James Watt Dock in Greenock; Adamston Way in Port Glasgow; the former power station site in Inverkip; and the southern boundary of Quarriers Village. The aforementioned areas are more particularly set out in paragraph 5.2 and are highlighted in blue on the plans forming Appendix 2.

## 3.0 RECOMMENDATION

- 3.1 It is recommended that the Council notes the outcome of the first stage of the consultation process in connection with the Byelaws; and

3.2 It is recommended that the Council approves the extension of the boundaries of the byelaws to include the areas highlighted in blue on the Plans within Appendix 2 to this report, and authorises the Interim Head of Legal Services to : -

i ) arrange for the existing Byelaws to be amended as set out in paragraph 5.2 of the report ;

ii ) send a copy of the proposed amended byelaws to the Scottish Government for comment ;

iii ) conduct a further public consultation on the proposed amended byelaws by advertising the intention to apply to the Scottish Ministers for confirmation of the byelaws ;and

iv) revert to the Council with a report on the outcome of the further public consultation for approval prior to applying to the Scottish Ministers for confirmation.

**Anne Sinclair**  
**Interim Head of Legal 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.
- 4.3 In terms of s202A 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 existing byelaws will remain in force until amended or revoked.
- 4.4 The Head of Legal and Property Services carried out a review and consultation between 18 December 2020 and 6 February 2021 in respect of which Interested parties were consulted including Police Scotland; the Crown and Procurator Fiscal Service; Community Councils; Members of the Inverclyde Licensing Board; HSCP and the Inverclyde Alcohol Forum. Only two responses were received in relation to the consultation, an e-mail response from one of the Licensing Board Members and a letter from Police Scotland dated 8 February 2021. A copy of the said responses are set out in Appendix 3.
- 4.5 Further to the review/consultation, Police Scotland confirmed in its response that the byelaws are still fit for purpose and appropriate however requested that the byelaws be extended to cover the entirety of the Inverclyde area.
- 4.6 This is not possible given that Scottish Government guidance clearly states that byelaws prohibiting the consumption of alcohol should not cover entire local authority areas. The byelaws are intended to cover public places. Subsequent e-mail communication from Police Scotland has confirmed that the proposed extension to the existing plans as set out in paragraph 5.2 below is satisfactory.

## **5.0 PROPOSALS**

- 5.1 Therefore, following the initial consultation, the recommendation is that the byelaws be extended to cover areas where housing developments have been built, or where planning permission has been granted for developments to be built, since 2010. In particular it is proposed to extend the boundaries of the byelaws to areas highlighted in blue on the Plans forming Appendix 2.
- 5.2 For ease of reference, it is proposed the undernoted plans are extended as follows :
- Plan 1 ( Kilmacolm / Quarriers Village ) – proposed extension to cover the southern boundary site in Quarriers Village ;
- Plan 2 ( Port Glasgow ) –proposed extension to cover Adamston Way
- Plan 3 (Greenock ) – proposed extension to cover James Watt Dock;

Plan 4 ( Greenock ) – proposed extension to cover Spango Valley;

Plan 5 (Inverkip / Wemyss Bay) – proposed extension to cover the former power station site in Inverkip and part of the Wemyss Bay beach.

- 5.3 The process for amending the current alcohol byelaws is the same as the process for applying for a new byelaw prohibiting the consumption of alcohol in a public place. In terms of s202 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 the Act, which includes consulting with the Police and 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. As set in paragraph 4.5 Police Scotland has responded to the initial consultation however there has been no response from the Procurator Fiscal.
- 5.4 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 can amend the byelaws and submit these to the Scottish Government for confirmation by the Scottish Ministers. Enforcement of the Byelaw will be the responsibility of the Police.

## 6.0 IMPLICATIONS

### Finance

- 6.1 There are no financial implications at this stage.

### Legal

- 6.2 The Legal issues are contained within this report.

### Human Resources

- 6.3 There are no HR implications arising as a result of this report.

### Equalities

- 6.4 Equalities

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

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

Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO

**Repopulation**

6.5 There are no repopulation implications arising from this report.

**7.0 CONSULTATIONS**

7.1 There has been consultation with Police Scotland; the Crown and Prosecutor Fiscal Service; Community Councils; Elected Members; HSCP and Inverclyde Alcohol Forum.

**8.0 LIST OF BACK GROUND PAPERS**

8.1 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.

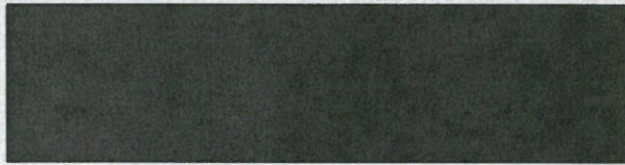
Given under the common seal of the Inverclyde Council and subscribed for them and on their behalf by Howard Robertson McNeilly, Proper Officer, all at Greenock on the Seventh day of October, Two thousand and ten.



