

## PART 2 ALCOHOL CONTROL

### 16. Purpose

16.1. This part of the bylaw is made under the authority of section 147 of the Local Government Act 2002 (the Act) which gives Council a specific power to make bylaws for alcohol control purposes.

16.2. The purpose of this part of the bylaw is to prohibit and control the consumption or possession of alcohol in specified public places for the purposes of:

- (a) Minimising harm caused by excessive or inappropriate consumption of alcohol.
- (b) Protecting the public from nuisance.
- (c) Protecting, promoting, and maintaining public health and safety.
- (d) Minimising the potential for offensive behaviour in public places.

### 17. Scope

17.1. This bylaw shall apply to the prohibition and control of alcohol in public places that are located within the areas specified and mapped in **Schedule A**.

17.2. The bylaw is subject to, and should be read in conjunction with, the Local Government Act 2002 and the Sale and Supply of Alcohol Act 2012.

### 18. Definitions

18.1. For the purposes of this bylaw, unless the context requires otherwise, the following definitions apply:

<b>Alcohol</b>	Has the same meaning given to it by section 5(1) of the Sale and Supply of Alcohol Act 2012.
<b>Hours of Darkness</b>	A period of time between half an hour after sunset on one day and half an hour before sunrise on the next day.
<b>Offence</b>	Means a breach of an alcohol control areas or alcohol bans as created by this bylaw. Breaches of alcohol control areas or alcohol bans are outlined under s239A of the Act.
<b>Specified Period</b>	A period specified in <b>Schedule A</b> of this part of the bylaw, and in respect of which the prohibitions and controls in this bylaw will apply at any specified public place.
<b>Specified Public Place</b>	A place specified in <b>Schedule A</b> of this bylaw, and in respect of which the prohibitions and controls in this bylaw will apply at any specified time, day or event. It does not include any part of a public place for which a licence has been issued under the Sale and Supply of Alcohol Act 2012.

## 19. Prohibited Acts

19.1. Subject to the exceptions listed in clause 21 of this bylaw the following actions are prohibited, during the specified period listed in **Schedule A**, within any specified public place as described in **Schedule A**:

- (a) The consumption of alcohol in a specified public place, or in a vehicle within a specified public place.
- (b) The bringing of alcohol into a specified public place.
- (c) The possession of alcohol in a specified public place, or in a vehicle within a specified public place.

## 20. Amendments to Specified Periods and/or Specified Public Places

20.1. Council may, through the special consultative procedure set out in sections 83 and 86 of the Act, amend this bylaw. Amendments may include:

- (a) Adding a specified public place in **Schedule A**.
- (b) Modifying the boundaries of a specified public place already contained in **Schedule A**.
- (c) Removing a specified public place from **Schedule A**.
- (d) Specifying additional periods and public places where the possession and/or consumption of alcohol is prohibited for example in relation to any planned public event, function or social gathering to be held in a public place.

## 21. Exceptions

### 21.1. Licensed Premises

21.1.1. As provided for in section 147(4) of the Act, this bylaw does not prohibit, regulate, or control in the case of alcohol in an unopened container:

- (a) The transport of the alcohol from licensed premises next to a public place, if it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place.
- (b) The transport of the alcohol from outside a public place for delivery to licensed premises next to the public place.
- (c) The transport of that alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
- (d) The transport of the alcohol from premises next to a public place to a place outside the public place if:
  - (i) The transport is undertaken by a resident of those premises; and
  - (ii) The alcohol is promptly removed from the public place.

- 21.1.2. In addition to this, this bylaw does not prohibit the possession and/or consumption of alcohol at any premises within a specified public place in compliance with a licence for the sale and/or consumption of alcohol under the Sale and Supply of Alcohol Act 2012. This includes footpath areas that are licensed as part of those premises and are clearly defined by the placement of tables and chairs outside those premises, and other areas, clearly defined and identified under an appropriate licence for an event or function at the time alcohol is being possessed or consumed.

## 21.2. Special Licences

- 21.2.1. This bylaw does not limit any individual or organisation (corporate or otherwise) from obtaining a Special Licence pursuant to the Sale and Supply of Alcohol Act 2012, for any event to be held in a specified public place.

