

MEMO

Project Number	FTAA-2603-1194
To	Fast-track Panel – Waikanae North Development
Subject	Applicant's position on the draft cultural landscape conditions proposed by Ātiawa ki Whakarongotai Charitable Trust
Date	16 September 2026

Purpose

1. This memorandum sets out the Applicant's response to the draft proposed cultural landscape conditions provided to the Panel by The Catalyst Group on behalf of the Ātiawa ki Whakarongotai Charitable Trust (ĀKWCT) on 10 September 2026.
2. It is provided to assist the Panel and the parties ahead of the mana whenua / cultural conferencing session scheduled for 17 September 2026.
3. The draft conditions arose from urban design and landscape conferencing on 7 September 2026. ĀKWCT floated the concept of a Cultural Landscape Management Plan (CLMP) and offered to put forward conditions for the Applicant's consideration.
4. Table 1 sets out the Applicant's response to each draft proposed condition. References to conditions proposed by the Applicant are to Conditions Version 2, provided on 21 August 2026.

Summary

5. The Applicant acknowledges the importance to Te Ātiawa ki Whakarongotai and Ngā Hapū o Ōtaki (NHōŌ) of the cultural landscape and of them maintaining a kaitiaki role. The Applicant remains committed to ongoing engagement with both parties.
6. The Applicant has undertaken a review of the draft proposed conditions and assessed what actual or potential adverse effect, or outcome, each would address that is not already addressed by the design of the proposal and the Version 2 conditions. The outcome of that review is as follows:
 - (a) the outcomes sought in CL1 are, in large part, already secured through the masterplan design and the Version 2 conditions;
 - (b) several of the proposed conditions duplicate existing conditions, in particular the Kaitiaki Monitoring Strategy (GWRC 19–21), the kaitiakitanga framework (subdivision 139), the Mahinga Kai Access Protocol (land use 121–123), and the cultural narrative, interpretation and naming conditions (land use 124–125; subdivision 26, Note 2);
 - (c) the matters that are not already addressed by the Version 2 conditions are narrow. They concern how iwi inputs will be carried through into some specific detailed design and long-term management arrangements, and these matters can be addressed by targeted amendments to existing conditions;

- (d) a standalone CLMP therefore does not appear to be necessary to address any effect of the proposal and, in the form proposed, would introduce uncertainty and significant implementation risk; and
- (e) the framework proposed goes further than the conditions imposed for all other fast-track decisions the Applicant has reviewed, including decisions (and conditions) on projects that were larger, longer-lived and/or more contested than this one. The approach for other fast track decisions has been to provide for mana whenua input, cultural monitoring and kaitiaki roles, while leaving design decisions with the consent holder and certification with the consent authority. The approach taken on all other fast-track projects is consistent with the approach in the Version 2 conditions.

Matters raised that are already addressed in design and conditions

- 7. As set out in the Applicant's response to Minute 9 (11 September 2026), cultural input into this project has been design-led since the Trust's site-values memorandum of February 2022, and continuing as further feedback has been shared. The Masterplan Design Report (Appendix 12) carried the feedback on cultural matters received during consultation into the design, including retention of the dune landform and hilltop as open space; the wetland and dune network as the structuring element of the masterplan, alongside dune, wetland and stream restoration.
- 8. The draft conditions secure: a tīmatanga ceremony (GWRC 18); a Kaitiaki Monitoring Strategy (GWRC 19–21); discovery protocols (GWRC 22–23; land use 135); iwi review of the Ecological Restoration Management Plans, CEMP, Streetscape Planting, Maintenance and Management Plan and road names, with reasons where input is not adopted (GWRC 57, 125; subdivision 26 Note 2, 27, 94, 106); transfer of the Peka Peka Road Swamp and the Dune Hilltop Site to ĀKWCT, restored and with access (subdivision 131–138); a kaitiakitanga framework for the wetland open space areas (subdivision 139); a Mahinga Kai Access Protocol (land use 121–123); interpretation panels and pou (land use 124–125); preferred plant supply (land use 126–129); and a fill and metal approval protocol (land use 130–134).

