
Report To:	Inverclyde Council	Date:	21 April 2022
Report By:	Head of Legal and Democratic Services	Report No:	LS/028/22
Contact Officer:	Anne Sinclair	Contact No:	01475 712034
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 update the Council on the outcome of the second public consultation process undertaken by the Interim Head of Legal and Democratic 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 the making of The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021 and thereafter submitting same to the Scottish Ministers for confirmation.

2.0 SUMMARY

- 2.1 Following confirmation by the Scottish Ministers, The Inverclyde Council (Prohibition of Consumption of Alcohol in Designated Public Places) Byelaws 2010 ("the 2010 Byelaws") came into operation on 20 December 2010. A copy of the 2010 Byelaws are attached as Appendix 1.
- 2.2 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 any byelaws, review the said byelaws and do so thereafter at intervals of not more than 10 years. The Interim Head of Legal and Democratic Services therefore carried out a review and consultation on the 2010 Byelaws between 18 December 2020 and 6 February 2021. The outcome of this consultation was reported to the Inverclyde Council on [10 June 2021](#). Following this, it was agreed that the coverage of the 2010 Byelaws should be extended, with the Interim Head of Legal and Democratic Services being authorised to take the necessary action, including conducting a further public consultation on the proposed amended Byelaws and reporting back to the Council on the outcome of the consultation for approval, prior to applying to the Scottish Ministers for confirmation of the amended Byelaws.
- 2.3 The proposed amendment byelaws titled The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021 have the effect of amending the 2010 Byelaws to extend the coverage to areas where housing developments have been built, or where planning permission has been granted for developments to be built, since 2010. These areas include Spango Valley and James Watt Dock in Greenock; the former power station site in Inverkip; Adamston Way in Port Glasgow and the southern boundary of Quarriers Village. A copy of the proposed 2021 Byelaws and maps showing the extended areas are attached as Appendix 2.

2.4 The Interim Head of Legal and Democratic Services carried out a second public consultation, advertising the Council's intention to make the proposed 2021 Byelaws and to thereafter apply to the Scottish Ministers for confirmation of same. The consultation ran from 17 December 2021 to 31 January 2022. Any objections were to be addressed to the Scottish Ministers before 31 January 2022. At the end of this second consultation period, no responses or objections were received by the Scottish Ministers.

3.0 RECOMMENDATION

3.1 It is recommended that the Inverclyde Council:

- (a) Notes the outcome of the second stage of the consultation process in connection with the The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021; and
- (b) Delegates authority to the Head of Legal and Democratic Services to make The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021 and thereafter submit same to the Scottish Ministers for confirmation in terms of sections 201, 202 and 203 of the Local Government (Scotland) Act 1973.

Iain Strachan
Head of Legal and Democratic Services

4.0 BACKGROUND

- 4.1 The Inverclyde Council (Prohibition of Consumption of Alcohol in Designated Public Places) Byelaws 2010 (the “2010 Byelaws”) were confirmed by the Scottish Ministers as coming into force on 20 December 2010.
- 4.2 The 2010 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 2010 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 2010 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 2010 Byelaws.
- 4.3 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 any byelaws, review the said byelaws and do so thereafter at intervals of not more than 10 years.
- 4.4 The Interim Head of Legal and Democratic 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; the Inverclyde Health & Social Care Partnership and the Inverclyde Alcohol Forum.
- 4.5 Further to the initial consultation, Police Scotland confirmed that the 2010 Byelaws are still fit for purpose and appropriate however requested that the 2010 Byelaws be extended to cover the entirety of the Inverclyde area. This is not possible given that Scottish Government [guidance](#) clearly states that byelaws prohibiting the consumption of alcohol in public places should not cover an entire local authority area.
- 4.6 Further to the initial consultation, and upon approval of the Inverclyde Council on 10 June 2021, the proposed 2021 Byelaws were drafted which have the effect of extending the 2010 Byelaw coverage to areas where housing developments have been built, or where planning permission has been granted for developments to be built, since 2010. The 2021 Byelaws extend the 2010 Byelaws to cover: 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 highlighted in blue on the plans forming Appendix 2.
- 4.7 Prior to undertaking the second public consultation, the Interim Head of Legal and Democratic Services forwarded a copy of the proposed 2021 Byelaw plans to the Scottish Ministers for their comment on the proposed amendments. The Scottish Ministers advised the Interim Head of Legal and Democratic Services in August 2021 that they were content for the Council to move on to the next stage.
- 4.8 The Interim Head of Legal and Democratic Services carried out a second public consultation, from 17 December 2021 to 31 January 2022, advertising the Council’s intention to make the proposed 2021 Byelaws and to thereafter apply to the Scottish Ministers for confirmation of same. A copy of the 2010 and 2021 Byelaws with accompanying maps were made available to the public for inspection. At the end of this consultation period, no objections or responses were received. With the approval of the Inverclyde Council, the 2021 Byelaws can now be made by the Head of Legal and Democratic Services and submitted to the Scottish Ministers

for confirmation.

