

18 June 2021

Nā Bernadette Cavanagh
Tumu Whakarae

Cc Piremia Rt Hon Jacinda Ardern

Tēnā koe Bernadette

Thank you for your letter of 15 June 2021, responding to my letter of 4 March 2021.

1. Respectfully, my valid concerns raised in that original letter remain unaddressed, which is deeply disappointing.¹
2. Further you refer to a review of your Ministry's processes undertaken by a Queen's Counsel, Ms Kristy McDonald ONZM QC who concluded they were "reasonable".
3. What experience in matters relating to Māori and the actions of the Crown under its obligations set out in the Treaty of Waitangi does Ms McDonald have to be sufficiently knowledgeable?
4. It is clear, that the review process was flawed given Ms McDonald relied solely on information provided by one party, the Ministry (which was incomplete) when making her assessment.
5. The fact that a QC has reviewed only the documents provided by your Ministry, does not confirm it was a robust, fair or factually correct process. For example, the report refers to an email sent to the Erebus families, seeking input into the location to be selected, I am advised that it was never sent.²
6. I understand when others have queried this specific matter, your Deputy Chief Executive, Ms Tamsin Evans responded, "The QC was engaged to carry out an independent audit of our processes and if they had any concerns, these would be reflected in their report. We do not have any concerns in this area."
7. With respect, if relevant information has not been provided, how would Ms McDonald have known to reflect concerns in her report?
8. A finding by a QC of a "reasonable" process, with limited and inaccurate information, does not give any confidence that the process was in fact "robust" and in its integrity.
9. Was this review the same one the Ministry provided to the Waitematā Local Board in November 2020 as part of requesting Landowner Approval?³
10. If you have undertaken any additional review, please urgently provide the documentation.

¹ Letter to the Prime Minister 4 March 2021

² BR2018/407 page 2 referred to in Audit report Ms Kristy McDonald ONZM QC

³ Audit report Ms Kristy McDonald ONZM QC WLB meeting minutes

11. The review of processes provided to the Waitemātā Local Board, did not take into account the process from a Te Tiriti perspective as it relates to Iwi and the concerns that I first raised with you and your Ministry late last year.⁴
12. The evidence provided through the OIA request confirms that no Iwi were involved with the site selection process. They were only consulted as an afterthought once the site at Mataharehare pā/Dove Myer Robinson Park was determined by the Prime Minister and the Mayor of Auckland to be the most appropriate site.⁵
13. It is now very clear from the chronology that Mr Sinclair (CEO NWO) wrote a letter of support to the Ministry without being provided sufficient detail, including the potential memorial's design or scale because these matters at that time had not been determined. It reveals a process that was unacceptably rushed.
14. We understand NOW Kaumātua were also not consulted or provided with sufficient information when asked for their support. While this may be a matter for NWO, both the Ministry and Auckland Council should have been aware the speed of turn around did not provide adequate time to discuss matters fully or properly.⁶
15. There is additional evidence that the Ministry of Culture and Heritage declined to follow Auckland Council advice in attending the Mana Whenua Kaitiaki forum on 31 October 2018.⁷ Further, the Ministry failed to receive feedback from NWO on the six proposed designs or consider, or share with the design teams or selection panel's NWO's Te Pou o Kāhu Pōkere - Iwi Management Plan.⁸
16. This failure to properly consult with all Mana Whenua at the outset (which is inexplicable given the clear advice that this approach was appropriate), denied Iwi with potential Constitutional interests in the site any opportunity to have their views acknowledged on the record and meaningfully considered.
17. This grave omission adds further substantial weight to all the other concerns that I have previously raised with you and your Ministry.
18. The evidence reveals that decision makers and elected officials throughout this project have repeatedly been asked to make critical decisions without full information and without full transparency from the Ministry, including the Prime Minister.
19. Your Ministry has known since August 2018 (Boffa Miskell report) that the site was wrong.⁹
20. Another glaring omission is an arboriculture assessment from a suitably qualified Māori arborist for the purpose of reporting how sacred this tree is to Tangata Whenua and Mana Whenua and the impact of the memorial on the Tūpuna Rākau future growth. I have not seen any evidence anywhere in the documentation that this has advice has been sought, nor been considered by your Ministry.

⁴ Letter from Dame Rangimārie Naida Glavish DNZM JP to MCH 23 December 2020

⁵ Email Ian Maxwell (Auckland Council) to Brodie Stubbs MCH 9 October 2018

⁶ Letter from Marama Royal Chair of NWO to the Ministry dated 27 April 2021.

⁷ Emails Ian Maxwell and David Barker, Auckland Council to Brodie Stubbs MCH 11 October 2018

⁸ Email between NWO Arts and Design Manager (X) and Ministry (Brodie Stubbs) date 12 and 13 March 2019.

⁹ Boffa Miskell site report August 2018

21. Arborists I have spoken too, disagree with the Te Ao Pākehā arborists report you and your Ministry has provided. It is reasonable to suggest if your Ministry had voluntarily notified resource consent as it could and should have, this issue along with a long list of many others, would have been able to have been properly assessed in a culturally competent way.
22. Therefore due to the concerns about the process, I am formally requesting that the Ministry commission a full and independent inquiry of the entire Erebus Memorial project, by an individual who has a detailed understanding of the Treaty of Waitangi principals and expectations of the Crown when acting as a Treaty Partner.
23. I ask that you respond in a timely manner to this request and that I am provided with an opportunity to be included in the selection of the most appropriate person to undertake such a review.

Ngā manaakitanga



Dame Rangimarie Naida Glavish DNZM, JP
Chair, Te Rūnanga o Ngāti Whātua
Chief Advisor – Tikanga Auckland/Waitemata DHBs
Long Serving Member Heritage NZ Pou Here Taonga