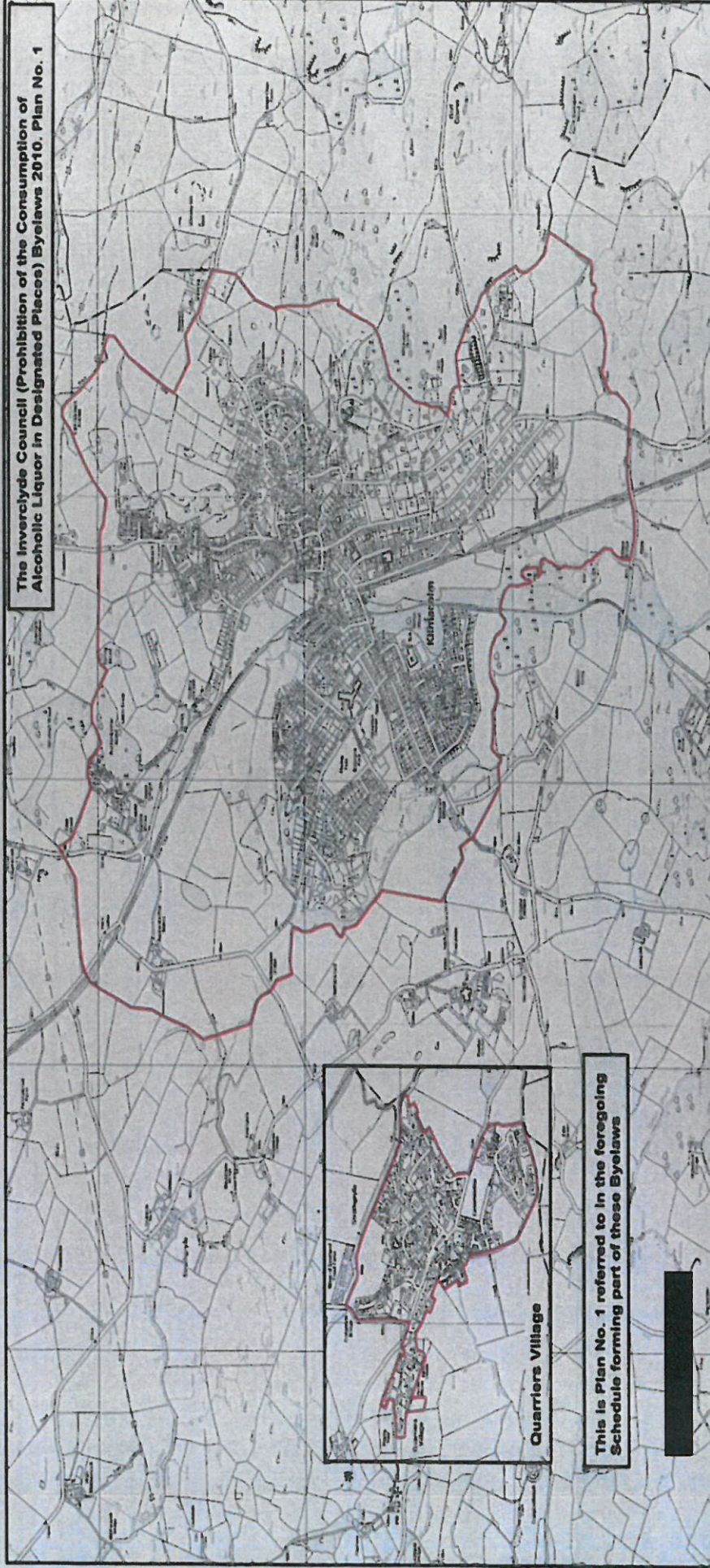
## SCHEDULE

### 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) 2010. Plan No. 1**



**Quarriers Village**

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

**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  
Planning & Housing**

**SCALE 1:10,000  
Drg. No. 12/465  
GMCC NOV 09**

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

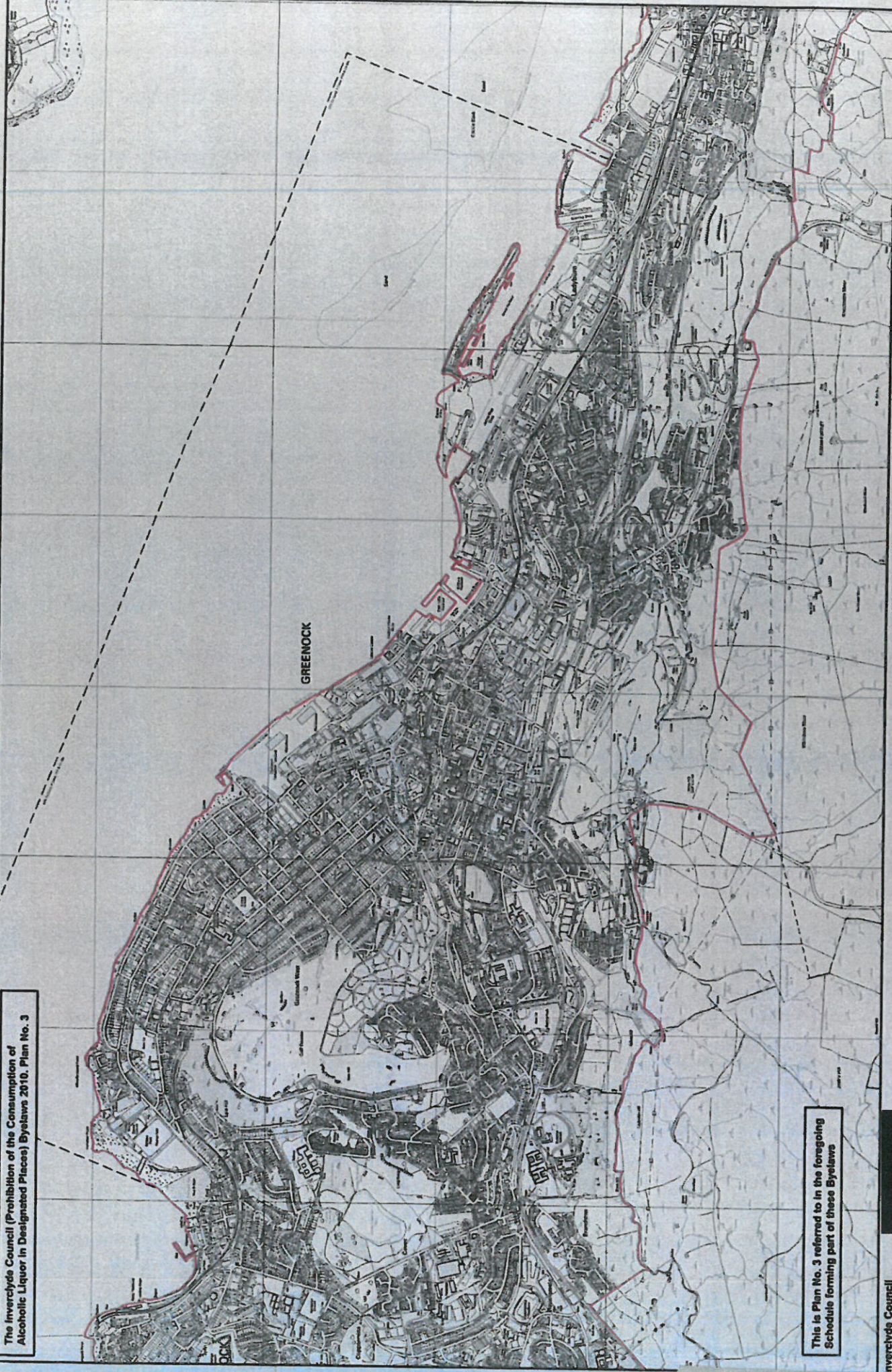
GREENOCK

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

Inverclyde Council  
Regeneration & Planning

SCALE 1:10,000  
Dwg. No. I2/486  
GMSCC APR 10

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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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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

