

Bylaw

PUBLIC PLACES

TITLE:	Ashburton District Council Public Places Bylaw 2017
TEAM:	Environmental Services
RESPONSIBILITY:	Environmental Monitoring Manager
DATE ADOPTED:	17 May 2018
COMMENCEMENT:	17 May 2018
NEXT REVIEW DUE:	17 May 2028

1. Title

The title of this bylaw is Ashburton District Council Public Places Bylaw 2018. This bylaw amends the Ashburton District Council Public Places Bylaw 2008.

2. Purpose

The purpose of this bylaw is to:

- ensure Public Places are used in a manner that will not cause obstruction,
- protect the public from nuisance, and
- protect, promote and maintain public health and safety

3. Related documents

- Animal Welfare Act 1999
- Ashburton District Council Dog Control Bylaw
- Ashburton District Council Explanatory Bylaw
- Ashburton District Council Keeping of Animals, Bees and Poultry Bylaw
- Ashburton District Council Transportation Bylaw
- Ashburton District Council Use of Footpath for Alfresco Dining Policy
- Ashburton District Plan
- Building Act 2004
- Dog Control Act 1996
- Fencing Act 1978
- Health Act 1956
- Health and Safety at Work Act 2015
- Land Transport Act 1998
- Litter Act 1979
- Local Government Act 2002
- Resource Management Act 1991
- Reserves Act 1977
- Sale and Supply of Alcohol Act 2012.

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5. Application

This bylaw applies to Public Places within Ashburton District. The provisions of this bylaw do not apply to:

- Control of alcohol in public places, which is addressed by the Ashburton District Council Alcohol Control Bylaw.
- Mobile shops, stalls or hawkers, which are addressed in the Ashburton District Council Mobile Shops, Stalls and Hawkers Bylaw.

6. Definitions

Animal means stock, poultry and any other animal that is kept in a state of captivity or is dependent upon human beings for its care or sustenance.

Authorised Officer means any person appointed by the Council to act on its behalf and with its authority.

Bylaw means the Ashburton District Council Public Places Bylaw 2017.

Busk means to perform in a public place, including but not limited to the playing of an instrument, singing, dancing, juggling, mime, puppetry, performance art, conjuring, acrobatics, recitation, undertaking artworks and performing

Busker means a person or persons who is or are busking.

Council means Ashburton District Council.

District means the district of Ashburton District Council.

Electric fence means a barrier used to contain animals within or exclude animals from a particular area that includes one or more electric conductors, insulated from earth, to which regular electric pulses are applied by an energizer.

Fence is as defined in the Fencing Act 1987.

Goods is as defined in the Goods and Services Tax Act 1985.

Licensed premises has the same meaning given in the Sale and Supply of Alcohol Act 2012.

Nuisance has the same meaning as given in section 29 of the Health Act 1956 and includes a person, animal, activity or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

Person includes any individual, company or other commercial body.

Public Place means any place or space that is owned or controlled by Council and which is open to the public, and any road whether or not it is controlled by the Council, but excludes reserves which are regulated by the Ashburton District Council Open Spaces Bylaw.

Road means any legal road as defined by section 315 of the Local Government Act 1974 (this does not include State Highways which are administered by New Zealand Transport Agency).

Rural area means any area within rural A, B and C zones of the Ashburton District Plan.

Street performance (including street performer and street appeal collector) includes busking and means the provision of entertainment in Public Places and may include playing an instrument and/or singing, dance, juggling, mime, puppetry, performance art, conjuring, acrobatics, recitation, performing an act or other theatrical and visual forms, and pavement art.

Stock has the same meaning as the Dog Control Act 1996 and includes but is not limited to:

- a) Any live horse, cattle, sheep, swine, alpaca, llama, bison, donkey, hinny, mule, or water buffalo that is not in a wild state:
- b) Any deer, goat, thar, rabbit, possum, or other animal that is kept within a fence or enclosure for domestic or farming purposes.

Urban area means any area not within rural A, B and C zones of the Ashburton District Plan.

Vehicle has the same meaning as in the Land Transport Act 1998 and generally means a man-made device for land transport, including, but not limited to, cars, trucks, heavy machinery, motorbikes, and bicycles and any other machine with wheels, tracks, rollers or skids; but does not include prams, strollers, wheelchairs or other mobility scooters.

