

12 December 2023

Scott P

fyi-request-24756-20cae44f@requests.fyi.org.nz

Tēnā koe Scott

Thank you for your request to the Department of Conservation, received on 15 November 2023, in which you asked for:

Mokoroa Falls Track in the Waitakere's appears to be almost entirely on legal public unformed road space. Yet the track is marked as closed on your website. Has the road been formally closed? If the road is not closed, eg open, can we walk on the legal paper road id 5230270. When the track is on the road then isn't the track simply formed roadspace.

We have considered your request under the Official Information Act 1982.

Context

By way of context for my reply, in recent years the Department has upgraded the tracks in Goldie Bush Scenic Reserve and Motutara Settlement Scenic Reserve (from here on collectively referred to as "Goldie Bush") in a staged programme of works to address kauri dieback disease. Each set of upgrades was planned and implemented in accordance with engineers' specifications that reflected best practice at the time they were undertaken. Design and maintenance standards for tracks, especially in kauri forests, have changed over time as best practice and technical standards have evolved. This is particularly so in response to improved knowledge about kauri dieback disease, and as better methods to prevent its spread have been identified.

In December 2017, a rāhui was placed by Te Kawerau ā Maki over the Waitākare Ranges Heritage Area, including Goldie Bush, and this has not yet been lifted. The area covered by the rāhui includes the Unformed Legal Road, along which parts of Mokoroa Falls Track intersect.

The Department is required to give effect to the principles of the Treaty of Waitangi under Section 4 of the Conservation Act 1987. We are therefore managing the area in accordance

with the intent of the rāhui and are working with Te Kawerau ā Maki to understand their concerns and aspirations for how the forest and access to it should be managed. We are developing a plan for the tracks that addresses their concerns.

Information about the rāhui can be viewed on the following websites: <http://tekawerau.iwi.nz/communication> and <https://waitakererahui.org.nz/the-rahui>.

On 18 October 2018, a Controlled Area Notice (CAN) issued under Section 131 of the Biosecurity Act 1993 came in effect over Goldie Bush. The CAN was put in place to limit the spread of kauri dieback disease by requiring anything brought into the forest, including footwear, to be free of visible soil. Information on Controlled Area Notices can be viewed on this website: <http://kauriprotection.co.nz/about-kauri/controlled-areas/>.

On 4 December 2020, Goldie Bush, including the tracks through the two reserves, was formally closed by the Department pursuant to the provisions of the Reserves Act 1977. Notices of this closure were published in local and national newspapers.

The intent of the rāhui, CAN and the formal closure of Goldie Bush is to manage public access and prevent the spread of the pathogen that causes kauri dieback disease.

Response

Your questions and our responses are listed below:

1. *Mokoroa Falls Track in the Waitakere's appears to be almost entirely on legal unformed road space. Yet the track is marked closed on your website. Has the road been formally closed?*

Herenga ā Nuku/the Outdoor Access Commission's website has a comprehensive and detailed mapping resource showing the extent of public space and roads, including Unformed Legal Road (ULR) (Outdoor Access Maps: <https://www.herengaanuku.govt.nz/maps/outdoor-access-maps/>).

Unformed Legal Roads are administered by local authorities. For information about the formal legal status of the Unformed Legal Road at Goldie Bush you will need to contact Auckland Transport, which is the local authority for roads in the Auckland Region.

Auckland Transport has detailed information about Unformed Legal Roads on its website. See <https://at.govt.nz/about-us/working-on-the-road/road-processes-for-property-owners/unformed-legal-roads-paper-roads#:~:text=Unformed%20legal%20roads%20have%20the,obliged%20to%20respect%20public%20use>.

On its website Auckland Transport state that while the public technically have a right of access along Unformed Legal Roads, that right has to be balanced against other factors such as damage to the environment if an Unformed Legal Road is covered in vegetation. I endorse Auckland Transport's advice, particularly where an Unformed Legal Road may be covered in

native vegetation and runs adjacent to or through an area of Public Conservation Land, as is the case at Goldie Bush.

The Unformed Legal Road at Goldie Bush that runs from Horsman Road to the intersection of Goldie Bush Walkway and Mokoroa Falls Track is covered in dense forest on sloping terrain. It would be extremely difficult to traverse and moving along it would cause environmental damage to the vegetation. It would also risk spreading kauri dieback disease spores to trees that are currently unaffected. I therefore strongly discourage any member of the public attempting to access Goldie Bush via the Unformed Legal Road.

Walking along the formed Mokoroa Falls Track from Horsman Road in order to access the Unformed Legal Road at the point where it intersects with the Mokoroa Falls Track would be a breach of the closure of the reserve under the provisions of the Reserves Act 1977.

2. *If the road is not closed, eg open, can we walk on the legal paper road id 5230279?*

As I explained in my response to Part 1 of your request you will need to contact Auckland Transport for information about the formal legal status of the Unformed Legal Road at Goldie Bush.

3. *When the track is on the road then isn't the track simply formed roadspace?*

I suggest that you review the information that Auckland Transport has published on its website for advice about how they manage Unformed Legal Roads and contact them if you require any additional advice.

Advisories

Please note that this letter (with your personal details removed) may be published on the Department's website.

If you would like to discuss this response with us, please contact Stefan Sebregts, Senior Ranger Heritage and Visitor by email to ssebregts@doc.govt.nz.

Nāku noa, nā



Andrew Baucke
Regional Operations Director, Auckland
Department of Conservation
Te Papa Atawhai