



Statement of Proposal

Proposal to declare part of Wharf Street to be a Pedestrian Mall pursuant to Section 336 of the Local Government Act 1974

This Statement of Proposal includes:

- A description of the proposal and the reasons for the proposal; and
- The Council's analysis of the reasonably practicable options (including the proposal) for achieving its objective.

Proposal to Declare the section of Wharf Street between Willow Street and The Strand (Wharf Street east) as a Pedestrian Mall pursuant to Section 336 of the Local Government Act 1974

Pursuant to Section 336(1) of the Local Government Act 1974, the Council proposes to:

- a) Declare the section of Wharf Street, between Willow Street and The Strand, being the area highlighted in red in the image below labelled Site Location Plan, (**Wharf Street east**) as a Pedestrian Mall; and
- b) Prohibit at all times the driving, riding, or parking of any vehicle (excluding bicycles along the central lane and access to cycle parking facilities), or the riding of any animal, on all or any portion of Wharf Street east, except by any person approved by the Council as an "Authorised Persons" and then only in accordance with any conditions of approval.

Authorised Person

1. The Council may, on application to it, approve a person as an "Authorised Person" for the purposes of this declaration.
2. The Council will prepare and make publicly available, and provide on request, the criteria to become an Authorised Person. In general terms, the criteria will relate to those who have a special need to use Wharf Street east, such as;
 - Landlords or ground or first floor tenants who will need to gain vehicular access to the street for the purposes that include, but are not limited to, special deliveries, or necessary for certain building works and repairs;
 - Landlords or ground or first floor tenants of 105 The Strand, to maintain vehicular access to the private lane way (with entry and egress to Wharf Street from Willow Street end); and

- Persons requiring vehicular access for the likes of a special event, public function or similar.
3. Emergency Services will be classed as Authorised Persons in accordance with this declaration and shall have access to Wharf Street east at all times.
 4. The Council may impose reasonable conditions on any approval as an Authorised Person.
 5. The Council may also revoke any approval on reasonable notice to the holder where it is in its absolute discretion it is considered necessary or desirable to do so.
 6. An Authorised Person, when using Wharf Street east pursuant to this declaration, shall carry, and produce on request to an enforcement officer, evidence of approval as an Authorised Person.
 7. All Authorised Persons using Wharf Street east shall comply with all applicable legislation, Land Transport Rules and Council Bylaws and policies applying to those areas.



Site Location Plan

Reason for Proposal

Wharf Street east had been trialled as a shared space (people and cars) since 2015, with this section of Wharf Street being one way (eastbound) and no on-street parking.

The reason for the proposal relates to the current upgrade of Wharf Street east. This upgrade aims to create a high amenity pedestrian environment and outdoor dining experience within this area. Limited vehicular access to the street will prioritise pedestrian movements and will enhance the outdoor dining experience. A vehicle free environment would eliminate noise and pollution from cars and service vehicles to provide a more inviting space for people to gather, relax and eat. Refer to the Wharf Street **Render Plan: Detail Design** located at the bottom of this document.

A range of options (outlined below) were considered for achieving the objective of creating the desired pedestrian environment and outdoor dining experience. Having carried out that consideration, Council considers the most appropriate way to meet the objective is to legally restrict vehicular access to authorised persons only. To achieve this, it is proposed to declare Wharf Street east as a Pedestrian Mall pursuant to section 336 of the Local Government Act 1974.



View of proposal from Willow Street toward The Strand

Vehicular access to Wharf Street east would be permanently restricted through the use of electric bollards, with exceptions for authorised persons. Entry and exit from the private lane-way off Wharf Street east will be maintained through Willow Street access only, via the automated bollards. A central clearway will allow other authorised vehicular access for purposes of building works, special deliveries, events and emergency vehicle movements with exiting through retractable bollards to The Strand. Loading and delivery areas will be provided at either end of the street.



View of proposal from mid Wharf Street Toward Willow Street. The central clearway would allow the free movement of people and create a vehicle free environment to be enjoyed from outdoor dining and public seating areas.

Other Options Considered

Other options that were considered and the conclusions reached are as follows:

Physical barrier without underlying legal restriction

Common law rights of passage apply over roads. Vehicular access to the street could not be prevented by erecting physical barriers only, without having any underlying legal restriction in place.