7. Obstruction of or damage to Public Places

- 7.1 No person may cause damage or interfere with any Council property in a Public Place.
- 7.2 No person may cause damage to any protected indigenous plants in Public Places.
- 7.3 No person may, without prior consent from Council, or as expressly allowed by this bylaw:
 - 7.3.1 Place or leave any vehicle, container, package, sign, or any other item that obstructs any Public Place;
 - 7.3.2 attach an obstruction or projection of any kind to a building in a position that interferes with or obstructs the free passage of pedestrians or traffic upon a Public Place;
 - 7.3.3 Repair or dismantle any vehicle (except in the case of an accident breakdown)
 - 7.3.4 Carry out any activity where a sign indicates that the activity is prohibited or is otherwise regulated;
 - 7.3.5 Erect any stall, tent or structure of any kind on any road, access-way or thoroughfare in any Public Place;

7.3.6 Do anything on, or adjacent to any Public Place, which may cause people to congregate in a manner which may impede traffic, cause an obstruction or a nuisance;

7.3.7 Set off fireworks or explosive material.

8. Goods displayed outside shops

8.1 All outdoor display of goods outside shops must:

8.1.1 be a maximum width of 0.6 metres from the shop frontage and maintain a minimum of 2 metres of unobstructed footpath;

8.1.2 be placed immediately adjoining the premises from which the good and services displayed may be purchased;

8.1.3 be moved to another part of the Public Place if directed by the Authorised Officer to do so;

8.1.4 not impede the movement of pedestrians or vehicles;

8.1.5 not display knives or firearms or be dangerous or offensive;

8.1.6 not be in a public place outside the business hours of the business.

8.2 Written notice for the removal of goods which do not comply with clause 8.1 will be provided by the Authorised Officer. Such notice may require the removal of goods within 24 hours, failing which the goods may be impounded. Release of the goods may be subjected to an impound fee.

9. Buskers, street performers and street preachers

9.1 Buskers, street performers and street preachers are permitted to operate in Public Places of the district without obtaining specific permission from Council, provided the following conditions are met:

9.1.1 Nuisance must not be caused;

9.1.2 Entrances to businesses must not be blocked;

9.1.3 There must be no obstruction to pedestrians, traffic or businesses utilising footpath areas;

9.1.4 Music or noise must not cause an unreasonable nuisance.

- 9.2 An Authorised Officer may revoke the right of buskers and street performers as warranted by clause 9.1 of this bylaw if complaints are received, or the Authorised Officer determines a nuisance is, or may be, caused.

10. Animals and stock in Public Places

- 10.1 No person may:
- 10.1.1 take stock or animals into, on or over a Public Place where it may cause a nuisance to users of that Public Place or a hazard to traffic;
 - 10.1.2 ride or lead a horse on any footpath or berm in urban areas;
 - 10.1.3 throw or leave any dead animal or animal remains, upon a Public Place, or in a river, creek, stream, water race or other water;
 - 10.1.4 fail to safely and appropriately dispose of the remains of an animal belonging to them or in their charge, that may have been killed or died while straying or being driven on a Public Place.
- 10.2 Any person having control of stock or animals in a Public Place must:
- 10.2.1 ensure that the stock or animals are kept under proper control; and
 - 10.2.2 remove, and appropriately dispose of, any manure deposited in a Public Place.
- 10.3 Driving and transporting stock is covered by the Ashburton District Council Transportation Bylaw 2015.

11. Skateboarding/cycling in Public Places

- 11.1 No person may use or ride a cycle or skating device in any Public Place in a manner as to be:
- 11.1.1 Intimidating
 - 11.1.2 Dangerous
 - 11.1.3 Causing a nuisance.
- 11.2 An Authorised Officer may impound a skating device used in breach of this bylaw. Any impounded skating device may be reclaimed from Council's offices upon payment of a fee prescribed in Council's schedule of Fees and Charges.

12. Vegetation

- 12.1 No person may permit vegetation to encroach on, to, or over any Public Place so as to obstruct access to the Public Place or cause a nuisance.
- 12.2 Overhanging vegetation must allow sufficient clearance to give pedestrians free passage with vertical clearance of 2.5 metres above the footpath surface.
- 12.3 Any vegetation that could present a risk to health and safety, in the opinion of an Authorised Officer, should be contained within private property boundaries.
- 12.4 Overhanging vegetation must not restrict light from street lights or obstruct signage. An Authorised Officer has discretion to require any such vegetation to be trimmed or cut back as per clause 12.7.
- 12.5 Any person who fails to comply with clauses 12.1, 12.2, 12.3 and 12.4 is liable to the recovery of reasonable costs incurred by Council in clearing overhanging vegetation.
- 12.6 Removal and maintenance of heritage/protected trees must be carried out in accordance with the Ashburton District Plan.
- 12.7 An Authorised Officer has discretion to give written notice to trim or cut back vegetation which does not comply.

