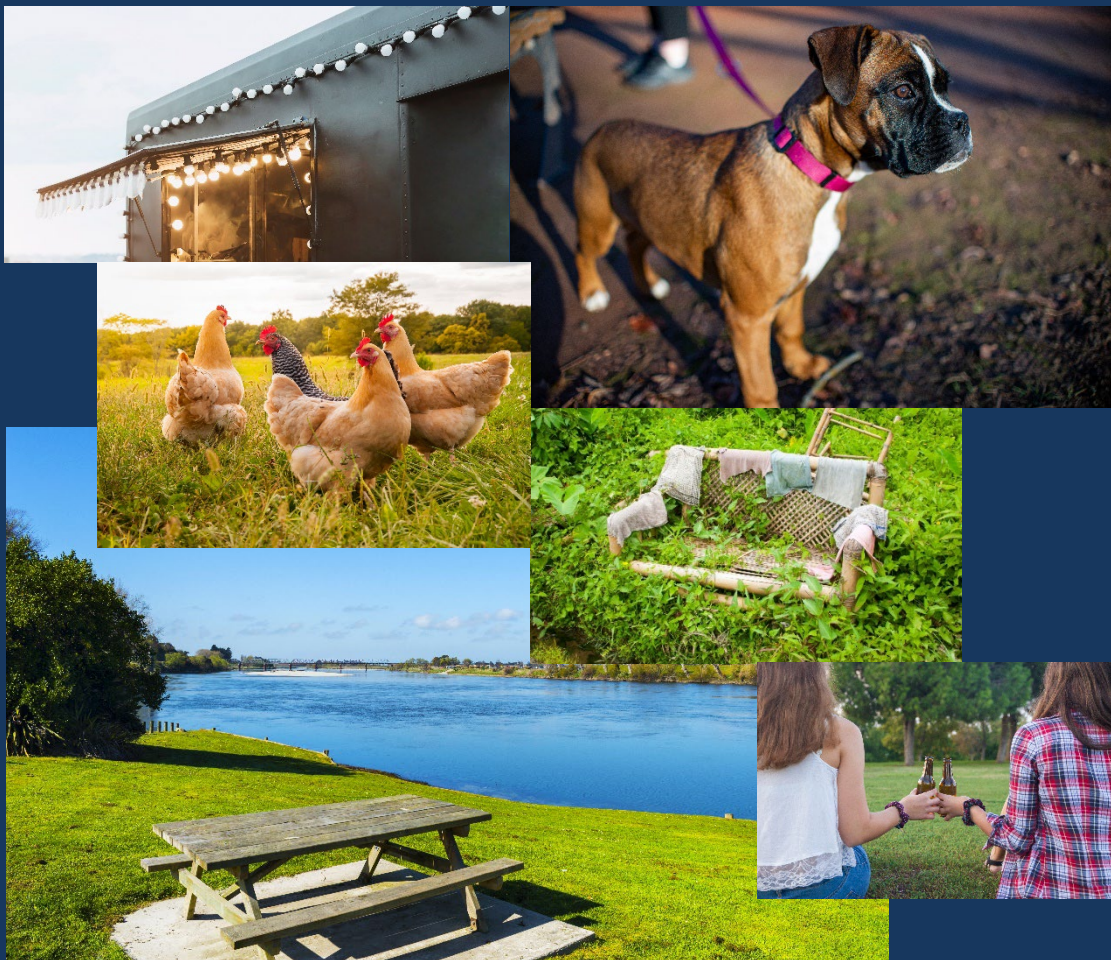


# Clutha District Council Regulatory Bylaw 2022



| ALCOHOL CONTROL | DOG CONTROL | KEEPING OF ANIMALS | PROPERTY  
MAINTENANCE | PUBLIC PLACES | TRADING IN PUBLIC PLACES |

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## TITLE

This bylaw is the Clutha District Council Regulatory Bylaw 2022.

## COMMENCEMENT AND REVIEW

This bylaw comes into force on 1 October 2022 and shall apply to the whole of the Clutha District.

This bylaw is required to be reviewed no later than 5 years after the bylaw was made (prior to 2008) and no more than 10 years after the bylaw was last reviewed (October 2032).

## STATUTORY AUTHORITY

This bylaw is made under the provisions of the Local Government Act 2002, the Health Act 1956, the Dog Control Act 1996, the Litter Act 1979 and the Sale and Supply of Alcohol Act 2012 and will take effect from 1 October 2022.

## REVOCATION

The Clutha District Council Regulatory Bylaw 2018 is revoked at the time the Clutha District Council Regulatory Bylaw 2022 comes into force.

## VERSION HISTORY

<b>Date</b>	<b>Action</b>	<b>Name</b>	<b>Version</b>
<b>Pre 2007</b>	Bylaw created.		<b>1</b>
<b>2008</b>	Freedom camping inserted in the bylaw (based on Freedom Camping Policy 2007).		
<b>2008</b>	Bylaw reviewed. The bylaw comprised of the following sections: Part 1 Introductory Part 2 Public Places Part 3 Hostels Part 4 Trading in Public Places Part 5 The Keeping of Animals, Poultry and Bees Part 7 Liquor Control		<b>2</b>
<b>2012</b>	Freedom camping section reviewed and updated (in response to the Freedom Camping Act 2011).		<b>2(a)</b>
<b>2016</b>	Dog Control section added to the bylaw.		<b>2(b)</b>
<b>2018</b>	Bylaw reviewed. The bylaw comprised of the following sections: Part 1 Introduction Part 2 Public Places Part 3 Hostels Part 4 Trading in Public Places Part 5 The Keeping of Animals, Poultry and Bees Part 6 Dog Control Part 7 Liquor Control		<b>3</b>
<b>2020</b>	The Freedom Camping section of the bylaw was reviewed, rescinded and replaced by the Freedom Camping Bylaw 2021.	<b>Council Mike Goldsmith</b>	<b>3(a)</b>
<b>May to June 2022</b>	The bylaw was reviewed in full, and a draft bylaw was advertised.	<b>Melissa Needham</b>	<b>4A</b>
<b>1 Oct 2022</b>	The revised bylaw was enacted. The bylaw comprised on the following sections: Part 1 Introduction Part 2 Alcohol Control Part 3 Dog Control Part 4 Keeping of Animals (excluding dogs) Part 5 Property Maintenance Part 6 Public Places Part 7 Trading in Public Places	<b>Council</b>	<b>4</b>

## PART 1 INTRODUCTION

### 1. General

1.1. This bylaw draws together a number of topics of a regulatory nature that may give rise to nuisance, public health or safety concerns within the Clutha District.

1.2. The topics covered by this bylaw include:

Part 1	Introduction
Part 2	Alcohol Control
Part 3	Dog Control
Part 4	Keeping of Animals (excluding dogs)
Part 5	Property Maintenance
Part 6	Public Places
Part 7	Trading in Public Places

1.3. The introductory part of this bylaw outlines:

- Definitions and interpretations that are applicable throughout the bylaw.
- Officers to continue in office.
- Serving of orders and notices.
- Powers of delegation and entry, licences and suspension and revocation of licences
- Removal of works executed contrary to the bylaw.
- Dispensing powers.
- Forms, fees and charges.
- Offences and breaches.
- Penalties for breach of bylaw.

### 2. Definitions and Interpretations

2.1. The following terms and expressions are used throughout the bylaw.

2.2. Other definitions are contained within the specific parts of the bylaw.

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

<b>Act</b>	The Local Government Act 2002
<b>Agent</b>	A person or business authorised to act on another's behalf
<b>Animal</b>	Any member of the animal kingdom, including any mammal, bird, finfish, shellfish, reptile, amphibian, insect or invertebrate, and

	includes the carcass or constituent parts thereof, but does not include human beings or dogs.
<b>Approved</b>	Approved by the Council or a Committee of Council or by any officer authorised on behalf of the Council.
<b>Authorised Officer</b>	Any person appointed or authorised by the Council to act on its behalf and with its authority including a member of the police.
<b>Bylaw</b>	A bylaw of the Council for the time being in force, made under the provisions of any enactment or authority enabling the Council to make bylaws.
<b>Council</b>	The Clutha District Council or any committee, subcommittee, or person to whom the Council's powers, duties, and discretions under the Act have lawfully been delegated.
<b>District</b>	The Clutha District.
<b>Dwelling</b>	Any house, tent, vehicle or other structure, whether permanent or temporary, and whether attached to the soil or not, used in whole or in part for human habitation, and includes the land occupied by the dwelling.
<b>Footpath, Private Road, Private Way</b>	Have the respective meanings assigned to them under section 315 of the Local Government Act 1974 (still in force under the Local Government Act 2002).
<b>Licence</b>	A licence or approval issued under this bylaw.
<b>Motor Vehicle</b>	The meaning assigned to that term in section 2(1) of the Land Transport Act 1998.
<b>Nuisance</b>	Has the same meaning as section 29 of the Health Act 1956 and includes a person, animal, thing or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.
<b>Occupier</b>	The inhabitant occupier of any property and in any case where any building, house, tenement, or premises is or are unoccupied includes the owner.
<b>Offence</b>	Any act or omission in relation to this bylaw for which any person can be punished either on indictment or by summary process.
<b>Owner</b>	As applied to any land, building, or premises, means any person for the time being entitled to receive the rent for such property, or who would be so entitled if it were let to a tenant at a rack rent, and where any such person is absent from New Zealand, shall include their attorney or agent.

