

Wednesday, 9 April 2025

Te Hui o Te Kaunihera ā-Rohe o Heretaunga

Hastings District Council

District Planning and Bylaws Subcommittee Meeting

Kaupapataka

Attachments

Te Rā Hui:
Meeting date: **Wednesday, 9 April 2025**

Te Wā:
Time: **9:00 AM**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

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4.	DRAFT WASTE MANAGEMENT AND MINIMISATION BYLAW AND STATEMENT OF PROPOSAL	
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Draft Hastings District Council Waste Management and Minimisation Bylaw 2025 / Te Ture ā-rohe a Te Kaunihera ā-rohe o Heretaunga mō te Whakahaere me te Whakaiti Para 2025

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This bylaw is made under the Waste Minimisation Act 2008.



1. Title

- 1.1. This bylaw is the Hastings District Council Waste Management and Minimisation Bylaw 2025 / Te Ture ā-rohe a Te Kaunihera ā-rohe o Heretaunga mō te Whakahaere me te Whakaiti Para 2025.

2. Commencement

- 2.1. This bylaw comes into force on XX XXXX 2025.

Explanatory note: This Bylaw should be read in conjunction with the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan / Te Mahere Whakahaere me te Whakaiti Para and any relevant controls referred to in clause 8.

3. Application

- 3.1. This Bylaw applies to the Heretaunga Hastings district.
- 3.2. This Bylaw does not apply to:
- (a) council when exercising its lawful compliance functions;
 - (b) emergency services or civil defence personnel exercising their lawful functions in an emergency; or
 - (c) any person acting in compliance with a lawful direction of council.

4. Revocation

- 4.1. Clause 2.14.1 (refuse disposal) and Clause 10.3 (Refuse) of the Hastings District Council Consolidated Bylaw 2021 are revoked on the date this bylaw comes into force.

5. Purpose

- 5.1. The purpose of this bylaw is to:
- 5.2. Achieve the purpose of the Waste Minimisation Act 2008 and the New Zealand Waste Strategy;
- 5.3. Ensure efficient and effective waste management and minimisation across Heretaunga Hastings district and support safe practices through the regulation of the collection, transport, and disposal of waste or processing of recycling;
- 5.4. Support the implementation of the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan.

6. Compliance with Bylaw

- 6.1. No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this Bylaw

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- 6.2. To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, Regulations, Bylaws and any relevant consents, permits or approvals.

7. Definitions

- 7.1. In this Bylaw unless the context otherwise requires:

Defined Term	Interpretation
Approved receptacle	Means a container, bag or other receptacle approved by Council for the disposal of waste, including for the collection of that waste.
Commercial / industrial waste	Means any waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking including scrap, salvaged materials or other similar waste.
Construction & demolition waste material	<p>Waste generated from any building work (including construction, renovation, repair or demolition); and includes but is not limited to concrete, plasterboard, insulation, nails, wood, steel, brick, paper, roofing materials, wool/textiles, cardboard, metals, plastic or glass, as well as any waste originating from site preparation, such as excavated materials, topsoil, plant matter, tree stumps, asphalt subsoils, and rubble.</p> <p>Explanatory Note: For clarity and the avoidance of doubt, waste created during the manufacture of building products is not 'construction and demolition waste' in terms of this bylaw.</p>
Event waste material	Waste generated from any organised temporary activity of significant scale and/or occurring over multiple days that is likely to create waste, including (but not limited to) an organised gathering, open-air market, parade, protest, festival, film shoot, concert, sport, race or celebration.
Hazardous waste	<p>Means any waste that:</p> <p>contains substances defined in Section 2 of the Hazardous Substances and New Organisms Act 1996, which exceed the minimum degree of hazard specified by the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2000, or</p>



	<p>meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 1999 and the NZ Standard 5433: 1999 - Transport of Dangerous Goods on Land, or</p> <p>or is publicly notified by the Council from time to time to be hazardous and to require special handling for the purposes of collection transportation or disposal.</p>
Household / domestic waste	Waste consisting of refuse, recycling or organic waste material originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise.
Licence	A licence, consent, permit or approval to do something under this Bylaw and includes any conditions to which the licence is subject.
Multi-unit Development	Means a premises that contains 10 or more dwellings and to avoid doubt, includes mixed-use premises with business or other activities.
Public waste bin	Means a receptacle in a public place for the disposal of waste and includes containers for different types of waste (for example recycling, organic waste material or other waste).
Occupier	In relation to any land or premises, means any lessee, licensee, or other occupant of the land, and includes the owner or the agent of the owner where there is no apparent occupier.
Organic waste material	Means food scraps including food and any parts of food such as those discarded during food preparation (food organics) and vegetative materials discarded from gardening activities (garden organics), as provided for in the Standard.
Owner	In relation to premises, means the person for the time being entitled to receive the rent of the premises, whether on an own account or as the agent or trustee for any other person, or who would be so entitled if the premises were let at a rent and includes any person for the time being registered under the Land Transfer Act 2017 as the proprietor of the premises
Person	Means an individual, a corporation sole, a body corporate, and an unincorporated body.