Land Transport Act 1998 including bylaw-making power: Council's Traffic and Parking Bylaw 2012

Council can make bylaws for any various purposes set out under section 22AB(1) of the Land Transport Act 1988. However, these purposes do not include the power to prohibit all vehicular traffic on a road. The nearest would be to make a bylaw that prohibits or restricts any specified class of vehicle on a road. The criteria however, is if the characteristic of that particular vehicle by its size or nature is unsuitable for the road, rather than it be just preferable to have no vehicles at all. The Council's Traffic and Parking Bylaw 2012 cannot authorise anything that is not provided for in primary legislation and so is subject to the same limits as above.

Local Government Act 2002 bylaw – making power

Under the Local Government Act 2002 Council may make bylaws for the purposes set out in sections 145 and s146. These include broadly worded purposes such as protecting the public from nuisance and protecting, promoting and maintaining public health and safety and managing land under Council control. Even if prohibition or restriction of vehicles along Wharf Street east could be justified under one of the above purposes, it is considered these bylaw making powers would not be available. The regulation of roads and traffic is a road controlling authority power and that bylaw making power, if it existed, would be under the Land Transport Act.

Road Stopping

Road 'stopping' involves bringing to end the legal road status of the land. Common law rights associated with road would then no longer apply. However, 'stopping' the section of road would result in the loss of legal access to properties and it would be unlikely the Environment Court would approve such an outcome. On the other hand, the pedestrian mall option (the proposal) does not remove the legal road status, and legal access to land fronting the road is preserved.

Road Closure

The circumstances in which a road can be closed are set out in clause 11 of Schedule 10 of the Local Government Act 1974. Road closure can only be temporary where the road is unsuitable for its normal vehicular use such as during road works or events. After the temporary closure, the road reverts back to its normal use. Road closure is therefore not a suitable option for prohibiting or restricting vehicles on Wharf Street for a prolonged period of time.

Shared Zone

A shared zone is a length of roadway intended to be used by pedestrians and vehicles. A shared zone is a matter of design of the road rather than legal creation. The creation of a shared zone does not in itself restrict or prohibit vehicles from using the road.

Wharf Street east has been trialled as a shared zone since 2015, with this section of Wharf Street being one way (eastbound) and no on-street parking. However, the Wharf Street east

upgrade design aims to create a higher amenity space for pedestrians and people gathering than what a shared zone provides.

After consideration of all the options, in order to achieve the design outcomes and taking into account what is legally possible, it is considered the most appropriate option is to declare the road a Pedestrian Mall pursuant to section 336 of the Local Government Act 1974.

Legal Requirements

It is proposed to declare this section of road to be a Pedestrian Mall, pursuant to section 336 of the Local Government Act 1974.

The process to declare the road to be a Pedestrian Mall, requires consultation using the special consultative procedure pursuant to section 83 of the Local Government Act 2002.

Following consultation on the proposal and consideration of the submissions received, Council will decide whether to declare the section of Wharf Street east a pedestrian mall. If Council decide not to declare it a pedestrian mall this section of Wharf Street east will remain one-way.

If Council decides to make the declaration, any person may (under section 336(3) of the Local Government Act 1974) appeal to the Environment Court against the declaration. Appeals to the Environment Court need to be made within one month after the making of the declaration, or within such further time as the Environment Court may allow. On appeal, the Environment Court may quash or affirm the declaration, or affirm the declaration with modification.

Submissions to the proposal to declare Wharf Street between Willow Street and The Strand (Wharf Street east) as a Pedestrian Mall pursuant to Section 336 of the Local Government Act 1974