<b>Person</b>	A natural person and also a body of persons, whether corporate or unincorporated.
<b>Principal Administrative Officer</b>	The principal administrative officer of Council, irrespective of the designation given to that officer and includes any person for the time being appointed by the Council to perform the duties or a particular duty of the principal administrative officer.
<b>Public Notice</b>	The meaning assigned to that term in section 5(1) of the Act.
<b>Public Place</b>	The meaning assigned to that term in section 147(1) of the Act. It includes, without being limited to, every road, reserve, park, domain, beach, foreshore and recreational grounds under the control of the Council.
<b>Reserve</b>	The meaning assigned to that term in section 2(1) of the Reserves Act 1977.
<b>Road</b>	Means a road as defined in section 315 of the Local Government Act 1975.
<b>Stock</b>	Includes any herd animal that is dependent on human beings for its care and sustenance, including but not limited to cattle, deer, llamas, alpacas, ostriches, donkeys, mules, horses, sheep, pigs, goats or other animal's (excluding dogs).
<b>Urban Area</b>	The urban area, for the purposes of this bylaw, consists of the Urban Resource Area, the Industrial Resource Area and Rural Settlements as defined in the Clutha District Plan.
<b>Vehicle</b>	The meaning assigned to that term in section 2(1) of the Land Transport Act 1998.
<b>Writing, Written or similar term</b>	Words written, printed, painted, engraved, lithographed, or otherwise traced or copied.

- 2.4. For the purpose of this bylaw, the singular includes the plural, and the plural includes the singular.
- 2.5. Words referring to any district, locality, place, person, office, officer, functionary, party or thing mean each district, locality, place, person, office, officer, functionary, party or thing, to whom or to which the provision applies.
- 2.6. The headings to the clauses of this bylaw shall not affect the interpretation of any clause.

- 2.7. Every schedule to this bylaw forms part of this bylaw and if provided for in the bylaw text, any such schedule or policy note may be altered from time to time by Council resolution and in accordance with the Act.
- 2.8. For the purposes of this bylaw the word 'shall' refers to practices that are mandatory for compliance with this bylaw, while the word 'should' refers to practices which are advised or recommended.
3. **Officers to Continue in Office**
- 3.1. All officers appointed by the Council at the time this bylaw takes effect, are deemed to have been appointed under this bylaw.
4. **Serving of Order and Notices**
- 4.1. Except as otherwise provided for in any other enactment, where any notice, order, or other document is required to be served on any person for the purposes of this bylaw, service may be affected by delivering it personally to the person or by sending it by post to that person's last known residential or business address.
- 4.2. If the person is absent from New Zealand the order, notice or other document may be served on the person's agent in the manner referred to in clause 4.1.
- 4.3. If the order, notice or other document relates to land or buildings, then the order, notice, or other document should be served on the person who owns that land or buildings. However, if that person is not known, or is absent from New Zealand, or has no known agent in New Zealand, the order or notice may be:
- (a) Served on the person who is occupying the land or buildings; or
  - (b) If there is no person in occupation, put up on some conspicuous part of the land or buildings.
- 4.4. It is not necessary in that notice to name the occupier or the owner of that land or buildings.
- 4.5. Where an order or notice is sent by registered post, it shall be sent so as to arrive no later than the latest time on which such an order or notice is required to be served.
- 4.6. Any order or notice issued shall state the time within which the remedial action is to be carried out, which may be extended from time to time by written authority of Council or an authorised officer of Council.



## 5. Powers of Delegation

- 5.1. Where this bylaw provides for the issue of any order, notice or licence, such order, notice or licence shall be deemed to be issued in compliance with this bylaw if it is issued by any officer of the Council authorised by the Council for that purpose.
- 5.2. Where this bylaw imposes any powers or duties on a principal administrative officer or any authorised officer of Council that officer may, with the consent of Council, delegate any of those powers or duties, either generally or particularly, to any other officer of the Council.

## 6. Powers of Entry for Purposes of this Bylaw

- 6.1. Except where provided for under any other enactment, sections 171, 172, 173, and 182 of the Act apply in relation to any power of entry under this bylaw.

## 7. Licences

- 7.1. Any person doing or proposing to do anything or causing or proposing to cause any condition to exist for which a licence from the Council is required under this bylaw, shall first obtain a licence from the Council or any authorised officer.
- 7.2. Every application for a licence shall be accompanied by the relevant fee. If the application for the licence is declined, the fee shall be refunded less any reasonable processing costs.
- 7.3. No application of a licence, and no payment of or receipt for any fee paid in connection with such application, confers any right, authority or immunity on the person making that application or payment.
- 7.4. Any licence is deemed to be issued in compliance with this bylaw if it is issued by an authorised officer, and every licence is subject to such conditions as may be imposed.
- 7.5. Unless this bylaw or the licence provides otherwise, every licence and every application for a licence shall be in such form as may be prescribed from time to time by the Council.
- 7.6. Unless this bylaw provides otherwise, a licence is not transferable, and no such licence authorises any person other than the licence holder to act in any way under its terms or conditions.
- 7.7. If, following a request for payment by a reasonable date, any licence fee due remains unpaid, the licence shall cease to have effect from that date.

## 7.8. Suspension and Revocation of Licences

- 7.8.1. Unless this bylaw provides otherwise, if a licence holder is convicted of any offence relating to the holder's suitability as a licensee, the Council may immediately revoke or suspend the licence for any specified time.
- 7.8.2. The Council may by notice in writing call upon a licence holder to appear before the Council and give reasons why the licence should not be revoked or suspended, if any of the following are brought to the notice of the Council:
- (a) That the licence holder:
    - has acted or is acting in a manner contrary to the true intent and meaning of this bylaw; or
    - has failed to comply with any of the conditions of the licence; or
    - is in any way unfit to hold the licence; or
  - (b) That the premises for which the licence was issued is being used for any purpose other than that stated in the licence, or is in a state of disrepair contrary to the terms of the licence; or
  - (c) That the bylaw is not being properly observed.
- 7.8.3. The Council may, if it considers the allegations proven or if there is no appearance by the licence holder, revoke, or suspend the licence for any specified time.
- 7.8.4. A person whose licence has been suspended under this bylaw and any premises for which that licence has been so suspended is, during the period of that suspension, deemed to be unlicensed.

## 8. Encroachment to be Removed upon Notice

- 8.1. If any building or structure, or any part of a building or structure, has been erected, constructed or placed upon, under, over or across any public place without Council's permission, Council may, by notice in writing, require the owner to remove such building or structure, or part of building or structure, as specified in the notice.
- 8.2. A notice issued under clause 8.1 may require such precautions to be taken as Council thinks necessary for the safety of the public and for the proper securing of a building or structure, or part of a building or structure, as is to remain after a removal.

## 9. Removal of Works

- 9.1. Where a notice served under clause 8.1 has not been complied with, the Council, or any authorised officer or agent of the Council, may pull down, remove or alter any work, material or thing erected or being in contravention of any part of this bylaw. Refer to section 163, and for seizure of property sections 164, 165, 167, and 168 of the Act.
- 9.2. The Council may recover from any person responsible for the breach of any part of this bylaw, all expenses incurred by it in connection with such pulling down, removal or alteration. This includes the cost of debt collecting and legal fees.
- 9.3. The exercise of this authority does not relieve any person from liability for any penalty for erecting or permitting the continued existence of any such work, material or thing.
- 9.4. If a breach is such that public health, or safety considerations, or risk of consequential damage to Council assets is such that delay would create unacceptable results, the Council may take immediate action to rectify the defect and recover all reasonable costs (as set out in clause 9.2).
- 9.5. On payment of all Council's costs, including storage where applicable, the lawful owner may claim any object, material or thing removed under clause 9.1.
- 9.6. If not claimed within 6 months after it was seized and impounded, following giving public notice of the intention to do so, the Council may dispose of (by way of sale or otherwise), any object material or thing as it sees fit and apply the proceeds to meet any outstanding costs. The lawful owner shall be entitled to claim any residual sum.

## 10. Dispensing Power

- 10.1. It shall be lawful for the Group Manager Planning and Regulatory in any particular case or cases, to dispense with any of the requirements of this bylaw where full compliance would needlessly cause harm, loss or inconvenience to any person or business or undue cost to the Council without corresponding benefit to the community.

## 11. Forms

- 11.1. Wherever forms are prescribed in this bylaw, slight deviations, but to the same effect and not calculated to mislead, do not invalidate those forms.

## 12. Fees and Charges

- 12.1. The Council may through the Annual Plan process or at any time by publicly notified ordinary resolution prescribe fees to be charged for any certificate, authority, approval, permit, or consent from, or inspection or service, by the Council under the

provisions of the Act or any other enactment where that enactment contains provision for authorising the Council to charge a fee.

- 12.2. The fees may be reviewed from time to time.
- 12.3. The setting of any fees or charges shall be in accordance with section 150 of the Act.
- 12.4. Where a fee has been paid under clause 12.1 for a service or inspection that has not been given, the Council may provide a refund, a remission, or waiver of any such fee, or portion of it as the Council may determine.