- 4.9 Once the Byelaws are submitted to the Scottish Ministers for confirmation, the Scottish Ministers will decide whether or not to confirm the Byelaws, with or without modification, and will fix a date from which the Byelaws will come into force. If a date is not set, the Byelaws will come into force one month from the date of confirmation. The Head of Legal and Democratic Services will, as soon as practicable after receiving intimation of the confirmation of the Byelaws, publish a public notice in this connection in a local newspaper and on the Council's website. A copy of the Byelaws will be made available for public inspection at the Customer Service Centre, Municipal Buildings, Greenock and on the Council's website. Enforcement of the Byelaws will continue to be the responsibility of Police Scotland.

5.0 IMPLICATIONS

Finance

- 5.1 There are no financial implications at this stage.

Legal

- 5.2 The legal considerations are contained within this report.

Human Resources

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

Equalities

- 5.4 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

5.5 There are no repopulation implications arising from this report.

6.0 CONSULTATIONS

6.1 There has been consultation with Police Scotland; the Crown and Prosecutor Fiscal Service; Community Councils; Elected Members; Inverclyde Health & Social Care Partnership and Inverclyde Alcohol Forum.

7.0 LIST OF BACK GROUND PAPERS

7.1 None.

**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.



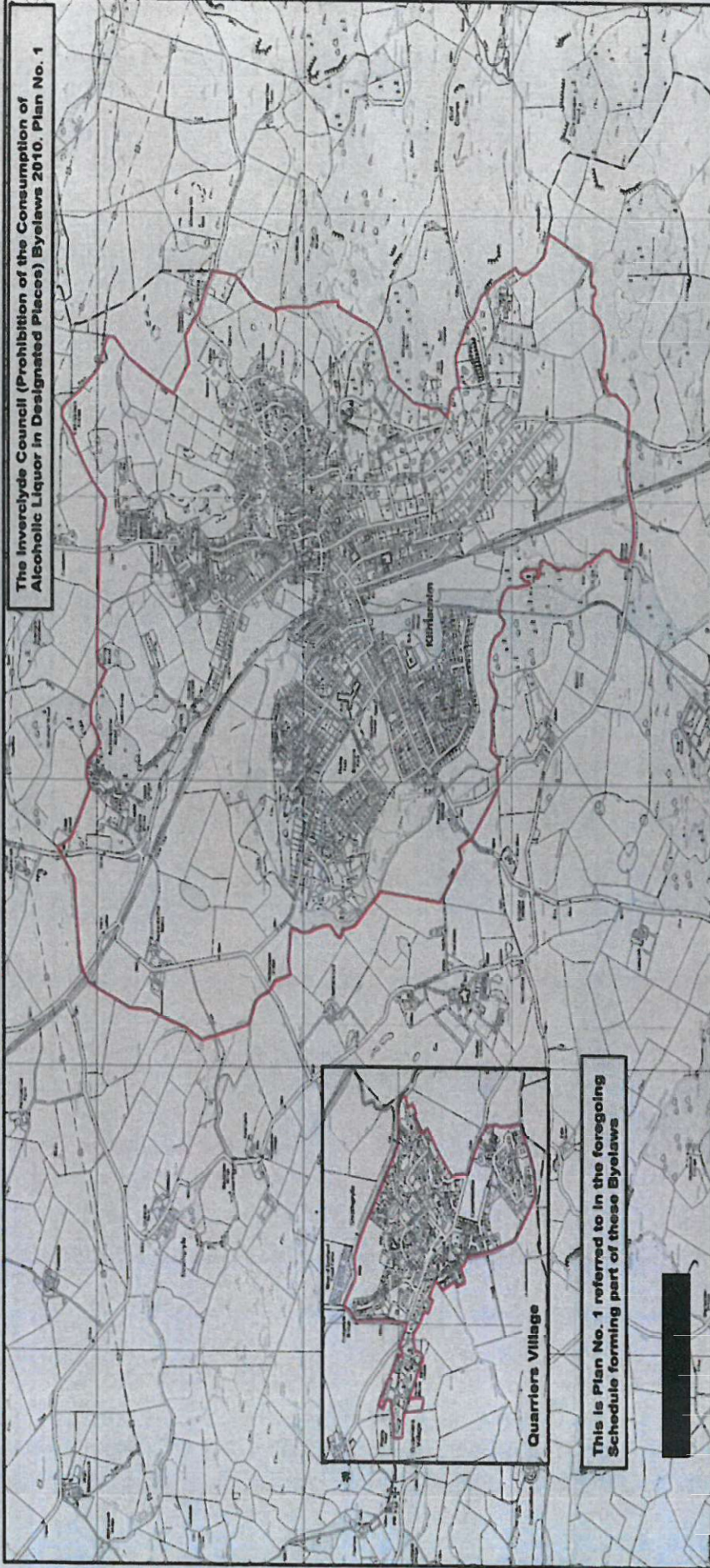
SCHEDULE

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



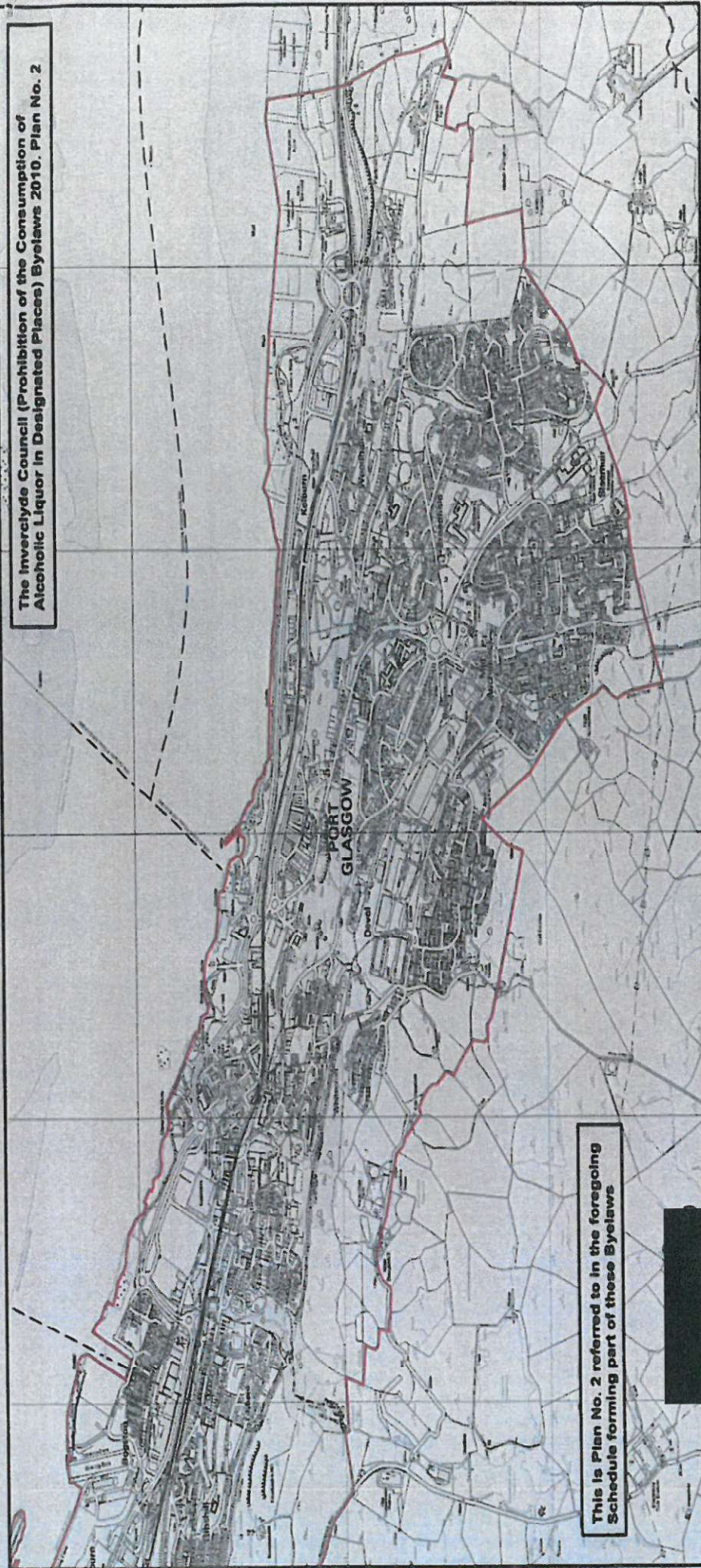
**Inverclyde Council
Planning & Housing**

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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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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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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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THE INVERCLYDE COUNCIL
(PROHIBITION OF CONSUMPTION OF ALCOHOLIC LIQUOR IN DESIGNATED PLACES) (AMENDMENT) BYELAWS 2021

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:-

CITATION AND INTERPRETATION

- 1 (1) These byelaws may be cited as The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021.
- 1 (2) In these byelaws “the principal byelaws” means the byelaws made by the Council on 7 October 2010 and confirmed by the Secretary of State for Scotland on 24 November 2010, prohibiting the consumption of alcohol in designated places.

AMENDMENT OF PRINCIPAL BYELAWS



- 2 (1) The principal byelaws are amended as follows:-
- 2 (2) Plan Nos 1-5 as attached to the principal byelaws are hereby revoked and Plan Nos 1-5 as attached hereto are substituted therefor.

