



# Legacy Land Conservation Program

Hawai'i Department of Land and Natural Resources



## Resource Land Acquisition Plan

2022

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## I. Introduction

The State of Hawai‘i Legacy Land Conservation Program (“Legacy Land”) provides grants to nonprofit land conservation organizations, counties, and state agencies for the acquisition of land and conservation easements for the protection of natural, environmental, recreational, scenic, cultural, historic, and agricultural values. This Resource Land Acquisition Plan (“Plan”) guides which lands should be prioritized by the program to protect Hawai‘i’s resources.<sup>1</sup>

This narrative part of the plan is accompanied by an interactive online portion that empowers decision-makers and applicants to analyze the resources, as well as gaps of protection available. This ArcGIS Online WebMap application contains the various data layers exhibited in this plan, to show how resource values overlap, and directs attention to where those resources are concentrated, and currently unprotected by other land protective regulations.



*The Waianae Community Re-Development Corporation (WCRC) purchased 11 acres in Lualualei Valley, Wai‘anae, Island of O‘ahu, for the protection of agricultural lands and expansion of WCRC’s MA‘O Organic Farm.*

## II. The Legacy Land Conservation Program

The Hawai‘i State Legislature created the Legacy Land program to encourage agencies and nonprofits to protect the State’s cultural, natural, and agricultural resources. Legacy Land offers funding to State agencies, counties, and nonprofit organizations to help them accomplish the State’s land preservation goals. The Land Conservation Fund, which is primarily funded by a portion of the real estate conveyance tax, provides the funding for the program.



*The Hawaiian Islands Land Trust (HILT) used Legacy Land funds to purchase 81.447 acres in Nu‘u makai, southeast shore, Island of Maui, for the protection of coastal wetlands, wildlife habitat, and cultural resources.*

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<sup>1</sup> Legacy Land is administered by the Department of Land and Natural Resources (DLNR) and is authorized under Chapter 173A, Hawai‘i Revised Statutes (HRS). Under Chapter 173A, HRS, DLNR must create a Resource Land Acquisition Plan (RLAP) to guide the use of Legacy Land funds.

Legacy Land provides grants for fee acquisitions and conservation easements. “Fee” ownership of land refers to the broadest possible ownership interest in land, where the owner holds all interests and value in the land. A conservation easement is a partial interest in the land where the landowner retains some uses and the buyer acquires some of the value; the landowner and the buyer (a land trust or government agency) agree to permanently limit certain uses of the land to protect its conservation values.<sup>2</sup> The Land Conservation Fund can also support the operation, maintenance, and management of lands acquired by the program that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public access and enjoyment of these lands. However, funding for management must not exceed five percent of the annual fund revenues of the previous year. Finally, administrative costs and debt service are also allowable uses of the Land Conservation Fund.

#### *Application Process*

Funding available to the program is set annually by the State Legislature and Governor. State agencies, counties, and non-profit land conservation organizations apply for funding. County agency or nonprofit land conservation organization grant recipients must provide matching funds of at least 25% of the total project costs.

The Legacy Land Conservation Commission, a nine-member State commission subject to Sunshine Law, meets annually to recommend projects for funding to the Board of Land and Natural Resources. This Commission provides an in-depth review of the various projects, conducting site visits, and listening to public testimony.

#### **Criteria Used to Determine Legacy Land Awards**

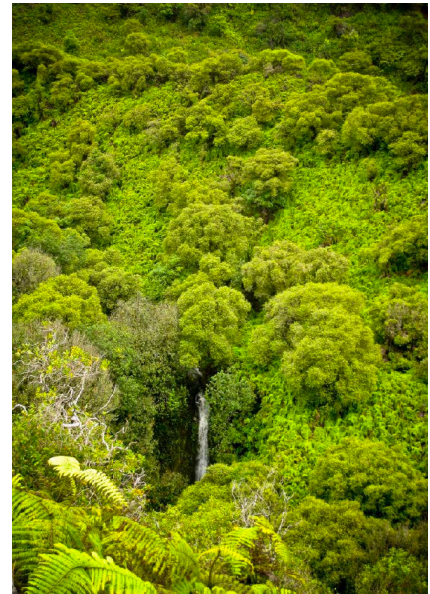
- (1) Completeness of the acquisition application;
- (2) Acquisition of interests or rights in land having value as a resource to the State for the preservation of the following nine purposes listed in **§173A-5, HRS**:
  - (A) Watershed protection;
  - (B) Coastal areas, beaches, and ocean access;
  - (C) Habitat protection;
  - (D) Cultural and historical sites;
  - (E) Recreational and public hunting areas;
  - (F) Parks;
  - (G) Natural areas;
  - (H) Agricultural production; and
  - (I) Open spaces and scenic resources;
- (3) Linkage of protected acreage of similar resources;
- (4) Opportunities for appropriate public access and enjoyment;
- (5) Presence of environmental hazards;
- (6) Feasibility of a project within the two-year acquisition timeframe;
- (7) Cost of acquisition;
- (8) Proportion of matching funds being leveraged;
- (9) Urgency of need to acquire;
- (10) Status and adequacy of management planning;
- (11) Community support for acquisition;
- (12) Completeness of acquisition funding;
- (13) Connection to regional planning and protection efforts; and
- (14) Capacity for long-term management.

<sup>2</sup> (LTA Fact Sheet, May 2008, “Basic Facts and Resources for Landowners,” at <http://www.landtrustalliance.org/conserve/documents/landowners.pdf>)

The Commission's recommendations are given to the Senate President and House Speaker for consultation. The legislative consultation and the rankings of the Commission are then presented to the Board of Land and Natural Resources in a Sunshine meeting and the Governor for approval.