### 13. Offences and Breaches

- 13.1. No person shall do anything, or cause any condition to exist, for which a licence or approval from the Council is required under this bylaw, without first obtaining that licence or approval. The failure to obtain required licences or approvals shall constitute a breach of this bylaw.
- 13.2. No application for a licence or authority from the Council, and no payment of or receipt for any fee paid in connection with such application, licence, or authority, shall confer any right, authority, or immunity on the person making such application or payment.
- 13.3. Any person commits a breach of this bylaw who:
  - (a) Does, or causes to be done, or knowingly permits or suffers to be done anything whatsoever contrary to or otherwise than as provided by this bylaw.
  - (b) Omits or neglects to do, or knowingly permits or suffers to remain undone, anything which according to the true intent and meaning of this bylaw, ought to be done by the person at the time and in the manner provided by this bylaw.
  - (c) Does not refrain from doing anything which under this bylaw they are required to abstain from doing.
  - (d) Knowingly permits or suffers any condition of things to exist contrary to any provision contained in this bylaw.
  - (e) Refuses or neglects to comply with any notice given to that person under this bylaw.
  - (f) Obstructs or hinders any authorised officer of Council in the performance of any duty to be discharged by that officer under or in the exercise of any power conferred upon that officer by this bylaw.
  - (g) Fails to comply with any notice or direction given under this bylaw.
  - (h) Fails to comply with a limit on the number of animals set by the bylaw or a limit on the number of animals prescribed by the Group Manager Planning and Regulatory as set out under this bylaw.

**13.4.** Any person commits a breach of this bylaw who:

- (a) Having constructed, affixed or provided, or caused to be constructed, affixed, or provided, any building or any part of a building, or any work, appliance, or material of any description whatsoever, contrary to, or otherwise than in accordance with the provision of this bylaw; or
- (b) Having omitted to construct, affix, or provide any work, appliance or materials as required – and who does not, within a reasonable time after notice in writing has been given to them by the Council or any authorised officer of the Council, carry out the remedial action specified in that notice.

**13.5.** The provisions of clause 13.4 shall also apply to any building, part of a building, work, appliance, or material that has, before the coming into force of this bylaw, been constructed, affixed, or provided or omitted contrary to or otherwise than as provided by any provision of any repealed bylaw but re-enacted in substance in this bylaw. Notice may be given and renewed in respect of any such building, part of a building, work, appliance or material.

**13.6.** Where it is suspected that any person has committed a breach of this bylaw, that person shall, on the direction of an authorised officer, provide their full name and address.

**14. Penalties for Breach of Bylaw**

**14.1.** Every person who fails to comply with any part of this bylaw commits an offence and is liable to a penalty under the empowering legislation including but not limited to the Health Act 1956, the Local Government Act 2002, the Dog Control Act 1996 or the Litter Act 1979.

Act	Fines(s)
Local Government Act 2002 (s242(4))	A fine not exceeding \$20,000.
Health Act 1956 (s66)	A fine not exceeding \$500 and in the case of a continuing offence, a further fine not exceeding \$50 for every day on which the offence has continued.
Litter Act 1979 (s13(4))	No infringement fee shall exceed \$400.
Dog Control Act (Schedule 1)	Failure to comply with any bylaw authorised by section 20(5) - \$300 or under s242(4) of the LGA 2002 (see above).

**14.2.** Where another enactment or section of the listed Acts specifies the penalty for a breach of the bylaw, that other penalty shall apply.

**14.3.** In accordance with section 162 of the Act, the Council may apply to the District Court for an injunction to restrain a person from committing a breach of this bylaw.

## 15. Enforcement Action

- 15.1. All authorised officers (s174, s177 or para 32 schedule 7 of the Local Government Act 2002) shall possess and produce on request warrants of authority as evidence of identity.
- 15.2. Council may enter any land or buildings and inspect the land or buildings for compliance with this bylaw.
- 15.3. Council may serve upon the owner and/or occupier of any land a notice in writing requiring the owner and/or occupier comply with the provisions of this bylaw by a prescribed date.
- 15.4. If any person on whom a notice has been served fails or neglects to do any act or thing specified in the notice prior to the expiry date or fails or neglects to do any act or thing in such manner as may be so specified in the notice prior to the expiry date, the Council may without further notice to the person served, do that act or thing or complete the requirements of the notice.
- 15.5. If any work is carried out by the Council or its agent on any land pursuant to clause 15.4 then the full cost of undertaking any work including all labour, materials and other charges incurred shall be recovered from the registered proprietor of the land. The Council may also register these costs as a charge upon the land pursuant to the Statutory Land Charges Act 1928.
- 15.6. Within seven days after service of any notice of this bylaw, the person on whom the notice is served may apply to the District Court for an Order setting aside the notice. The notice will be deemed to be suspended until determination is made by the District Court. If the District Court determines the notice is valid, then the person served shall have 28 days to complete the work specified in the notice. If after 28 days, the work has not been completed the Council may enter upon the land to complete the work and recover costs as described in clauses 15.4 and 15.5.

## 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.

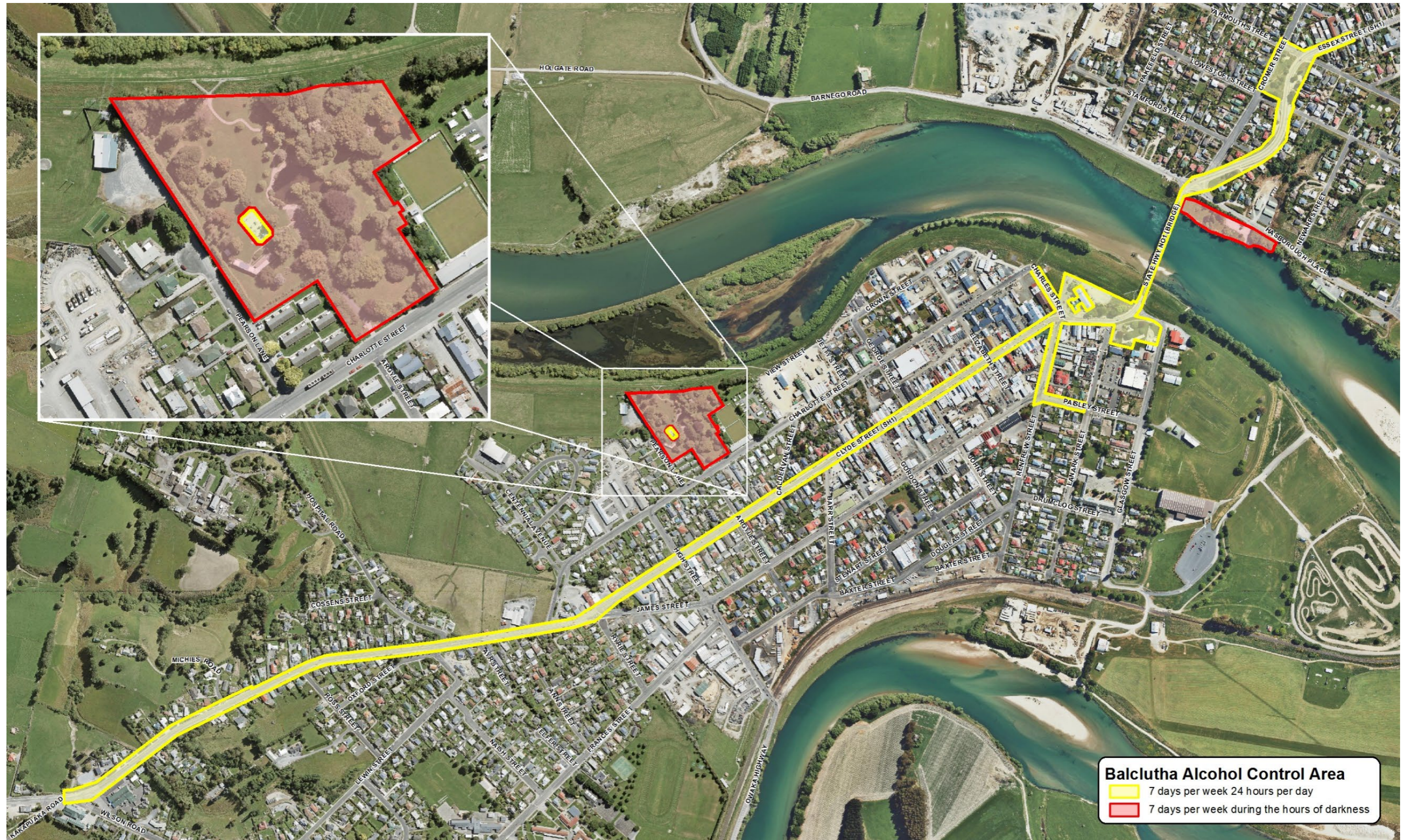
## SCHEDULE A ALCOHOL CONTROL - SPECIFIED PUBLIC PLACES AND SPECIFIED PERIODS

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**



## PART 3 DOG CONTROL

### 24. Objectives

24.1. The objectives for dog control in this bylaw are:

- (a) To control the keeping of dogs to prevent danger, distress and nuisance to the community generally.
- (b) To avoid the inherent danger in allowing dogs to have uncontrolled access to public places that are frequented by children.
- (c) To ensure the public can use streets and public amenities without fear of attack or intimidation by dogs.
- (d) To encourage responsible dog ownership.
- (e) To ensure wildlife are not endangered by uncontrolled dogs.
- (f) To ensure opportunities for exercise and the recreational needs for dogs and their owners.
- (g) To ensure that the fees charged to dog owners provide cost recovery for providing a dog control service to the district and that the fees for different categories of dogs are proportionate to the workload created by each for Council's animal control team.

