



[REDACTED]

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[REDACTED]
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[REDACTED]

5. One of those other methods is the creation of a public road under the common law principle of implied dedication which the Privy Council confirmed in *Man O'War Station Limited v Auckland City Council (Man O'War)* applied in New Zealand. We anticipate this common law principle will rarely be relied upon as the creation of a public legal road will in most instances be governed by the RMA or the PWA. That is, where a statute prescribes a certain mode of dedication there can be no dedication by any other mode.² The common law principle of implied dedication cannot be relied upon to create a public legal road where, for example, land is being compulsorily acquired for a public road (in those circumstances the PWA must be followed) or where land is being set apart for a public legal road as part of a subdivision (in those circumstances the RMA must be followed).³

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

² *Man O'War Station Ltd v Auckland City Council* (CA) [2000] 2 NZLR 267 (*Man O'War COA*) at [73] and [75].

³ *Ibid* at [73].

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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[REDACTED]

[REDACTED]

[REDACTED]

13. It was confirmed in *Man O'War* that the common law principle of implied dedication applies in New Zealand.¹⁰

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹⁰ Ibid. See also *Grey District Council v Graham* (2007) 9 NZCPR 32 at [28] – [34].

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[REDACTED]

[REDACTED]

25. We anticipate it will be rare for land to be dedicated as public road in New Zealand in reliance of the common law principle of implied dedication. This is because where a statute prescribes a certain mode of dedication, there can be no dedication by any other mode.¹⁹ For example:

25.1 If land is to be dedicated as a public road as part of a subdivision, the process set out in the RMA must be followed – the common law principle of implied dedication cannot be relied upon.

[REDACTED]

[REDACTED]

¹⁹ *Man O'War PC* at [73].

[REDACTED]

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51. [REDACTED]
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[REDACTED]
[REDACTED] This is because where a statute prescribes a certain mode of dedication, there can be no dedication by any other mode (discussed above at [25]). This scenario is in all essentials a subdivision. The statutory process for dedicating road as part of a subdivision is set out in the RMA. The RMA process must be followed – the common law principle of implied dedication is not available.

[REDACTED]

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