

Māori Affairs Committee

By email

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Kei nga rangatira, tēnā koe

National Erebus Memorial – Mataharehare Pā site.

1. We write to the Māori Affairs Select Committee on an urgent basis in relation to the imminent desecration of the Mataharehare Pā site following the Manatū Taonga Ministry of Culture and Heritage's decision to build a national Erebus memorial on this taonga after undertaking a materially flawed and incomplete consultation process.
2. The location and scale of this desecration is the product of a faulty consultation process by the Manatū Taonga Ministry of Culture and Heritage:
 - 2.1 The site of the proposed memorial was pre-determined without consultation with mana whenua.
 - 2.2 Only after the site was selected and landowner consent was sought did the Ministry advise Ngāti Whātua Ōrākei of the proposed location. There was no fulsome or genuine consultation on the location of the memorial at any point.
 - 2.3 No archaeological, cultural, or historic assessment of the site has been undertaken at the site from a Te Ao Māori perspective despite the express reservation of this in the Pakeha-centric Archaeological report that was prepared.
 - 2.4 The selection process for the ultimate design of the memorial was rushed and widely publicised without consultation with or input from Ngāti Whātua Ōrākei.
 - 2.5 The resource consents for construction of the memorial were issued on a non-notified basis and Pouhere Taonga Heritage New Zealand was not provided with adequate

material to properly consider the archaeological and historical significance of the site for Māori.

3. We consider that through this totally inadequate and flawed consultation process the Ministry has failed to honour its obligations under Te Tiriti o Waitangi. Other entities including the Waitematā Local Board, Heritage New Zealand and the Auckland Council have also failed in their obligations under Te Tiriti.
4. We request that the Committee immediately begin an inquiry into the process undertaken by the Ministry and its failure to adequately consult mana whenua. We also seek that the rāhui placed over Maraharehare is recognised.

Background

5. The wider Taurarua Pā site and Mataharehare Pā site are an important historical place in Tāmaki Makaurau and Ōrākei. Mana whenua have and continue to have legitimate spiritual, ancestral, cultural, customary, and historic interests in the Mataharehare Pā and Taurarua Pā site. For good reason mana whenua value this land as taonga. Despite the alienation of its land, mana whenua, and in particular, Ngāti Whātua Ōrākei, have maintained its ahi kā in areas of the central Auckland region.
6. The precious remnant of Mataharehare Pā is now faced with further desecration with 530 square metres of earthworks including the excision of the roots of a sacred Pōhutukawa Tree which is contemporary to the signing of Te Tiriti o Waitangi.
7. We set out a timeline below of the fundamental deficiencies in the decision-making process undertaken by the Ministry. We note that given the opaque process employed by the Ministry it is possible that the process is even more deeply flawed. This timeline is based on the internal documents that have been provided by the Ministry, but we note that the Ministry has declined a number of OIA requests, and we are still waiting for a substantive response to our request that the Ministry provide all documents relating to consultation undertaken with mana whenua.

Site Selection

8. On 28 November 2018 Prime Minister Jacinda Arden announced that a memorial for the Erebus tragedy would be completed in time for the 40th Anniversary of the Erebus crash in two years' time.
9. In March 2018, the Ministry determined that the memorial would be in Auckland and sites at Cornwall Park, Auckland Domain, Maungakiekie/One Tree Hill, Wynyard Quarter, Whenua Rangatira/Bastion Point and Mataharehare were to be considered. However, the Ministry determined that the memorial should be sited on Auckland Council owned land to keep costs down. Wynyard Quarter was removed from the table early on due to the America's Cup. As Mataharehare is the only Auckland Council owned site considered by the Ministry, the evidence

indicates that even at this early point the Ministry had decided to build the memorial at Mataharehare.

10. The Ministry claims that the interests of the Erebus and Ice phase Families have been central to its decision-making including in regard to the location of the memorial. This is not true:

- 10.1 In July 2018, the Ministry arranged for a Colmar Brunton survey of the Erebus and Ice Phase families' views on the memorial, including its design and location.