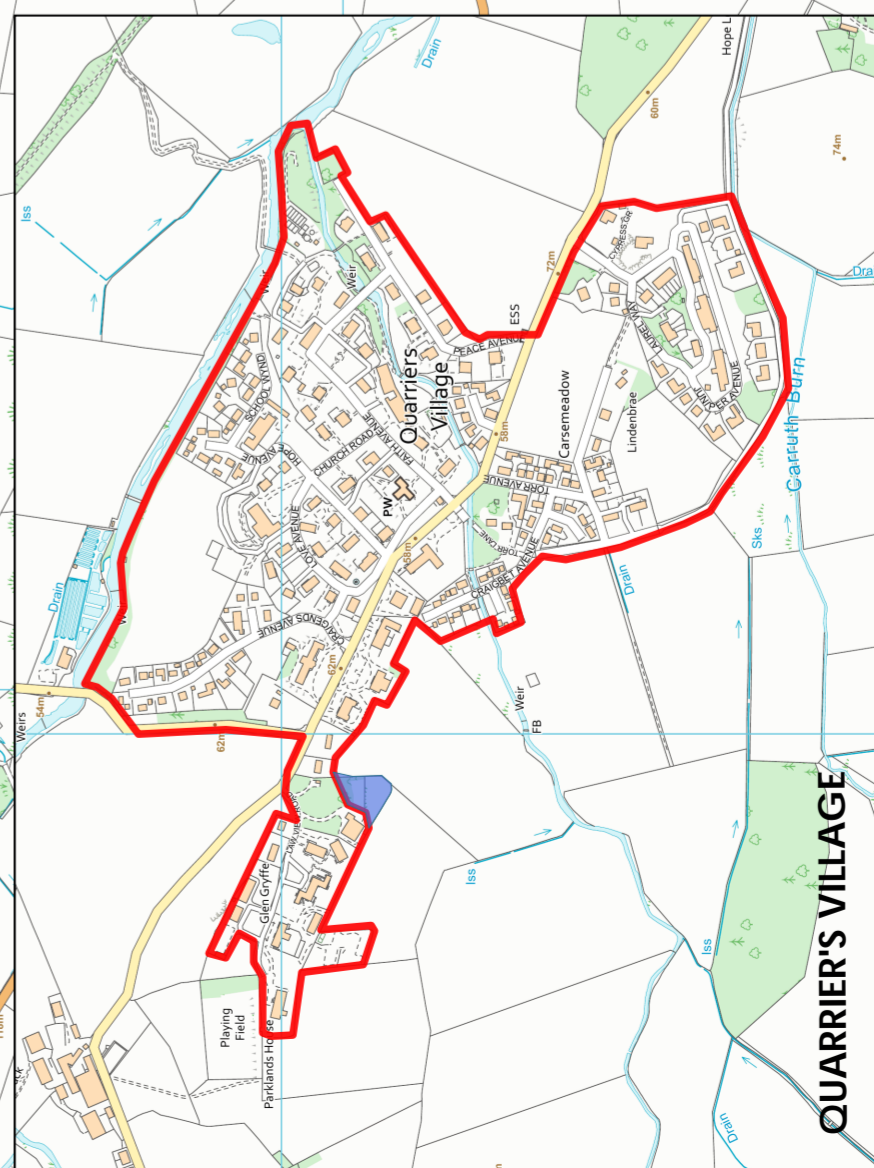
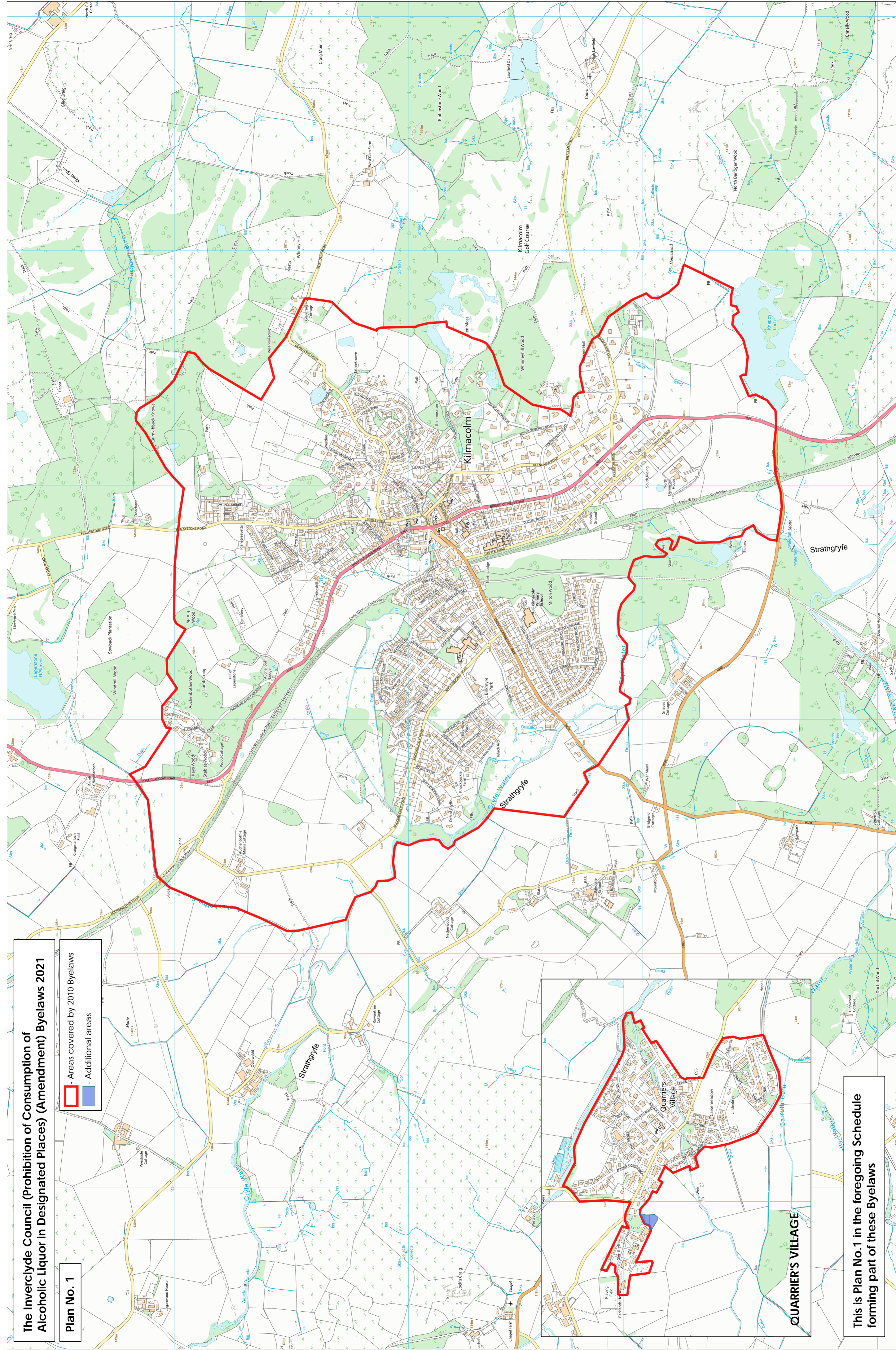
Proper Officer Signature.....