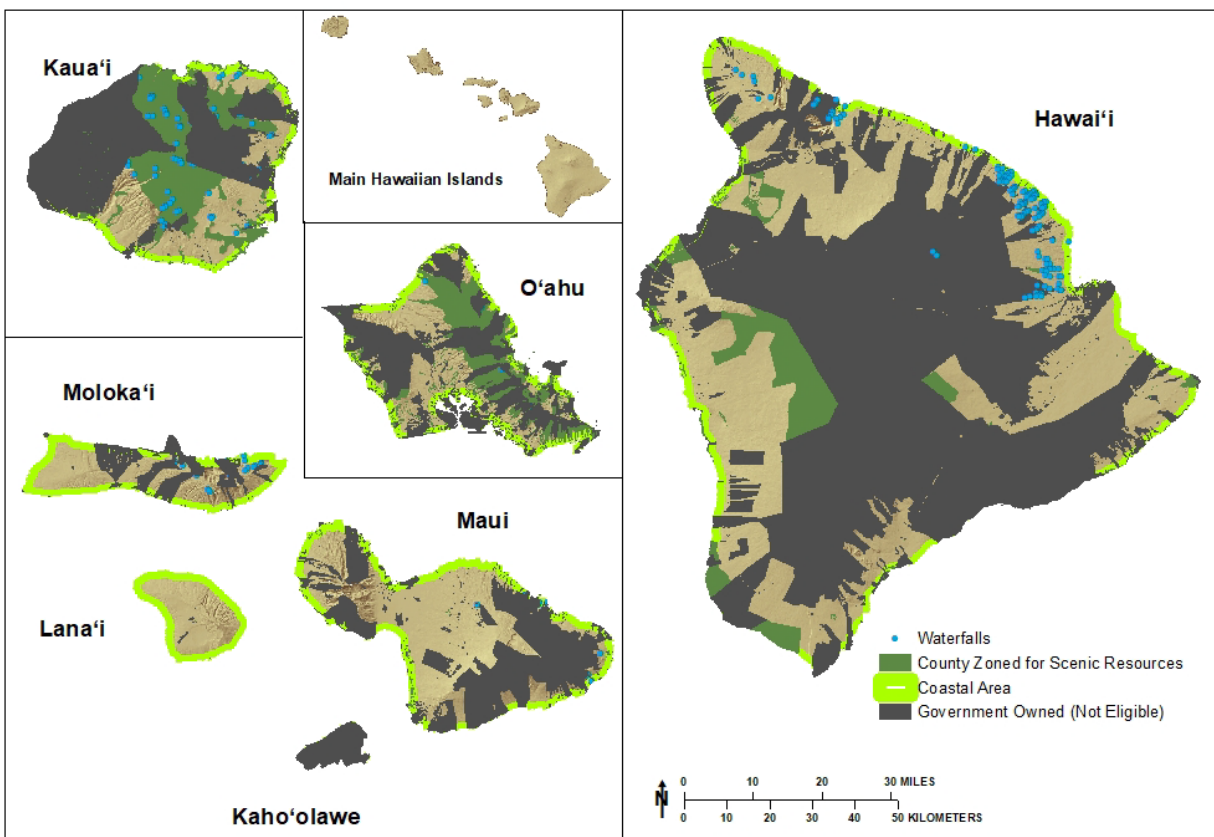
### III. Resource Priorities

Chapter 173A-2.6, Hawai'i Revised Statutes, has identified the following resources to determine which lands should be prioritized. The maps shown below are recommendations for how the various data layers could be organized to determine resource values. However, readers are encouraged to refer to the WebMap to explore the overlapping resources and protective designations, as well as zoom in on particular parcels.



*Moloka'i Land Trust (MLT) and Ke 'Aupuni Lokahi (KAL) purchased 196.4 acres in Mana'e, Island of Moloka'i, for the protection of watershed, cultural, and natural resources including Kawaikapu waterfall.*

## Unique Aesthetic Resources



DLNR-DOFAW (808) 587-4170. December 2021.

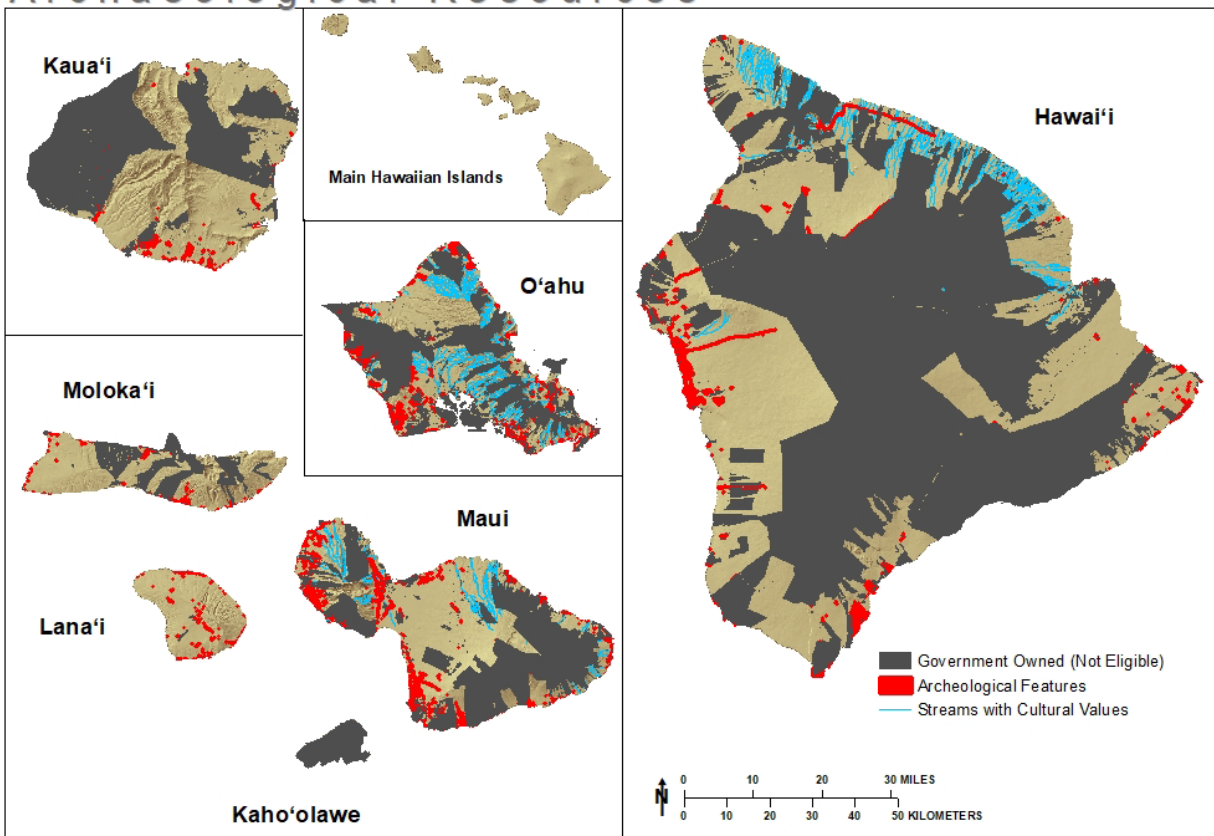


When prioritizing aesthetic values, decision-makers should largely rely on public testimony and their valuation. However, county plans have designated areas for their scenic qualities through zoning, and various data layers exist that identify scenery, such as coastlines or waterfalls.

Data sources used:

1. Kaua'i County General Plan: Zoned Natural or Parks and Recreation.<sup>1</sup>
2. Maui County General Plan: Zoned Open Space or Park-Golf Course.<sup>2</sup> Note that large portions of the plan that would likely be in natural settings are labeled “interim” and not categorized.
3. City and County of Honolulu: Zoned Country District, or P-1 or P-2 Preservation.<sup>3</sup>
4. Hawai'i County: Zoned Open District.<sup>4</sup>
5. Coastline (buffer).<sup>5</sup>
6. Waterfalls.<sup>6</sup>

## Unique and Valuable Cultural or Archaeological Resources



DLNR-DOFAW (808) 587-4170. December 2021.

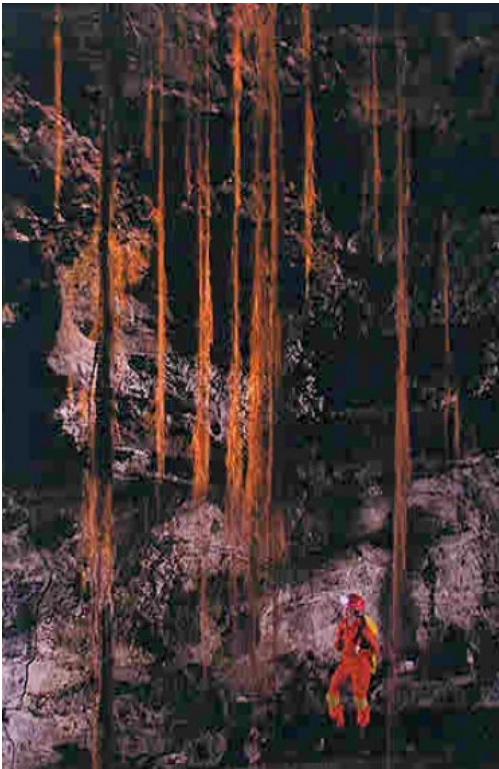
Efforts to map cultural resources are intrinsically difficult and limited. Archeological resources have been mapped but data entered in the Geographic Information System (GIS) is incomplete. In addition to the limited data sources provided, community input and narratives should be heavily relied upon to determine cultural and archaeological values.