13. Encroachment to be removed upon notice

- 13.1 If any part of a building or structure has been constructed on or placed across a Public Place, Council may by notice in writing require the owner of the building or structure to:
 - 13.1.1 remove the part of the building or structure that has been constructed on or placed across that Public Place; and
 - 13.1.2 remedy any damage to the Public Place caused by the building or structure.
- 13.2 Any notice issued in relation to clause 13.1 may include precautions for ensuring public safety, such as the proper securing of such building or structure following such removal of encroachment.

14. Fences

14.1 Fences on Public Places

- 14.1.1 No person may erect or permit to be erected any barbed wire or electrified wire along, or within 1 metre of, any boundary which adjoins any Public Place, unless such wire:

- 14.1.1.1 is at least 2 metres above the ground level of the Public Place; and
- 14.1.1.2 forms part of an existing fence.

14.2 Electric fences on road reserves

- 14.2.1 Temporary electric fences may not be erected on a road reserve without first obtaining the written permission of Council. Permission is to be obtained by completing a Licence to Occupy Road Reserve and Erect Temporary Fence form.
- 14.2.2 An Authorised Officer will assess if the area applied for in the licence has any potential safety implications. The licence may be rejected if the Authorised Officer determines the electric fence may impact on public safety.
- 14.2.3 Any such permission shall require the following conditions are met. Fences must:
 - 14.2.3.1 be stock proof and of a temporary nature only;
 - 14.2.3.2 be kept in good order and repair;
 - 14.2.3.3 be identified by appropriate signage that is prominently displayed;
 - 14.2.3.4 be supported by flexible lightweight standards (the use of steel posts is not permitted for safety reasons);
 - 14.2.3.5 allow clear passageway of a minimum of 1 metre from the edge of the unsealed road carriageway as determined by an Authorised Officer;
 - 14.2.3.6 not constitute a traffic hazard or obstruct traffic visibility;
 - 14.2.3.7 not be located 10 metres from any intersection.
- 14.2.4 Any such licence issued under clause 14.2.2 requires the licensee accept responsibility for:
 - 14.2.4.1 the cost of repairs to underground water or sewerage pipes or telephone or power cables that may be damaged as a result of the erection, repair or demolition of the fence and will make his or her own enquiries from the relative authorities regarding the presence of any such pipes or cables;
 - 14.2.4.2 the clearing and keeping clear of all inlets and/or outlets of roadside culverts and cut-outs enclosed within the temporary fence. (Note – past experience has shown that stock grazing on enclosed road reserves has caused considerable blocking of roadside drains with resultant flooding).
 - 14.2.4.3 cutting all growth between the fence line and the road verge to ensure that the fence is visible to road users at all times.
- 14.2.5 No stock shall be grazed within the area enclosed by the electric fence during the

hours of darkness.

- 14.2.6 An Authorised Officer will determine the maximum time that a fence may remain in position until.
- 14.2.7 Council may, either upon the issue of any Licence to Occupy Road Reserve and Erect Temporary Fence, prescribe any condition or conditions which the licensee must comply with.
- 14.2.8 The Licence to Occupy Road Reserve and Erect Temporary Fence is not transferrable.

14.3 Repair of fences

- 14.3.1 When a fence abutting a public place is so out of repair that, in the opinion of an Authorised Officer, it is dangerous to the public, Council may, by notice in writing, require the owner of the fence to:
 - 14.3.1.1 repair the fence;
 - 14.3.1.2 remove the fence; or
 - 14.3.1.3 remove the fence and erect in its place a new fence.

14.4 Permanent fences on road reserves

- 14.4.1 Permanent fences and barriers may not be erected on a road reserve without first obtaining the written permission of Council. Permission is to be obtained by completing a Licence to Occupy the Road Reserve and Erect Permanent Fencing Form.
- 14.4.2 Any such permission shall require the following conditions are met. Permanent fences must:
 - 14.4.2.1 be kept in good order and repair;
 - 14.4.2.2 cross the road in the most direct route and at right angles to the alignment of the road;
 - 14.4.2.3 be identified by appropriate signage that is prominently displayed;
 - 14.4.2.4 painted white;
 - 14.4.2.5 allow clear passageway of a minimum of 2 metres from the edge of the seal of a gravel road;
 - 14.4.2.6 allow clear passageway of a minimum of 3 metres from the edge of the seal of a sealed road; and
 - 14.4.2.7 not constitute a traffic hazard or obstruct traffic visibility.