Date.....

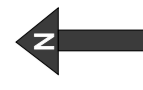
The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021

Plan No. 1

-  - Areas covered by 2010 Byelaws
-  - Additional areas



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



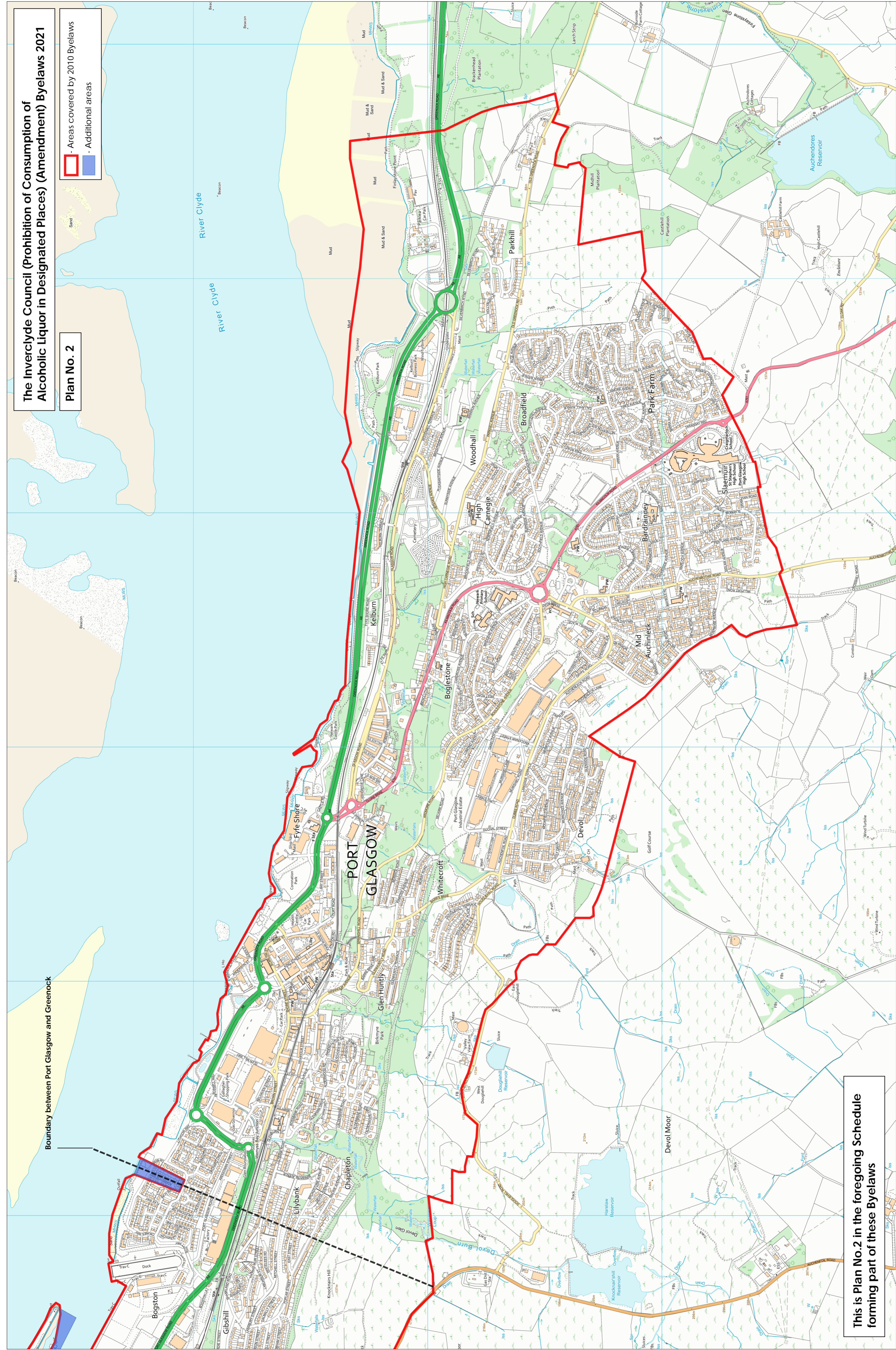
The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021