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Prohibited waste	<p>Means waste containing any:</p> <ul style="list-style-type: none"> a) Material capable of causing any injury to any person or animal unless that material is sufficiently contained to prevent injury; b) Material capable of causing damage to the approved container or likely to shatter in the course of collection unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury; c) Material that may endanger any person, animal or vehicle that may come in to contact with it prior to, during or following collection, transportation or Disposal; d) Liquid or viscous fluid (including but not limited to used oil and paints); e) Radioactive wastes, but excluding domestic smoke detectors; f) Batteries, including but not limited to used oil, lithium and lead acid batteries; g) Hazardous waste; h) Medical waste; i) Asbestos; j) Fluorescent lights or lightbulbs containing any mercury; k) Gas containers; l) Aerosol cans; m) Lead paint products; and n) Other material prohibited by Council from time to time.
Public place	<p>Means a place that, at any material time, is open to or is lawfully being used by the public, whether free or on payment of a charge, notwithstanding that any owner or occupier of that place is entitled to exclude or eject any person from that place and, for the avoidance of doubt, includes:</p> <ul style="list-style-type: none"> • a beach • a road • an aircraft, hovercraft, ship, ferry or vehicle carrying passengers for reward • a cemetery or crematorium



	<ul style="list-style-type: none"> the foreshore a park a reserve under the Reserves Act 1977, and premises used by Council for the purposes of service delivery, including (but not limited to) an administrative office, community centre, swimming pool, library or art gallery.
Recycling	<p>Has the same meaning as in section 5 of the Waste Minimisation Act 2008.</p> <p>Explanatory note: Recycling that is abandoned or disposed of or discarded (eg put out for kerbside collection on the road reserve) also comes within the definition of waste.</p>
Special Collection Area	Means an area approved by the Council for the collection of waste or recycling.
Standard	Means the Standard Materials for Kerbside Collections Notice 2023 (Notice No.1).
Waste Collector	Any person who collects or transports waste as their primary business and includes commercial and non-commercial collectors and transporters of waste (for example, community groups and not-for-profit organisations); but does not include individuals who collect and transport waste for personal reasons (for example, a person taking household garden waste to a landfill).
Waste	<p>Has the same meaning as in section 5 of the Waste Minimisation Act 2008:</p> <p>(a) means any thing disposed of or discarded; and</p> <p>(b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and</p> <p>(c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.</p>
Waste Management Facility	<p>means a premises</p> <p>(a) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities; and</p>

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	<p>(b) to avoid doubt, includes a landfill, cleanfill, managed fill, mono fill or transfer station.</p> <p>And includes a resource recovery facility, which is a premises</p> <p>(a) at which material that has been disposed of or discarded is received, collected, sorted, stored, processed or any combination of these activities for the purpose of recovering components or elements for recycling or reuse;</p> <p>(b) to avoid doubt, includes a commercial composting operation, recovery operation, materials recovery facility, transfer station and recycling depot; and</p> <p>(c) to avoid doubt, excludes premises on which composting occurs.</p>
Waste Operator	Means a person who owns, operates or manages a landfill site, clean fill site, managed fill site, monofil site or any other Waste Management Facility.

- 7.2. Any undefined words, phrases or expressions used in this bylaw have the same meanings as in the Waste Minimisation Act 2008 (including any regulations and rules made under that Act).
- 7.3. To avoid doubt, the Hastings District Council Consolidated Bylaw 2021, and any defined terms in that Bylaw, do not apply to this Bylaw.
- 7.4. Part 2 of the Legislation Act 2019 applies to the interpretation of this bylaw.
- 7.5. Explanatory notes are not part of the bylaw, and the Council may add, amend or delete explanatory notes at any time without amending the bylaw.

Explanatory note: Explanatory notes are used to explain the intent of a clause in less formal language and/or to include additional helpful information.