Data used for prioritization include:

1. State Inventory of Historic Places: The data provided by the State Historic Preservation Division does not represent every site that has been recorded, as only approximately a third of

the sites known have been converted to a GIS layer this far. Additionally, there may be cultural sites in the project areas that have not been entered into the GIS yet. Also, this does not include data that falls within Department of Defense lands.

2. Hawai‘i Stream Assessment’s designation of Streams with Cultural Values.<sup>7</sup> The criteria to be included in this assessment were:
  - a. Changes in stream management would affect the resource.
  - b. The resource was functionally dependent on the stream.
  - c. The resource was in close proximity to the stream.

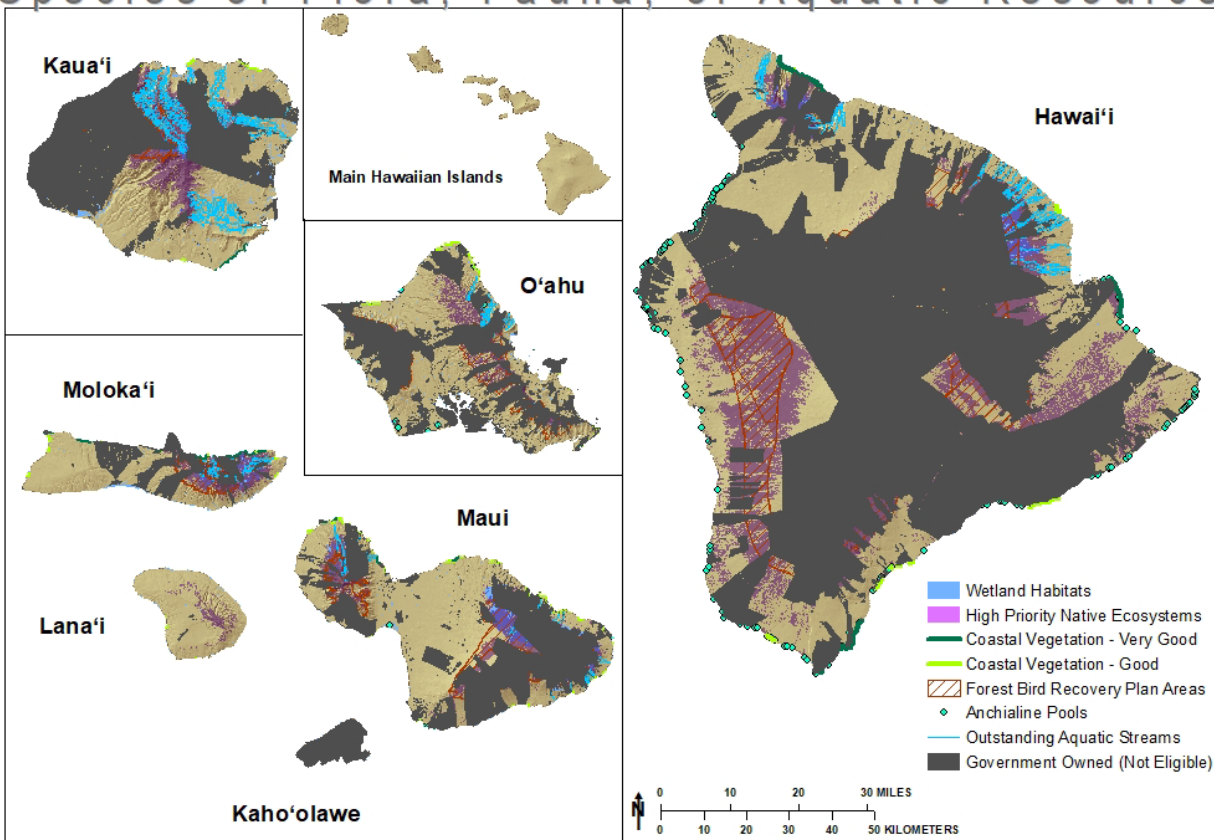


*The Cave Conservancy of Hawai‘i received Legacy Land funds to purchase three acres land near Kula Kai View Estates, Island of Hawai‘i, to protect lava tunnel access and natural and cultural lava tube resources. PC: Peter and Ann Bosted*

Additional references that could be used to prioritize this value are listed below.

1. State Historic Preservation Plan: SHPD revises this plan to provide a vision for historic preservation within the State. It serves as a guide for effective decision making, for coordinating historic preservation activities within Hawai‘i, and for communicating statewide historic preservation goals, policies and objectives.
2. Historic Preserves Program Plan (1993-Unofficial): Detailed plan for a preserves program. *Files are available at the Historic Preservation Division.*
3. Historic Preservation Library, Bibliography Database: Records of federal, state, and local development plans, permit applications, and land use approvals. Where historic properties were thought to be probable, inventory surveys were conducted. *Available through the bibliography database at the Historic Preservation Division Library.*
4. Mana i Maui Ola – Office of Hawaiian Affairs’s 15-year Strategic Plan for 2020-2035.<sup>8</sup>
5. Maui County Shoreline Access Points Study: Lists specific parcels that have value as shoreline access points in a spreadsheet format.
6. Shoreline Public Access: This page provides information on the Hawai‘i Coastal Zone Management Program including a five-year public access enhancement strategy and information on public access to the shoreline.
7. State Comprehensive Outdoor Recreation Plan (“SCORP”, 2008 Update): Provides the technical basis and planning assumptions for making decisions on State and County programs, County plans, and land use amendments. An update is required every five years for the state to qualify to receive federal Land and Water Conservation Fund (LWCF) grant funds to expand outdoor recreation opportunities statewide (update in progress, visit ).

## Habitats for Threatened or Endangered Species of Flora, Fauna, or Aquatic Resources



DLNR-DOFAW (808) 587-4170. December 2021.

Extensive mapping has occurred to document locations where habitat for rare species remains, as well as aquatic resources. In addition to the data layers that were used to portray these important areas, many other references would provide valuable indicators that a property has resources.

Data used for prioritization include:

1. Wetland habitat (excluding streams).<sup>9</sup>
2. High-priority native ecosystems.<sup>10</sup> These areas are the “Priority Areas for Conservation of Native Biodiversity” – Category 1: Intact Native Ecosystems, Highest Biodiversity. These are areas that have been mapped by the Hawai‘i Gap Analysis and LANDFIRE datasets. As the Forest Action Plan states, these areas have more intact structure and function, have historically documented high plant diversity, and contain some of the most important areas in which to conserve forest birds.
3. Hawai‘i Stream Assessment’s designation of Streams with Outstanding Aquatic Resources Values.<sup>11</sup> The criteria to be included in this assessment relied on the presence of native gobies, few introduced species, and whether the stream was dammed, diverted, or channelized.
4. Coastal Assessment – Good or Very Good Habitat Quality Condition.<sup>12</sup> The “high priority native ecosystem” layer generally does not include coastal vegetation quality, which is difficult to detect in aerial imagery mapping. This layer categorizes areas that have high coastal native vegetation values.
5. Forest Bird Recovery Plan – these are areas most important for native forest bird habitat.<sup>13</sup>



6. Anchialine Pools – included for their unique aquatic fauna.<sup>14</sup>



*Ae'o (Hawaiian Stilt; Himantopus mexicanus knudseni) and 'alae ke'oke'o (Hawaiian Coot; Fulica alai) at Hāmākua marsh, Kailua, Island of O'ahu where the Department of Land and Natural Resources, Division of Forestry and Wildlife (DOFAW), used Legacy Land funds to purchase 67 acres for the protection of natural habitat, watershed, and scenic open space.*

There have been many other efforts to prioritize habitats. Additional references that could be cited to demonstrate habitat quality are listed below.