Plan No. 2

- Areas covered by 2010 Byelaws
- Additional areas

Boundary between Port Glasgow and Greenock

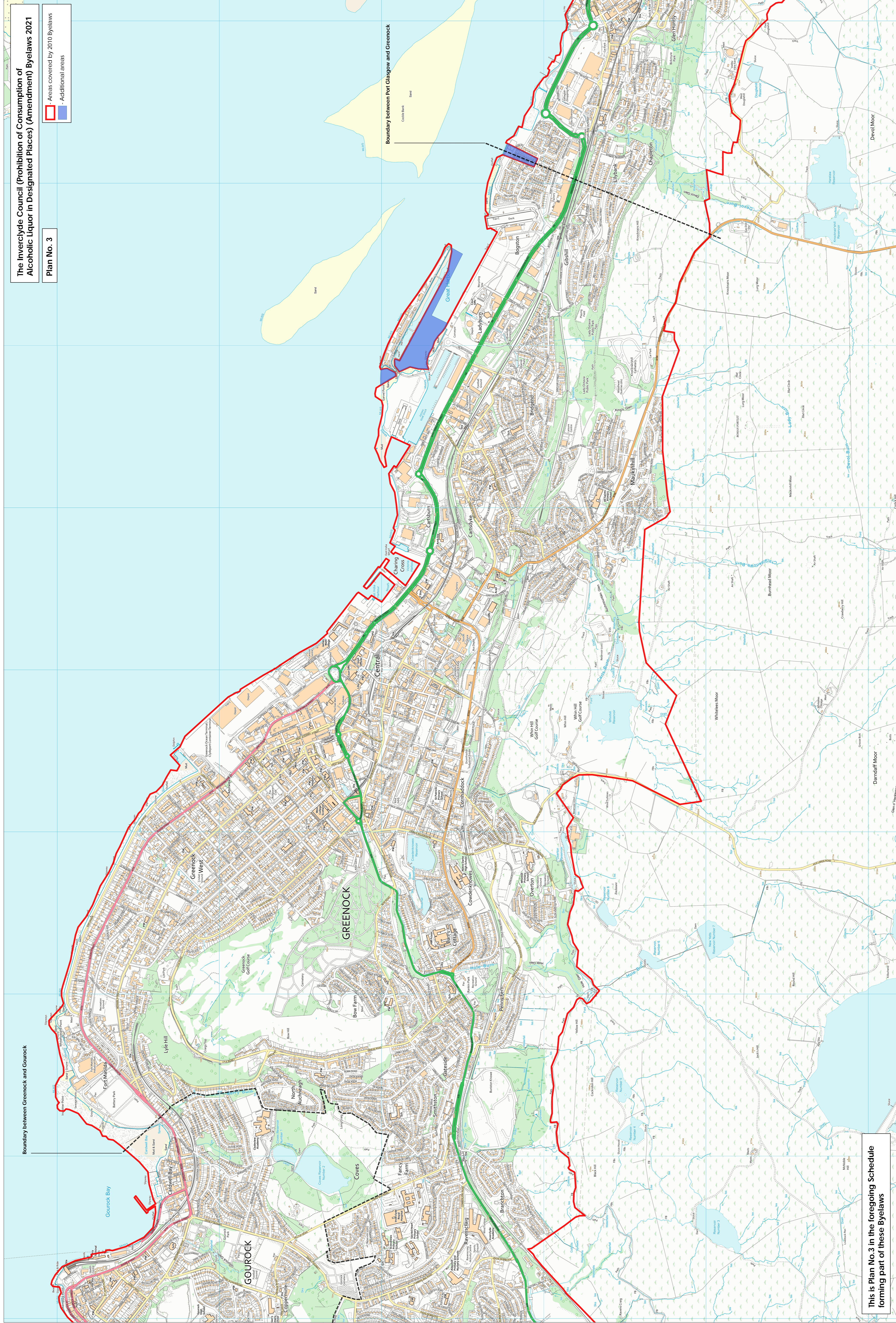
This is Plan No.2 in the foregoing Schedule forming part of these Byelaws