- 10.2 On 14 August 2018, the Ministry received the results of that survey which showed that the Erebus and Ice Families wanted a quiet and secluded south facing site. They did not want picnicking or other activities nearby.

Mataharehare is a busy, north facing, city fringe site. It is frequently the site of picnics and other community gatherings.

11. Despite Mataharehare not fitting the Erebus families' requirements, the Ministry determined to press on with this location and in August 2018, planning and design consultants Boffa Miskell were engaged to assess the suitability of the Mataharehare Pā site. No other locations were assessed.

12. Boffa Miskell's report did not endorse Mataharehare, noting:

- 12.1 the existing community usage of the site could compromise its ability to house the memorial;

- 12.2 the noise from Tamaki Drive and the Port, railway, and heliport were at odds with the families' desire for a place of remembrance, contemplation, and reflection;

- 12.3 there was no logical connection or significance between the site and the Erebus disaster; and

- 12.4 that the cultural significance of the site needed to be understood through consultation with mana whenua.

13. Boffa Miskell recommended that it would *"be more appropriate to identify a location closer to Auckland Airport, with a view over the Manukau Harbour that has a connection and symbolism to Flight TE-90. This could be viewed as a destination in its own right and a true place for reflection and remembrance."*

14. Following the receipt of the Boffa Miskell and Colmar Brunton report, Auckland Council employees offered, sensibly, to look for further sites including those overlooking the Manukau Harbour. The Ministry declined this offer by email on 20 August 2018 saying instead that Ministry staff would *"come to Auckland (earlier the better) to discuss how we square things away with council on confirming the site and to visit the site with a couple of the family members we have a close relationship with"*.

15. We, unfortunately, must query whether there is something more concerning underlying the Ministry's insistence of proceeding in these circumstances given its mention of visiting the Mataharehare site with two families that the Ministry has a "close relationship" with, whatever that means.
16. On 3 September 2018, the Ministry approached the Waitematā Local Board, the landowner for the site and sent the (then) Chair of the Local Board, Pippa Coom, a plan of Mataharehare Pā site and the area in which the Ministry proposed to locate the memorial. Pippa Coom responded that the Ministry had her (and her deputy chair's) personal support for the memorial to be located and at Mataharehare and suggested that the proposal be put to the Local Board in confidence to seek "in principle" support.
17. Around 7 September 2018, the Ministry started to develop a plan to present to the Local Board to seek formal approval in principle for the memorial at Mataharehare. At this stage, no consultation with mana whenua had occurred despite Boffa Miskell's firm recommendation in its report.

Iwi Consultation - Ngāti Whātua Ōrākei

18. Consultation with Ngāti Whātua Ōrākei occurred only after the Local Board noted its concern that that mana whenua had not been consulted about the Mataharehare Pā site, despite the Ministry already having decided to seek landowner consent:
 - 18.1 On 4 October 2018 Simon Tattersfield, on behalf of the Local Board noted his concerns with the lack of iwi consultation.
 - 18.2 On 9 October 2018, the Local Board met and mandated that Ngāti Whātua Ōrākei had to be consulted. It is not clear whether any consultation with mana whenua would have eventuated at all if this mandate had not been issued. It seems unlikely given the nature of this timeline.
 - 18.3 On 9 October 2018, the Ministry decided that they did not want to delay the Local Board's consideration of the issue of agreement "in principle" until November 2018 (a mere month later) so proposed adding "*mana whenua providing support for the proposal to locate the memorial at the park*" as a condition of the Local Board's agreement in principle.
 - 18.4 On 9 October 2018 in an internal email Mr Stubbs asked: "*if someone is able to provide a contact point at Ngati Whatua we will initiate discussions with the aim of securing agreement ahead of the meeting*".
19. It is only after this, in November 2018, that the Ministry advised Ngāti Whātua Ōrākei that Mataharehare was being "considered" as the location for the memorial. It was not provided with

details of the other potential locations (all of which had been dismissed by the Ministry by that stage) and therefore was denied the opportunity to consider the full scenario.