1. Department of Land and Natural Resources – Division of Aquatic Resources. Hawai'i Watershed Atlas. This Atlas ranks watersheds from 1-10 and also contains species lists and compiles prior assessments.
2. The Nature Conservancy of Hawai'i High Islands Ecoregional Plan, 2018. Native natural communities are mapped and ranked from “very good” to “poor.” This includes terrestrial habitat as well as coastal and aquatic rankings.
3. Fish and Wildlife Service Recovery Plans and Critical Habitat Designations can also be referenced to show areas of importance to individual species.
4. Department of Land and Natural Resources – Division of Forestry and Wildlife. Forest Action Plan. This plan contains additional categories and further explains the threats that these species and ecosystems face.
5. Comprehensive Wildlife Conservation Strategy: To be eligible for federal State Wildlife Grants (“SWF”), a state must prepare a Comprehensive Wildlife Conservation Strategy (“CWCS”). The SWF program provides federal funds for the development and implementation of programs that benefit native wildlife and their habitat. The CWCS includes

information about the distribution and abundance of species of greatest conservation need and descriptions of the location and condition of key habitats for the identified species.

6. Forest Legacy, Amended Assessment of Needs: Assesses natural resources and land-use trends for forested areas statewide.
7. Hawai'i Aquatic Invasive Species Management Plan: Identifies feasible, cost-effective management practices to be implemented by State, Federal, county, nongovernmental, private, and volunteer entities for the environmentally sound prevention and control of aquatic invasive species.
8. Forest Land Enhancement Program Hawai'i State Priority Plan: Contains information on State forest resources and management goals and mechanisms.
9. Water Resource Protection Plan ("WRPP"), Commission on Water Resource Management: The objective of the WRPP is to protect and sustain ground- and surface-water resources, watersheds, and natural stream environments statewide. The plan is a comprehensive study of occurrence, sustainability, conservation, augmentation, and other resource management measures.
10. Hawai'i Coastal and Estuarine Land Conservation Plan (2014 – Final): This federal initiative enables states to permanently protect coastal and estuarine lands by providing matching funds for community-based projects to acquire property from willing sellers. This plan provides a framework for identifying coastal and estuarine land conservation priorities and defines the process for acquiring such lands.
11. Strategic Plan for Wetland Conservation in Hawai'i (Pacific Coast Joint Venture): A plan for conserving waterbirds and wetlands, designed to protect, restore, increase, and enhance all types of wetlands, riparian habitats, and associated uplands throughout the Pacific Coast region to benefit birds, fish, and other wildlife. Protection through acquisition is one of the six major strategies to accomplish this goal.

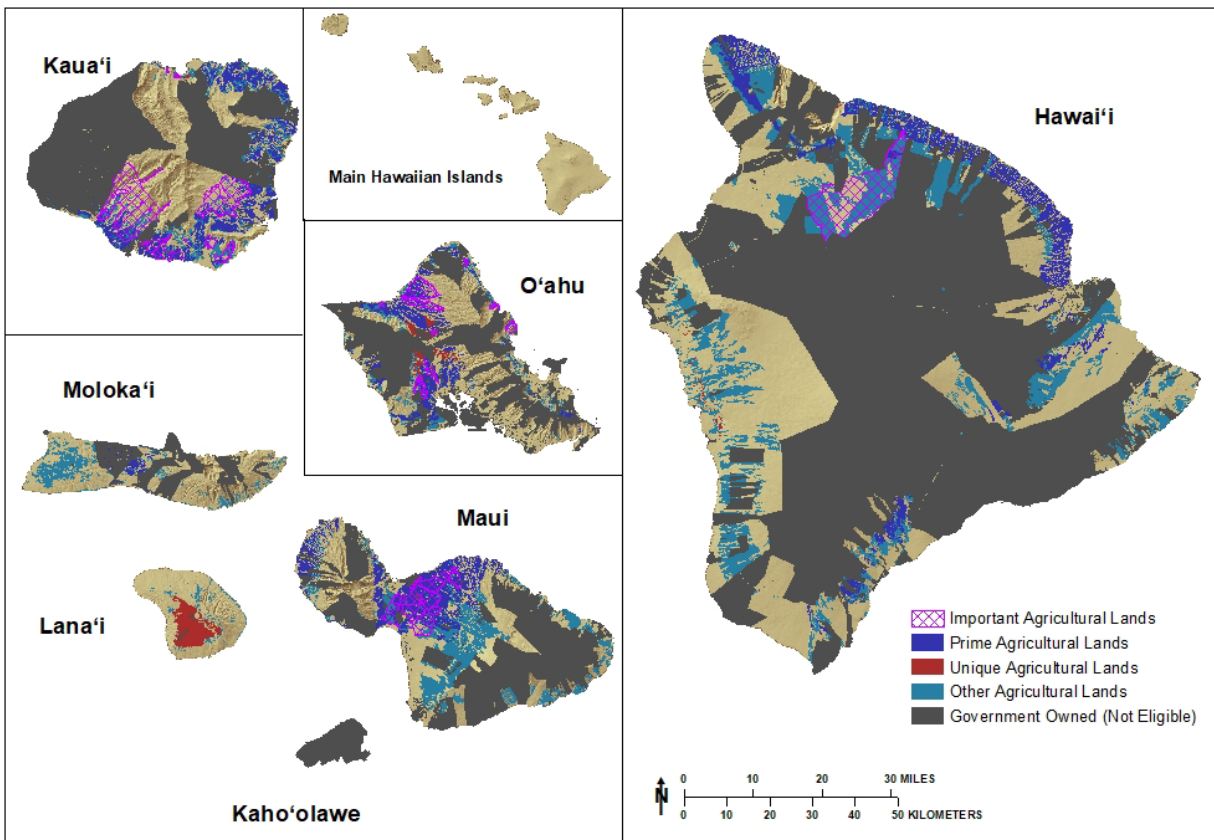


*The Division of Forestry and Wildlife used Legacy Land funds to purchase 3,582 acres of land in Honouliuli, Wai'anae Mountain Range, Island of O'ahu, for the protection of forest, watershed, and wildlife habitat.*



*The National Tropical Botanical Garden (NTBG) used Legacy Land funds to purchase 169.87 acres of land in Honomā'ele, Hāna, on Island of Maui. NTBG has integrated the protection and restoration of native coastal plant communities on the land.*

## Unique and Productive Agricultural Lands



DLNR-DOFAW (808) 587-4170. December 2021.

Data used for prioritization include:

1. Important Agricultural Lands: Lands Classified as Important Agricultural Lands by the State Land Use Commission. This layer depicts dockets that established important Agricultural Lands (IAL). The Land Use Commission's designation of IAL is required to promote, conserve and protect agricultural lands, and assure the availability of agriculturally suitable lands. The polygons represent petitions to the Land Use Commission for declaratory orders designating lands as Important Agricultural Lands (IAL) pursuant to Hawai'i Revised Statutes ("HRS") §§ 205-44 and -45 and Hawai'i Administrative Rules ("HAR") §§ 15-15- 98, -99, -120, and -121. Important Agricultural Lands boundaries were compiled by the State Land Use Commission. The Important Agricultural Lands depicted in these files are not official and are merely representations for presentation purposes only. An official designation of Important Agricultural Lands may be obtained through the State Land Use Commission. Updated by the Hawai'i Statewide GIS Program, October 2020.
2. Agricultural Lands of Importance to the State of Hawai'i.<sup>15</sup> This analysis included:
  - a. Prime Agricultural Land – Land which has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops economically when treated and managed according to modern farming methods.
  - b. Unique Agricultural Land – Land that has the special combination of soil quality, location, growing season, moisture supply, and is used to produce sustained high quality and of high yields of a specific crop when treated and managed according to modern farming methods.