8. Controls

- 8.1. In addition to the requirements of this Bylaw, the Council may, by resolution publicly notified, make, amend or revoke controls or rules that provide for the following matters:

The type, size, number, construction of and maximum allowable limits of waste allowed in an approved receptacle for the collection of waste from a public place or special collection area;

 - (a) Collection times, conditions of use and any other operational matter relating to collection of an approved receptacle from a public place or a special collection area;
 - (b) The placing of an approved receptacle for collection;
 - (c) The correct separation of waste into an approved receptacle;

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- (d) Types of waste that are prohibited;
 - (e) The effective management and minimisation of specific categories or types of waste, including but not limited to:
 - (i) Construction and Demolition waste material;
 - (ii) Organic waste material;
 - (iii) Multi-unit development waste material; and
 - (iv) Event waste material.
 - (f) Conditions that, as applicable, can be included in any licence for any waste collector and/or waste operator operating within the District including, in addition to any of the above matters: the provision of information to the Council about the types of materials deposited, collected, transported, received, sorted, stored, processed, disposed of or any combination of these activities;
 - (g) The size, location, quantity and general management of public waste bins allowed in public places.
- 8.2. Controls implemented by Council may:
- (a) Regulate, control or prohibit any matter or thing generally, for any specified classes of case, or in a particular case;
 - (b) Apply to all waste or any specified category or type of waste;
 - (c) Apply to the Hastings District or to a specified part of it; and/or
 - (d) Apply at all times or at any specified time or period of time.
- 8.3. Any person providing or using a waste collection service in or from a public place must comply with all controls made by the Council relating to that service.

9. Waste Collection

- 9.1. Waste may not be placed in a public place or in a special collection area for collection unless it is:
- (a) household/ domestic waste;
 - (b) green waste / organic waste material;
 - (c) any other type of waste determined by the Council as able to be placed for collection.
- 9.2. A person that disposes of or discards waste in a public place or in a special collection area for collection under clause 9.1, must:
- (a) ensure that waste is separated in accordance with clause 10 and deposited into the correct approved receptacle as determined by Council;
 - (b) take all reasonable steps to prevent any waste from escaping any approved receptacle;
 - (c) ensure that any approved receptacle is not overfilled;
 - (d) take all reasonable steps to prevent any approved receptacle disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises;

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- (e) ensure that approved receptacles are placed for collection and retrieved in accordance with any applicable control specified by the Council under clause 9.

- 9.3. Council may declare by resolution that any road or other area is a Special Collection Area,

Explanatory note: *Special Collection Areas will be publicly advertised to support the public to identify locations.*

- 9.4. A person must not:

- (a) Cause, permit or allow the deposit of any Prohibited Waste into an approved receptacle;
- (b) Cause, permit or allow the deposit of any material into an approved receptacle that is not approved for that type of waste.
- (c) Interfere with or remove any waste material from an approved receptacle, except a waste collector, Council Officer, or with the consent of the owner of the approved receptacle;
- (d) Cause, permit or allow the deposit of any waste in an approved receptacle provided to any other person, without that person's consent;
- (e) Remove an approved receptacle from the premises to which it has been provided or from any other premises, without the consent of Council (noting Council reserves the right to charge to replace any approved receptacle that are lost, stolen or damaged);
- (f) Damage any approved receptacle;
- (g) Obstruct or hinder a waste collector from lawfully collecting waste from an approved receptacle.

10. Separation of Waste

- 10.1. Waste, including recycling and organic waste material must be separated in accordance with the waste types set out in the Standard, before being placed in approved receptacles for collection.
- 10.2. Only materials stated in the Standard are accepted in an approved receptacle, unless otherwise specified by the Council by resolution.

Explanatory note: *A copy of the Standard is available [here](#).*

11. General Responsibilities

- 11.1. The occupier of any premises is responsible for:
- 11.2. Any waste generated on that premises until it has been collected.
- 11.3. Any waste generated from that premises, that has been placed on public property in an approved receptacle for collection, that is not collected.
- 11.4. Ensuring that there is an adequate area on the premises for the safe storage of approved receptacles and that they are kept in a hygienic state.



12. Waste Collectors and Waste Operators

- 12.1. Any waste collector who collects or transports waste from a public place or special collection area must:
- (a) make available to the occupier of a premises one or more approved receptacle/s to enable separate collection of each of the waste types required to be separately collected from the premises;
 - (b) not collect or dispose of any waste material which has not been separated in accordance with the requirements of this bylaw;
 - (c) comply with all controls made by the council relating to that collection.
- 12.2. The Council may require waste collectors and waste operators to apply for a licence from the Council:
- (a) in the form and manner required by council; and
 - (b) including any information required by council.
- 12.3. The Council may approve or refuse any application, taking into account the purpose of this Bylaw and the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan.
- 12.4. If approved, the Council may impose any conditions on the licence provided for in any control made under clause 8 of this Bylaw.

