

Hon Carmel Sepuloni

Minister for Arts Culture and Heritage

Rt Hon Jacinda Ardern

Associate Minister for Arts, Culture and Heritage

National Erebus Memorial - further funding Cabinet material

25 February 2022

Date: 25 February 2022

Title: National Erebus Memorial - Further funding

Author: Ministry for Culture and Heritage

These documents have been proactively released by the Minister. This package includes the Cabinet material listed below.

Title: Cabinet Social Wellbeing Committee paper "Proactive Release of Cabinet Material: National Erebus Memorial – Further funding

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the OIA). Where this is the case, the relevant sections of the OIA that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redactions:

9(2)(a): The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons

6(c): Good reason for withholding official information exists, for the purpose of [section 5](#), if the making available of that information would be likely to prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial

9(2)(b)(ii): The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information

9(2)(g)(i): The free and frank expression of opinions by or between or to Ministers of the Crown or members of an organisation or officers and employees of any public service agency or organisation in the course of their duty

**Hon Carmel Sepuloni**  
**Minister for Arts, Culture and Heritage**

cc Rt Hon Jacinda Ardern, Associate Minister for Arts, Culture and Heritage

**NATIONAL EREBUS MEMORIAL – FURTHER FUNDING: APPROVAL  
TO LODGE CABINET PAPER**

|                                 |                  |                   |            |
|---------------------------------|------------------|-------------------|------------|
| <b>Date:</b>                    | 18 November 2021 | <b>Priority:</b>  | High       |
| <b>Security classification:</b> | In Confidence    | <b>Reference:</b> | BR2021/588 |

| Minister  | Action Sought  | Deadline        |
|---|--|-----------------|
| <b>Hon Carmel Sepuloni</b><br>Minister for Arts, Culture and Heritage             | <b>Agree</b> to proceed with Ministerial consultation with a view to lodging the Cabinet paper by 2 December 2021. | 2 December 2021 |
| <b>Rt Hon Jacinda Ardern</b><br>Associate Minister for Arts, Culture and Heritage | <b>Note</b> the attached Cabinet paper.  |                 |

| Contacts            |                        |         |                         |
|---------------------|------------------------|---------|-------------------------|
| Name                | Position               | Contact | 1 <sup>st</sup> Contact |
| Bernadette Cavanagh | Chief Executive        | 9(2)(a) |                         |
| Brodie Stubbs       | Manager, Te Pae Mahara | 9(2)(a) | ✓                       |

|                               |   |  |
|-------------------------------|---|--|
| Minister's office to complete | <input type="checkbox"/> Approved             | <input type="checkbox"/> Declined            |
|                               | <input type="checkbox"/> Noted                | <input type="checkbox"/> Needs change        |
|                               | <input type="checkbox"/> Seen                 | <input type="checkbox"/> Overtaken by events |
|                               | <input type="checkbox"/> See Minister's notes | <input type="checkbox"/> Withdrawn           |
| Comments:                     |   |  |

## Purpose

---

1. The briefing seeks approval of a Cabinet paper requesting additional funds from the Emerging Priorities Fund (EPF) to complete the construction of the National Erebus Memorial (the Memorial).

## Key messages

---

2. Due to opposition to the Memorial, there has been a delay in commencing construction. As a result of this delay the forecast cost to complete the memorial has increased and up to \$1 million additional funding is required.
3. Manatū Taonga has Treasury's approval to request this funding to be drawn down from the EPF. You and the Prime Minister have agreed Manatū Taonga make this request of Cabinet.
4. Manatū Taonga is seeking your approval to lodge the attached Cabinet paper for Cabinet's consideration.