The gaps identified and the Applicant's response

- 9. Testing the outcomes in CL1 against both the project design and the Version 2 conditions, the Applicant accepts that the conditions could be strengthened in three respects:
 - (a) **Input at detailed design** – there is currently no provision for iwi input into the Landscape Management Plan (land use 69–74) or the recreation reserve plans (subdivision 117). These conditions can be amended to mirror the approach to iwi input provided for under, for example, the ERMP condition to achieve an equivalent outcome in respect of these aspects of detailed design;
 - (b) **Formal kaitiaki role** – subdivision 139 establishes a kaitiakitanga framework but does not detail what it could cover. This could be developed further, while acknowledging that the condition is framed on an all reasonable endeavours basis; and
 - (c) **Cultural monitoring** – the Kaitiaki Monitoring Strategy sits within the regional consent set and could be extended to the local authority consents. The detail of the Kaitiaki Monitoring Strategy would be left for development between the Applicant, ĀKWCT and NHOŌ.
- 10. The Applicant considers amendments to the Version 2 conditions could usefully address these matters, and suggests further discussion on the following points at the upcoming conferencing:

- (a) extending the iwi input at detailed design to the Landscape Management Plan and the recreation reserve plans;
- (b) further detail regarding the content of the kaitiakitanga framework in subdivision condition 139, on the basis this would retain the “all reasonable endeavours” standard and recognise the statutory roles of KCDC and GWRC;
- (c) extending the Kaitiaki Monitoring Strategy to the district consents;
- (d) adding reference to cultural monitoring and education activities, and tikanga, to the matters the Mahinga Kai Access Protocol must address (land use 122);
- (e) providing a timeframe and fallback process in land use 124 where agreement on interpretation content is not reached, and coordinating the interpretation, pou and naming conditions.

Why a standalone CLMP is not supported

11. The stated purpose of the CLMP is to give effect to the outcomes in CL1 (CL2). Most of its proposed content is already recorded or secured elsewhere:
 - (a) the cultural landscape context, features and associations (CL2(a)–(c)) are recorded in the Interim Cultural Impact Assessment and have been designed to through the Masterplan Design Report;
 - (b) restoration and mahinga kai opportunities (CL2(d)–(e)) are addressed through the Ecological Restoration Management Plans and the Mahinga Kai Access Protocol;
 - (c) narratives, names, pou and interpretation (CL2(g)) are addressed through land use 124–125 and subdivision 26; and
 - (d) cultural landscape indicators (CL2(h)) are the subject of the Kaitiaki Monitoring Strategy.
12. Cultural design principles for detailed design (CL2(f)) are best secured directly in the plans that govern that design. Existing conditions, plus the amendments signalled above (for the Landscape Management Plan and reserve area designs) do that.
13. In the form proposed, the Applicant also has the following concerns:
 - (a) **certainty** – as worded CL1 would require the consent holder to “achieve” outcomes that cannot be objectively measured and have no end point. The proposed approach is both void for uncertainty and could potentially frustrate the consent;
 - (b) **third-party dependence** – the CLMP (CL2) and the Cultural Landscape Indicator Framework (CL5) are preconditions to bulk earthworks that depend on the participation of third parties, and CL5 has no fallback. Wording such as “endorsed by Mana Whenua” and “implement agreed measures” (CL5, CL6) would operate in practice as a third-party approval / veto;
 - (c) **conflict with the certification framework** – CL4 would require the CLMP to be incorporated into thirteen documents, including plans that are to be consistent with tabled design parameters and outcomes, that are then to be certified by GWRC and KCDC and documents that do not exist in the Version 2 conditions. Inconsistencies would be resolved “consistently with the outcomes in Condition CL1”, potentially cutting across

design parameters, stated outcomes or objectives, the separate certification process and the principle that specific conditions prevail. In practice the proposed approach would also mean that the CLMP would have to be prepared and signed off, before detailed design on other aspects can commence – which raises a “chicken and egg” scenario. The approach carries a high risk of frustrating the grant of consent;

- (d) **programme** – CL3 would add a separate design review with its own review period at every substantive stage of a staged development, presumably in addition to the iwi input already provided for at management plan stage; and
- (e) **proportionality** – a fixed \$100,000 budget (CL2), open-ended costs (CL10) and mechanisms intended to survive transfer of ownership (CL7) are not directly connected to an adverse effect of the activity and are more onerous than necessary (RMA s108AA; FTAA s83). The Applicant’s role in the development will end progressively as roads and reserves vest, the identified sites are transferred, lots are sold or transferred and ecological restoration is completed.

