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Tēnā Koe [REDACTED] - thank you for your recent inquiry regarding the bylaw process at Hutt City Council. We agree that there should be information about the bylaw making process available on our website.

Attached is the information that will be added to our web site as soon as possible. Nāku noa, nā Wendy

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Power to and process for making a bylaw under the Local Government Act:

- Section 82 –Principles of consultation
- Section 82A – information requirements for consultation required under this Act
- Section 83 – Special Consultative Procedure
- Sections 145 to 148 - powers to make bylaws
- Sections 155 to 157 - set out the procedure for making a bylaw

<https://www.legislation.govt.nz/act/public/2002/0084/167.0/DLM170873.html>

Local authorities have the power to make bylaws given to them by sections 145 to 148 of the Local Government Act 2002. The process for making a bylaw under the Local Government Act 2002 requires a council to take the following steps.

Step one: Determine whether a bylaw is the most appropriate way of addressing the perceived problem – there must be a perceived problem that needs addressing

- i. This should be discussed in a council policy paper that identifies the problem, the range of existing regulatory tools available and their limitations.
- ii. The relative merits of any other non-regulatory options should also be considered.

If a bylaw is the most appropriate solution:

Step two: a draft bylaw is developed

- i. This involves considering the different forms a bylaw could take (e.g. standalone, amendment to existing, consolidation of other bylaws), the scope of the bylaw, and the powers it confers on the council.
- ii. It is important to confirm the proposed bylaw is within the scope of the empowering provisions that allow the council to make the bylaw.
- iii. It can also include early engagement with the community particularly those with a specific interest in the bylaw. For example, dog owners and the Dog Control Bylaw.

Step 3: Assess whether the draft bylaw gives rise to any implications under the [New Zealand Bill of Rights Act 1990](#) . A bylaw must not be inconsistent with the New Zealand Bill of Rights Act.

Step 4: Determine which consultation process must be used, based on the council’s Significance and Engagement Policy – see link <http://iportal.huttcity.govt.nz/Record/ReadOnly?Uri=5577983>.

Step 5: Consult using the Special Consultative Procedure – Section 83 of LGA (see link)

<http://iportal.huttcity.govt.nz/Record/ReadOnly?Uri=4397767>

The special consultative procedure (SCP) under the Local Government Act 2002 must be used if the bylaw concerns a matter identified in the policy as being of significant interest, or if the council considers the bylaw is likely to have a significant impact on the public.

In all other cases, the council must consult in a manner that gives effect to the requirements of section 82 of the LGA 2002. This means that section 82A of that Act applies and must be adhered to.

The SCP process is:

- i. Prepare and adopt a statement of proposal (for a special consultative procedure or document meeting the requirements of section 82A (2) of the LGA02 (for a section 82A process). This document will set out the relevant policy matters and include a draft of the proposed bylaw.
- ii. If necessary to enable public understanding, the council must also adopt a summary of the information in the statement of proposal
- iii. The governing body has (in its terms of reference) retained the power to approve a draft bylaw prior to community consultation.
- iv. Undertake the consultation process by publishing the material adopted and explaining how people may present their views to the council.
- v. There is a minimum 30 day period for views to be presented if the special consultative procedure is used. The council must allow for people to present their views by way of spoken (or sign language) interaction with decision-makers, e.g. holding a hearing or have your say event. If a section 82A procedure is being used, people should be given a reasonable opportunity to present their views.
- vi. Consider the views of submitters in making a decision on whether to adopt the proposed bylaw. Any amendments must be within scope, i.e. within the reasonable contemplation of a person reading the original statement of proposal. If the governing body has delegated responsibility to a panel to hear submitters' views, it must make a recommendation to the governing body. Only the governing body can make or amend a bylaw. Provide a public notice with the date the bylaw will become operative and where copies are available.

Process for making a bylaw under other legislation

The process above may differ if a bylaw is being made under another enactment. Some Acts require bylaws to be made as if they were created under the Local Government Act 2002 (e.g. the Health Act, the Dog Control Act and the Waste Minimisation Act). Some have modified procedures (e.g. the Freedom Camping Act and Prostitution Reform Act). Some provide no specified procedures at all (Litter Act); the process for these should generally conform with the Local Government Act 2002.

Care must be taken to ensure all relevant procedural aspects are followed if the council proposes making a bylaw under an act other than the Local Government Act.