### 25. Definitions

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

<b>District Plan</b>	Means the Clutha District Plan pursuant to the Resource Management Act 1991.
<b>Dog Control Officer</b>	Means a dog control officer as defined in section 11 of the Dog Control Act 1996.
<b>Dog Ranger</b>	Means a dog ranger as defined in section 12 of the Dog Control Act 1996.
<b>Owner</b>	Means owner as defined in section 2 of the Dog Control Act 1996.
<b>Public Place</b>	Has the meaning assigned to the term by section 2 of the Dog Control Act 1996.
<b>Scientific Reserve</b>	Is a reserve as outlined under the Reserves Act 1977 for the purpose of protecting and preserving in perpetuity for scientific study, research, education, and the benefit of the country, ecological associations, plant or animal communities,

types of soil, geomorphological phenomena, and like matters of special interest.

**Working Dog**

Has the meaning assigned to the term by section 2 of the Dog Control Act 1996.

**Wildlife**

Means wildlife as defined in section 2 and as described in section 3 of the Wildlife Act 1953 or marine mammal as defined in section 2 of the Marine Mammals Protection Act 1978.

**26. Shelter for Dogs**

- 26.1. The owner of any dog shall provide for it a weatherproof kennel or place of confinement of adequate size constructed on well drained ground. A place of confinement may include a dwelling.
- 26.2. In the case of a kennel without other means of confinement, the dog shall be provided with a restraint which allows the dog free movement about the kennel with access to clean water.
- 26.3. All kennels or places of confinement shall be kept in a clean and sanitary condition.
- 26.4. No owner of any dog shall keep the dog on any premises or in any kennel or place of confinement, other than a dwelling, any part of which is nearer than 2 metres to any boundary.
- 26.5. Existing use rights shall apply unless a nuisance is created.

**Notes not forming part of the bylaw:** [The Animal Welfare \(Care and Procedures\) Regulations 2018 \(section 13\)](#) include requirements for all owners or persons in charge of a dog to provide the dog with dry and shaded shelter.  
[The Animal Welfare \(Care and Procedures\) Regulations 2018 \(section 47\)](#) include requirements for all owners or persons in charge of an animal that is collared or tethered.

**27. Control of Dogs**

- 27.1. Notwithstanding the provisions of the Leash Control Areas and excluding any Dog Prohibited Areas described in this bylaw, in any public place within ‘non- designated’ areas i.e., generally being the Rural, Transitional and Coastal Resource Areas (as defined by the District Plan), or in any designated Dog Exercise Area (see **Schedule B**) a dog may be exercised without being restrained provided such a dog is kept under continuous control whilst being exercised.
- 27.2. For the purpose of the above there shall be deemed to be sufficient control if such dog is under continuous surveillance of some responsible person and the dog does not give rise to any reasonable complaint as to its behaviour whilst being exercised.



### 27.3. Leash Control Areas

- 27.3.1. The owner or any person for the time having charge of any dog shall ensure the dog does not enter or remain in any public place in the Urban or Industrial Resource Areas or Rural Settlements (as defined by the District Plan) or all public cemeteries, unless it is kept on a leash, chain or lead which is secured or held so the dog cannot break loose.
- 27.3.2. Dog owners must place their dogs on a leash when they are within 20 metres of wildlife.
- 27.3.3. The provisions of the Leash Control Areas shall not apply to a working dog carrying out the work in respect of which the dog has been registered.

### 27.4. Dog Prohibited Areas

- 27.4.1. Notwithstanding any other provision of this bylaw (with the exception of the 'suspension of provisions' section) the entry of dogs on to any public place specified in **Schedule B** is prohibited.

### 28. Fouling by Dogs

- 28.1. No person (being the owner or a person having control or charge of any dog) shall permit or suffer the dog to foul with faecal matter any public place or any land or premises other than land or premises occupied by that person. No offence shall be deemed to have been committed against this bylaw where the owner or person having control or charge of the dog removes the faecal matter immediately after the dog has deposited the droppings.
- 28.2. Where a public litter bin or similar receptacle is used to dispose of the faecal matter, they must be suitably wrapped or contained to prevent fouling such receptacles.

### 29. Infectious or Infested Dogs

- 29.1. No person being the owner or having control or charge of any infectious or infested dog shall take the dog into any public place or permit such dog to enter or remain in a public place except when being taken to a veterinary clinic.

### 30. Nuisances

- 30.1. The owner of any dog and the owner or the occupier of any premises on which any dog or dogs are kept shall:
  - (a) Take adequate precautions to prevent the dog or dogs or the keeping of dogs from becoming a nuisance.

- (b) Keep every female dog in season confined but adequately exercised. Keep such dog or dogs tied up (or otherwise confined), unless they are being exercised off the premises on a leash.

30.2. If, in the opinion of Council, any dog or dogs, or the keeping thereof on any premises has become or is likely to become a nuisance, Council may, by notice in writing, require the owner or occupier of the premises within a time specified in such notice, to do all or any of the following:

- (a) Reduce the number of dogs kept on the premises.
- (b) Construct, alter, reconstruct or otherwise improve the kennels, places of confinement or other buildings used to house or contain such dog or dogs.
- (c) Require such dog or dogs to be tied up or confined during specified periods.
- (d) Take such other action as Council deems necessary to minimize or remove the likelihood of nuisance.

**Note not forming part of the bylaw:** [The Animal Welfare \(Care and Procedures\) Regulations 2018 \(section 47\)](#) include requirements for all owners or persons in charge of an animal that is collared or tethered.

### 31. Licence to Keep More than Two Dogs

31.1. No more than two dogs of registrable age (whether or not such dogs are registered) may be kept on any premises situated in the Urban or Industrial Resource Areas or in Rural Settlements (as defined by the District Plan) unless the owner or occupier is the holder of a licence to keep more than two dogs.

31.2. No licence shall be granted to the owner or occupier of any premises if such premises by reason of inadequate size, location or detrimental effect on any premises would be inappropriate for the housing of more than two dogs.

31.3. A licence issued for more than two dogs is subject to the conditions set by Council. Any breach of such conditions or other terms, conditions or restrictions shall be a breach of this bylaw.

31.4. Any licence may be revoked by Council for breach of conditions or in the event of change of circumstances relating to:

- (a) The premises.
- (b) The owner or occupier thereof.
- (c) The dogs kept or remaining on such premises.

- 31.5. Applications for licences to keep more than two dogs shall be made on the form supplied by Council and shall provide such information in respect of the application as Council may reasonably require.
- 31.6. There shall be paid to Council upon application for every such licence such fee as Council from time to time by resolution publicly notified prescribe and every such licence shall remain in force for the period of twelve months following the date of issue unless revoked and may then be renewed at no ongoing cost.
- 31.7. The fee for such licence shall be payable in addition to the registration fees payable under the Dog Control Act 1996.
- 31.8. A Dog Control Officer may seize any dog kept at a premises and impound any dog at the owner's expense where:
- (a) More than two dogs are kept at the premises where a licence is required and there is no licence permitting the keeping of more than two dogs or the licence has been revoked by the Council.

## 32. Impounding of Dogs

- 32.1. When any contravention of the Control of Dogs section of this bylaw occurs, or where any dog (whether or not wearing the proper registration label or disc) is found at large in breach of any provisions of this bylaw or the Dog Control Act 1996, the dog may be impounded in accordance with section 52 of the Dog Control Act 1996.

## 33. Suspension of Provisions

- 33.1. Council may by resolution suspend the provisions of any part of this bylaw for such periods and locations as may be specified for the operation of organised dog or animal events.

## 34. Breach of Bylaw

- 34.1. Any person contravening or offending against or committing, permitting, or suffering a breach of any of the foregoing provisions shall be liable to prosecution or infringement notice for an offence against this bylaw.

## 35. Penalties

- 35.1. Every person who commits a breach of this bylaw is liable to a fine not exceeding \$300 or that prescribed under section 242(4) of the Act.

## SCHEDULE B<sup>1</sup> DOG CONTROL – DOG EXERCISE AREAS AND DOG PROHIBITED AREAS

### 36. Dog Exercise Areas

36.1. The fenced and signed area at Centennial Park in Balclutha named Clutha Vets Dog Park.

### 37. Public Places from which Dogs are Prohibited<sup>2</sup>

37.1. Areas laid out and equipped as children's playgrounds.

37.2. The designated playing area of all sports grounds.

37.3. All school grounds.

37.4. All swimming pools.

37.5. Any premises used for the manufacture, preparation, storage, or the sale of food.

**Note:** The following public places from which dogs are prohibited are mapped on pages 30 to 35.

37.6. Between the 'no dog' signs at Kaka Point which covers an area from the rocks at the northern end of the beach to the public toilets to the south of the surf lifesaving clubrooms as illustrated in **Map 5**.

37.7. The beach from the Nuggets Fishing Camp breakwater at Tirohanga south to the boundary of the Nuggets Lighthouse Reserve<sup>3</sup> as illustrated in **Map 6**.

37.8. All land administered by the Yellow Eyed Penguin Trust (the Trust) under the Conservation Act or Reserves Act<sup>4</sup> or administered by the Trust under the Reserves Act

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<sup>1</sup> Schedule B may be amended from time to time in terms of the special consultative procedure set down in sections 83 and 86 of the Local Government Act 2002.