Wemyss Bay

Wemyss Bay

Inverclyde Council  
Planning & Housing

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GMCC NOV 09

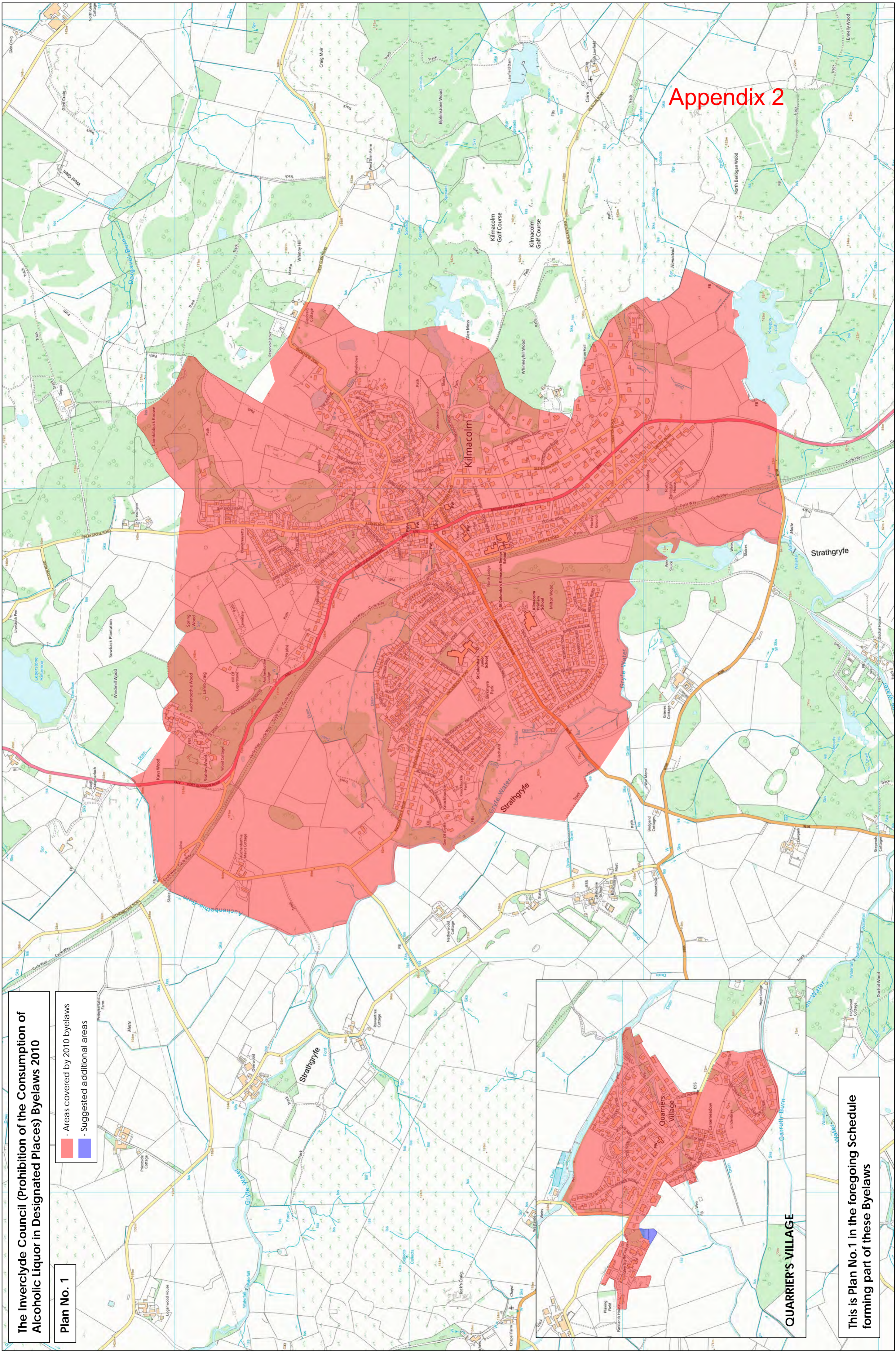
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**The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010**