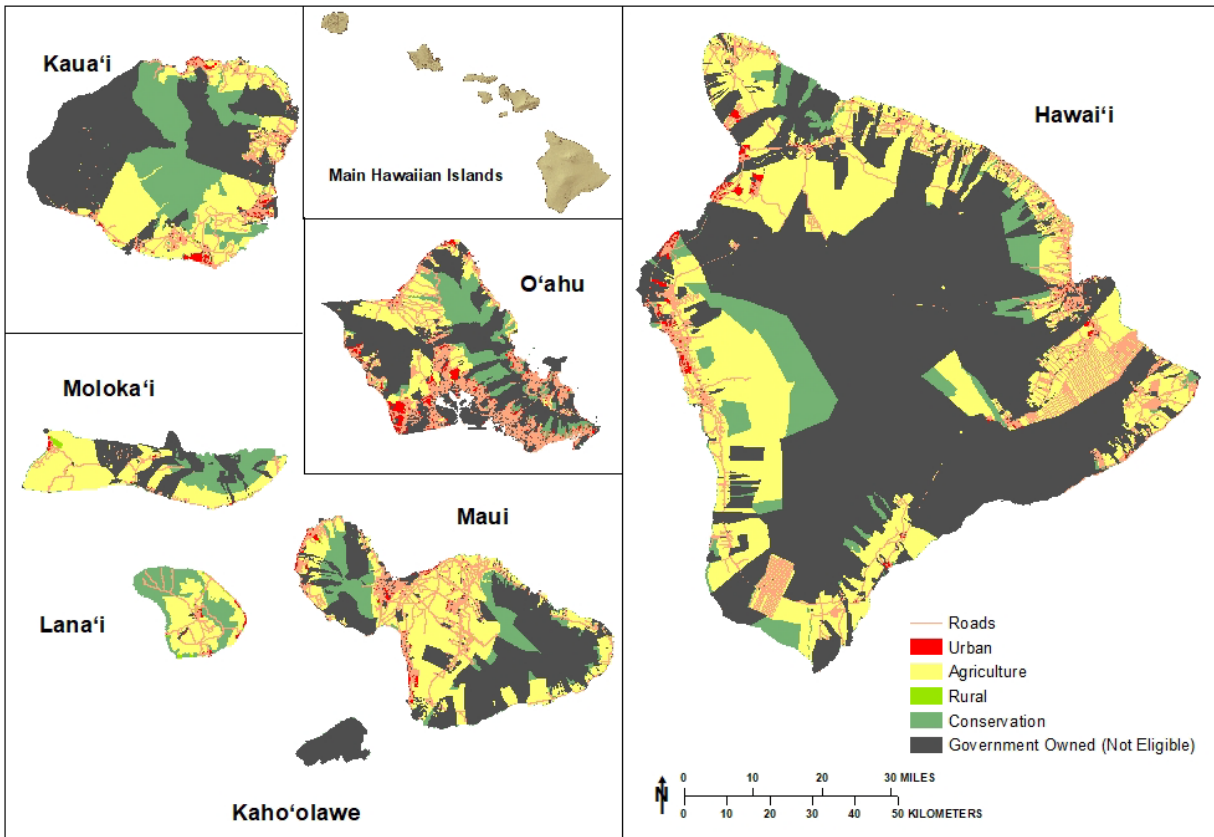


- c. Other Important Agricultural Lands – Land other than Prime or Unique Agricultural Land that is also of statewide or local importance for agricultural use.

Additional references that could be cited to demonstrate agricultural value are listed below.

1. [Soils of Hawai'i](#) (University of Hawai'i College of Tropical Agriculture & Human Resources): Report with descriptions of the soil orders found in the Hawaiian Islands and maps of the soil order locations on each island.

## Lands in Imminent Danger of Development



DLNR-DOFAW (808) 587-4170. December 2021.

Chapter §173A-2.6 prioritizes:

1. Lands that are in imminent danger of development;
2. Lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value;
3. Lands providing critical habitats for threatened or endangered species that are in imminent danger of being harmed or negatively impacted;
4. Lands containing cultural or archaeological sites or resources that are in danger of theft or destruction.



*The Livable Hawai'i Kai Hui (LKH) used Legacy Land funds to purchase five acres including the Hawea heiau complex and Keawawa wetland in Maunaloa, Island of O'ahu, for the protection of the natural and cultural resources such as this petroglyph.*

Land use regulations largely influence the likelihood that lands can be developed or modified. Additionally, access can facilitate the conversion of these resources.

Data used for prioritization include:

1. Roads.<sup>16</sup>
2. State Land Use District Boundaries - Areas zoned urban areas are generally the most likely to be developed and converted. Less high-intensity development is allowable in the agricultural and rural districts. The Conservation District has the highest levels of protective restrictions on conversion, so would be considered the least in imminent danger.

Additional references that could be cited to demonstrate habitat quality are listed below.

1. [Coastal Erosion Management Plan \(“COEMAP”\)](#): COEMAP seeks to improve the current erosion management in Hawai‘i. Land acquisition is listed as one of the tools for accomplishing this goal.
2. [Islands on the Edge: Housing Development and Other Threats to America’s Pacific and Caribbean Island Forests](#) (U.S. Department of Agriculture): Provides an overview of expected housing density changes and impacts to private forests, including the vulnerability of island forests to development, invasive species, and wildfires.

#### **IV. Gaps in Protection**

The accompanying WebMap provides the opportunity to view where protective layers do not cover areas of high resource value. Examples include:

1. Areas where the conservation district boundaries do not cover high priority lands for threatened and endangered species, aquatic, and habitat priorities, historic features.
2. Areas where the agricultural district boundaries do not cover high priority lands for agriculture, particularly urban designations.
3. Areas where the agricultural and conservation district boundaries do not cover high priority areas for aesthetic values.

Additional layers for consideration that have been added to the WebMap include:

1. Natural Area Partnership Preserves: These lands have a level of long-term protective designation as lands enrolled in this program require a conservation easement held by a conservation organization. However, the contracts that require the conservation easement can be terminated, which would permit the conservation organization to sell that easement. Thus, this should not be considered a permanent legal designation.
2. Soils