Approach taken on other Fast Track Projects

14. The Applicant’s proposed approach is consistent with the conditions imposed in other fast-track decisions, including decisions on projects that are larger, longer-lived or more contested (on cultural grounds) than this one. The Applicant has focused on decisions where mana whenua were not themselves the applicant or a shareholder in the project, as these are the relevant comparators:

- (a) Waihi North (FTAA-2504-1046) – an expansion of gold mining operations to 2040, including an underground mine beneath conservation land, opposed by three of the four iwi and hapū who engaged. The panel provided for an Iwi Advisory Group meeting quarterly, with an independent facilitator and reasonable costs met by the consent holder; iwi input into some 14 management plans, with written responses to recommendations; a Cultural Practices Plan setting out tikanga protocols; a Mātauranga Māori Monitoring Programme with cultural health indicators; and cultural awareness training and karakia (Combined HDC and WRC conditions C9–C22). The Cultural Practices Plan and the monitoring programme are to be provided to the councils for information. Neither is certified, and neither governs the technical management plans;
- (b) Milldale (FTAA-2503-1038) – more than 1,100 homes. The conditions require the stream and wetland management plan for the offset site to be prepared in consultation with Ngāti Manuhiri and Te Kawerau ā Maki, and provide the opportunity for both to monitor earthworks for the temporary wastewater treatment plant;
- (c) Ashbourne (FTAA-2507-1087) – approximately 530 homes and 250 retirement units. The conditions provide for notice to iwi before each stage of earthworks, invitations to karakia, cultural induction and earthworks monitoring, an accidental discovery protocol, and the incorporation of cultural and mahinga kai opportunities into the greenway landscape design; and
- (d) Plimmerton Farm Stage One and Summerset Waikanae, both consented under the COVID-19 Recovery (Fast-track Consenting) Act 2020. These provide for iwi input into management plans with reasons where input is not adopted, iwi and kaitiaki monitoring, and iwi involvement in naming. Summerset Waikanae, in the same rohe, provided for ĀKWCT’s input on that basis.

15. None of these decisions imposed enforceable cultural outcome standards, an iwi-led plan that other certified plans must follow, a precondition to construction dependent on third-party participation, or a fixed budget.
16. The Version 2 conditions already go further than all of the residential decisions above. They also provide for the transfer of two culturally significant sites to ĀKWCT, mahinga kai access, preferred plant supply and a fill notification protocol.

The examples cited by ĀKWCT

17. ĀKWCT's memorandum describes the draft conditions as an "evolution" of condition suites developed for (unspecified) NZTA major roading programmes, Pakiri Sands (McCallum Brothers), Wayby Valley Landfill and the Port of Tauranga. The Applicant does not consider these to be appropriate comparators:
 - (a) Pakiri Sands – consent for the proposed sand extraction was refused, so it provides no precedent for conditions attached to a granted consent;
 - (b) Wayby Valley Landfill and the Port of Tauranga – both are long-term operations run by a permanent operator, with ongoing effects from landfill discharges or from port reclamation, dredging and operation. Enduring governance, monitoring and adaptive management arrangements are workable where the same operator remains responsible for the life of the activity. Neither provides a comparable condition suite in any event. No final consent appears to have issued for Wayby Valley, and the Port of Tauranga conditions are addressed below; and
 - (c) NZTA roading programmes – state highway projects delivered by a Crown entity that remains the long-term owner and operator of the asset, with its own statutory Treaty obligations and partnership arrangements with iwi alongside the conditions. In any event, no specific conditions have been identified that provide a useful basis for comparison.
18. By contrast with these examples, the Waikanae North Development is a finite, staged residential development. The Applicant's role ends progressively as roads and reserves vest, and lots are sold. Condition frameworks designed around a permanent operator do not translate particularly well to the present context. The fast-track decisions identified by the Applicant above are the more relevant comparators.
19. In addition, there is no identification of a specific condition suite that follows the proposed course - with a cultural landscape plan to be prepared by iwi, which all other aspects of the consent must then comply with. The Applicant has reviewed the conditions of the comparators that can be identified and is not aware of any instance where this approach has been imposed or endorsed. In summary:
 - (a) Port of Tauranga – Stella Passage Development (FTAA-2512-1163, approvals granted 7 September 2026). The panel found the cumulative cultural effects on Tangata Whenua, including Whareroa Marae (from this and previous port development), to be significant and an "adverse impact", with Tangata Whenua remaining opposed. It imposed an extensive package including a funded advisory group of some 20 iwi, hapū and entities; relationship agreements; cultural monitors; a Mātauranga Māori State of the Environment report and Mātauranga Monitoring Plan prepared by the advisory group; and substantial funding, most of it offered by the Port on an Augier basis. Even in that context, the conditions retain the structure the Applicant proposes here. Every