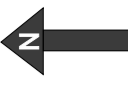
**Plan No. 1**

- Areas covered by 2010 byelaws
- Suggested additional areas

Appendix 2



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





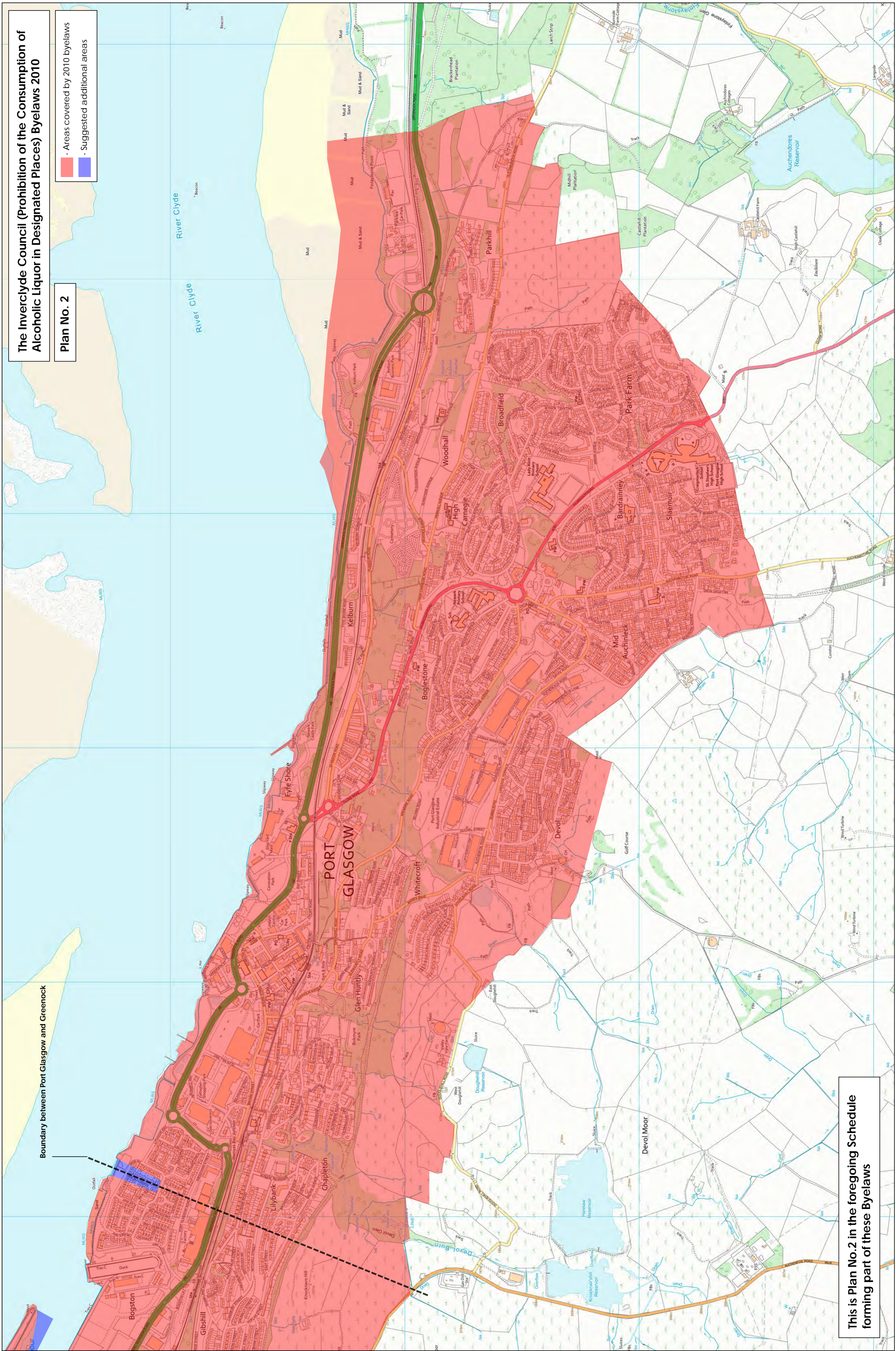
# The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010