13. Public Waste Bins

- 13.1. A person must not:
- (a) place any household/domestic waste, commercial /industrial waste, organic waste material, prohibited waste or hazardous waste in any public waste bin or public recyclable waste collection bin;
 - (b) put or attempt to put any waste into a public waste bin or recyclable waste collection bin if the bin is already full;
 - (c) remove any waste from a public waste bin or recyclable waste collection bin unless authorised by Council to do so;
 - (d) attach any advertising material (including but not limited to stickers and posters) to, or paint or vandalise any public waste bin or public recyclable waste collection bin, unless authorised by Council to do so; or
 - (e) Damage any public waste bin provided by Council.

14. Enforcement

- 14.1. A person who fails to comply with this bylaw and/or any controls made under the bylaw commits a breach of this bylaw and is liable to a penalty under the Waste Minimisation Act 2008.

Explanatory note: Section 60 of the Waste Minimisation Act 2008 provides that:
"Every person commits an offence who breaches a bylaw made under [section 56](#) and is liable on conviction to a fine not exceeding \$20,000."



14.2. Where a person does not comply with the requirements of this Bylaw and/or any controls made under the Bylaw in relation to collection service that applies to them, the Council (or a Council contracted waste operator where applicable) may take any/all of the following action(s) against the person:

- (a) Reject (i.e. not collect) the contents of any approved receptacle left out by that person for collection from a public place, if the contents or placement of the receptacle is non-compliant;
- (b) Issue written notices identifying the breach, requiring compliance with the Bylaw and warning of the consequences of continued offending;
- (c) Remove the non-compliant contents in a receptacle (or remove the entire approved receptacle) with the owner/occupier subject to payment of the costs of removal, administrative costs and an additional penalty specified by Council. If payment is not made within the specified period, the service may be withdrawn or suspended as below.
- (d) Withdraw or suspend the collection service provided to that owner/occupier. The suspension can be for a set period of time or indefinite, depending on the severity, at the discretion of Council (or licensed waste operator where applicable).

Explanatory note: A person committing a breach of this Bylaw and/or any controls made under the Bylaw may also commit an offence under the Litter Act 1979 and may be liable to a penalty under that Act.

Statement of Proposal

Reasons for the proposal

1. Hastings District Council (HDC) and Napier City Council have drafted a new Joint Waste Management and Minimisation Plan (Joint WMMP) to continue meeting the requirements of the Waste Minimisation Act 2008 (WMA).
2. As part of this, HDC undertook an analysis to identify appropriate, enforceable solutions to best support and align to the objectives of the Joint WMMP and ensure effective waste management and minimisation. Having concluded that analysis, it is considered that a bylaw will:
 - Support the implementation of the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan (Joint WMMP),
 - Achieve the purpose of the WMA and the New Zealand Waste Strategy, and
 - Ensure efficient and effective waste management and minimisation across Heretaunga Hastings district and support safe practices through the regulation of the collection, transport, and disposal of waste or processing of recycling.
3. New Bylaw clauses were drafted as a standalone document, separate to HDC's Consolidated Bylaw 2016. Clauses 2.14.1 and 10.3 of HDC's Consolidated Bylaw 2016 are proposed to be revoked.

Statutory Framework

4. Section 56 of the WMA provides the authority for HDC's drafted *Waste Management and Minimisation Bylaw 2025*. The Bylaw will help to ensure effective and efficient waste management and minimisation, aligning to the Joint WMMP.
5. HDC is required to follow the decision making and consultation requirements set out in the Local Government Act 2002 (LGA).
6. Under section 155 of the LGA, before making a new bylaw HDC must determine that a bylaw is the most appropriate way of addressing the perceived problem, and the proposed bylaw is in the most appropriate form and does not give rise to implications under the New Zealand Bill of Rights Act 1990 (NZBRA).
7. HDC made the section 155 determinations at its Council Meeting on 13 May 2025. A full copy of the report to the Council including the section 155 report is available on HDC's website [weblink](#).
8. Having made those determinations, HDC must then consult on the proposed bylaw in accordance with the consultation requirements of the LGA and HDC's Significance and Engagement Policy. This requires consultation using the special consultative procedure.
9. Under section 156(2) of the LGA, HDC may make changes of an administrative nature to a bylaw without using the special consultative procedure.
10. A brief comment on the bylaws chapters where there has been a recommended change are included below.