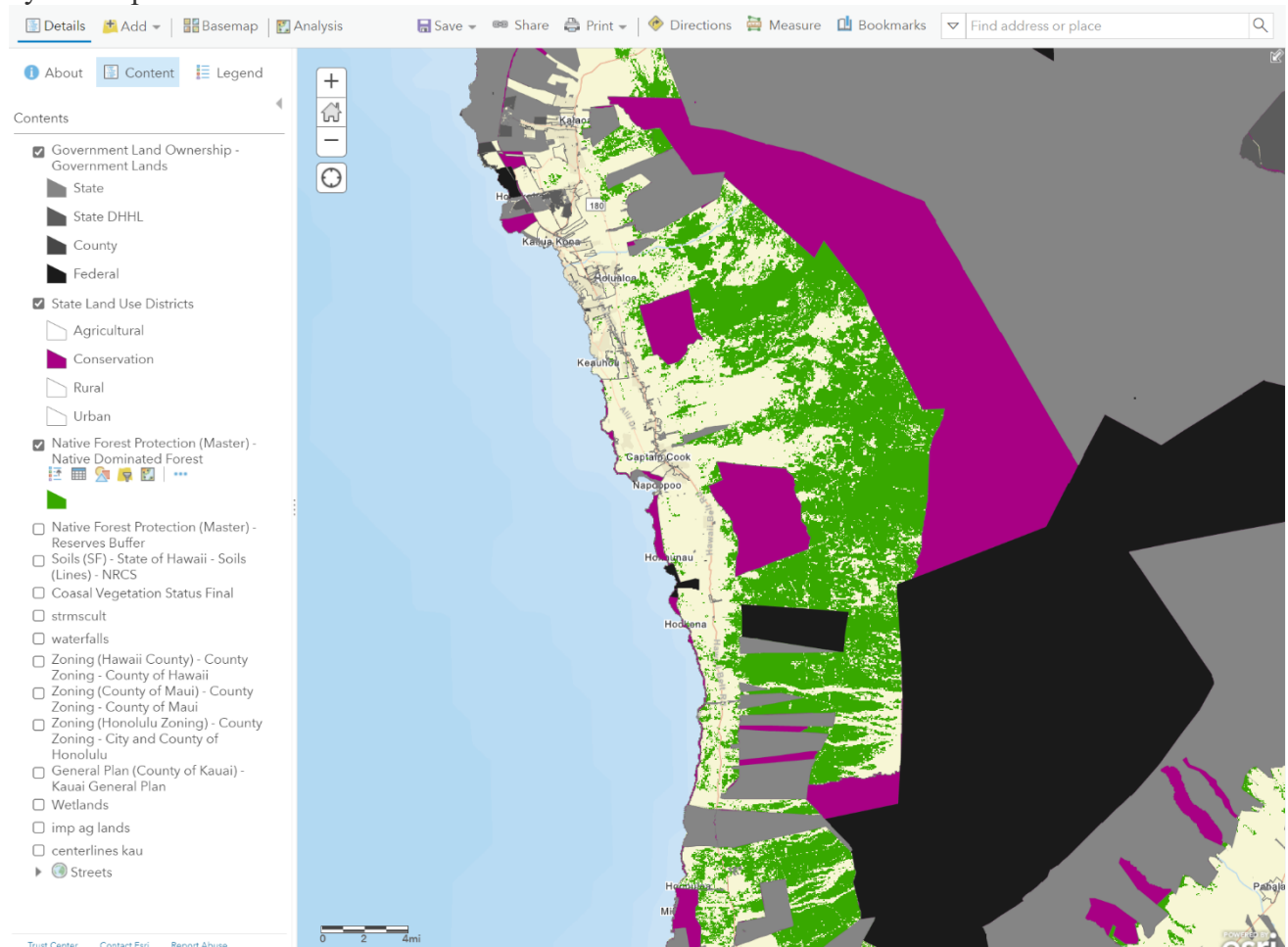
#### **How to use the WebMap**

The WebMap contains data layers that can be projected or hidden by clicking the box to the left of the layer title. Additionally, the symbology can also be modified (turning layers into different colors or partially transparent). The sequence of the layers can be changed since the layer at the top will overlay

Draft March 1, 2022

layers below. Finally, the base map can be modified to show satellite imagery, topographic maps, or simplified data.

In the example below in South Kona, government lands have been colored dark grey or black. The Conservation District boundary has been colored pink, with the other land use zones transparent. Under these layers show native forests in green. This screenshot shows the largest area of native forest in the State that is not protected by conservation district regulations and thus is most threatened by development and conversion to other uses.



Detailed tutorials on using WebMaps are available online. [Web maps—ArcGIS Online Help | Documentation](#)

## V. Conservation Tools

### A. Land Regulations

Resources requiring protection are located across property lines, on both private property and public property. In Hawai'i, half of the land is owned by federal and State government agencies and is used for various preservation, commercial, and residential purposes.



Methods for influencing lands and resources for conservation purposes include non-voluntary (regulatory) and laws where compliance is mandatory and voluntary incentives and approaches where a landowner chooses to participate. Several voluntary tools are available on both private and public land (e.g., tax benefits, conservation easements), some are only available on private land (e.g., grants, technical assistance) (Defenders, p. 5). For the most part, however, voluntary tools are critical for encouraging private landowners to participate in resource protection efforts (Defenders, p. 5).

Some examples of non-voluntary regulations and laws with conservation purposes include: <sup>17</sup>

- State and County Land Use Law (zoning)
- Hawai‘i Environmental Impact Statement Law (environmental assessments and environmental impact statements, which also includes cultural impact assessments)
- Federal Endangered Species Act (protection of threatened and endangered species and habitats)

Some examples of voluntary incentives and approaches are: <sup>18</sup>

- Tax benefits (property, income)
- Regulatory assurances (Safe Harbor Agreements)
- Technical assistance
- Grant funding for resource management
- Fee land acquisition
- Conservation easements
- Landowner recognition
- Cooperative partnerships between private, public, local, national

Regulatory protections for privately-owned lands are limited by constitutional “takings” law, which generally requires that a landowner be compensated if a regulation wholly, or in some cases, partially, deprives a landowner of economically beneficial use of his or her property. Where regulatory takings laws apply, the government can’t regulate unless it can afford to pay for the value of the property or property rights taken (Callies p. 10-11).

## **B. Acquisition of land and conservation easements**

By providing grant funds as an incentive, the program encourages the use of these tools for the protection of resources in situations where regulatory measures have been ineffective.<sup>19</sup> Conservation easement and fee acquisitions are primarily voluntary conservation tools, and their usability hinges on the landowner’s willingness to participate. While condemnation is legally allowed for Legacy Land, the Commission’s policy is to require a letter of willingness from the landowner from applicants. Federal grant programs for conservation land acquisition have a “willing seller” policy.

## **Conservation Easements**

Conservation easements are primarily restrictive tools that disallow certain activities on land. The Conservation Easement Handbook states that conservation easements “allow conservation organizations to protect land without having to own it and take on direct land management responsibilities. If the preservation of the land is primarily for agricultural, scenic, or watershed

protection purposes, its resources can often be best protected through a conservation easement and continued private ownership. The upfront cost of acquiring a conservation easement can be significantly less than that of purchasing the fee-title interest, although the long-term costs of managing and enforcing an easement must be taken into consideration.”<sup>3</sup>

In Hawai‘i, conservation easements are governed and authorized by Chapter 198, Hawai‘i Revised Statutes.

## Fee land acquisition

Fee land acquisition is permanent and the new holding entity takes on all operations and management costs, and former private uses are extinguished.<sup>4</sup> The landowner may receive market value for the interest acquired, or provide some level of land value donation. The holder of the land will have all of the legal interests in the property, therefore, it will have more freedom to conduct operations, maintenance, or management activities that are necessary to protect the resources.<sup>5</sup>



*The Hawaiian Islands Land Trust (HILT) used Legacy Land funds to purchase a conservation easement over 166.98 acres of prime ranch and agricultural lands at Kainalu Ranch, in Waialua, southeastern Molokai.*

Conservation organizations and agencies may differ in their usage of either fee or conservation easement acquisitions; however, the main indicator of which tool is appropriate is the end goal of resource protection, that is, whether a given type of acquisition will protect against known threats to the resource.

## C. Comparison / summary

Generally, conservation easements are preferred in instances where resources can be protected by restrictive measures, whereas fee acquisition is preferred where access or active management is required to protect resources.