The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021

Plan No. 3

- Areas covered by 2010 Byelaws
- Additional areas



Boundary between Greenock and Gourock

Boundary between Port Glasgow and Greenock

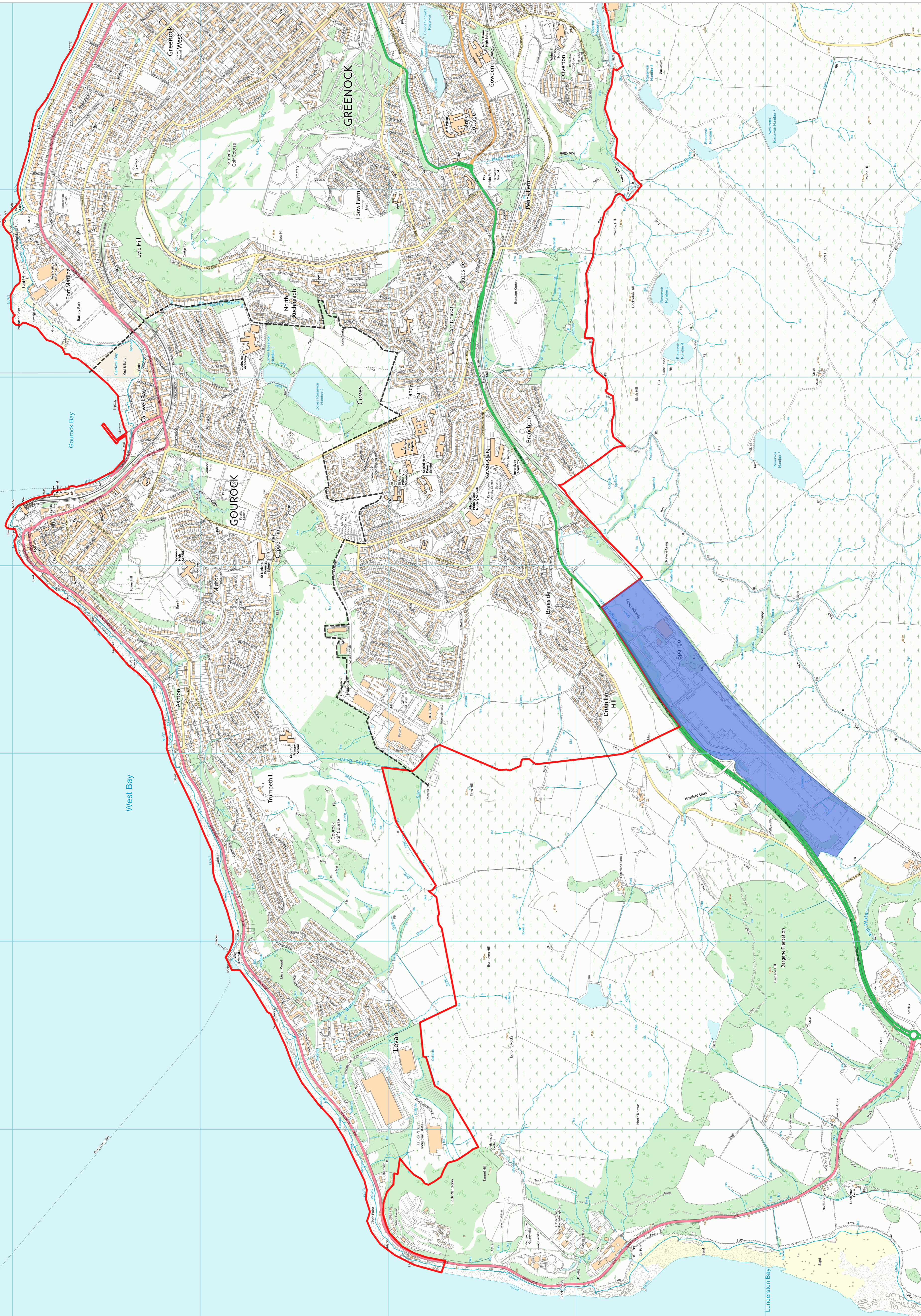
This is Plan No.3 in the foregoing Schedule forming part of these Byelaws