## Recommendations

---

5. Manatū Taonga Ministry for Culture and Heritage recommends that you:

**Approve** the attached Cabinet paper for lodging by 2 December 2021 (once any necessary changes have been made by your office) **YES / NO**

Bernadette Cavanagh  
Chief Executive

Hon Carmel Sepuloni  
**Minister for Arts, Culture and Heritage**

## Background

---

### *Opposition to the memorial has delayed construction*

6. As a result of an opposition group's actions over the past year the construction of the National Erebus Memorial has been delayed and additional costs incurred (BR2021/528 refers).
7. In September 2021, you and the Prime Minister approved a request from Manatū Taonga for an additional \$0.700 million to be requested from the Prime Minister's EPF.
8. In early October, a multi-agency working group consisting of Manatū Taonga, the New Zealand Police, Allied Security, Auckland Council and Auckland Transport agreed a plan to establish the construction site at Dove Myer Robinson Park. On 19 October, the setup team, accompanied by the New Zealand Police and Allied Security, were prevented from accessing the park to commence work by the opposition group.
9. 6(c)  
[REDACTED]  
[REDACTED]
10. 6(c)  
[REDACTED]  
[REDACTED]  
[REDACTED]
11. Material is being prepared to inform the public in the lead up to the 42nd anniversary of the Erebus accident.

### *Delays have led to additional costs*

12. Whilst planning continues, further costs continue to be incurred under the contract with construction firm Naylor Love, 9(2)(b)(ii). As it is uncertain how long it will take to form a viable plan and action it, a contingency of 9(2)(b)(ii) has been added to cover an extended standby period, additional security guards for extended periods and additional project management. This brings the total additional funding required to \$1 million.

## Consultation

---

13. Treasury has reviewed the Cabinet paper and is comfortable with Manatū Taonga's proposal to request the EPF is sourced for the shortfall.
14. In her capacity as Prime Minister, the Rt Hon Jacinda Ardern, is supportive of additional funds, totalling \$1 million, being sought from the EPF and recommended you seek Cabinet approval for this (BR2021/528 refers).

**Financial implications**

---

- 15. This cost pressure cannot be met from existing baselines. Use of the EPF will avoid the need to re-prioritise Manatū Taonga’s work programme and reduce outputs (BR2021/528 refers).
- 16. As per paragraph 12, the \$1 million requested includes an allowance for unknown factors. We will only draw down funding for actual costs incurred and the remainder will be returned to the centre.

**Risks**

---

- 17. The additional costs the project has incurred since construction was paused in March 2021 are outlined in the Cabinet paper. Some allowance has been made in the \$1 million requested to cover future delays and issues at the site, 9(2)(g)(i) [REDACTED]
- 18. 6(c) [REDACTED]
- 19. COVID-19 continues to be a risk to the project. If construction was not permitted under the new COVID -19 Protection Framework the contract may need to be suspended.
- 20. Officials will keep Ministers informed on progress with planning. It is expected this will be in place by such time that the paper is considered by Cabinet in mid-December.

**Consultation**

---

- 21. Treasury has been consulted in the preparation of this paper and is comfortable with this proposal.
- 22. NZ Police have been consulted in the preparation of this paper.

**Next steps**

---

- 23. Once you and your office have provided any feedback or changes to the attached Cabinet paper, Manatū Taonga will submit the updated paper to CabNet for Cabinet Social Wellbeing Committee’s consideration. The indicative timetable for the Cabinet paper is set out below.

| <b>Indicative timetable for Cabinet paper</b> |   |
|---|---|
| 18 November - 1 December                      | 10 days Ministerial consultation              |
| 2 December 2021                               | Lodge with Cabinet Social Wellbeing Committee |
| 8 December 2021                               | Cabinet Social Wellbeing Committee            |
| 13 December 2021                              | Cabinet                                       |

24. Manatū Taonga will continue planning to ensure site setup is achieved as safely and promptly as possible and will keep the Minister informed.

## **Appendices**

---

Appendix 1: Cabinet Paper – National Erebus Memorial: Further Funding

**Appendix 1: Cabinet Paper – National Erebus Memorial: Further Funding**

---

PROACTIVELY RELEASED

**In Confidence**

Office of the Minister for Arts, Culture and Heritage

Cabinet Social Wellbeing Committee

**National Erebus Memorial: Further Funding**

**Proposal**

- 1 This paper seeks Cabinet's agreement to fund a shortfall of up to \$1 million for the construction of the National Erebus Memorial from the Emerging Priorities Contingency. The Prime Minister is supportive of using the fund for this purpose. This shortfall in funding is the result of delays associated with a small group opposing the Memorial being located at Dove-Myer Robinson Park and different requirements due to COVID-19 restrictions.