Summary of the Draft Waste Management and Minimisation Bylaw 2025

11. Appendix 1 of this statement of proposal sets out a clause by clause analysis of the draft Waste Management and Minimisation Bylaw 2025.

Bylaws to be revoked

12. If this proposal is approved by HDC, Clauses 2.14.1 (Refuse Disposal) and 10.3 (Refuse) of the existing Hastings District Council Consolidated Bylaw 2021 will be revoked, because clauses in the proposed bylaw replace those provisions.

Draft Solid Waste Bylaw

13. A copy of the draft Hastings District Council Waste Management and Minimisation Bylaw 2025 is at Appendix 2.

Have Your Say

14. The views of people who live, work and play in Heretaunga Hastings are important. HDC would like your feedback on the draft Hastings District Council Waste Management and Minimisation Bylaw 2025.
15. Anyone can make a submission. Your submission can support or oppose the proposals.
16. You can make a submission online at [weblink](#) or you can collect a form from:
- Hastings District Council Customer Service Centre, 207 Lyndon Road East, Hastings, and
 - Flaxmere, Hastings, and Havelock North Libraries
17. Completed forms can be emailed to [email](#), or posted to:
- Hastings District Council Customer Service Centre, 207 Lyndon Road East, Hastings
18. Your submission should clearly state:
- The part of the proposed Bylaw which the submission point relates;
 - Whether you support or oppose the provision;
 - the reasons for supporting or opposing the provision;
 - Whether or not you wish to be heard in support of your submission.
19. If you have indicated on your submission form that you would like to make a verbal submission, we will contact you to arrange a time for you to speak. The hearing on submissions will be in July 2025.
20. The deadline for submission is 5:00pm 22 June 2025.

Timeline for the Review

Action	Date
Submissions on the proposed Bylaw and Statement of Proposal are open	Monday 19 May 2025
Submissions close	Sunday 22 June 2025
Hearings before Council Hearing Committee	X and X July 2025
Council resolution revoking, continuing, amending or replacing bylaws	On a date determined by Council
Date that bylaw comes into force	On a date determined by Council

Appendix 1: Clause by Clause Analysis
HDC Waste Management and Minimisation Bylaw 2025

Bylaw Clause	Comment / Reason for Clause
1. Title	Hastings District Council Waste Management and Minimisation Bylaw 2025. Required.
2. Commencement	Date bylaw takes effect to be inserted upon adoption of the final bylaw. Required.
3. Application	Bylaw applies to the Heretaunga Hastings district. Details circumstances for when the Bylaw does not apply. Required.
4. Revocation	Clause 2.14.1 (Refuse Disposal) and Clause10.3 (Refuse) of the Hastings District Council Consolidated Bylaw 2021 are to be revoked as they are now covered in this Bylaw.
5. Purpose	<p>The purpose of this bylaw is to:</p> <ul style="list-style-type: none"> • Support the implementation of the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan; • Achieve the purpose of the Waste Minimisation Act 2008 and the New Zealand Waste Strategy; and • Ensure efficient and effective waste management and minimisation across Heretaunga Hastings district and support safe practices through the regulation of the collection, transport, and disposal of waste or processing of recycling.
6. Compliance with Bylaw	<p>No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this Bylaw.</p> <p>To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, Regulations, Bylaws and any relevant consents, permits or approvals.</p>
7. Definitions	The definitions are considered necessary to assist with enforcement and make the bylaw easier to understand.
8. Controls	Council may, by resolution make controls in addition to the requirements of this Bylaw that provide for the following matters: The type, size, number, construction of and maximum allowable limits of waste allowed in an approved receptacle for the collection of waste from a public place or special collection area.
9. Waste Collection	Details the types of waste that may be placed in a public place or special collection area for collection, including how the waste must be placed for collection.

