

4. Unformed legal roads Frequently Asked Questions



What is an unformed legal road?

An unformed legal road (ULR) - sometimes known colloquially as a paper road - is a parcel of land that has been legally designated as a road but has not been formed. Formed means physically constructed and includes gravelling, metalling, sealing or permanently surfacing the road.

The courts have ruled that land included in official survey plans as road is legally road even if it has not been pegged out on the ground and not formed in any way. In short, from a legal perspective, ULRs are as good as any other road.

The term "paper road" is often used interchangeably with ULR. The New Zealand Walking Access Commission does not use the term paper road as this implies that the road has less status than formed roads.

Most ULRs came into existence in the original subdivision of land by the Crown in the 19th century for sale to settlers. When subdividing the land, surveyors made provision for roads to enable access to the land being sold. Many of these roads were never formed. Some roads formed in the past are no longer maintained by the responsible territorial authority and have reverted to being unformed. The early surveys also reserved land alongside the coast, rivers and lakes for public use and designated this land as road.

How much ULR is there in New Zealand?

The amount of ULR in New Zealand is estimated to be around 56,000 kilometres. The proportion of ULR varies considerably from local authority to local authority.

What status do ULRs have?

ULRs are no different in law from formed roads. Almost all have a nominal width of 20 metres, implying that they can be used by vehicles. The public have the right to use them on foot, on horse, or in vehicles without hindrance from the adjoining landholder or anyone else. However, users of these roads must consider others, including adjoining landholders and their property. The general rules of the road apply and territorial authorities have powers to manage the roads.

ULRs may be unsuitable for vehicle use and even for walking, because of the topography that they traverse.

Are ULRs part of the farm or forest?

No, but many ULRs are used by landholders as part of existing adjoining pasture or forestry and may be indistinguishable from the surrounding land. This use of the land has long been accepted by the administering authorities and is often a practical solution to weed control on the land, which would otherwise be a cost to ratepayers.

Farmers may put gates or cattle stops across roads that are not fenced for livestock control purposes. Gates may only be placed with the permission of the relevant territorial authority, may not be locked and must have a sign indicating that they are on a public road.

The use of the land by adjoining landholders does not affect the legal right of the public to use the roads and does not create any legal right to the road by the adjoining landholder.

In practice, many roads are traversed by farm fences and may have trees, hedges or even buildings on them. These occasionally present problems when the public wishes to use the ULR.

Can an adjoining landholder stop me using a ULR?

No. However, people wanting to use a ULR for access need to take account of any practical issues that may need to be resolved.

Who is responsible for administering ULRs?

Responsibility for administering ULRs lies with the relevant territorial authority (a district or city council). Territorial authorities sometimes face practical difficulties in applying the legislation relating to ULRs. Some ULRs are not readily available for

practical use because they are difficult to identify on maps or hard to locate on the ground because of a lack of signage.

The Commission is working with territorial authorities, Local Government New Zealand (LGNZ) and others to clarify some of the management issues.

What should I do if access along a ULR is blocked or objected to?

Problems can arise, such as:

- uncertainty about the location of the road;
- obstructions that are practically impassable;
- livestock on the land that are intimidating to users; and
- objection by the adjoining landholder.

Private property must not be damaged, even if it is blocking access on a ULR. The relevant territorial authority should be contacted. These problems may require patience and consideration to resolve. In the first instance, you should approach the adjoining landholder. If this doesn't work, you may need to contact the relevant territorial authority.

Ultimately it is the responsibility of the territorial authority to resolve these problems. The Commission may be in a position to mediate in some circumstances.