## 21.3. Dispensations

- 21.3.1. The Chief Executive or other authorised officer may, on application by any person, grant a waiver, dispensation or licence to do or refrain from doing anything that would otherwise be in breach of this bylaw for the purpose of enabling possession and/or consumption of alcohol in a specified public place at any time.
- 21.3.2. In considering any such application, Council shall obtain and consider a response to the request from the Police, including any reason set out in that response.
- 21.3.3. Where any such waiver, dispensation or licence is granted Council shall:
- (a) Stipulate the specific time periods and locations associated with the event; and
  - (b) Give public notice via advertisement in a newspaper which is circulated in the affected area at least 7 days prior to the commencement of the waiver, dispensation or licence.
- 21.3.4. The applicant may be required to reimburse the costs associated with the public notice, processing the application and obtaining a Police response to the application.

## 22. Enforcement

- 22.1. Enforcement of this bylaw will be carried out by the Police as set out in sections 169 and 170 of the Local Government Act 2002, which has been summarised below.

## 22.2. Powers of Arrest, Search, and Seizure in Relation to Alcohol Control Areas or Alcohol Bans

22.2.1. A constable may, without warrant:

- (a) For the purpose of ascertaining whether alcohol is present, search:
  - (i) A container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place; or
  - (ii) A vehicle that is in, or is entering, a restricted place.
- (b) Seize and remove any alcohol (and its container) that is in a restricted place in breach of an alcohol control area or alcohol ban.
- (c) Arrest any person whom the constable finds committing an offence.
- (d) Arrest any person who has refused to comply with a request by a constable:
  - (i) To leave the restricted place; or
  - (ii) To surrender to a constable any alcohol that, in breach of an alcohol control area or alcohol ban, is in the person's possession.

22.2.2. Alcohol or a container seized under clause 22.2.1(b) is forfeited to the Crown unless the person is acquitted of an offence under the Act, then it may be collected by or on behalf of the person, or if the person is under 18 years of age by his or her parent or guardian, within 28 days.

## 22.3. Conditions relating to power of search

22.3.1. Before exercising the power of search set out in clause 22.2.1(a) in relation to a container or vehicle, a constable must:

- (a) Inform the person in possession of the container or the vehicle, as the case may be, that they have the opportunity of removing the container or the vehicle from the public place; and
- (b) Provide the person with a reasonable opportunity to remove the container or the vehicle, as the case may be, from the public place.

22.3.2. However, on specified dates or in relation to specified events, duly notified by Council in accordance with s170(3) of the Act, a constable may, immediately and without further notice, exercise the power to search a container or a vehicle.

23. Breach of Bylaw

- 23.1. Any person who carries out any prohibited act(s) as described in clause 19 of this bylaw breaches the alcohol control areas described and mapped in **Schedule A** and commits an infringement offence against the Act.
- 23.2. Every person who commits an infringement offence under this bylaw is liable to a penalty and may be served an infringement notice which can include an infringement fee.
- 23.3. Under section 242(4) of the Act, a person who commits an offence against this bylaw is liable, on conviction, to a fine not exceeding \$20,000.