	Council may declare by resolution that any road or other area is a Special Collection Area, this must be well advertised to support the public to identify locations.
10. Separation of Waste	Requirements for the separation of waste; Waste including recycling and organic waste material must be separated in accordance with the waste types set out in the Standard. Before being placed in approved receptables for collection.
11. General Responsibilities	Details the responsibilities of an occupier of any premises, including; <ul style="list-style-type: none"> Any waste generated on that premises until it has been collected. Any waste generated from that premises, that has been placed on public property in an approved receptable for collection, that is not collected. Ensuring that there is an adequate area on the premises for the safe storage of approved receptacles and that they are kept in a hygienic state.
12. Waste Collectors and Waste Operators	Details the responsibilities of waste collectors and waste operators (who collects or transports waste from a public place or special collection area), including: <ul style="list-style-type: none"> Make available to the occupier of a premises, one or more approved receptacle/s to enable separate collection of each of the waste types required to be separately collected from the premises; Not collect or dispose of any waste material which has not been separated in accordance with the requirements of this bylaw; and Comply with all controls made by the Council relating to that collection. <p>Council may require waste collectors and waste operators to apply for a licence from the Council, and may approve or refuse any application, taking into account the purpose of this Bylaw and the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan.</p> <p>If a licence is approved, Council may impose any conditions on the licence provided for in any control made under Clause 8 (Controls) of this Bylaw.</p>
13. Public Waste Bins	Requirements for public waste bins including; <ul style="list-style-type: none"> place any household/domestic waste, commercial /industrial waste, organic waste material, prohibited waste or hazardous waste in any public waste bin or public recyclable waste collection bin; or put or attempt to put any waste into a public waste bin or recyclable waste collection bin if the bin is already full; or

	<ul style="list-style-type: none">• remove any waste from a public waste bin or recyclable waste collection bin unless authorised by Council to do so; or• attach any advertising material (including but not limited to stickers and posters) to, or paint or vandalise any public waste bin or public recyclable waste collection bin, unless authorised by Council to do so, and• Damage any public waste bin provided by Council.
14. Enforcement	<p>A person who fails to comply with this bylaw and/or any controls made under the bylaw commits a breach of this bylaw and is liable to a penalty under the Waste Minimisation Act 2008.</p> <p>Where a person does not comply with the requirements of this Bylaw and/or any controls made under the Bylaw in relation to collection service that applies to them, the Council (or a Council contracted waste operator where applicable) may take any/all of the following action(s) against the person:</p> <ul style="list-style-type: none">• Reject (i.e. not collect) the contents of any approved receptacle left out by that person for collection from a public place, if the contents or placement of the receptacle is non-compliant;• Issue written notices identifying the breach, requiring compliance with the Bylaw and warning of the consequences of continued offending;• Remove the non-compliant contents in a receptacle (or remove the entire approved receptacle) with the owner/occupier subject to payment of the costs of removal, administrative costs and an additional penalty specified by Council. If payment is not made within the specified period, the service may be withdrawn or suspended as below.• Withdraw or suspend the collection service provided to that owner/occupier. The suspension can be for a set period of time or indefinite, depending on the severity, at the discretion of Council (or licensed waste operator where applicable).

**Appendix 2: Draft Hastings District Council Waste Management and Minimisation
Bylaw 2025**

To be inserted.

Hastings District Council Waste Management and Minimisation Bylaw **Section 155 Determination Report**

Introduction

Currently the Hastings District Council's Consolidated Bylaw 2021 regulates solid waste services across the Hastings District.

The Council brought forward the review of the solid waste clauses from the Hastings District Council Consolidated Bylaw 2021 as part of the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan (Joint WMMP) review process to ensure that appropriate regulatory levers are available to support the implementation of the Joint WMMP.

Bylaw review requirements – Section 155 determinations

When the Council reviews a bylaw, the process is set by Section 160 of the LGA. Part of this process requires the Council to review the bylaw by making the determinations required by Section 155 of the LGA.

Under Section 155 of the LGA, the three determinations are;

- whether or not a bylaw is the most appropriate way of addressing a perceived problem or issue;
- If the Council decides that a bylaw is appropriate, whether the bylaw is the most appropriate form of bylaw; and
- Whether or not the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

The following analysis has been undertaken for the purposes of reviewing the Hastings District Council Consolidated Bylaw 2021 and in respect of the proposed Hastings District Council Waste Management and Minimisation Bylaw 2025.

What are the perceived problems?

The Hastings District Council Consolidated Bylaw 2021 includes minimal clauses specific to solid waste. For the review of solid waste bylaw clauses, because of this minimal scope there are a number of problems that need to be addressed including but not limited to:

- A lack of clarity regarding the types, collection and separation of waste,
- Already foreshadowed changes to the national waste management framework e.g. introduction of mandated organic waste collection services,
- A growing construction and demolition sector with limited visibility of formal waste management,
- Hastings District Council Consolidated Bylaw 2021 not aligned to the reviewed Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan,
- Increase in multi-unit developments as communities grow with limited clarity for solid waste services at these developments,
- Lack of licensing provisions in Hastings, and subsequent low data capture from the waste sector.

Is a bylaw the most appropriate way of addressing the perceived problems?