**Relation to government priorities**

- 2 The Prime Minister announced the construction of a National Erebus Memorial in November 2017 and Cabinet allocated funding for the Memorial in October 2018.

**Executive summary**

- 3 The construction of the National Erebus Memorial at Dove-Myer Robinson Park in Parnell, Auckland, has been delayed due to the actions and occupation of the site by a group opposed to its location. Construction has been delayed by 10 months while efforts have been made to address the concerns raised. COVID-19 restrictions have added to the delay. As a consequence of these factors, the forecast cost to complete the National Erebus Memorial has increased by an additional \$1 million.
- 4 Cabinet's approval is sought to cover the financial shortfall of \$1 million and for the funds to be sourced from the Emerging Priorities Contingency reconfirmed as part of Budget 2021. The Ministry for Culture and Heritage will only draw down funding for actual costs incurred and the remainder will be returned to the centre.

**Background**

- 5 On 28 November 1979, Air New Zealand flight TE901 left Auckland for a sightseeing flight to Antarctica. The aircraft crashed into Mt Erebus, killing all 257 passengers and crew. Erebus remains the worst civil accident in New Zealand's history.
- 6 On 28 November 2017, the then Minister for Arts, Culture and Heritage, Rt Hon Jacinda Ardern, announced the Government's intention to create a National Erebus Memorial. Manatū Taonga Ministry for Culture and Heritage (the Ministry) is the lead for the Memorial project.
- 7 The then Minister approved the Memorial to be located in Auckland to reflect the fact that the flight left from Auckland, all the crew and many of the passengers were from Auckland and many family members remain in the Auckland region. The Ministry



**I N C O N F I D E N C E**

worked with Auckland City Council to identify a shortlist of appropriate sites for the Memorial in 2018. The Ministry surveyed family members of Erebus victims and this determined their preference for a tranquil, park-like setting. The Ministry determined that Dove Myer-Robinson Park was the best fit from the shortlisted sites.

8 Once Dove-Myer Robinson Park was identified as the preferred site for the proposed Memorial, the Ministry began consultation with Ngāti Whātua Ōrākei. As mana whenua of the rohe where Dove-Myer Robinson Park sits, they gave their written support for the National Erebus Memorial project in November 2018 and the Ministry has continued to consult and seek advice from Ngāti Whātua Ōrākei throughout the project.

9 The regulatory and other approvals required for final landowner approval from the Waitemātā Local Board can be summarised as follows:

| <b>Approval or Consent</b>  | <b>Date</b>   |
|---|---|
| 1. Support from local hapu Ngāti Whātua Ōrākei  | 12 November 2018 (and engagement has continued through the project) |
| 2. An open design competition with input from Auckland Urban Design Panel and Waitemātā Local Board representatives | November 2018 to announcement April 2019                            |
| 3. Auckland Council public consultation about the Memorial  | 25 September to 29 October 2019                                     |
| 4. Arboricultural Assessment Report   | 16 October 2019   |
| 5. Resource Consent granted by an Independent Commissioner on behalf of Auckland Council                            | 20 March 2020   |
| 6. Archaeological Authority from Heritage New Zealand Pouhere Taonga granted  | 7 September 2020  |
| 7. Landowner Approval granted by the Waitemātā Local Board  | 17 November 2020  |
| 8. Cultural Monitoring plan agreed between Ngāti Whātua Ōrākei and the Ministry                                     | 18 February 2021  |

10 The Memorial has met all necessary requirements for construction to commence. An independent audit by Kristy McDonald, QC (on 7 October 2020) confirmed that appropriate process had been followed by the Ministry.

11 The Cabinet Economic Development Committee agreed to the design, construction, and funding of a National Erebus Memorial and on 5 November 2018 Cabinet agreed to this [CAB-18-MIN-0541 refers].

12 The Ministry is closely engaged with the families, with around 300 family members subscribing to the Erebus National Memorial updates. The feedback and response to our updates and other engagement activities indicates strong support for the construction of the Memorial in Dove-Myer Robinson Park, and deep disappointment and frustration at the delays.