The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021

Plan No. 4

- Areas covered by 2010 Byelaws
- Additional areas

Boundary between Greenock and Gourock





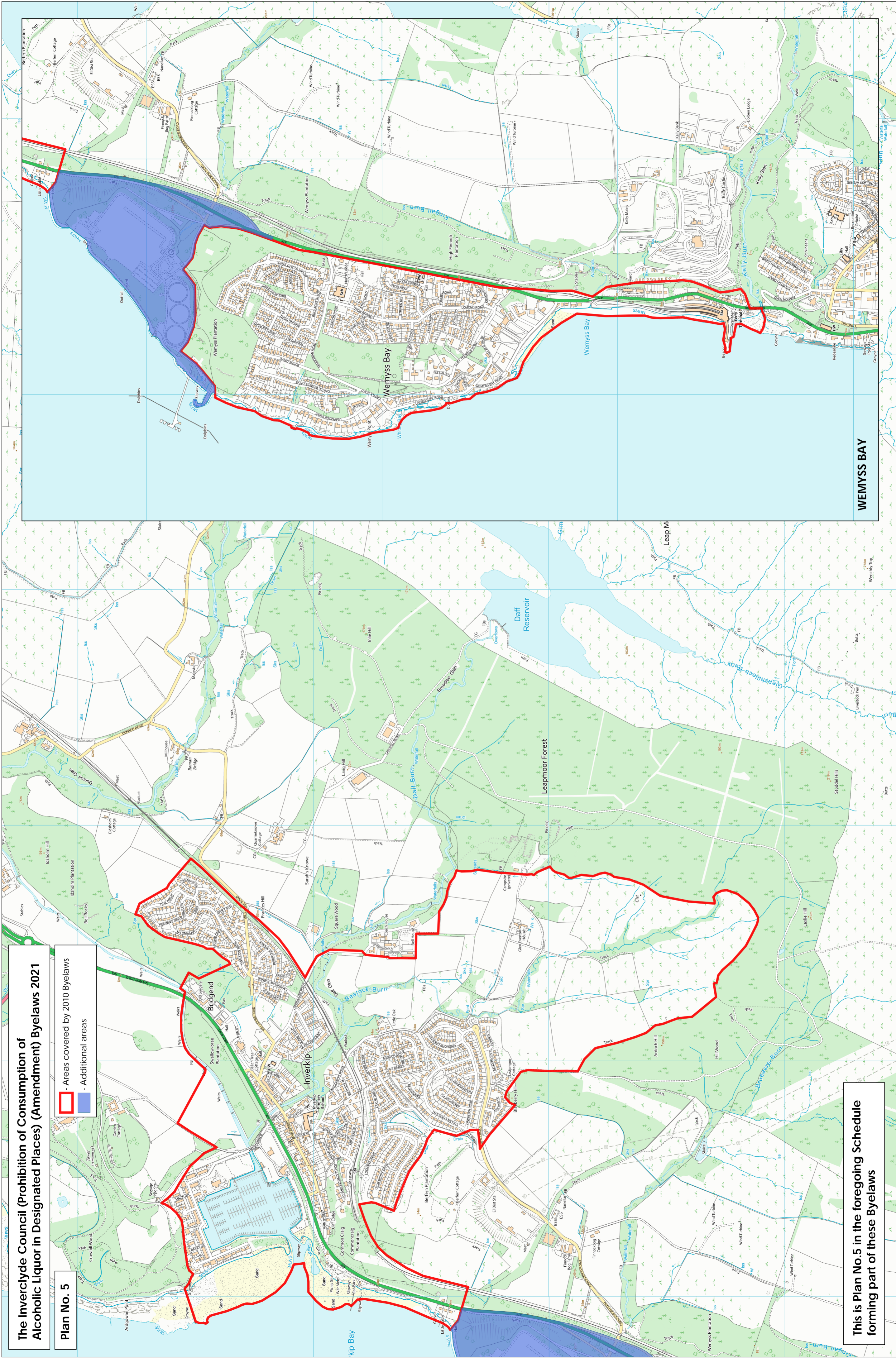
This is Plan No. 4 in the foregoing Schedule forming part of these Byelaws



The Inverclyde Council (Prohibition of Consumption of Alcoholic Liquor in Designated Places) (Amendment) Byelaws 2021

Plan No. 5

-  - Areas covered by 2010 Byelaws
-  - Additional areas



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

WEMYSS BAY