The Conservation Easement Handbook states that, where the landowner is willing to sell or donate the property, fee ownership may be a better conservation tool if:

- the property contains fragile resources that require intensive management or restoration
- access for the public is appropriate for the land and resources (recreational resources) and/or
- surrounding properties are owned in fee for conservation purposes and there is an opportunity to coordinate landscape-scale resource management.<sup>6</sup>

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<sup>3</sup> The Conservation Easement Handbook, page 17

<sup>4</sup> National Land Acquisition Plan, page 28

<sup>5</sup> National Land Acquisition Plan, page 28

<sup>6</sup> The CE Handbook, page 48

Federal land management agencies consider the following factors when deciding between a conservation easement and fee simple acquisition:

- The minimum interest necessary to reach management objectives
- The significance or sensitivity of specific resources
- The perceived nature of a current or anticipated threat
- The intended use by the agency

The national plan states that conservation easements tend to be appropriate when the primary objective is scenic resource protection and prevention of a conversion of the surface use to other uses, whereas the acquisition of land in fee may be more appropriate “when access for public use is desired, or when the agency anticipates an investment in infrastructure or intensive land management activities.”<sup>7</sup>

<b>Conservation Easements<sup>8</sup></b>	<b>Fee Simple Acquisition<sup>9</sup></b>
Perpetual protection and binding on future landowners	Permanent
<ul style="list-style-type: none"> <li>· May require costs near that of a fee acquisition while only acquiring a portion of the property interests</li> <li>· Can be complex, costly, and time-consuming to arrange, necessitating careful prioritization of opportunities to make effective use of funding and other resources.</li> </ul>	Fee title acquisitions may require significant initial investment and costs for long-term management and stewardship. Because of the high initial costs, and the long-term nature of the financial commitment, land acquisition needs to be used judiciously to ensure that limited conservation funds are invested for the highest conservation priorities.
<ul style="list-style-type: none"> <li>· Stewardship can also be difficult to fund. Monitoring to ensure compliance and legal costs associated with enforcement and defense of the easement's restrictions are essential to ensure the long-term effectiveness of this conservation tool.</li> </ul>	In cases involving intensive management or active restoration that may be incompatible with continued economic uses, landowners may prefer to sell their property.
<ul style="list-style-type: none"> <li>· Involves long-term commitment to stewardship of land and monitoring of conservation easement and potential legal enforcement costs</li> <li>· Very specific as to what the easement is for and maybe inadequate later</li> <li>· Difficult to delineate rights acquired or reserved</li> </ul>	<p>In many cases, there are also complex social, political, and economic factors to consider before deciding whether fee simple acquisition is the best conservation tool:</p> <ul style="list-style-type: none"> <li>· How the current and future owners of the land fits into the local pattern of land ownership.</li> <li>· The potential land management or economic impacts for neighboring landowners.</li> <li>· The stewardship capabilities of the proposed new landowner/manager (a public agency or a non-profit such as a land trust).</li> <li>· Whether the proposed new landowner/manager will be accepted and trusted by the local community.</li> </ul>

<sup>7</sup> National Land Acquisition Plan, U.S. Dept. of the Interior and U.S. Dept. of Agriculture, February, 2005, page 35

<sup>8</sup> The Biodiversity Partnership

<sup>9</sup> The Biodiversity Partnership and National Land Acquisition Plan, U.S. Dept. of the Interior and U.S. Dept. of Agriculture, February, 2005, page 28 **Find consistent format for citations.**



<ul style="list-style-type: none"> <li>· Provides an opportunity for coordination between agencies and organizations.</li> <li>· May enhance public involvement in conservation</li> </ul>	Future operation and maintenance may be easier because all or most of the interests are under the stewardship of the agency
May not include public access unless specified in the easement	Agency can conserve natural and cultural resources and provide opportunities for compatible public uses
Landowners often do not want to have a land ownership relationship with an agency for an extended period	Landowner receives market value for the interest acquired
Land retained in private ownership, while still achieving protection	Fee title acquisition could extinguish private uses that may have significant benefits but do not have an appreciable impact on agency goals and objectives
<ul style="list-style-type: none"> <li>· Funding and expertise needed for preparing legal documents and agreements</li> <li>· Incidental real estate expenses (appraisals, surveys, title work, and staff time) are essentially the same and sometimes more expensive than a fee title purchase</li> <li>· The administrative costs of preparing an easement can be very difficult to fund</li> <li>· Focused resource conservation can occur using a reduced rate of funding</li> </ul>	Operations, maintenance, and management costs
May facilitate management flexibility	May result in less flexible management options

### *Donations*

Fee and conservation easement interests may be sold for value or donated. Donated interests, if they meet the requirements of the U.S. Internal Revenue Code, may be eligible for certain tax deductions and benefits. In the past, charitable donation deductions reduced federal capital gains tax liability, and reduced federal estate taxes have been available for donations of qualifying property interests.<sup>10</sup>

### *Matching Funds*

Applicants mix funding sources to support the full cost of acquisitions. Some of the local funding sources available are listed below.

Hawai‘i County [Public Access, Open Space, and Natural Resources Preservation Fund](#): Established by a 2010 amendment to the County Charter, procedures for administering the “PONC” Fund are governed by Article 42 of the County Code. Volunteer Commissioners—appointed by the Mayor and

<sup>10</sup> State Tax Credits for Conservation Easements: Hawai‘i and Twelve Other States’ Efforts to Encourage Private Land Conservation, Richelle Thomson, Spring 2010

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confirmed by the County Council—review public nominations and submit an annual report that prioritizes these nominations for acquisition.

Maui County Open Space, Natural Resources, Cultural Resources, and Scenic Views Preservation Fund: No associated planning or prioritizing. Grants from this fund are considered by the Budget and Finance Committee and awarded by the County Council.

Kaua‘i County Public Access, Open Space, and Natural Resources Preservation Commission: Develops an annual list of recommended priorities of lands or property entitlements to be acquired or for the funding of projects directly related to the act, and to incorporate a countywide community input process into development of this annual list.

City and County of Honolulu Clean Water and Natural Lands Fund: This commission has developed criteria for prioritizing annual project applications for land acquisition grants from the Clean Water and Natural Lands Fund.

Various Federal funding sources are also available to support the land acquisition. While a comprehensive list is not available, a few of the most frequently used sources of the match are listed below.

Readiness and Environmental Protection Integration Program (REPI): This Department of Defense program supports establishing buffers to encroachments that can limit or restrict military training, testing, and operations.

Endangered Species Recovery Land Acquisition Grant Program (RLA): The U.S. Fish and Wildlife Service provides funding to States and territories for the acquisition of threatened and endangered species habitat in support of approved and drafted species recovery plans.

Forest Legacy Program: The U.S. Forest Service partners with State agencies to protect privately-owned land through conservation easements or acquisitions.

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#### **D. Management Needs**

A full explanation of the management required to protect the targeted resources is beyond the scope of this plan. Many other plans that have been referenced focus on management needs for each particular resource. Legacy Land does have the authority to provide funding for management, although at a relatively small funding level compared to the acquisition funding. The Commission has extensively debated the need for management funding versus the initial focus of the program which was established initially for land purchases. Many of the resources targeted by the program will continue to degrade even if legally protected due to threats like invasive species. For example, non-native hoofed animals are top threats to historic sites by toppling and digging up ancient rock structures, and also are a key threat to native ecosystems.

There are many types of conservation activities utilized in Hawai‘i, from growing and out-planting endangered native plants, to conducting annual volunteer stream clean-ups. The right combination of

these three things is important for the success of a conservation activity (and ultimately, the conservation goal). Legacy Lands works alongside other programs to provide a major tool toward the overall need for these resources.

#### **IV. Conclusion**

This plan provides an interactive and adaptable tool to assist decision-makers to determine which areas have the highest values and are least protected. The online WebMap allows for an in-depth analysis of particular parcels proposed for funding and is an innovative planning tool that will be used in future funding cycles.

#### **V. Next Steps**

In completing this plan, DLNR staff researched and drafted informative sections of the plan, then sought input and comment experts in the various subject areas as well as through a workshop conducted in the 2020 Hawai‘i Conservation Conference. A revised draft will be provided to the Senate President and the Speaker of the House of Representatives for consultation, and final approval will be sought from the BLNR. Periodic updates to the plan will be completed by the same process.

The program will also be creating functional documents such as rulemaking, which will further formalize the grant approval and management process.