<sup>2</sup> These prohibition's do not apply to:

- Guide-dogs for the blind.
- Registered disability assist dogs.
- Registered search and rescue dogs.
- Police dogs.
- Dogs being used by property guards (as defined in the Private Security Personnel and Private Investigators Act 2010).
- Dogs being used to fulfil the functions of the Department of Conservation where landowner permission has been granted.
- Dogs confined in an efficient container or securely confined in or by lead or restraint on a vehicle.
- Organised events held by Kennel Clubs/dog obedience clubs/dog trials etc.

<sup>3</sup> This prohibition does not apply to farm working dogs used for the purpose of moving stock.

<sup>4</sup> Where public land is administered by another body who has legal jurisdiction, staff and resources to enforce dog control, (for example the Department of Conservation) the other administering body and not Council will be responsible for enforcing dog control on this land.

for public conservation land. Specifically, the following significant breeding areas for yellow-eyed penguins and/or blue penguins<sup>3</sup>:

- 37.8.1. Sandy Bay beach and foreshore and fenced penguin breeding area as illustrated in **Map 7**.
- 37.8.2. Catlins Heads within the fenced penguin breeding area as illustrated in **Map 8**.
- 37.8.3. Jacks Blowhole and Penguin Bay within the Tunnel Rock Scenic Reserve and Blowhole viewing area as illustrated in **Map 9**.
- 37.8.4. Hinahina Cove as illustrated in **Map 10**.
- 37.8.5. The northern cliff end of Purakaunui Bay beach as illustrated in **Map 11**.
- 37.8.6. Harts Rock penguin breeding area, located south of Purakaunui Bay beach as illustrated in **Map 12**.
- 37.8.7. Cosgrove Creek Scientific Reserve (Long Point Rd, Purakaunui) as illustrated in **Map 13**.
- 37.8.8. Long Point (Irihuka) beach and foreshore from Haywards Point to the tip of Long Point and including the east side of Long Point from the tip to Waterfall Bay/Chasm Island DOC Reserve as illustrated in **Map 14**.

**Note: Map 3** is an overview map of the *mapped* dog prohibited areas and is provided for information purposes only.

**Map 3 Overview of Mapped Public Places from which Dogs are Prohibited**

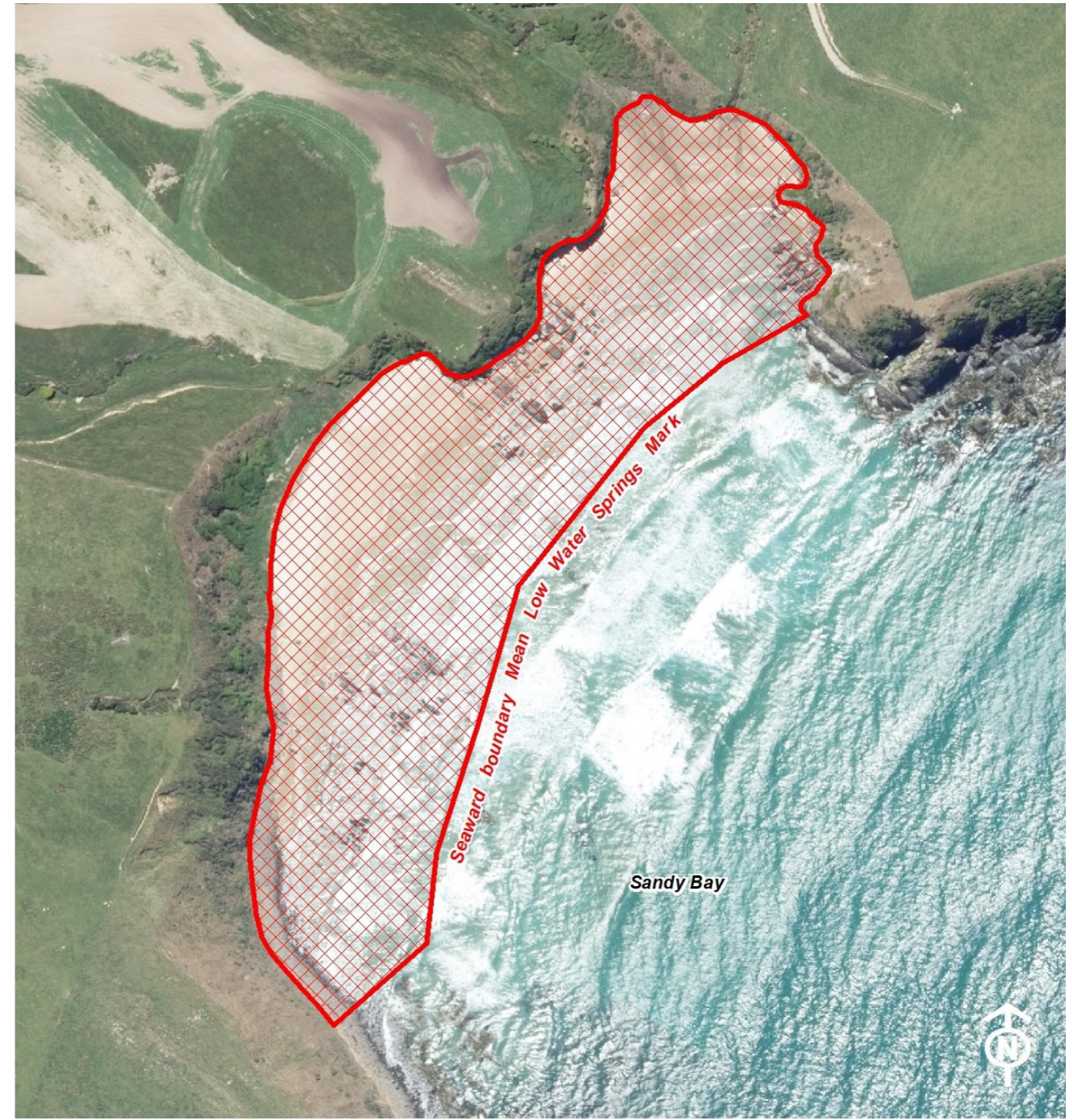


**Map 4 Kaka Point Beach Dog Prohibited Area**



Map 5 Tirohanga South to the Boundary of the Nuggets Lighthouse Reserve Dog Prohibited area

Map 6 Sandy Bay Beach Dog Prohibited Area



Map 7 Catlins Heads Dog Prohibited Area



Map 8 Jacks Blowhole Dog Prohibited Area





Map 9 Hinahina Cove Dog Prohibited Area



Map 10 Purakaunui Bay Beach Dog Prohibited Area



Map 11 Harts Rock Dog Prohibited Area



Map 12 Cosgrove Creek Scientific Reserve Dog Prohibited Area



Map 13 Long Point (Irihuka) Dog Prohibited Area



## PART 4 KEEPING OF ANIMALS (EXCLUDING DOGS)

### 38. Purpose

- 38.1. The purpose of this part of the bylaw is to outline requirements for the keeping of animals in the district, excluding dogs, to ensure they do not create a nuisance or a risk to health and safety and if a nuisance or risk does occur, the Council has appropriate regulatory power to take relevant action.
- 38.2. It shall be for an authorised officer of Council to determine upon reasonable grounds that a nuisance or health and safety concern is being created.
- 38.3. This bylaw is made pursuant to sections 145 and 146(a)(v) of the Local Government Act 2002 and section 64 of the Health Act 1956.
- 38.4. Nothing in this bylaw shall derogate from any provision of, or the necessity for compliance with, any statute, regulation, rule of law or permission relating to the welfare or keeping of any animals.

### 39. Definitions

- 39.1. For the purposes of this bylaw, unless the context requires otherwise, the following definitions apply.

<b>Kitten</b>	means any cat less than six months of age.
<b>Poultry</b>	includes but is not limited to geese, ducks, turkeys, and domestic fowls of all descriptions.
<b>Public Place</b>	includes, without being limited to, every road, reserve, park, domain, beach, foreshore and recreational grounds under the control of the Council.

### 40. Application

- 40.1. This bylaw does not apply to dogs, veterinary clinics or pet shops.
- 40.2. A person keeping an animal shall comply, in addition to this bylaw, with any other relevant statutory requirements including the Animal Welfare Act 1999, the Impounding Act 1955, the Health Act 1956 and the Resource Management Act 1991.

### 41. Keeping of Animals General Provisions

- 41.1. No person shall keep an animal which is or is likely to be a nuisance or a threat to public health or safety.
- 41.2. Any person keeping an animal shall confine the animal within the boundaries of the premises where the animal is being kept.

41.3. No person shall keep an animal in conditions which are or are likely to be a nuisance or a threat to public health or safety, including but not limited to:

- (a) Ensuring the provision of fresh water at all times.
- (b) Ensuring any enclosure for animals governed by this bylaw shall be constructed in good workman like manner and maintained the same, so that the enclosure itself does not create a nuisance whether in use or not.
- (c) Ensuring pens, runs or cages or other similar forms of containment are maintained in good repair and in a clean condition free from any offensive smell, overflow or vermin.

41.4. No person shall allow any animal in a public place in a manner which is or is likely to be a nuisance or a threat to public health or safety.

#### 42. Special Requirements for Keeping of Pigs

42.1. In the urban area no more than two pigs may be kept on any property.

42.2. No pig, or any piggery building, or any area designated for the occupation of pigs, is to be located less than 50 metres from any of the following:

- (a) Any residential building.
- (b) A milking shed.
- (c) Any place used for preparation, storage or sale of food.
- (d) A public road.
- (e) Adjoining property boundaries.