### **An occupation of the approved site has delayed construction**

- 13 Construction of the Memorial was planned to commence at the approved site in the first week of March 2021. However, in the days preceding the intended start date, Ministry officials were made aware of a peaceful but obstructive occupation of the site by protestors hoping to stop the Memorial being built.
- 14 The protestors include both local residents and prominent Māori leader Dame Naida Glavish. In order to engage meaningfully with the protestors to alleviate their concerns, construction was temporarily delayed.
- 15 Consultation has taken place over the past two years with those opposed to the Memorial at the site, and with 9(2)(a) during 2021.
- 16 The opposed group claim that the Memorial will be on the site of the former Mataharehare Pā. Ngāti Whātua Ōrākei has publicly challenged that, issuing a statement that the site was formerly Taurarua Pā (destroyed in the construction of the railway) and that Mataharehare Pā was in fact located elsewhere. This view is supported by Heritage New Zealand Pouhere Taonga.
- 17 While the health and future of the notable pōhutukawa tree near the memorial is not at risk, Manatū Taonga offered a range of additional commitments relating to the ongoing protection of the tree to 9(2)(a) earlier this year, in response to the concerns 9(2)(a) had raised. The independent arborist has confirmed the construction of the memorial in the park poses no additional risk to the pōhutukawa and the Ministry is confident the health and longevity of the tree will be unaffected by the Memorial. The Ministry is proceeding with plans to adjust the memorial design to reduce the length of the memorial 'ice wall' to avoid the protected root zone of the tree. In October 2021, when it had become clear that the outcome of the consultation was not going to result in the protestors agreeing to end their occupation, Manatū Taonga Chief Executive approved proceeding with construction.
- 18 Whilst preparing for construction to commence, on 4 October 2021, the Ministry was notified of an investigation by the Office of the Ombudsman in response to a complaint received from the group opposed, including Dame Naida Glavish. The complaint focused on the actions of the Ministry regarding consultation with the various interested parties, and on concerns raised about the potential impact on the pōhutukawa in the vicinity of the Memorial. The Ministry has been cooperating fully with the Office of the Ombudsman and the investigation is due to be completed before the end of the year.
- 19 The construction team attempted to commence site setup on 19 October 2021 but were prevented from accessing the site by protestors who blocked entry to the park.
- 20 The Ministry is working with contractors on a revised plan and intends to establish the construction site before the end of 2021.
- 21 Because of these ongoing delays and the impact of COVID-19, additional costs have been incurred. Should there continue to be ongoing delays caused by protestors and/or the Office of the Ombudsman review there will be further additional costs. Allowance has been made for this in the contingency as shown in paragraph 24.

**Delays have led to a funding shortfall**

22 The seven-month construction suspension from March to November 2021 as a result of protestor actions and the impact of COVID-19 has resulted in a funding shortfall of up to \$1 million. Without further funding, the completion of the National Erebus Memorial will not be possible.

23 The \$1 million shortfall is comprised of:

| Reason for cost increase  | Increase or estimated increase |
|---|--------------------------------|
| Construction cost increases over the initial 6 months of construction pause (incl. 10% contingency) | 9(2)(b)(ii)                    |
| Contractor standby fees (March to June 2021)  |                                |
| Project management costs - additional to contract   |                                |
| Additional site fencing and security  |                                |
| Design changes and virtual memorial video   |                                |
| Contractor standby fees (October & November 2021)   |                                |
| Contingency for construction standby, additional security and project management                    |                                |
| <b>Total:</b>   | <b>\$1,010,016</b>             |

24 Previously, the Ministry has managed to absorb cost increases within the previous budget envelope and reprioritisation within the Ministry's baseline. This is no longer possible without a negative impact on other work programmes at the Ministry. Below is a summary of the increases to the total budget.

|                      | Increase   | Total budget           |
|----------------------|--|------------------------|
| Initial 2018 budget  |  | \$3.100 million        |
| December 2020        | \$1.110 million<br><i>(this was covered by the Ministry re-prioritising work programmes)</i> | \$4.210 million        |
| <b>November 2021</b> | <b>\$1 million</b>   | <b>\$5.210 million</b> |

25 The current forecast total cost of the construction of the National Erebus Memorial is now \$5.210 million. The forecast includes a contingency amount of \$0.521 million to cover unknown costs such as adverse weather delays, unknown ground conditions and design changes once construction starts. Should there be further substantive delays to the work programme we will inform Ministers.