## Plan No. 2

- Areas covered by 2010 byelaws
- Suggested additional areas

Boundary between Port Glasgow and Greenock

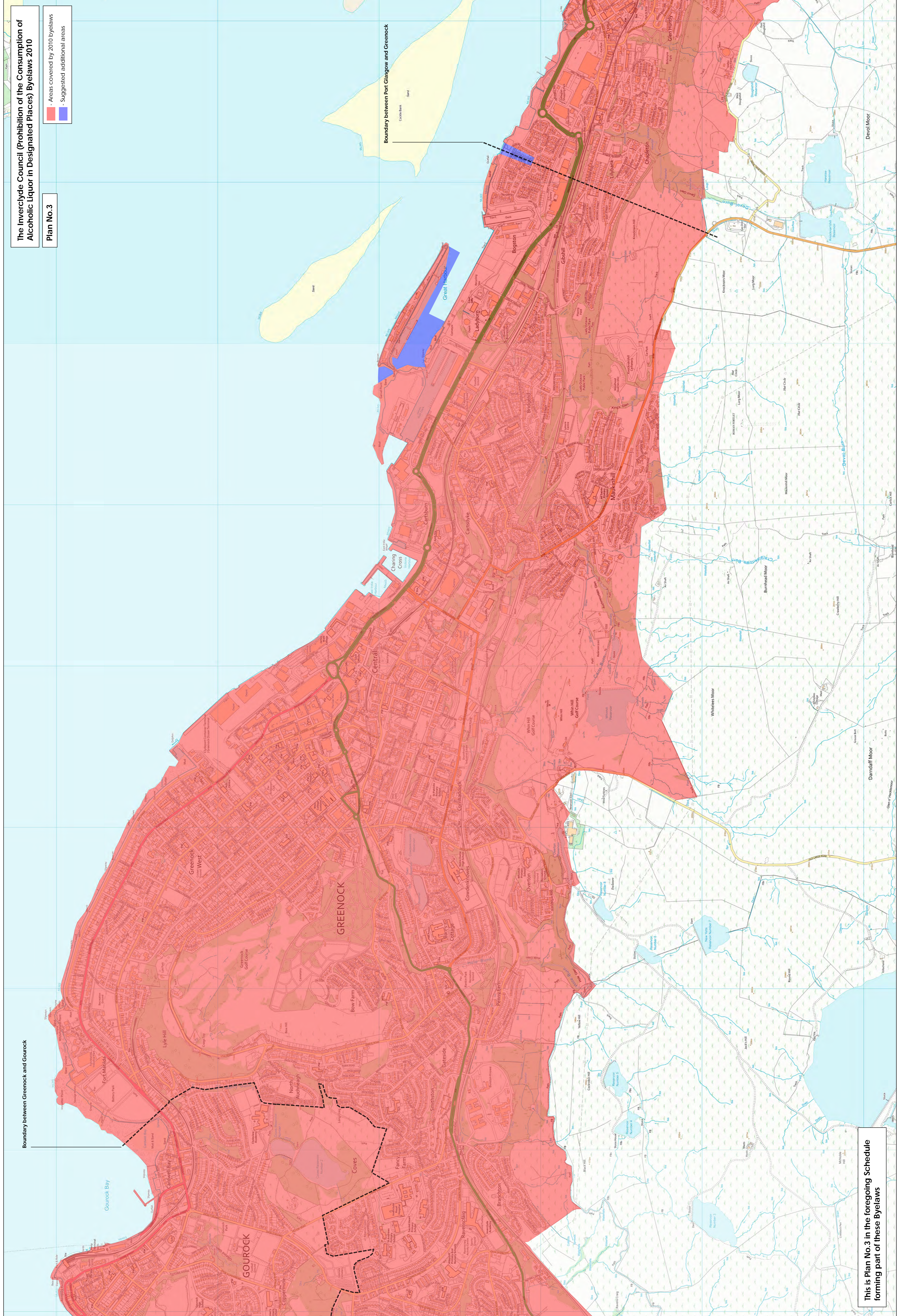
This is Plan No.2 in the foregoing Schedule forming part of these Byelaws