## SCHEDULE A ALCOHOL CONTROL - SPECIFIED PUBLIC PLACES AND SPECIFIED PERIODS

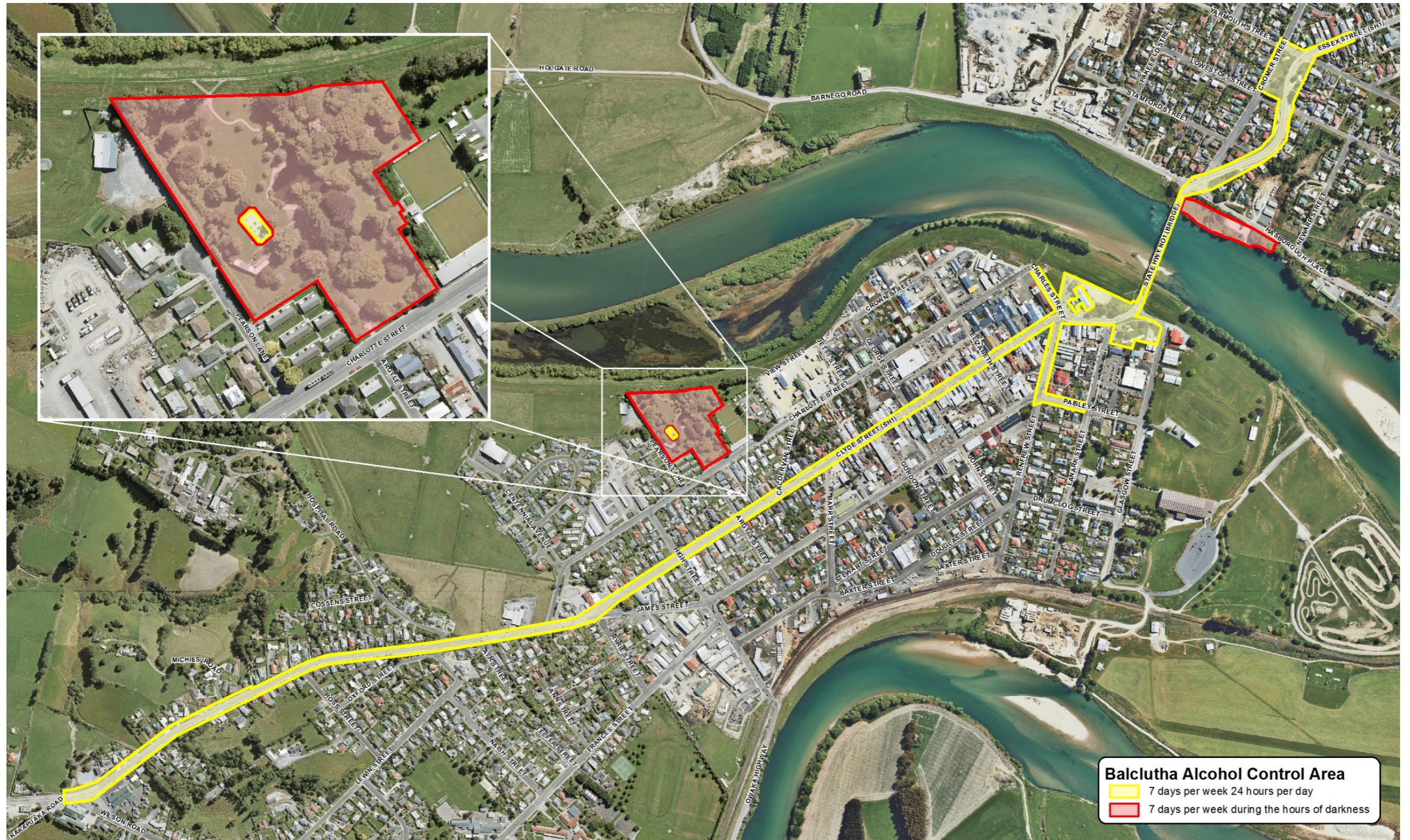
Subject to the exceptions set out in clause 21 of the bylaw, the specified places and specified periods relating to those specified places are described and mapped as follows (pages 20-22).

BALCLUTHA	
Specified Public Places	Specified Period
Town Hall Street, Charles Street, and Clyde Street adjacent to the Clutha Community Hub and associated grounds.	24 hours per day, seven days per week.
Renfrew Street from Clyde Street to James and Paisley Streets.	24 hours per day, seven days per week.
Balclutha Bridge playground including the associated carpark area.	24 hours per day, seven days per week.
State Highway 1 - from the intersection of Clyde Street and Kakapuaka Road to the Essex Street Night and Day Store (property references -25 and 26 Essex Street).	24 hours per day, seven days per week.
Arthur Strang boat ramp area.	Seven days per week during the hours of darkness (as defined by the bylaw).
The Cromer Street reserve and Cromer and Yarmouth Streets adjacent to the reserve.	24 hours per day, seven days per week.
Paisley Street between Renfrew and Lanark Streets.	24 hours per day, seven days per week.
Naish Park located at 62 Charlotte Street associated with the activity of public park.	Seven days per week during the hours of darkness (as defined by the bylaw).
Naish Park playground located within 62 Charlotte Street.	24 hours per day, seven days per week.

The Balclutha Alcohol Control Area (**Map 1**) is located on the following page.



Map 1 Balclutha Alcohol Control Area





MILTON	
Specified Public Places	Specified Period
Gray Street – from Union Street to Ajax Street, including the area surrounding the public toilets and 6 Gray Street (Lot 2 DP 8927).	24 hours per day, seven days per week.
Union Street from the Springfield Road / Cross Street intersection to the Ossian Street Intersection.	24 hours per day, seven days per week.
Property at 135 Union Street on which the Milton Cenotaph is located.	24 hours per day, seven days per week.
Moore Park, which is the block bordered by Spenser Street, Cowper Street, Johnson Street and Abercrombie Street.	24 hours per day, seven days per week.

**Map 2 Milton Alcohol Control Area**