#### 43. Special Requirements for Keeping of Stock

43.1. Any person keeping stock in an urban area shall conduct the activity to ensure that:

- (a) It does not create a nuisance to occupants of an adjoining or nearby property.
- (b) The margins of any river, lake or area of coast adjoining the property are protected from the adverse effects of such stock.
- (c) The health and safety of the stock is adequately provided for.

43.2. All stock must be controlled by way of fencing or tethering to contain the animal(s) from any roadway or other property. The fencing or tethering of animals must be adequate to prevent all stock from wandering and all road gates to paddocks must be able to be securely closed. This requirement does not apply to driving, leading or riding of any stock.

43.3. Council can require the owner or person keeping stock to install or upgrade fencing, as per the requirements of the Fencing Act 1978, should a complaint be received and at

the discretion of Council's authorised officer, it is considered that the fencing is not adequately containing the stock it is intended for.

#### 44. Special Requirements for Keeping of Poultry

- 44.1. No poultry, caged or otherwise, numbering in excess of 10 birds shall be kept in an urban area.
- 44.2. Housing shall be provided in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete, or other approved material, with a surrounding nib wall to which a poultry run may be attached.
- 44.3. No poultry house or poultry run shall be erected or maintained, so that any part of it is within 10 metres of any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 meters of the boundary of adjoining premises.
- 44.4. Every poultry run shall be enclosed to confine the poultry.
- 44.5. Every poultry house and poultry run shall be maintained in good repair, in a clean condition free from any offensive smell or overflow and free from vermin.

#### 45. Special Requirements for Noise from Animals (including Roosters)

- 45.1. No person shall keep on any premises any noisy animal, bird, or poultry which causes a nuisance to residents in the neighbourhood.
- 45.2. The Group Manager Planning and Regulatory may order the removal of a rooster and/or cockerel from a premise where:
  - (a) Council has received a complaint about the rooster and/or cockerel; and
  - (b) The Group Manager Planning and Regulatory is satisfied that the keeping of the rooster and/or cockerel on that property has resulted in a nuisance being caused to a neighbouring property(s).

#### 46. Special Requirements for Beekeeping

- 46.1. No person shall keep bees or store hives or beekeeping equipment if an authorised officer assesses the activity is or is likely to become a nuisance or annoyance to any person or potentially dangerous or injurious to health.
- 46.2. An authorised officer may prescribe conditions relating to the location and number of hives able to be kept on any premises or place within an urban area of the district.
- 46.3. The removal, relocation or redesign of a hive(s) may be required if complaints are received and if an authorised officer is satisfied that the location of the hive(s) has resulted in the bees causing a nuisance or a threat to public health and safety. The

onus is on the hive(s) owner to seek professional advice on how to best address complaints if requested by an authorised officer.

#### 47. Special Requirements for Keeping Cats and/or Kittens

47.1. The Group Manager Planning and Regulatory may impose a limit on the number of cats and/or kittens which may be kept on private land, such limit being no more than three, where:

- (a) the Council has received a complaint about the number of cats and/or kittens kept on the private land.
- (b) the number of cats and/or kittens is creating a nuisance or is likely to create a nuisance, is offensive or injurious to health.
- (c) the person keeping the cats and/or kittens fails to comply with any reasonable request of an authorised officer to abate or prevent the nuisance.

47.2. The special requirements for keeping of cats and/or kittens do not apply to legally established commercial activities involving cats and kittens including but not limited to veterinary clinics, cat breeders, pet shops, cat rescue or welfare establishments such as the SPCA and cat shows.

47.3. The special requirements for keeping of cats and/or kittens do not apply to kittens 2 months of age or less who are dependent on their mothers for sustenance.

#### 48. Enforcement Action

48.1. Where an authorised officer has reasonable grounds for suspecting that a nuisance exists or a breach of this bylaw is occurring, an authorised officer may, by written notice, require the owner or person keeping the animal(s) to take such action as the authorised officer considers necessary to mitigate or eliminate the nuisance within a timeframe specified to abate or prevent the nuisance in the notice.

48.2. Under sections 164 and 165 of the Local Government Act 2002 an authorised officer may seize or impound “property” including animals materially involved in the commission of an offence if the owner or person keeping the animal(s) has not adequately mitigated or eliminated the nuisance within the timeframe specified in the written notice issued by the authorised officer under clause 48.1.

48.3. Under section 163 of the Local Government Act 2002, the Council may remove or alter any pen, run, cage or other structure used to house or contain animals that has been constructed or is maintained in a condition which is contrary to the terms of this bylaw or the Building Act 2004. The cost incurred in removing or altering the structure concerned shall be recoverable as a debt against the owner of the animal in question.

**PART 5      PROPERTY MAINTENANCE**

**49.    Purpose**

**49.1.** The purpose of this section of the bylaw is to protect the public from nuisance and to protect the public’s health and safety that may be impacted by abandoned buildings, storage of waste and excessive vegetation growth on private property or public land, which includes the road reserve.

**50.    Definitions**

**50.1.** For the purposes of this bylaw, unless the context requires otherwise, the following definitions apply.

<b>Amenity Values</b>	Has the same meaning as the Resource Management Act 1991.
<b>Enforcement Officer</b>	Means an officer appointed by Council for the purposes of this bylaw.
<b>Vermin</b>	Includes but is not limited to: a) ants, cockroaches, flies, mosquitoes, mites and other insects. b) mice. c) rats. d) pigeons.
<b>Waste</b>	Has the same meaning given under the Waste Minimisation Act 2008.

**51.    Excess Waste Accumulation**

**51.1.** No person may deposit, store, accumulate or bury any waste on private or public land whether it is outside or inside buildings or structures that:

- (a) Causes a nuisance.
- (b) Is or may become a fire danger to a residential dwelling(s) for private use (other buildings refer to Fire and Emergency Act 2017).
- (c) Is or may cause danger to public health.
- (d) Provides harbourage for vermin.



- 51.2. In this case, waste items may include, but are not limited to disused vehicle bodies, automotive parts, shipping containers, building waste, refuse and abandoned household items.

**Notes not forming part of the bylaw:** Under section 10 of the Litter Act 1979 Council can require a person to clean up litter on private property if it 'grossly defaces or defiles' the area.

The Fire and Emergency Act 2017 contains offences and penalties (among other tools) that can be imposed in situations which may increase the risk of fire. These provisions do not apply to residential dwellings for private use.

Abandoned vehicles on Council land, which includes local roads, are dealt with by the Council, see our website for the process. Abandoned vehicles on state highways should be referred to Waka Kotahi NZ Transport Agency. An abandoned vehicle on private property without the property owner's permission should be referred to the New Zealand Police.

## 52. Vegetation

- 52.1. Long grass and/or vegetation on private land must be trimmed back, cut down or removed irrespective of whether the land is disused, used, vacant, developed or otherwise when it:

- (a) Is or may become a fire danger to a residential dwelling(s) for private use (other buildings refer to Fire and Emergency Act 2017).
- (b) Provides harbourage for vermin.
- (c) Obstructs public right of ways.

## 53. Abandoned or Vacant Buildings

- 53.1. The owner of any building that is vacant or abandoned, in the opinion of an authorised officer, must ensure the building is secured so as not to allow access by the public.

**Note not forming part of the bylaw:** Council has a Policy on Dangerous and Insanitary Buildings that outlines Council's approach and process for dealing with buildings that are considered dangerous or insanitary under the Building Act 2004.

- 53.2. The owner of any building located on the 'service retail frontage' or in a 'town centre' (or equivalent update) as identified in the District Plan must ensure the building is maintained to a standard that upholds the amenity values of the town and protects the public from nuisance.
- 53.3. Buildings will be considered not to comply with clause 53.2 if they show significant signs of disrepair for example fading paintwork, plaster chipping, tagging, boarded up or broken windows and/or mould or algae growth.

## PART 6 PUBLIC PLACES

### 54. Purpose

- 54.1. The purpose of this part of the bylaw is to control a diverse range of activities that may occur in public places to ensure that acceptable standards of convenience, safety, visual amenity and civic values are maintained for the wellbeing and enjoyment of citizens, visitors and businesses within the district. In particular damage to public facilities such as roads, grass verges, garden areas and reserves are addressed. The bylaw also addresses activities within public places and reserves which may have an adverse effect on other users of these facilities.
- 54.2. This part of the bylaw should be read in conjunction with the relevant provisions from the Act, as well as other relevant legislation which outline some of the powers and requirements of the Council in regard to streets, public places and reserves.

### 55. Definitions

- 55.1. For the purposes of this bylaw, unless the context requires otherwise, the following definitions apply.

<b>Major Littering</b>	Are more serious littering offences where litter is in large quantities, or of a noxious nature, or likely to cause harm or injury to any person. For example, household waste, commercial waste, green waste or car parts.
<b>Material or Thing</b>	Any material of whatever kind, including wheelie bins and other containers for waste material, but excluding vehicles.
<b>Minor Littering</b>	Where littering is on a small scale and not likely to cause harm or injury to any person, for example, drink cans and food packaging.
<b>Portico</b>	Every awning, porch, verandah, shed, shade, or covering upon, across, or over any public footway or part of a road, street, private street, or access-way for the purpose of shade or shelter, together with any supports thereof, other than the building against which it shall be.
<b>Ride a Skateboard</b>	Having either one or both feet, or any other part of the body of any person, on a skateboard when it is moving.
<b>Road</b>	Has the same meaning assigned to that term in section 315 of the Local Government Act 1974 and should be taken to include all land lying between the <u>legal</u> boundaries of a road including footpaths and berms.
<b>Skateboard</b>	A wheeled device controlled or propelled by gravity or by energy exerted by the rider. The definition should be taken to

include roller skates, in-line skates, scooters or similar recreational devices, but does not include any wheelchair, baby or adult carriage or bicycles.