The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010

Plan No.3

- Areas covered by 2010 byelaws
- Suggested additional areas



Boundary between Greenock and Gourock

Boundary between Port Glasgow and Greenock

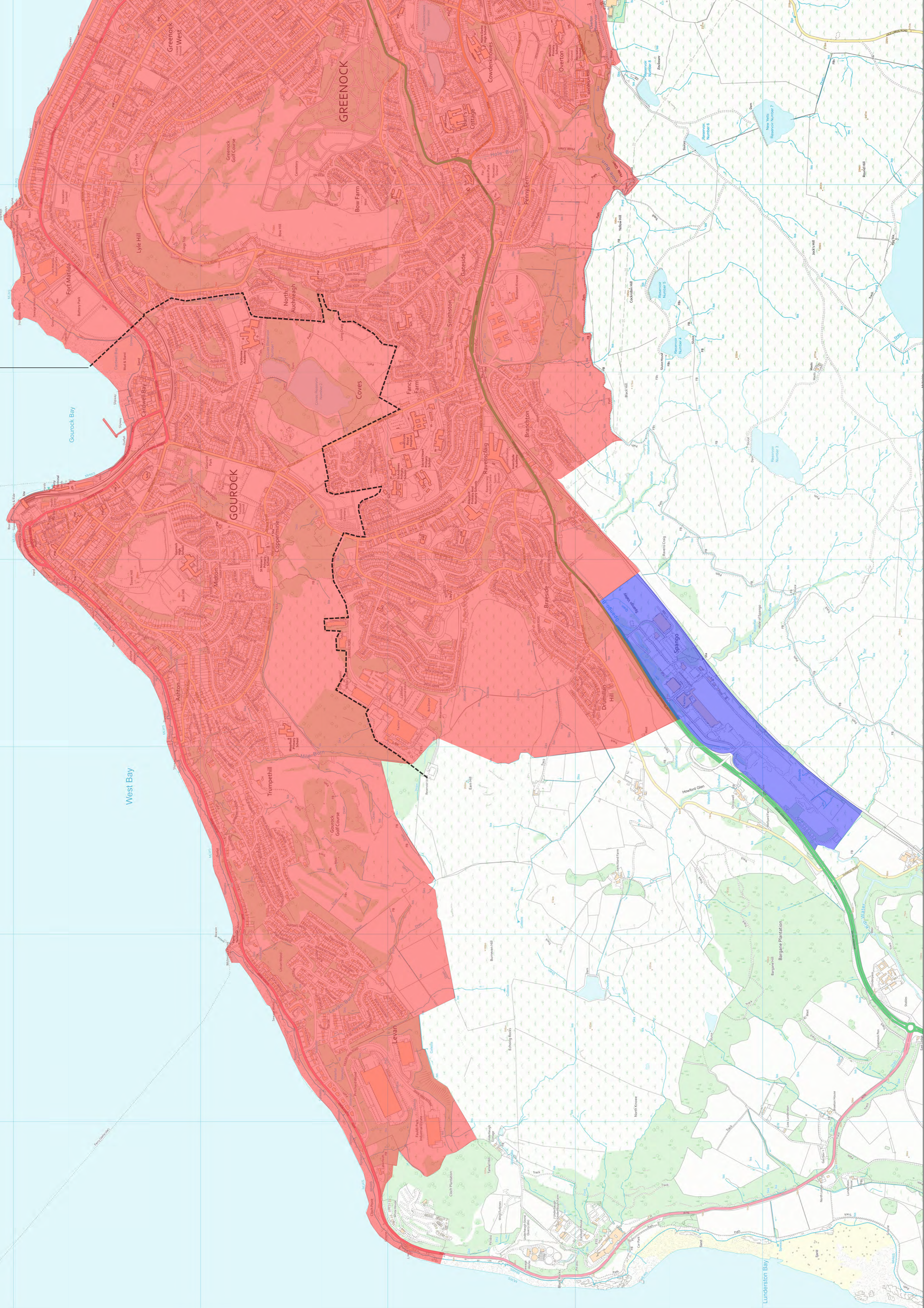
This is Plan No.3 in the foregoing Schedule forming part of these Byelaws