management plan is prepared by the consent holder and certified by the Regional Council; iwi input is by comment within 20 working days, with written reasons where not adopted and mediation if requested (dredging consent conditions 8.1, structures consent 12.4). The Dredge Management Plan “cannot be subject to a third-party approval” (dredging consent condition 8.3(d)). The iwi-prepared mātauranga documents are forwarded to the Council “for its records” (condition 15.3) and do not govern the technical plans. There is no cultural outcome standard, no stage-by-stage design gate, and the consent holder may proceed if the advisory group is not formed within ten months (condition 3.6);

- (b) Wayby Valley (Dome Valley) landfill – no final consent or conditions exist. The Environment Court’s interim decision of 21 December 2023 found that a modified application, conditions and management plans could meet the purpose of the RMA (at [932]). Appeals followed (Te Rūnanga o Ngāti Whātua v Auckland Council [2024] NZHC 3794; Court of Appeal leave granted 4 March 2026, judgment reserved), and the applicant sought fast-track referral in June 2026 (MfE aide-memoire 26-BRF-01137, 1 May 2026). Whatever conditions were negotiated remain in draft before the Court;
- (c) Pakiri Sands and NZTA – consent refused (McCallum Bros Ltd v Auckland Council [2024] NZEnvC 75); and the NZTA programmes are not identified. Neither offers a useful condition set or a factual basis for comparison.

20. The one comparator raised by ĀKWCT with granted conditions supports the Applicant’s approach rather than the approach proposed by ĀKWCT.

Matters outside the conditions

21. The Applicant acknowledges that an advice note to the draft conditions that the consent holder and mana whenua may agree further cultural, commercial or relationship arrangements outside the resource consents may have some appeal, and this is not opposed. The Applicant remains willing to continue those discussions.

Conclusion

22. The Applicant:
- (a) supports the objective of ensuring the cultural landscape values identified by mana whenua are reflected in the detailed design and long-term management of the development, as long as this does not frustrate the grant of consent. Its record of engagement with both iwi groups speaks to that commitment;
 - (b) does not support draft conditions CL1–CL10 in the form proposed, and does not consider a standalone CLMP necessary, for the reasons outlined; and
 - (c) is open to further discussion on the targeted amendments described above and in Table 1 at conferencing, which can be reflected in its revised conditions following conferencing.
23. The Applicant looks forward to the mana whenua / cultural conferencing session on 17 September 2026 and remains willing to provide any further information the Panel requires.

On behalf of Waikanae North Developments Limited

A handwritten signature in blue ink, appearing to read 'ML', with a long horizontal stroke extending to the right.

