

State of Hawai'i
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawai'i 96813

April 28, 2023

Chairperson and Members
Board of Land and Natural Resources
State of Hawai'i
Honolulu, Hawai'i

Board Members:

- SUBJECT: (1) APPROVE GRANT AWARDS FROM AVAILABLE FUNDS IN THE LAND CONSERVATION FUND, AS REQUESTED IN APPLICATIONS TO THE FISCAL YEAR 2023 LEGACY LAND CONSERVATION PROGRAM AND AS RECOMMENDED BY THE LEGACY LAND CONSERVATION COMMISSION, FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN SPECIFIC PARCELS OF LAND HAVING VALUE AS A RESOURCE TO THE STATE:
- A. HO'OKUA'ĀINA, UP TO \$2,900,000 FOR THE ACQUISITION OF APPROXIMATELY 116.49 ACRES AT DISTRICT OF KO'OLAUPOKO, ISLAND OF O'AHU (PĀLĀWAI), TAX MAP KEY NUMBERS (1) 4-2-006:008 (por), (1) 4-2-007:001, AND (1) 4-2-008:001, WITH A CONSERVATION EASEMENT HELD BY THE CITY & COUNTY OF HONOLULU AND HAWAIIAN ISLANDS LAND TRUST
 - B. KIPUKA KULEANA, UP TO \$1,845,000 FOR THE ACQUISITION OF A CONSERVATION EASEMENT OVER APPROXIMATELY 3.45 ACRES AT DISTRICT OF HALELE'A, ISLAND OF KAUA'I (KAMEALOHA KULEANA), TAX MAP KEY NUMBER (4) 5-9-003:009
 - C. KAULUAKALANA, UP TO \$1,560,000 FOR THE ACQUISITION OF APPROXIMATELY 59.27 ACRES AT DISTRICT OF KO'OLAUPOKO, ISLAND OF O'AHU (MAKALI'I), TAX MAP KEY NUMBERS (1) 4-2-006:001 AND (1) 4-2-006:008 (por), WITH A CONSERVATION EASEMENT HELD BY THE CITY & COUNTY OF HONOLULU AND HAWAIIAN ISLANDS LAND TRUST
 - D. DIVISION OF FORESTRY AND WILDLIFE, UP TO \$650,000, FOR THE ACQUISITION OF APPROXIMATELY 257.8 ACRES AT DISTRICT OF KONA, ISLAND OF MOLOKAI (MAKOLELAU 5TH PARCEL), TAX MAP KEY NUMBER (2) 5-5-001:015, WITH AN EXEMPTION FROM ANY ADDITIONAL CONSERVATION EASEMENTS THAT MAY BE REQUIRED UNDER SECTION 173A-4, HAWAII REVISSED STATUTES, AND WITH SPECIAL CONDITIONS THAT (1) THE DEPARTMENT ENGAGE IN A COMMUNITY OUTREACH AND DIALOGUE PROCESS

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TO DEVELOP A MANAGEMENT PLAN FOR THE MAKOLEAU 5TH PARCEL, AND (2) THE COMMUNITY OUTREACH MANAGEMENT PLAN BE COMPLETED WITHIN 24 MONTHS OF CLOSING ON THE LAND ACQUISITION DEAL.