#### **VI. References**

Additional efforts at planning not listed in section II are below.

##### **County of Hawai‘i**

[Hawai‘i County General Plan \(2005\)](#): The blueprint that guides long-term development and directs future opportunities related to land use, zoning amendments, and capital expenditures. The General Plan strives to position Hawai‘i Island for economic progress while preserving the environment and strengthening community foundations. [Update in progress](#).

[Community Development Plans \(“CDP”\)](#): A CDP is intended to translate broad General Plan Goals, Policies, and Standards into implementation Actions as they apply to specific geographical regions. A CDP is also intended to serve as a forum for Community input into land use, delivery of government services, and any other matters relating to the planning area. A CDP Action Committee serves as the steward of the community’s plan through facilitating implementation and recommending plan updates as needed. Committee members are appointed by the Mayor and confirmed by the Hawai‘i County Council.



## **County of Maui**

Maui County General Plan: The County's principal tool for evaluating public and private projects and their impacts on land use, the economy, environment, infrastructure, and cultural resources. It contains sections covering Population, Land Use, the Environment, and Cultural Resources.

Community Plans: The Maui County Council has adopted nine community plans that establish goals, objectives, policies, and implementing actions for each district, and include revised land use designations.

Pali to Puamana Parkway Project: Aims to realign the Honoapiilani Highway mauka-ward to reduce shoreline erosion and preserve park and open space areas along the corresponding section of the West Maui shoreline. The final plan will include intended acquisitions of parks and open space.

## **City and County of Honolulu**

O'ahu General Plan: Guides long-term development in the City and County of Honolulu. Contains sections covering Culture and Recreation, Natural Environment.

Sustainable Communities Plans: The eight Sustainable Communities Plans provide conceptual, long-range visions and policies to guide land use and infrastructure decisions for each region.

Special Area and Neighborhood Master Plans: These plans allow for the identification of the function, organization, and character of specific neighborhoods within a region's Development or Sustainable Communities plan.

A Greenprint for Hawai'i-O'ahu (The Trust for Public Land): Documents a planning process that takes into account both the community's opinion and the land's special values.

## **County of Kaua'i**

Kaua'i General Plan: Contains policies to guide the future physical development of the county; land regulation amendments; and the review of specific zoning amendment and development applications. Includes Park Site needs, Land use maps, and Heritage maps.

## **State Plans**

Hawai'i State Plan: Chapter 226, Hawai'i Revised Statutes, establishes a statewide planning system that provides a framework for the implementation of State Plan policies, including State functional plans and guidance on county general plans. The State Plan sets out broad policies and priority guidelines in the areas of the economy, physical resources & environment, and sociocultural development. Twelve State Functional Plans further define the State plan in twelve policy areas. Many of these policy areas relate to land acquisition, such as agriculture, conservation lands, historic preservation, recreation, and water resources. The State Functional Plans were last updated in 1989 and 1991.

Hawai'i Ocean Resources Management Plan (Coastal Zone Management Program):

Hawai‘i 2050 Sustainability Plan: Through Act 8, SLH 2005, the Legislature created the Hawai‘i 2050 Sustainability Task Force to review the existing State Plan and address the planning needs of Hawai‘i with a view to the year 2050.

Climate Change Impacts in Hawai‘i (University of Hawai‘i Sea Grant College Program): A summary of current scientific knowledge about climate change and its impacts on Hawai‘i’s ecosystems and communities, including marine, coastal, terrestrial, and freshwater ecosystems, built systems, and human health.

A Framework for Climate Change Adaptation in Hawai‘i: A collaborative report that focuses on strategies for adaptation, developed by the Ocean Resources Management Plan Working Group with assistance from the University of Hawai‘i’s Center for Island Climate Change Adaptation and Policy.

By offering significant funding for priority land acquisition projects, LLCP provides an incentive for State and county agencies and nonprofit land conservation organizations to protect the State’s resource lands.

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<sup>1</sup> County of Kaua‘i Long Range Planning Division, 2020. Hawai‘i Statewide GIS Program received from County of Kaua‘i, December 2020 as part of the 2020 Kaua‘i General Plan Update.

<sup>2</sup> County of Maui, 2020. Hawai‘i Statewide GIS Program received from Maui County Department of Planning, created from various Land Zoning Maps and comprehensive zoning ordinances current as of October, 2020. Islands of Maui & Lana‘i Land Use Zoning Designations, Maui County Code, Chapter 19 Zoning.

<sup>3</sup> Honolulu Land Information System (HOLIS), C&C of Honolulu, 2021. C&C of Honolulu Land Use Zoning Designations.

<sup>4</sup> Hawai‘i County Planning Department, 2018. Hawai‘i Statewide GIS Program received from the County of Hawai‘i Planning Department, created from various district and urban zone maps using the parcel layer, current as of August, 2018.

<sup>5</sup> USGS Digital Line Graphs, 1983. Extracted by Office of State Planning staff from the 1983 1:24,000 USGS Digital Line Graph.

<sup>6</sup> USGS Digital Line Graphs, 1983 version. DLNR Division of Aquatic Resources (DAR), 2004. Points were extracted from the 1983 DLG hydrography layers.

<sup>7</sup> State of Hawai‘i, Commission of Water Resource Management and the U.S. Department of Interior, National Park Service, 1990. Hawai‘i Stream Assessment. [R84\\_HSA.pdf \(hawaii.gov\)](#)

<sup>8</sup> [Mana i Maui Ola - The Office of Hawaiian Affairs \(OHA\)](#)

<sup>9</sup> U.S. Fish and Wildlife Service, 2021. National Wetlands Inventory. [\(http://www.fws.gov/wetlands/\)](http://www.fws.gov/wetlands/)

<sup>10</sup> Department of Land and Natural Resources, Division of Forestry and Wildlife, 2016. Hawai‘i Forest Action Plan. [Hawaii-Forest-Action-Plan-2016-FINAL.pdf](#)

<sup>11</sup> State of Hawai‘i, Commission of Water Resource Management and the U.S. Department of Interior, National Park Service, 1990. Hawai‘i Stream Assessment. [R84\\_HSA.pdf \(hawaii.gov\)](#)

<sup>12</sup> The Nature Conservancy of Hawai‘i, 2018. Hawaiian High Islands Ecoregion. <http://www.hawaiiecoregionplan.info/>

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<sup>13</sup> U.S. Fish and Wildlife Service, 2006. Revised Recovery Plan for Hawaiian Forest Birds. [Microsoft Word - Revised Plan Hawaiian Forest Birds Sep06.doc \(fws.gov\)](#)

<sup>14</sup> The Nature Conservancy of Hawai‘i, 2018.

<sup>15</sup> Department of Agriculture, 1977. Agricultural Lands of Importance to the State of Hawai‘i.

<sup>16</sup> Hawai‘i Statewide GIS Program, 2018. County Roads and Na Ala Hele Trails.

<sup>17</sup> Land Use Planning and Priorities in Hawai‘i, David L. Callies. Appendix C to Hawai‘i’s Comprehensive Wildlife Conservation Strategy, “Overview of Management Programs and Existing Regulations,” [provides an excellent list of conservation-oriented regulations.](#)

<sup>18</sup> Additional information on these conservation tools is available in “Conservation Tools and Strategies,” Summary of Financial and Technical Assistance Programs for the Conservation of Natural Resources, State of Hawai‘i Office of Planning, March, 1998; and “Voluntary Conservation Tools and Programs,” [Hummon and Cochran, 2/2/05](#), the biodiversity partnership, Defenders of Wildlife, <http://www.biodiversitypartners.org/>, last viewed December 27, 2006.

<sup>19</sup> (HRS 173A-1, HRS 173A-5)