## 56. Public Safety and Nuisances

56.1. Except with the prior permission of Council or an authorised officer, a person shall not upon or over any public place:

- (a) Place or leave any litter, materials, substance or thing likely to be hazardous or injurious to any person, or likely to create a nuisance.
- (b) Deposit in a public litter receptacle any household or trade refuse.
- (c) Interfere with any refuse which is awaiting collection by an authorised collector.
- (d) Drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles in the public place.
- (e) Cause or allow any material or thing to be deposited onto a public place or road.
- (f) Leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place.
- (g) Fly from or land any aeroplane, including model aeroplane, drone, hot air balloon, hang glider, parachute or similar in a manner that is dangerous or inconsiderate to other users of the public place.
- (h) Fly unmanned aerial vehicles.
- (i) Play any game or use any object including scooters, skateboards, roller blades, roller skates, bicycles or motorised scooters, recklessly or in a manner which may intimidate, endanger, injure or cause a nuisance to persons in the public place, or damage the public place.
- (j) Erect or place any structure on, over or under the public place except in compliance with any other bylaw or the District Plan.
- (k) Set off fireworks or other explosive material or device.

**Note not forming part of the bylaw:** When flying unmanned aircraft (including drones) every person must follow Part 101 of the Civil Aviation Rules. If you aren't able to follow these rules every person must apply for Part 102 of the Civil Aviation Rules certification.  
Refer to [www.aviation.govt.nz/drones/part-101-rules-for-drones/](http://www.aviation.govt.nz/drones/part-101-rules-for-drones/)

## 57. Litter

- 57.1. Depositing litter in a public place, or on private land without the consent of the occupier of that land, is an offence under the Litter Act 1979 and may result in the person responsible being liable for penalties under that Act.
- 57.2. Any person believed to have deposited litter in a public place or on private land without the consent of the occupier of that land may also be liable to Council for the following infringement fees:

Littering type (see definitions)	Fine
Minor littering	\$100
Major littering	\$400

- 57.3. The decision whether to issue an infringement notice for major littering or to refer the matter to the District Court will be determined on a case by case basis, based on the severity and malicious intent of the alleged offence.

## 58. Fences, Walls, Retaining Walls or Land Adjacent to a Public Place

- 58.1. Where any fence, wall, retaining wall or land adjacent to a public place is in a condition or state of disrepair which in the opinion of an authorised officer could cause damage or injury to a passer-by, the authorised officer may give notice requiring the owner or occupier to repair or remove the fence, wall or retaining wall, or make the land safe.

## 59. Bans on Glass Drinking Vessels or Containers

- 59.1. Council may from time to time, and by publicly notified resolution, place a temporary ban on the possession of glass drinking vessels or containers from any public place throughout the district.
- 59.2. Where such a ban has been imposed and that ban has been publicly notified, there shall be displayed at that public place a notice informing the public of the time and duration of that ban.
- 59.3. A person commits an offence against this bylaw where they are in possession of any glass drinking vessel or container within any public place during the period of any temporary glass ban in respect of that place and where there is a notice displayed at the place informing of the glass ban's time and duration.

#### 59.4. Kaka Point Ban on Glass Drinking Vessels or Containers

- 59.4.1. A ban on the possession of glass drinking vessels or containers is in place for Kaka Point over the foreshore adjoining the Esplanade from the intersection with Rata Street to the intersection with Karoro Creek Road, from 1 December to 31 January of the following year inclusive each summer, and over Moana Street for the period 30 December to 2 January of the following year inclusive each new year.
- 59.4.2. While the ban is in force, there shall be displayed notices at Kaka Point informing the public of the location and duration of the ban.
- 59.4.3. A person commits an offence against this bylaw where they are in possession of any glass drinking vessel or container within the location and duration of the above glass ban.

#### 60. Obstructing Public Places

- 60.1. Except with the permission of the Council or an authorised officer a person shall not in any public place:
- (a) Obstruct an entrance to, or exit from, a public place.
  - (b) Place or leave any material or thing, including signage, on a public place that could obstruct the public right of passage, other than in accordance with such conditions as may be imposed, or in accordance with District Plan rules.
  - (c) Allow any gate or door on property abutting a public place, to swing over or across the public place or any part of a public place.
  - (d) Carry out any work on any motor vehicle in a public place, except in the case of any accident or emergency when repairs are necessary for the vehicle's removal.

#### 61. Freedom Camping

- 61.1. Refer to Councils Freedom Camping Bylaw for freedom camping provisions.

#### 62. Damage

- 62.1. Except with the permission of the Council or an authorised officer a person shall not in any public place:
- (a) Cause or permit to be done any act whatsoever by which damage is caused to any public place, or any work or thing in, on, over or under the public place.
  - (b) Damage, interfere with, destroy or remove any grass plot, flower bed, tree, shrub, or plant or any inscription or label relating to it.

- (c) Pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with any ornament, statue, building, structure, or facilities.
- (d) Damage or interfere with any natural feature, animal or plant.
- (e) Use any vehicle or be in control of an animal in a manner so that it damages any part of a public place.
- (f) Drive or park any vehicle in a public place except in an area set aside for the driving or parking of vehicles.
- (g) Remove any sand, soil or other naturally occurring material found in a public place except in accordance with the Regional or District Plan.
- (h) Open any drain or sewer on, or disturb or remove the surface of, any public place.

62.2. Nothing in this section shall prevent the Council from supplying or approving the installation of display boards or temporary signs in any public place for the purpose of allowing posters to be displayed announcing upcoming functions or events.

62.3. Any person carrying out authorised works on a public place shall reinstate the area to a standard approved by an authorised officer.

62.4. Any person wishing to gain access to a beach shall use a designated access where this is available.

### 63. Placing of Articles on Public Places

63.1. A person shall not place or leave, or cause or permit to be placed or left, any material or thing, including signage, amusement devices or items for sale or hire, on any public place unless:

- (a) Such action has first been approved by Council or an authorised officer, and then only in accordance with such conditions as Council or the authorised officer may impose; or
- (b) Such action is taken for the purpose of regular refuse or other collections authorised by the Council or is otherwise authorised by law; or
- (c) Such action is permitted pursuant to any other Council bylaw.

### 64. Control of Skateboards, Scooters, Roller Blades, Roller Skates, Bicycles or Motorised Scooters

64.1. No person shall ride a skateboard, scooter, roller blades, roller skates, bicycles or motorised scooters on any footpath or any other public area without taking due care to ensure no damage is caused to any property or without reasonable consideration for other persons using the footpath or public area.

## 65. Exposing Articles for Sale

- 65.1. Except as provided for by any other Part of this bylaw no person shall expose for sale any article whatsoever on any footpath, or outside of any shop, shop window, or doorway abutting on any public place, so as to encroach on or over that public place, without the prior permission of Council, and then only in accordance with such conditions as Council may think fit to impose.

## 66. Assembly

- 66.1. A person shall not, without the prior consent of an authorised officer:
- (a) Participate in any assembly or associate with other persons in a public place in such a way as to impede pedestrian or vehicular traffic or to prevent or hinder ready access to shops or premises facing onto the public place.
  - (b) Organise or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place.

## 67. Awnings and Blinds

- 67.1. No person shall erect or maintain, or cause to be erected or maintained, any awning over any public place, or hang any awning, blind, or screen from any portico on any public place except with the permission of an authorised officer or pursuant to a requirement of the District Plan. In granting such permission an authorised officer may set such conditions as deemed appropriate. Any such permission may be revoked at any time by an authorised officer.

## 68. Projections on Public Places Not Permitted

- 68.1. Except where permitted by any other Council bylaw or by Council consent no person shall put, or allow to be put, any portico, projecting window, balcony, wall, lamp, door step, cellar door, lamp post, signboard, window shutter, gate post, or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.
- 68.2. This restriction shall not apply to any verandah or awning erected pursuant to a requirement of the District Plan.
- 68.3. If any projection or obstruction has been placed against or in front of any building before the commencement of this bylaw which is contrary to any bylaw, Council may give notice to the owner or occupier of such building to remove or alter such projection or obstruction. Such owner or occupier shall, within the time stated in such notice, remove or alter the projection or obstruction.

68.4. Except where permitted by any other Council bylaw or by Council consent, no person shall stand on any verandah erected over a public place except for the purpose of inspection, maintenance or escape in the case of fire.

#### 69. Restrictions on Use of Barbed Wire and Electrified Fences

69.1. No person shall erect or permit to be erected any electrified fencing or barbed wire along, or within one metre of any boundary line between any land or building on one side and any public place on the other side except with the permission of an authorised officer.

69.2. Provided that clause 69.1 does not prohibit the placing of such barbed wire at a height of at least two metres, or electrified fencing at least three metres, from ground level at any public place.