14.4.3 Permanent fences related to cattle crossings must:

- 14.4.3.1 not be located 10 metres from any intersection;
- 14.4.3.2 display permanent signage and comply with the Manual of Traffic Signs and Markings; and
- 14.4.3.3 display warning signage erected either side of the crossing. Signs are to be located prior to the crossing at a distance that will provide sufficient warning and facilitate safe stopping distances for vehicles travelling at the posted speed limits.

14.4.4 Upon satisfactory completion of construction the applicant must agree to maintain the structure.

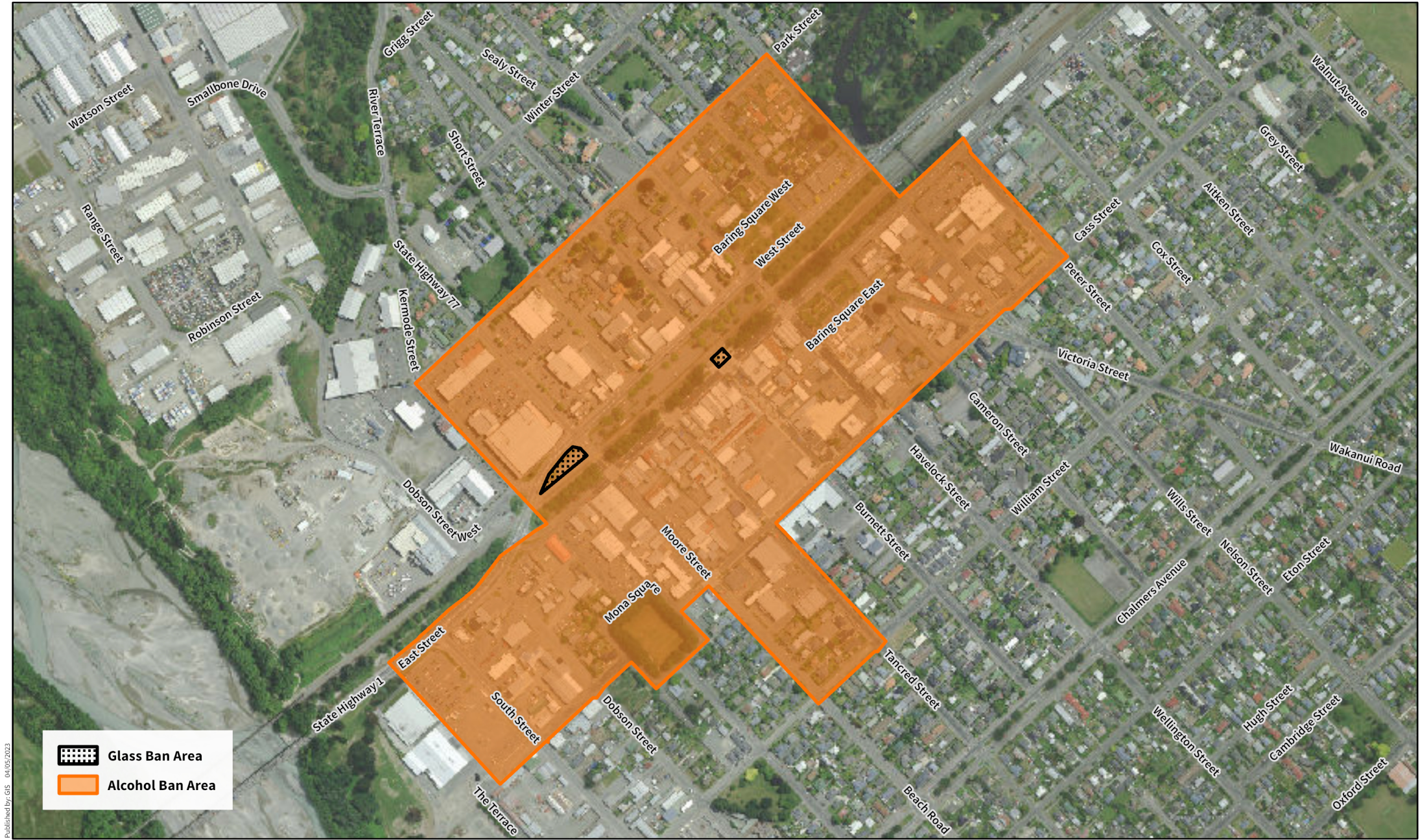
15. Glass vessels in Glass Ban Areas

- 15.1 No person shall have in his or her possession, at any time, any glass drinking vessel or container in any Glass Ban Area, as detailed in Schedule 1 and 2.
- 15.2 Council may declare additional areas as Glass Ban Areas by resolution as provided for in section 151(2) of the Local Government Act 2002. These areas will be publicly notified as per the requirements of the Local Government Act 2002.



