

## Petitions Select Committee

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28 March 2022

Tēnā koutou,

### Re: Release of Final Opinion of Chief Ombudsman on Proposed Site of National Erebus Memorial

I am writing to advise as a courtesy that the Chief Ombudsman has now released his report into the actions of the Ministry of Culture and Heritage in relation to the proposed Erebus Memorial.

You will find a copy of that report [here](#)

Please add these findings to my submission 12 July 2021.

The final opinion makes clear that:

1. The Ministry completely failed to consult the wider local community and all Tāmaki Makaurau iwi comprising the mana whenua before forming a preference for any site in Auckland.
2. This course of action was “unreasonable”. This is a point many have made to the Ministry and the Prime Minister over the past three years.
3. The recommendations say that the Taurarua/Mataharehare/Dove Myer Robinson Park site cannot reasonably be said to be suitable for the memorial unless the considerable grievances caused by the Ministry’s conduct and unreasonable lack of consultation with the community and mana whenua can be resolved.
4. The site is already tainted by the harmful lack of consultation undertaken by the Ministry when making its site selection.

*Ombudsman: “This is significant finding for an Ombudsman to make about the adequacy of the Ministry’s process in leading to the construction of a national memorial”*

5. The Ministry breached Treaty obligations by choosing the Parnell site unilaterally ahead of consultation with iwi.

*Ombudsman: “I find the lack of any contact with mana whenua interests prior to forming a preference particularly surprising given the obligations of consultation with indigenous peoples recognised at an international level and the Crown’s partnership obligations under Te Tiriti/Treaty of Waitangi.”*

6. The lack of consultation prevented the acceptance of Taurarua/ Mataharehare/Dove Myer Robinson Park as being the best site for the memorial and pointed to my submission in his report as setting out “strong arguments against” the site.

7. The impact of the memorial on Te Hā the tupuna rākau that has stood on the whenua for almost 200 years when he states.

Ombudsman: *"A project of this nature in DMRP will inevitably have some impact on the natural life of the tree."*

8. A situation that impacts this important tree in any way, is simply unacceptable to the now over 24,000 New Zealanders who have signed my petition. As an Erebus family member, I echo the voices of many others, when I say the memorial can be moved. The tree cannot. I particularly draw your attention to the appendix of Mr Boshier's report, where the impacts on the mauri and mana of Te Hā are clearly set out.
9. The Ombudsman encourages the Ministry under section 22 of the Ombudsmen Act 1975, to "resolve the sense of grievance that the failure to consult more widely has created". He states that this should occur before ANY construction on the site begins.

**Next steps:**

I understand that you have waited to consider my petition until the process of the Ombudsman was complete.

It is my view that the failure of due process to date, must not continue and that the voices of now over 24,000 New Zealanders (who echo the concerns raised by the Ombudsman, the community, mana whenua and Erebus whanau), *must* be heard before any decision on next steps are taken by the Ministry.

The initial response of the Ministry (attached) to the report was to state *"The overall finding is that construction of the memorial at this site can proceed but recommends that the Ministry engage in a direct dialogue with opponents."*

Indicating the Ministry's view that a simple meeting with the upset parties, who were never consulted about the site will remedy the grievance and resolve the taint. This is clearly a self-serving view and makes clear the Ministry's approach to the Ombudsman's comprehensive report will amount to little more than lip service.

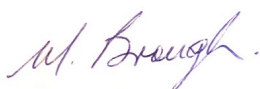
Further poor process and continued breaches of natural justice must not continue.

If we have learned nothing over the past 182 years as a Nation, grievances the Crown has caused, cannot simply be brushed aside and their will imposed regardless.

As already stated, I have no confidence that if this matter is referred to a Minister of the Crown, that it will be properly and fairly considered.

Therefore, I respectfully ask that my petition goes before a full Select Committee, so that all parties affected can be properly and powerfully heard in the spirit of transparency and for the principled purpose of finding a new, untainted and appropriate home for this important National memorial.

Regards



Margaret Brough