The Council is required by legislation to determine (what are) the best options for addressing perceived problems. This requires consideration as to whether, or not, a bylaw is the most appropriate way of addressing the perceived problems. The options considered are:

- **Revoke the current bylaws and not replace them:** This is not a preferred option.
- **Status quo – retain the current bylaws and await full Consolidated Bylaw review:** This is not preferred as the current bylaws do not adequately address some existing and new problems.
- **Amend the current bylaw:** An amendment bylaw is not preferred given the number and significance of the recommended changes identified as required.
- **Replace the current solid waste bylaws with a new bylaw:** This is the preferred option.

The analysis suggests that the best approach is for the Council to replace the current solid waste bylaw clauses with a new bylaw, i.e. the proposed Hastings District Council Waste Management and Minimisation Bylaw 2025.

Having identified that a new bylaw is the appropriate option, staff identified the most appropriate form of bylaw as one that:

- Helps achieve the Council's community outcomes,
- supports the implementation of the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan (Joint WMMP),
- achieves the purpose of the Waste Management Act 2008 and the New Zealand Waste Strategy, and
- ensures efficient and effective waste management and minimisation across Heretaunga Hastings district and support safe practices through the regulation of the collection, transport, and disposal of waste or processing of recycling.
- Is not inconsistent with other Hastings District Council bylaws;
- Is within the legal power of the Council to make bylaws under Sections 145 and 146 of the LGA and Section 56 of the WMA;
- Is not inconsistent with the NZBORA.

As the preparation of a new bylaw is considered to be the most appropriate approach, staff have prepared a Clause by Clause Analysis (Appendix 1) of the proposed provisions for the Waste Management and Minimisation Bylaw 2025.

In undertaking this analysis, two main options were identified with respect to most bylaw clauses: retaining the current provision or making a new provision. In considering which of the options is the most appropriate, the following questions were asked:

- Does the clause address an identified problem or is it necessary for the efficient management of solid waste services?
- Does it provide an appropriate level of control?
- Is it consistent with other Council bylaws?
- Is it specific and easy to interpret for the public and Council Officers?
- Is this provision enforceable?

Appendix 1 (Clause by Clause Analysis) provides a summary of the proposed Clauses, introducing significant changes including:

- Details controls and enabling Council to make, amend or revoke controls or rules for certain matters.
- Revised responsibilities for persons regarding public waste bins, general responsibilities, and waste collection.
- Details requirements of waste collectors and waste operators, including provisions for Council to licence.

In addition to the recommended clauses outlined in the draft bylaw Clause by Clause Analysis (Appendix 1) consideration was given to other possible bylaw provisions however having carefully considered the likely effectiveness of other bylaw clauses, Officers decided not to recommend or include these. The conclusion was that these bylaw clauses either fell under the Litter Act, were managed elsewhere or were to be no more effective than current non-regulatory approaches and may be perceived as heavy handed. Staff consider that non-regulatory approaches are preferable to a bylaw.

Staff conclude that a new bylaw that incorporates the changes identified in the Clause by Clause Analysis (Appendix 1) and subject to consideration of any submissions that may be received during the consultation process is the most appropriate form of bylaw.

Are there any NZBORA implications?

In proposing a new bylaw, the Council is required to consider whether or not the bylaw gives rise to any implications under the NZBORA. Section 153(3) of the LGA states that no bylaw may be made which is inconsistent with the NZBORA.

The NZBORA specifically identifies four types of rights, these are;

- Life and security of the person;
- Democratic and civil rights;
- Non-discrimination and minority rights; and
- Search, arrest, and detention.

The proposed Waste Management and Minimisation Bylaw does not give rise to any implications under the NZBORA.

Conclusion

Having carried out an assessment of the proposed Waste Management and Minimisation Bylaw in terms of Section 155 of the LGA:

- The proposed Waste Management and Minimisation Bylaw 2025 is the most appropriate way of addressing the perceived problem/s;
- The proposed Waste Management and Minimisation Bylaw 2025 is the most appropriate form of bylaw; and
- The proposed Waste Management and Minimisation Bylaw 2025 does not give rise to implications under the NZBORA and is not considered to be inconsistent with the NZBORA.

