

9 (2) (a)

From: 9 (2) (a)@aucklandcouncil.govt.nz>
Sent: Thursday, 12 September 2019 9:40 AM
To: Brodie Stubbs
Cc: David Barker
Subject: FW: Concerns regarding the Proposed National Erebus Memorial
Attachments: 3880607 Letter to Waitemata Local Board - v5.pdf

Morena Brodie

I just wanted make your aware that the local board received the attached letter this week from Russell McVeagh who is acting for a Parnell resident. 9 (2) (g) (i)

I'll keep you update on where this lands.

Thanks
9 (2) (a)

Kia manahau tō rā

9 (2) (a) – Waitematā
Waitematā Local Board
Email 9 (2) (a)@aucklandcouncil.govt.nz
Ph 9 (2) (a)
Auckland Council, 52 Swanson Street, Auckland

Visit our website: www.aucklandcouncil.govt.nz

*There are building works in and around our premises.
Please take note of, and adhere to, safety instructions.*



*Entry to the local board office is via the main Shine Lawyers
foyer. Knock on our opaque glass door for access.*

From: 9 (2) (a)@russellmcveagh.com>
Sent: Monday, 9 September 2019 12:32 PM
To: Pippa Coom (Waitemata Local Board) <Pippa.Coom@aucklandcouncil.govt.nz>
Cc: 9 (2) (a)@russellmcveagh.com>
Subject: Concerns regarding the Proposed National Erebus Memorial

Dear Pippa

We act for 9 (2) (a), a Parnell resident with concerns regarding Manatū Taonga Ministry for Culture and Heritage's proposal to establish a National Erebus Memorial in Dove Myer Robinson Park.

Please see the **attached** letter sent on behalf of our client.

We look forward to hearing from you as soon as possible.

Kind regards

9 (2) (a)

9 (2) (a)

Solicitor

Russell McVeagh, Vero Centre, 48 Shortland Street, PO Box 8, Auckland 1140, New Zealand
D +64 9 (2) (a)

9 (2) (a) @russellmcveagh.com

www.russellmcveagh.com

This email contains confidential information and may be legally privileged. If you have received it in error, you may not read, use, copy or disclose this email or its attachments. In that event, please let us know immediately by reply email and then delete this email from your system. While we use standard virus checking software, we accept no responsibility for viruses or anything similar in this email or any attachment after it leaves our information systems. If you are interested in establishing more secure communication between us, please contact our systems administrator by email at mail.admin@russellmcveagh.com

Please think of the environment before printing this email.



CAUTION: This email message and any attachments contain information that may be confidential and may be LEGALLY PRIVILEGED. If you are not the intended recipient, any use, disclosure or copying of this message or attachments is strictly prohibited. If you have received this email message in error please notify us immediately and erase all copies of the message and attachments. We do not accept responsibility for any viruses or similar carried with our email, or any effects our email may have on the recipient computer system or network. Any views expressed in this email may be those of the individual sender and may not necessarily reflect the views of Council.

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

9 September 2019

Waitematā Local Board
c/o Pippa Coom
email: pippa.coom@aucklandcouncil.govt.nz
AUCKLAND

By email

Dear Chairperson and Members of the Board

CONCERNS REGARDING THE PROPOSED NATIONAL EREBUS MEMORIAL

1. We act for 9 (2) (a), a Parnell resident with significant concerns regarding Manatū Taonga Ministry for Culture and Heritage's ("**Ministry**") proposed National Erebus Memorial ("**Proposal**") to be located in Dove Myer Robinson Park.
2. 9 (2) (a) does not oppose the establishment of a memorial to commemorate the lives lost in the 1979 Erebus plane disaster. The Erebus disaster was a national tragedy, and 9 (2) (a) feels that the families of those who died deserve to feel the support of the New Zealand public and to have a place of reflection that commemorates the lives of their loved ones. However, 9 (2) (a) concerns are:

- (a) the appropriateness of Dove Myer Robinson Park as the location for the Proposal; and
- (b) the selected design: Te Paerangi Ataata – Sky Song.

3. These concerns have been exacerbated by the Local Board's lack of consultation in relation to the Proposal. We understand that no consultation has occurred in respect of the Proposal, which is to be put before the Local Board on 17 September 2019 for final land-owner approval. Given the importance of the Local Board's decision, it must undertake consultation on the Proposal before any further decision is made in order to comply with its Local Government Act 2002 ("**LGA**") obligations.