Mitch Lewandowski
Resource Management Consultant
Director
Building Block Planning Limited

Table 1 – Applicant’s response to draft conditions CL1–CL10 (ĀKWCT, 10 September 2026)

Proposed condition	What is sought	Where already addressed (Conditions Version 2, 21 August 2026)	Applicant’s position
CL1 Cultural landscape outcomes	Consent holder to achieve six cultural landscape outcomes through design, construction, restoration and ongoing management.	Masterplan design (Appendix 12); outcomes (a)–(f) addressed through the conditions listed in this memorandum.	Not supported as an enforceable condition: outcomes are not measurable and have no end point. The relevant values are carried into detailed design through the existing plan input conditions and amendment (a).
CL2 Cultural Landscape Management Plan	Mana whenua-led CLMP before bulk earthworks, with a \$100,000 budget; content (a)–(h); KCDC certification.	(a)–(c) Interim CIA and Masterplan Design Report; (d)–(e) ERMPs (GWRC 56–60, 124–125; subdivision 92–94) and land use 121–123; (g) land use 124–125, subdivision 26; (h) GWRC 19–21.	Standalone CLMP not supported. The design principles element (f) can be secured in the detailed plans through the existing conditions and amendment (a).
CL3 Design review	Mana whenua review of detailed design before engineering approval for each substantive stage, with a 20 working day review period.	Iwi input with reasons for ERMP, CEMP, SPMMP and road names (GWRC 57, 125; subdivision 26 Note 2, 27, 94, 106).	Stage-by-stage review not supported. Iwi input could instead be extended to the LMP and recreation reserve plans (amendment (a)).
CL4 Integration with management plans	CLMP requirements incorporated into 13 documents; inconsistencies resolved consistently with CL1.	Management plans to show integration (GWRC 7; subdivision 3); LMP prepared with reference to the ERMP and SPMMP (land use 73); conditions prevail (GWRC 1; subdivision 1).	Not supported: cuts across the certification framework and the condition hierarchy.
CL5 Cultural Landscape Indicator Framework	Indicator framework developed with mana whenua before bulk earthworks; expertise nominated or endorsed by mana whenua.	Kaitiaki Monitoring Strategy: tohu, mahinga kai and customary use, tikanga and reporting, with costs met (GWRC 19–21).	Not supported as a separate framework or pre-earthworks precondition. The Kaitiaki Monitoring Strategy could be extended to the district consents (amendment (c)), with its detailed design developed between the Applicant, ĀKWCT and NHOŌ.
CL6 Cultural monitoring and adaptive management	Monitoring at approximately 2, 5 and 10 years; investigation and implementation of agreed remedial measures.	Kaitiaki Monitoring Strategy (GWRC 19–21); wetland monitoring, 3, 5, 10 and 15 year reviews and further enhancement (GWRC 62–85).	Cultural monitoring is addressed through the Kaitiaki Monitoring Strategy, which could be extended to the district consents (amendment (c)). Adaptive management based on “agreed measures” is not supported.
CL7 Ongoing kaitiaki role	Meaningful ongoing kaitiaki role; enduring management mechanism covering (a)–(g), continuing after transfer.	Kaitiakitanga framework before transfer or vesting, all reasonable endeavours (subdivision 139); site transfers (subdivision 131–138).	Supported in part: the Applicant is open to further detailing the content of the subdivision 139 framework (amendment (b)), on an all reasonable endeavours basis. Mechanisms binding future owners or the councils are not supported.
CL8 Mahinga kai and cultural access	Mahinga Kai and Cultural Access Protocol.	Mahinga Kai Access Protocol for ĀKWCT and NHOŌ (land use 121–123).	Duplicates existing conditions. Land use 122 could reference cultural monitoring, education activities and tikanga (amendment (d)).
CL9 Cultural identity and interpretation	Cultural Identity and Interpretation Strategy prepared and progressively implemented in collaboration with mana whenua.	Interpretation panels (land use 124); pou or tohu (land use 125); road naming input (subdivision 26 Note 2).	Duplicates existing conditions. A timeframe and fallback process for land use 124, and coordination of the interpretation, pou and naming conditions, could be added (amendment (e)).
CL10 Resourcing and reporting	Reasonable costs of mana whenua participation in all CL processes; compliance record.	Reasonable costs of Kaitiaki Monitoring Strategy preparation and monitoring (GWRC 20).	Actual and reasonable costs of iwi participation in monitoring processes through the agreed Kaitiaki Monitoring Strategy.