Explanatory note: Schedule 1 and 2 also contain 'Alcohol Ban Areas'. These areas are governed by the Ashburton District Council Alcohol Control Bylaw.

16. Offences and penalties


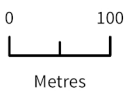
- 16.1 Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.



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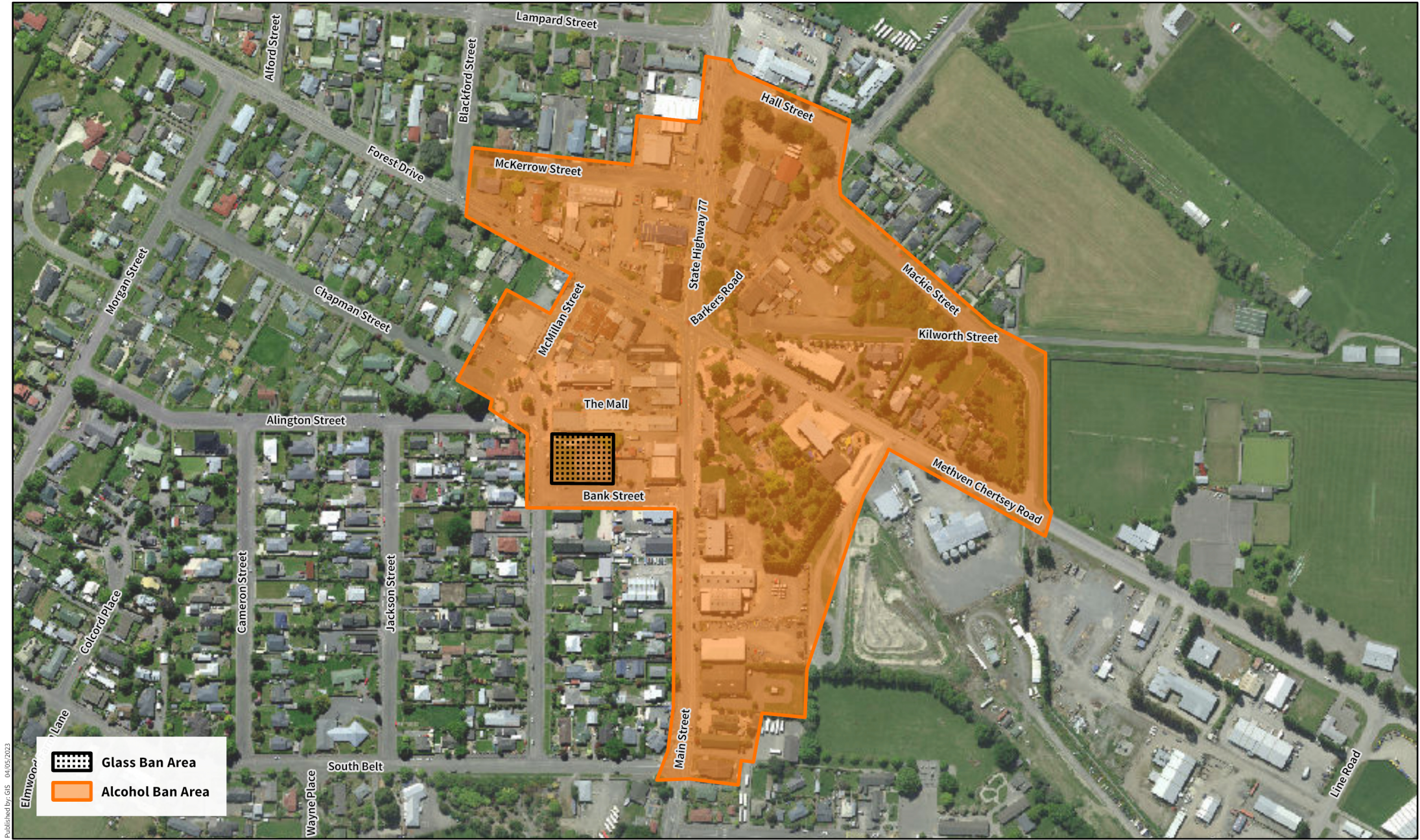
 Glass Ban Area
 Alcohol Ban Area