Appendix 1: Clause by Clause Analysis
HDC Waste Management and Minimisation Bylaw 2025

Bylaw Clause	Comment / Reason for Clause
1. Title	Hastings District Council Waste Management and Minimisation Bylaw 2025. Required.
2. Commencement	Date bylaw takes effect to be inserted upon adoption of the final bylaw. Required.
3. Application	Bylaw applies to the Heretaunga Hastings district. Details circumstances for when the Bylaw does not apply. Required.
4. Revocation	Clause 2.14.1 (Refuse Disposal) and Clause10.3 (Refuse) of the Hastings District Council Consolidated Bylaw 2021 are to be revoked as they are now covered in this Bylaw.
5. Purpose	<p>The purpose of this bylaw is to:</p> <ul style="list-style-type: none"> • Support the implementation of the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan; • Achieve the purpose of the Waste Minimisation Act 2008 and the New Zealand Waste Strategy; and • Ensure efficient and effective waste management and minimisation across Heretaunga Hastings district and support safe practices through the regulation of the collection, transport, and disposal of waste or processing of recycling.
6. Compliance with Bylaw	<p>No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this Bylaw.</p> <p>To avoid doubt, compliance with this Bylaw does not remove the need to comply with all other applicable Acts, Regulations, Bylaws and any relevant consents, permits or approvals.</p>
7. Definitions	The definitions are considered necessary to assist with enforcement and make the bylaw easier to understand.
8. Controls	Council may, by resolution make controls in addition to the requirements of this Bylaw that provide for the following matters: The type, size, number, construction of and maximum allowable limits of waste allowed in an approved receptacle for the collection of waste from a public place or special collection area.
9. Waste Collection	Details the types of waste that may be placed in a public place or special collection area for collection, including how the waste must be placed for collection.

	Council may declare by resolution that any road or other area is a Special Collection Area, this must be well advertised to support the public to identify locations.
10. Separation of Waste	Requirements for the separation of waste; Waste including recycling and organic waste material must be separated in accordance with the waste types set out in the Standard. Before being placed in approved receptables for collection.
11. General Responsibilities	<p>Details the responsibilities of an occupier of any premises, including;</p> <ul style="list-style-type: none"> Any waste generated on that premises until it has been collected. Any waste generated from that premises, that has been placed on public property in an approved receptable for collection, that is not collected. Ensuring that there is an adequate area on the premises for the safe storage of approved receptacles and that they are kept in a hygienic state.
12. Waste Collectors and Waste Operators	<p>Details the responsibilities of waste collectors and waste operators (who collects or transports waste from a public place or special collection area), including:</p> <ul style="list-style-type: none"> Make available to the occupier of a premises, one or more approved receptacle/s to enable separate collection of each of the waste types required to be separately collected from the premises; Not collect or dispose of any waste material which has not been separated in accordance with the requirements of this bylaw; and Comply with all controls made by the Council relating to that collection. <p>Council may require waste collectors and waste operators to apply for a licence from the Council, and may approve or refuse any application, taking into account the purpose of this Bylaw and the Hastings District Council / Napier City Council Joint Waste Management and Minimisation Plan.</p> <p>If a licence is approved, Council may impose any conditions on the licence provided for in any control made under Clause 8 (Controls) of this Bylaw.</p>
13. Public Waste Bins	<p>Requirements for public waste bins including;</p> <ul style="list-style-type: none"> place any household/domestic waste, commercial /industrial waste, organic waste material, prohibited waste or hazardous waste in any public waste bin or public recyclable waste collection bin; or put or attempt to put any waste into a public waste bin or recyclable waste collection bin if the bin is already full; or

	<ul style="list-style-type: none"> remove any waste from a public waste bin or recyclable waste collection bin unless authorised by Council to do so; or attach any advertising material (including but not limited to stickers and posters) to, or paint or vandalise any public waste bin or public recyclable waste collection bin, unless authorised by Council to do so, and Damage any public waste bin provided by Council.
14. Enforcement	<p>A person who fails to comply with this bylaw and/or any controls made under the bylaw commits a breach of this bylaw and is liable to a penalty under the Waste Minimisation Act 2008.</p> <p>Where a person does not comply with the requirements of this Bylaw and/or any controls made under the Bylaw in relation to collection service that applies to them, the Council (or a Council contracted waste operator where applicable) may take any/all of the following action(s) against the person:</p> <ul style="list-style-type: none"> Reject (i.e. not collect) the contents of any approved receptacle left out by that person for collection from a public place, if the contents or placement of the receptacle is non-compliant; Issue written notices identifying the breach, requiring compliance with the Bylaw and warning of the consequences of continued offending; Remove the non-compliant contents in a receptacle (or remove the entire approved receptacle) with the owner/occupier subject to payment of the costs of removal, administrative costs and an additional penalty specified by Council. If payment is not made within the specified period, the service may be withdrawn or suspended as below. Withdraw or suspend the collection service provided to that owner/occupier. The suspension can be for a set period of time or indefinite, depending on the severity, at the discretion of Council (or licensed waste operator where applicable).