- (2) EXEMPT FOUR PROPOSED AWARDS OF FISCAL YEAR 2023 LEGACY LAND GRANT FUNDS FOR THE ACQUISITION OF INTERESTS AND RIGHTS IN SPECIFIC PARCELS OF LAND— IDENTIFIED AS ITEMS (1)A, (1)B, (1)C, AND (1)D ABOVE (PĀLĀWAI, KAMEALOA KULEANA, MAKALI'I, AND MAKOLELAU)—FROM THE REQUIREMENT TO PREPARE AN ENVIRONMENTAL ASSESSMENT, PURSUANT TO CHAPTER 343, HAWAI'I REVISED STATUTES AND CHAPTER 11-200.1, HAWAI'I ADMINISTRATIVE RULES.
- (3) APPROVE—AS A CONTINGENCY IN THE EVENT THAT HO'OKUA'AINA (ITEM (1)A ABOVE), KIPUKA KULEANA (ITEM (1)B ABOVE), KAULUAKALANA (ITEM (1)C ABOVE), OR DIVISION OF FORESTRY AND WILDLIFE (ITEM (1)D ABOVE) DECLINES ITS FISCAL YEAR 2023 LEGACY LAND GRANT AWARD, OR IS UNABLE TO ACCEPT OR EXPEND ALL OR PART OF ITS AWARDED FUNDS— AWARDS OF REMAINING, AVAILABLE FUNDS IN THE FISCAL YEAR 2023 LAND CONSERVATION FUND, UP TO THE AMOUNTS ORIGINALLY REQUESTED IN THE FISCAL YEAR 2023 GRANT APPLICATIONS, TO EACH OTHER APPROVED FISCAL YEAR 2023 GRANT AWARDEE, IN EQUAL PERCENTAGE, AS FIRST ALTERNATES, UP TO THE FULL AMOUNTS REQUESTED, AND SECOND, TO THE LEGACY LAND FISCAL YEAR 2023 MANAGEMENT GRANT PROGRAM, IN AN AMOUNT NOT TO EXCEED \$255,000, AS SECOND ALTERNATE.
- (4) AUTHORIZE THE CHAIRPERSON, IF NEEDED, TO REDIRECT UP TO THE FULL AMOUNT OF REMAINING, AVAILABLE FUNDS FROM A FISCAL YEAR 2023 LEGACY LAND GRANT AWARD—THAT WERE DECLINED, NOT ACCEPTED, OR NOT EXPENDED BY HO'OKUA'AINA (ITEM (1)A ABOVE), KIPUKA KULEANA (ITEM (1)B ABOVE), KAULUAKALANA (ITEM (1)C ABOVE), OR THE DIVISION OF FORESTRY AND WILDLIFE (ITEM (1)D ABOVE)—FIRST, IN EQUAL PERCENTAGE TO THE REMAINING, ACTIVE FISCAL YEAR 2023 LEGACY LAND GRANTEEES SO AS TO ACCOMPLISH FULL FUNDING FOR EACH APPROVED GRANT AWARD, AS FUNDS ARE AVAILABLE, AND SECOND, TO THE LEGACY LAND FISCAL YEAR 2023 MANAGEMENT GRANT PROGRAM, UP TO \$255,000.
- (5) AUTHORIZE THE DEPARTMENT TO PROCEED WITH ALL DUE DILIGENCE AND NEGOTIATIONS THAT MAY BE NECESSARY TO CARRY OUT THE FISCAL YEAR 2023 LEGACY LAND CONSERVATION PROGRAM GRANTS AND ACQUISITIONS APPROVED BY THE BOARD AND THE GOVERNOR.

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SUMMARY

The Division recommends that the Board (1) approve up to \$6,350,000 in Legacy Land Conservation Program grant awards, from available funds in the Land Conservation Fund, based on the amounts requested in four applications to the Fiscal Year 2023 Legacy Land Conservation Program and as recommended by the Legacy Land Conservation Commission, for the acquisition of interests and rights in specific parcels of land having value as a resource to the State; (2) exempt four awards of Fiscal Year 2023 grant funds from the requirement to prepare an environmental assessment, pursuant to State environmental review law; (3) approve specific contingencies for financing Fiscal Year 2023 grant awards that help facilitate maximum encumbrance of available grant funds and provide for greater flexibility in financing grant awards; (4) authorize the Chairperson to redirect remaining, unused, available funds from a Fiscal Year 2023 grant award to other Fiscal Year 2023 grant awards that the Board approves for funding, so as to accomplish equitable, maximum funding for each approved award, as funds are available; and (5) authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the Fiscal Year 2023 Legacy Land Conservation Program grants and acquisitions approved by the Board and the Governor.