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Ashburton Alcohol and Glass Ban Area

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Ashburton
DISTRICT COUNCIL

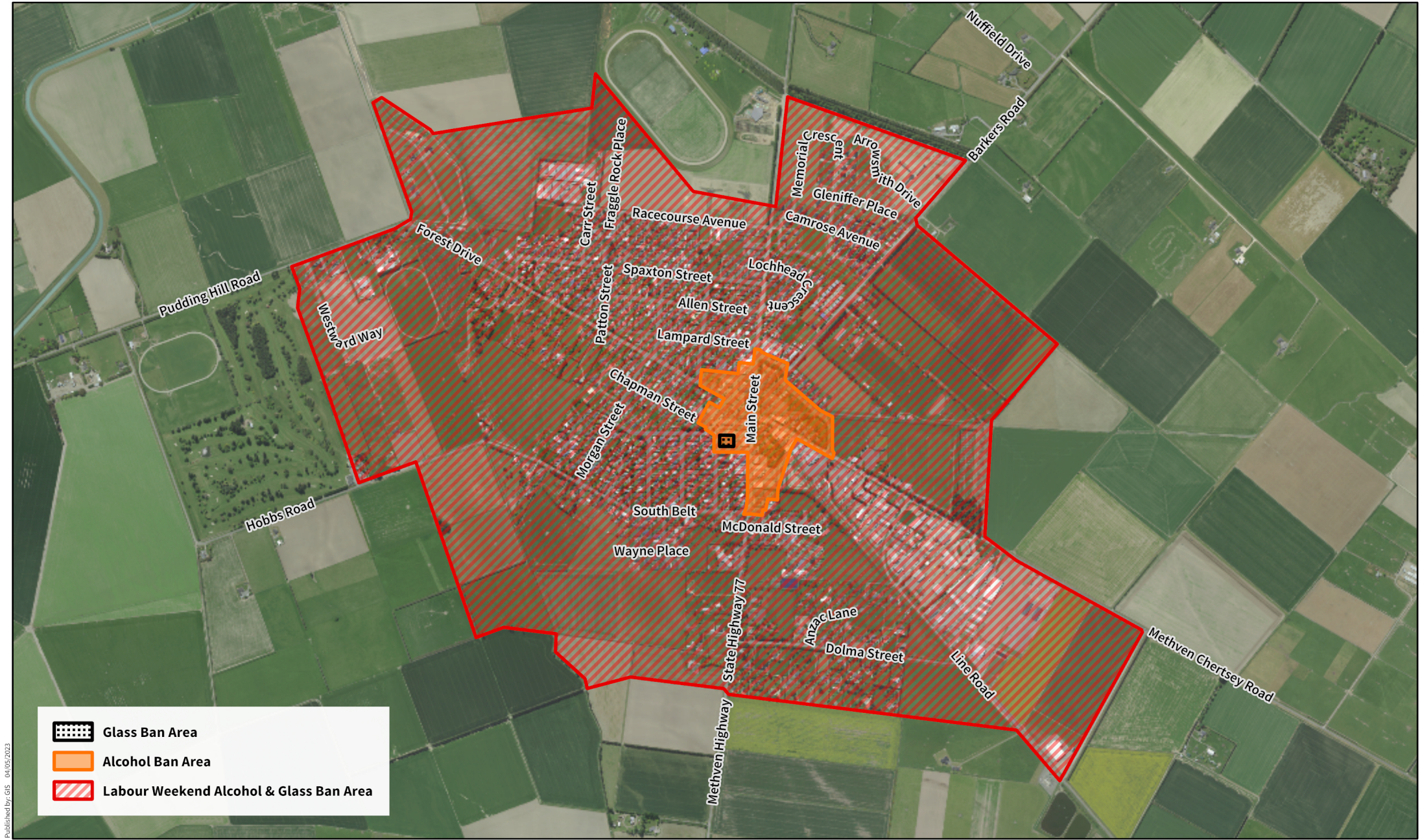
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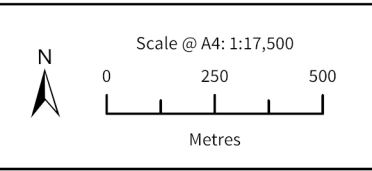
Methven Alcohol and Glass Ban Area

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Methven Labour Weekend Alcohol and Glass Ban Area

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