20. It also appears that this initial “consultation” was done on an informal basis. There is no evidence of reports or plans being provided to Ngāti Whātua Ōrākei and as set out above, the Ministry’s approach to Ngāti Whātua Ōrākei was with the aim of “securing agreement”, rather than hearing Ngāti Whātua Ōrākei’s kaupapa on the location or design. The extent of Ngāti Whātua Ōrākei’s consultation on the location of the memorial appears to be discussions between Mr Jamie Sinclair and Mr Brodie Stubbs.
21. On 12 November 2018, Mr Sinclair on behalf of Ngāti Whātua Ōrākei provided its support in principle via a four-paragraph letter. Mr Sinclair gave this support without being provided with sufficient detail, including the potential memorial’s design or scale, because these matters had yet to be determined. That uninformed consent is meaningless.
22. On 20 November 2018, the Local Board resolved that it would support the location of the memorial and grant landowner consent on the condition that *“the Ministry for Culture and Heritage will lead mana whenua consultation on the location”*.

Design Selection

23. Once the Ministry had determined that the memorial would be sited at Mataharehare it entered into a rushed design selection process that did not consider the taonga of the site or provide mana whenua with an opportunity for feedback until the ultimate design had already been selected:
 - 23.1 On 6 November 2019, the Ministry announced it was seeking expressions of interest for the design of the memorial from designers. Mana whenua were not approached to submit a design proposal, notwithstanding the Ministry had determined at this stage that the memorial would be sited at Mataharehare Pā site.
 - 23.2 On 16 November 2018, the location of the memorial was publicly announced.
 - 23.3 On 25 November 2018, the expressions of interest period was closed. The period for design submissions was incredibly short and as a result only 33 submissions were received. In contrast, 333 submissions were received for Oī Manawa, the memorial for the Christchurch Earthquakes.
 - 23.4 On 18 December 2018, the six shortlisted designers were provided with a document/brief setting out the Ministry’s requirements for the final design. The document provided to the shortlisted designers failed to set out the importance of the Māori history of the Mataharehare, the archaeological significance of the site, or the cultural meaning of the site for mana whenua. The selection of the shortlisted designers was undertaken behind closed doors by the Ministry.

- 23.5 The six shortlisted designs were reviewed by the Auckland Design Panel in February 2019. No input or attendance was sought from Ngāti Whātua Ōrākei or any other mana whenua.
- 23.6 On 14 April 2019, the final design *Te Paerangi Ataata – Sky Song* was announced as the final design. Mana whenua were not provided with an opportunity to provide input on this design before the selection and public announcement.
24. This was an incredibly short design selection process that did not involve mana whenua. By contrast, the design process undertaken for the comparable Christchurch earthquake memorial took two years and mana whenua were involved throughout the process.

Consultation with Mana Whenua re Mataharehare Pā site

25. As we state earlier in this submission, Mataharehare has historical significance for a number of iwi, including Ngāi Tai ki Tāmaki who is understood to have built the Pā upon Mataharehare, and Ngāti Whātua Ōrākei, who are now kaitiaki. A further 15 different mana whenua groups were identified by the Ministry as having an interest in the site.¹ However, those iwi and hapu were not consulted until 14 August 2019, at which time both the location and the final design had already been selected and widely publicised. That consultation was therefore meaningless window dressing of a predetermined outcome; a box ticking exercise.
26. The Ministry required that any mana whenua who wished to provide feedback on the site and design had to do so by 26 August 2019, less than two weeks after their feedback was sought.
27. On 14 August 2019 (the same day the Ministry sought mana whenua feedback), Ngaati Whanaunga advised immediately that they wished to review the proposal in detail to provide their perspective. That request was dismissed by the Ministry on 27 August 2019 (the day after the Ministry's deadline), who stated that "*we had not anticipated an extensive review of the design would be required by other hapu or iwi*".
28. The timing of the Ministry's alleged consultation with mana whenua reveals the consultation was insincere. This is illustrated by its rebuff of Ngaati Whanaunga's request to complete a report. Fundamentally, the Ministry sought only to *inform* mana whenua of its decision to build the memorial at Mataharehare, rather than to actually *consult* with mana whenua in advance of making such a decision. This is a breach of the Ministry's obligations under Te Tiriti.