69.3. Clause 69.1 shall not apply within any area which has a predominantly rural character under the District Plan prepared by Council, except when the fence abuts or adjoins a footpath; provided that Council may from time to time by resolution specify conditions that will apply to temporary electric fences.

#### 70. Road and Building Identification

70.1. The Council shall have the exclusive right to cause to be painted or affixed on a conspicuous part of a building, the name of the road, private road or public place to which it has frontage.

70.2. Notwithstanding clause 70.1 where a building or property is identified by other means, the owner or occupier of every building or group of buildings forming part of a complex or of the property shall mark such building or complex with numbers to be:

- (a) Not less than 50 mm in height for residential buildings.
- (b) Not less than 150 mm in height for all other buildings.

70.3. Numbers shall be as allocated or approved by Council and displayed in a position to be readily visible from the road to which it has frontage.

70.4. Numbers required by clause 70.2 shall be maintained by the owner or occupier in such a manner as to readily identify the property at all times.

70.5. Council shall have power at any time to alter the number of any building where in the Council's opinion it may be necessary or advisable to do so.



## 71. Animals and Stock on Public Roads

- 71.1. No person shall take or allow any animal under their care or control onto any public place if the Council has by resolution or public notice prohibited entry of that type of animal to that public place.
- 71.2. Subject to clause 71.1, every person being the owner or having the care, custody, or control of any animal shall keep and prevent the animal from wandering or being at large without proper guidance on any public place.

**Note not forming part of the bylaw:** See also the Dog Control section of this bylaw.

- 71.3. Any person proposing to drive any stock on any road must do so in accordance with Council's Roading Bylaw.

## 72. Overhanging Vegetation Liable to Obstruct

- 72.1. No person shall permit or allow vegetation to encroach onto or over any public place so as to obstruct or interfere with the free movement of persons using that public place.
- 72.2. Where any person allows vegetation to encroach onto or over any public place which obstructs or interferes with public access then an authorised officer of Council will order it to be removed within a timeframe as considered reasonable by the officer. Where it is not removed within the set timeframe Council will take action to remove the overhanging vegetation at the cost of the property owner.
- 72.3. Notwithstanding any removal costs under clause 72.2, any person who does not comply with clause 72.1 may also be liable for fines under section 356 of the Local Government Act 1974.

## 73. Additional Requirements for Reserves

- 73.1. Subject to the provisions of this part of the bylaw every reserve shall be open to the public at all times except during such hours that Council or an authorised officer may determine that any reserve shall be closed to the public.
- 73.2. An authorised officer may from time to time and for such periods as they think fit, and in accordance with section 53 of the Reserves Act 1977, set aside areas of a reserve, for the exclusive use of particular groups or for particular kinds of recreational activities. Council may charge for the right to have exclusive use of a reserve.
- 73.3. The Council may fix charges for the entry to a reserve in accordance with the Reserves Act 1977, and it shall be an offence against this part of the bylaw to enter a reserve without having paid the property charge for entry, if a charge is payable.

- 73.4. An authorised officer may close or restrict entry to all of, or any portion of, a reserve at such times as considered necessary to prevent damage to, or allow maintenance of, the reserve. Such closure shall be advertised by signs at the entrances to the reserve. It shall be an offence against this part of the bylaw to be found on a reserve at any time when the reserve is closed to public entry.
- 73.5. Every person committing a breach of the provisions of this part of the bylaw shall, upon request by an authorised officer, immediately leave the reserve, and shall be prohibited from appearing on the reserve for such period as the authorised officer deems fit. Any person so ordered to leave shall still be liable to be prosecuted for the breach of the bylaw, and any person failing to leave with reasonable speed, to comply with a request to leave, shall commit a further offence.

## PART 7 TRADING IN PUBLIC PLACES

### 74. Purpose

74.1. The purpose of this part of the bylaw is to encourage diversity, vitality and amenity in public places while ensuring public safety, minimising conflict with neighbouring land uses, and protecting the intended use of the public place.

74.2. This section of this bylaw carries out this purpose by regulating the conduct of persons:

- Selling goods on streets, roads, footpaths and other public places.
- Using vehicles to sell goods and services to the general public.
- Soliciting for donations or subscriptions or distributing advertising material.

### 75. Definitions

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

<b>Daylight Hours</b>	A period of time between half an hour before sunrise and half an hour after sunset on one day.
<b>Goods</b>	Any product or service.
<b>Hawker</b>	Any person who carries or takes about any goods, wares, or merchandise for sale, not in pursuance of any invitation to call with, or of any previous order or request for such goods; and <ul style="list-style-type: none"> <li>• Includes a peddler, and any person who exposes for sale any goods, wares or merchandise carried or taken about by that person or solicits the custom of any other person; and whether any person shall carry any such goods, wares, or merchandise or not.</li> <li>• But does not include any person who uses any vehicle as a mobile or travelling shop.</li> </ul>
<b>Itinerant Trader</b>	Retailers who have no fixed place of business, moving from place to place to sell their goods to consumers.
<b>Mobile Travelling Shop</b> or	A vehicle, whether self-propelled or not, from which goods, wares, or merchandise are offered or exposed for sale, or from which goods, wares, or merchandise may be ordered (whether or not in pursuance of an invitation to call with the goods, wares, or merchandise) or from which services are offered for sale.
<b>Premises</b>	Any land, dwelling, storehouse, warehouse, shop, cellar, yard, building, or part of the same, or enclosed space separately occupied, and all lands, buildings, and places adjoining each other and occupied together are deemed to be the same premises.

<b>Service Delivery Vehicle</b>	Any vehicle being used for the purpose of delivering goods to any business premises or organisation and does not involve the sale of goods to the general public in any public place.
<b>Stand or Stall</b>	Any other use of a public place for selling or exposing for sale any goods or services, or for any soliciting or promotion, whether or not any stand, stall or other structure is used, other than as defined for hawker or mobile or travelling shop.

## 76. Registration and Approvals for Premises

76.1. The following businesses must be registered with the Council.

- (a) Hawker (not food)
- (b) Itinerant Trader
- (c) Mobile Shop
- (d) Food Trucks

76.2. If an operator wishes to sell food approval must be obtained from Council's Environmental Health Officer in the form of a copy of the certificate of registration of either a food control plan, relevant national programme or notice of exemption.

## 77. Conditions of Operation

77.1. Every person shall comply with the following provisions who wishes to do any of the following activities in a public place:

- (a) sell goods
- (b) solicit any subscription, collection or donation
- (c) preach
- (d) undertake busking
- (e) distribute any printed or written advertising material advertising any product, service or entertainment

77.2. Selling goods for profit in a public place shall only occur when:

- (a) It is part of a street fair, market or similar organised event by a local community group; or
- (b) It is not located beside or within any State Highway or Service, Retail Frontage area as identified within the Clutha District Plan; or
- (c) If it is located beside or within a State Highway or Service, Retail Frontage area as identified within the Clutha District Plan the activity occurs for no more than two calendar days in any consecutive period of 30 days: and
- (d) The activity is located more than 100 metres from any established competing business.

- 77.3. Council owned property and halls are not available for use by itinerant traders.
- 77.4. The approval of the occupier of the adjacent property must be obtained for all stationary activities.
- 77.5. Current Council registrations and approvals, as described in clause 76 of this bylaw, must be obtained for all applicable premises.
- 77.6. Operation is limited to daylight hours only.
- 77.7. No road or footpath may be obstructed, and adequate space for clear passage must be maintained at all times.
- 77.8. Activities must not be located where they will restrict the visibility of road users.
- 77.9. Activities must keep clear of all fire hydrants and markers so that these are clearly visible at all times and the hydrants themselves are readily accessible to the Fire Service.
- 77.10. At the conclusion of the day's activities the operation must be completely removed, and the site left in a clean and tidy condition.
- 77.11. Operators must not create excessive or unreasonable noise.
- 77.12. All liability for claims of damages that may arise from the operation rests with the operator.
78. [Trading in Public Places Bylaw Licence](#)
- 78.1. If the conditions of operation in clause 77 of this bylaw cannot be met by the operator's listed in clause 76, an application for a Trading in Public Places Bylaw Licence can be made to the Council. This application can be approved or refused, and Council can impose conditions on the licence. Licences must be renewed annually and reapplied for if the circumstances of the operation change.
- 78.2. A fee for processing a Trading in Public Places Bylaw Licence will be charged as set out in Councils annually reviewed Schedule of Fees and Charges.
79. [Compliance with Requests from an Authorised Officer](#)
- 79.1. Every operator shall comply with any request from an Authorised Officer including a request to move on to any other part of a public place as directed by the Officer.
80. [Breach of Bylaw](#)
- 80.1. An operator who fails to comply with any part of this bylaw, including a request from an Authorised Officer, shall be in breach of this bylaw.

## 81. Exemptions

### 81.1. The exemptions allowed under this bylaw are as follows:

- (a) For the operator of a fishing vessel registered under Section 103 of the Fisheries Act 1996 and who is the holder of a current fishing permit issued under that Act, where that operator, or a person appointed in by him in that behalf, sells fresh fish or shellfish (taken from that vessel in accordance with the conditions of the permit) from that vessel at the place where it is moored, berthed, or beached or from a stall (including a vehicle used as a stall) within 450 metres of that place.
- (b) Service delivery vehicles including milk vendors.
- (c) Any market, stall or stand which has a current approval under any other bylaw, legislation, resource consent or specific resolution of Council.