26 It is not appropriate to defer this funding until Budget 2022 as construction is expected to be well advanced by that time. If the additional funds were not secured now, construction would need to be halted whilst the additional funds were sought.

27 The Prime Minister is supportive of additional funding requirements being met from the Emerging Priorities Contingency. Subject to agreement of the recommendations of this paper, the Ministry will utilise \$1 million from the Emerging Priorities Contingency to meet this shortfall. Any unspent funds will be returned to Treasury.

**Consultation**

28 Treasury has been consulted in the preparation of this paper and is comfortable with this proposal.

29 NZ Police have also been consulted on this paper.

**COVID-19 impact**

30 The commencement of construction has been impacted by COVID-19. 6(c) [REDACTED]

31 6(c) [REDACTED]

32 In spite of the COVID Alert Level 3 rules, opposition members have continued to gather at the park. Maintaining the health and safety of all site staff and protestors by adhering to social distancing has added complexity to planning for both site setup and construction work.

33 As a result of the pandemic there has been an increase in costs across the construction market. As paragraph 23 refers, materials and resource costs for the Memorial project have increased by 9(2)(b)(ii) [REDACTED] between March and August 2021.

**Publicity and communications**

34 Confirmation of funding would not be publicised.

**Human Rights**

35 The rights of protestors to express their objections to the memorial are being respected.

**Regulatory Impact Statement**

36 Not applicable

**Climate Implications**

37 Not applicable

**Proactive Release**

38 I intend to proactively publish this Cabinet paper in due course, subject to any redactions that may be justifiable under the Official Information Act 1982.

**Recommendations**

39 The Minister for Arts, Culture and Heritage recommends that the Committee:

1. **note** that Cabinet agreed to the design and construction of a National Erebus Memorial on 31 October 2018;
2. **note** that the project has obtained all necessary consents and approvals required;
3. **note** that in order to complete construction of the National Erebus Memorial further funding is required due to ongoing protestor actions, and the impact of COVID-19;
4. **note** that the Prime Minister is supportive of additional funds being drawn from the Emerging Priorities Contingency;
5. **agree** to fund the shortfall of \$1 million for the construction of the National Erebus Memorial from the Emerging Priorities Contingency reconfirmed as part of Budget 2020;
6. **agree** to convert \$1.000 million from the Emerging Priorities Contingency from operating to capital for 2021/22;
7. **approve** the following changes to appropriations to give effect to the policy decision in recommendation 5 above, with a corresponding impact on net core Crown debt:

| Vote Arts, Culture and Heritage<br>Minister for Arts, Culture and Heritage | \$m – increase/(decrease) |         |         |         |                    |
|--|---------------------------|---------|---------|---------|--------------------|
|  | 2021/22                   | 2022/23 | 2023/24 | 2024/25 | 2025/26 & Outyears |
| Non-departmental Capital Expenditure:<br>Development of National Memorials | 1.000                     | -       | -       | -       | -                  |

8. **agree** that the changes to appropriations for 2021/22 above be included in the 2021/22 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply;
9. **agree** that the capital expenditure for 2021/22 incurred under recommendation 7 above be charged against the Emerging Priorities Contingency established as part of Budget 2021, as adjusted by the conversion described in recommendation 6 above;

**IN CONFIDENCE**

10. **agree** that any funding provided for the National Erebus Memorial that is unspent will be returned to the Emerging Priorities Contingency

Authorised for lodgement

Hon Carmel Sepuloni  
**Minister for Arts, Culture and Heritage**

Rt Hon Jacinda Ardern  
**Associate Minister for Arts, Culture and Heritage**

PROACTIVELY RELEASED