Regulatory approvals – Resource consent

29. The Ministry's resource consent application (prepared by Boffa Miskell) for the memorial was filed on 16 September 2019 and stated that "*Ngāti Whātua Ōrākei have been engaged with since the*

¹ Ngāi Tai ki Tāmaki, Ngāti Maru, Ngāti Pāoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whanaunga, Ngāti Whātua o Kaipara, Ngāti Whātua Ōrākei, Te Ahiwaru – Waiohua, Te Ākitai Waiohua, Te Kawerau a Maki, Te Patukirikiri, Te Rūnanga o Ngāti Whātua, Waikato – Tainui.

early design stages of the proposal". As we have already said, there was no mana whenua involvement or consideration in either the design process or the site selection.

30. It is also deeply concerning that the resource application proceeded on a non-notified basis, and no public notification of the application was made. This was undemocratic and clearly not appropriate given the scale of the design selected and the public outcry that was already being heard at this stage.

Regulatory approvals – Heritage New Zealand

31. An archaeological assessment of Mataharehare was prepared by Clough & Associates and provided to the Ministry on 1 December 2019. While the report details extensively the European history of the site including the Kilbryde House, the report expressly reserves its findings and comments on the Māori cultural value of the site:

"This is an assessment of archaeological values and does not include an assessment of Maori cultural values. Such assessments should only be made by the tangata whenua. Maori cultural concerns may encompass a wider range of values than those associated with archaeological sites."

32. Despite this clear reservation in the Clough & Associates assessment, the Ministry did not re-engage with mana whenua, including Ngaati Whanaunga despite its express request to provide the Te Ao Maori perspective on the site. Instead, we understand the Ministry relied on two paragraphs of historical context provided by Ngāti Whātua Ōrākei which was not fit for purpose. Responsibility here rests with the Crown.
33. We understand that in February 2020 a Clough and Associates produced a further archaeological assessment of Mataharehare for the Ministry which included the results of GPR and magnetometer surveys. The report confirmed that a historic road/track will be destroyed by the construction and that it is possible that remnants of the Kilbryde home are present beneath the compacted layer of fill. Again, the report did not consider the cultural impact of the memorial from a Māori perspective.
34. On 7 September 2020, Heritage New Zealand granted archaeological authority to build the memorial at Mataharehare. Noting that its input was restricted to archeological signoff only, based on documentation tabled. It had been excluded from appropriate fulsome research and consideration of the Pā site, due to Auckland Council's Non Notified Resource Consent process. We understand that this authority was granted without consideration of the second Clough & Associates report.

Recommendations/A way forward to resolve this and to save Mataharehare Pā site from desecration.

35. Tāmaki Makaurau mana whenua were entitled to full and proper consultation from the Ministry and Local Board before the location of the memorial was selected and during the design process.

In this case, the Ministry, the Local Board and the Auckland Council have failed to ensure that they met their obligations to consult with mana whenua in a meaningful and genuine manner.

36. We seek an urgent inquiry from this Select Committee into the procedure employed by the Ministry and whether the site and design of the memorial were selected in breach of Te Tiriti.
37. Until such an inquiry is completed we request that the rāhui placed over construction on Maraharehare is recognised. The end date of the rāhui is 29 November 2021 which is the 42nd anniversary of the Erebus disaster.
38. Please provide your urgent response to this letter by 4.00 pm, 19 March 2021.

Nga manaakitanga



Dame Rangimarie Naida Glavish DNZM, JP
Board Member
Pouhere Taonga



Kaumatua Tautoko Witika
Nga Uri o Tuperiri



Ms Margaret Brough
Daughter of the late Mr Aubrey Brough