The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010

Plan No.4

- Areas covered by 2010 byelaws
- Suggested additional areas

Boundary between Greenock and Gourock



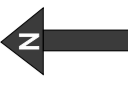
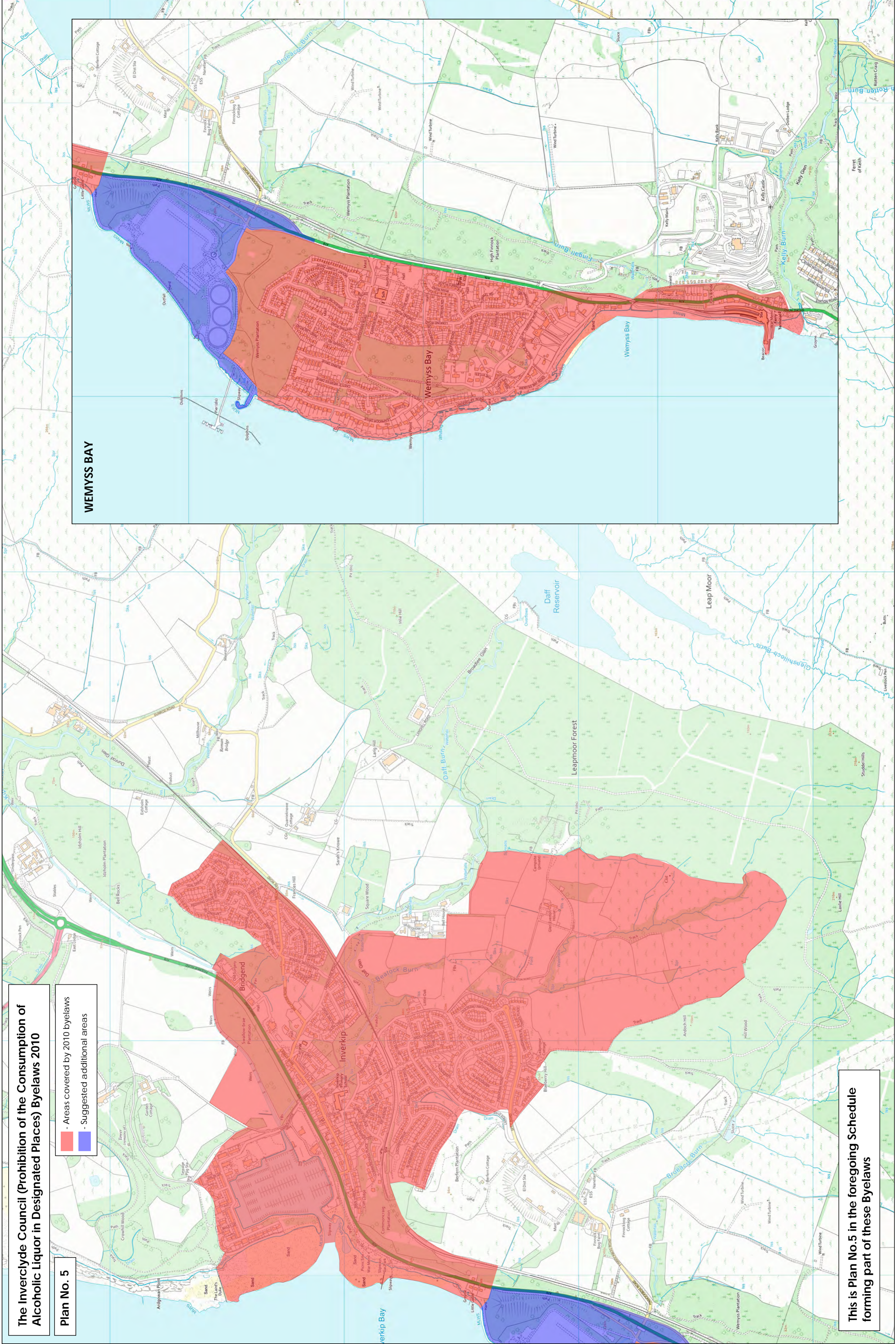
This is Plan No.4 in the foregoing Schedule forming part of these Byelaws

**The Inverclyde Council (Prohibition of the Consumption of Alcoholic Liquor in Designated Places) Byelaws 2010**

**Plan No. 5**

- Areas covered by 2010 byelaws
- Suggested additional areas

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



NOT PROTECTIVELY MARKED

Date-08/02/2021

Your Ref :AS/KB

Our Ref:DHQ-01-02/2021-AH



**POLICE  
SCOTLAND**  
Keeping people safe

Mr G Malone  
Head of Legal & Property Services  
Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Police Scotland  
Paisley Police Office  
Mill street  
Paisley  
PA1 1JU  
Tel: 01415325900

Dear Mr Malone,

Thank you for your recent correspondence, dated 8 December 2020, in relation to the review of the Inverclyde Council (Prohibition of Alcohol in Designated Public Places) Byelaws 2010.