4. We outline 9 (2) (a) concerns in further detail below.

Substantive concerns

Location

5. Dove Myer Robinson Park is highly valued for its green open space, Manuka and Pohutukawa trees, feature rose garden, and significant ecological bush areas. The Park is also set within Judges Bay which is of great historical and cultural

Partners

Frederick Ward
Brendan Brown
Malcolm Crotty
Joe Windmeyer
Guy Lethbridge
John Powell
Ed Crook
Tim Clarke
Sarah Keene
Sarah Armstrong
David Hoare
Matthew Kersey
David Butler
Craig Shrive
Deemle Budhia
Mei Fern Johnson
Daniel Jones
Polly Pope
Allison Arthur-Young
Christopher Curran
David Raudkivi
Tom Hunt
Kylie Dunn
Daniel Minhinnick
Troy Pilkington
Marika Eastwick-Field
Ian Beaumont
Stephen Rendall
Cameron Law
Joe Edwards
Benjamin Paterson
Emmeline Rushbrook
Anna Crosbie
David Weavers
Liz Blythe
Nathaniel Walker
William Irving

3880607

1 of 4

importance. As the population of Auckland continues to grow, 9 (2) (a) feels what remains of local public open space should be protected for the enjoyment of current and future generations. From 9 (2) (a) perspective green, pristine areas are good for the population's physical and mental health.

6. 9 (2) (a) does not feel that Dove Myer Robinson Park is the appropriate location for the Proposal in its current form. The Proposal would diminish the natural amenity of the park, and reduce the value of the site as a recreation reserve.
7. In addition, many other proposals to establish memorials in Dove Myer Robinson Park have been previously rejected by Council.

Design

8. The key objectives for the Proposal are to accommodate a wide range of uses through an accessible design that can inspire a range of interpretations and meaning, and to achieve a high standard of design that is sympathetic to, and adds value to, the Proposal's location and surroundings.¹
9. 9 (2) (a) feels that the scale and bulk of the design selected does not add to the high public amenity value associated with the open grass areas and belts of vegetation at Dove Myer Robinson Park. 9 (2) (a) feels the scale of the Proposal, and the amount of concrete involved, detracts from the accessibility of the park space in its current form as a natural open space.

Procedural concerns

10. The Waitemata Local Board is required to carry out its obligations in accordance with the LGA.
11. Section 48K of the LGA states that in carrying out non-regulatory activities, a local board must comply with the requirements of section 78. This section provides that a local board must, in the course of its decision-making process give consideration to the views and preferences of persons likely to be affected by, or to have an interest in a matter.
12. Though local boards are given discretion in terms of how best to abide by this general obligation,² the LGA requires that a local board must have regard to:
 - (a) **Section 82:** the significance of the decision or matter;
 - (b) **Section 79:** the extent to which the nature of a decision, or the circumstances in which a decision is taken, allow for consideration of the views and preferences of other persons; and
 - (c) **Section 14:** the views of all of its communities.

¹ Waitemata Local Board Meeting 20 November 2018, agenda notes.

² LGA, section 79(1)(a).

13. Section 48C of the LGA states that the purpose of local boards is to make decisions democratically on behalf of the communities they represent.

Significance of the decision

14. The Local Board's decisions in respect of the Proposal are of a significant nature. One of the key objectives of the Proposal is to establish a memorial which expresses the magnitude of the Erebus disaster and is an enduring legacy to New Zealanders.³
15. Clearly the Proposal is of national significance. Therefore, the views and preferences of persons likely to be affected ought to be taken into account as part of the process the Local Board adopts in making decisions regarding the Proposal.

Views of the community

16. To our knowledge, no consultation has been undertaken by the Waitemata Local Board in respect of the Proposal. As the process adopted by the Local Board to date in relation to the Proposal has failed to highlight the views and preferences of members of the community, a failure to undertake consultation now to allow those views to be considered would represent a breach of section 78 of the LGA.
17. Given the importance of the decision before the Local Board, there are grounds for public notification of any resource consent applications in connection to the Proposal on the basis of special circumstances. However, any potential consultation or notification that might be carried out through any resource consent process does not avoid the Local Board's own consultation obligations under the LGA.

Request

18. For these reasons, our client requests that greater consultation is undertaken by the Local Board in respect of the Proposal before land-owner approval is given.
19. Our client also requests to be heard on the matter at the 17 September Local Board meeting.⁴

Yours faithfully
RUSSELL McVEAGH



9 (2) (a)

Partner | Solicitor

³ Waitemata Local Board Meeting 20 November 2018, agenda notes.

⁴ Under the Auckland Council Standing Orders Waitemata Local Board, at [7.1.1].

Direct phone: 9 (2) (a) [REDACTED]
Direct fax: 9 (2) (a) [REDACTED]
Email: 9 (2) (a) [REDACTED]@russellmcveagh.com
9 (2) (a) [REDACTED]@russellmcveagh.com

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982