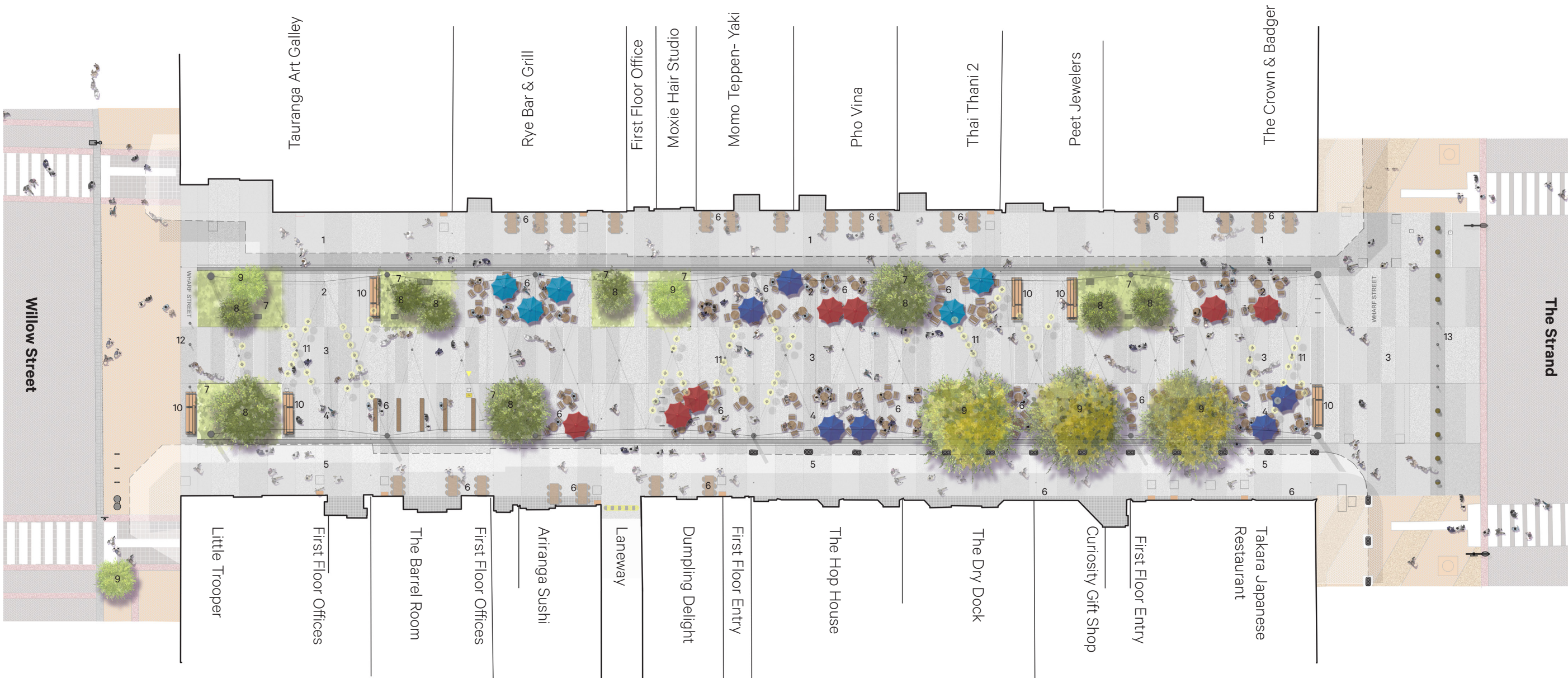
If you would like to make a submission on the Statement of Proposal, forms are available on Council's website at www.tauranga.govt.nz, at Council's customer service centre at 91 Willow Street, and the Tauranga, Mount Maunganui, Greerton and Papamoa libraries. Due to the COVID-19 pandemic, Council's customer service centre and the libraries may still be closed. Physical submission form copies can be requested and will be sent with a self-addressed envelope enclosed. Submission forms can also be printed off and posted back to us:

Freepost Authority Number 370
Wharf Street east Pedestrian Mall
Tauranga City Council
Private Bag 12022
Tauranga 3143

If you have any questions or wish to request a submission form, please email info@tauranga.govt.nz or call us on 07 577 7000.

The submission period will run for one month, beginning Friday, 22 May 2020 and closing 5pm on Monday, 22 June 2020.

Render Plan. Detail Design



Key:

- 1. North path
- 2. North amentiy zone
- 3. Central clearway
- 4. South amentiy zone
- 5. South path
- 6. Outdoor restaruant seating
- 7. Garden bed
- 8. New tree
- 9. Existing tree
- 10. Public seating
- 11. Catenary lighting (shown above)
- 12. Willow Street bollards
- 13. The Strand bollards