I can confirm that having read the existing byelaws which came into operation on 20 December 2010 that I believe that there still relevant and necessary to protect the communities of Inverclyde.

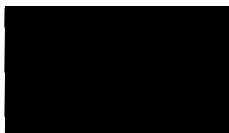
Since 2010 this legislation has been utilised by police officers on 5881 occasions within the boundaries of the current parameters. This demonstrates the effectiveness of the legislation which assists us greatly when dealing with anti-social behaviour.

After consultation with the Local Area Commander for Inverclyde, Chief Inspector Paul Cameron, we are of the united opinion that the byelaws should be amended to include the entirety of the Inverclyde area.

Yours sincerely

NOT PROTECTIVELY MARKED

**OFFICIAL  
NOT PROTECTIVELY MARKED**



Mr D Duncan  
Divisional Commander  
'K' Division  
Paisley Police office  
Mill Street  
Paisley  
PA1 1JU

**NOT PROTECTIVELY MARKED**

## Anne Sinclair

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**From:** Cllr John Crowther  
**Sent:** 04 February 2021 21:35  
**To:** Anne Sinclair  
**Subject:** FW: (No Classification) Review of The Inverclyde Council (Prohibition of Alcohol in Designated Public Places) Byelaws 2010

Classification: No Classification

Good evening Anne,

I had previously raised an issue about boundaries per subject heading which was addressed by Gerard Malone.

The only other comment that I can make is that common sense/discretion prevails in respect of...

Application 2 "These bylaws shall not apply

(b) on 01 January until 06 am

And, provided that no crime is being committed that there is a leeway to allow revellers to continue on their journey home.

I am not suggesting that the time should be increased however I am well aware that many parties are still ongoing at 06.00 hrs.

Kind regards,

Cllr. John Crowther  
Ward 7 – Inverclyde South  
Municipal Buildings  
Inverclyde  
PA15 1LY

Email: John.Crowther@inverclyde.gov.uk  
Tel: 07768 868 500

**From:** Gerard Malone  
**Sent:** 03 December 2020 11:37  
**To:** Cllr John Crowther <John.Crowther@inverclyde.gov.uk>; Anne Sinclair <Anne.Sinclair@inverclyde.gov.uk>  
**Cc:** Rona McGhee <Rona.McGhee@inverclyde.gov.uk>  
**Subject:** RE: (No Classification) Inverclyde Council Meeting: 03 December 2020

Classification: No Classification

John

Thank you. Yes, you are absolutely correct, as paragraph 4.7 of the report says "it is also necessary to establish if the boundary of the...plan requires to be expanded to include, for example, areas where future planning permission has been granted".

The areas you mention at Spango and at Inverkip power station are foremost in my mind. These will be captured in the consultation process.

The area at Kingston is a necessary, existing update to be made and as you will appreciate this will be incorporated in the revision but in the general public interest this is a matter that can be dealt with by officers

Regards

Gerard

Gerard Malone  
Head of Legal and Property Services  
Environment, Regeneration and Resources  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LY

TelNo: 01475 71 2710  
email: [gerard.malone@inverclyde.gov.uk](mailto:gerard.malone@inverclyde.gov.uk)

**From:** Cllr John Crowther

**Sent:** 03 December 2020 11:20

**To:** Gerard Malone <[Gerard.Malone@inverclyde.gov.uk](mailto:Gerard.Malone@inverclyde.gov.uk)>; Anne Sinclair <[Anne.Sinclair@inverclyde.gov.uk](mailto:Anne.Sinclair@inverclyde.gov.uk)>

**Subject:** (No Classification) Inverclyde Council Meeting: 03 December 2020

Classification: No Classification

Good morning Anne / Gerard,

For your information.

Agenda Item No. 12: "Review of The Inverclyde Council (Prohibition of Alcohol in Designated Public Places) Byelaws 2010"

I note that Plan No. 2: Port Glasgow requires to be updated due to housing construction at Kingston Dock. The current map shows the boundary skirting around the infilled Kingston Basin which now has houses built on it.

Should the area subject to this byelaw, as delineated in red, include the land which has been reclaimed from the river i.e. down to low water mark on a mean spring tide along the full length of the Kingston Dock housing development?

Questions may also be raised about Plan No. 4. as to consideration being given to extending this to cover potential new-build house construction at Spango Valley plus the recreational area at Lunderston Bay plus Plan 5 to cover potential new-build house construction at the former Inverkip Power Station site.

Kind regards,

Cllr. John Crowther  
Ward 7 – Inverclyde South  
Municipal Buildings  
Inverclyde  
PA15 1LY

Email: [John.Crowther@inverclyde.gov.uk](mailto:John.Crowther@inverclyde.gov.uk)

Tel: 07768 868 500