These grant awards are key elements in the Department's fulfillment of its resource protection mission, and contribute to important public-private land conservation partnerships that help to reshape and diversify our economy and enhance the quality of life for our communities.

BACKGROUND

In 2012, the Board adopted regulations implementing the provisions of Hawai'i Revised Statutes ("Haw. Rev. Stat.") Chapter 173A, Acquisition of Resource Value Lands, including a delegation of authority to the Division of Forestry and Wildlife for the administration of the Legacy Land Conservation Program. See Hawai'i Administrative Rules ("Haw. Admin. R.") Section 13-140-3. Haw. Rev. Stat. § 173A-5(f) authorizes the Department to administer and manage the Land Conservation Fund. Under § 173A-5(h), the Land Conservation Fund "shall be used for:

- (1) The acquisition of interests or rights in land having value as a resource to the State, whether in fee title or through the establishment of permanent conservation easements under chapter 198 or agricultural easements;
- (2) The payment of any debt service on state financial instruments relating to the acquisition of interests or rights in land having value as a resource to the State;
- (3) Annual administration costs for the fund, not to exceed five per cent of annual fund revenues of the previous year; and
- (4) Costs related to the operation, maintenance, and management of lands acquired by way of this fund that are necessary to protect, maintain, or restore resources at risk on these lands, or that provide for greater public

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access and enjoyment of these lands; provided that the costs related to the operation, maintenance, and management of lands acquired by way of this fund do not exceed five per cent of annual fund revenues of the previous year."

Acquisition of Interests or Rights in Land

Haw. Admin. R. § 13-140-22 directs that "[a]pplicants for land acquisition grants shall submit requests for funding by the annual deadline, using the forms and instructions provided by the department as may be revised from time to time." The Department processes the applications, makes recommendations, and grants awards in accordance with § 13-140-6:

(b) The department shall recommend to the board specific parcels of land to be acquired. The department shall consult with the senate president and the speaker of the House of Representatives and may consult with the legacy land conservation commission prior to making recommendations.

(c) Awards shall be subject to the approval of the governor.

Haw. Rev. Stat. § 173A-4.5(a) establishes appraisal processes for the acquisition of land having value as a resource to the State, and § 173A-4.5(b) mandates that "[n]o land shall be purchased for a sum greater than the highest value fixed by any appraisal accepted [by the Board] or performed [by the Board's contractor] under subsection (a)." During post-award due diligence, if a grantee submits an appraisal that is more than one year old, then the Department will require either (a) a letter from the appraiser certifying that market conditions have not changed, significantly, during the post-appraisal period; (b) an update to the appraisal; or (c) a new appraisal. While the amount requested and recommended for each grant award arises from the applicant's current estimate of fair market value, the future expenditure of awarded grant funds can be limited by the approved appraised value and by the amount of matching funds secured for the acquisition. Depending on Board-approved contingencies and the status of a grant award that is eligible to receive contingency funding as an alternate, if unexpended grant funds are not redirected to an eligible grant award, then the unexpended grant funds return to the unencumbered and unappropriated cash balance of the Land Conservation Fund.

Application Process

In public meetings held during 2022, the Legacy Land Conservation Program ("LLCP") consulted with the Legacy Land Conservation Commission ("LLCC") and LLCP constituents about the timeline, forms, and procedures for the Fiscal Year 2023 ("FY2023") grant application cycle. After the Department approved the timeline and forms, the LLCP posted the application materials and instructions on its website and notified constituents directly via email. Throughout the application process, the LLCP advised applicants that approximately \$5,900,000 in FY2023 funding would be available for land acquisition awards, and suggested that applicants consider this funding situation for project planning purposes. After three applicants dropped out of the application process, the LLCP received five timely,

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final applications for land acquisition awards before the deadline of December 12, 2022, with funding requests that ranged from \$650,000 to \$2,900,000 and totaled \$8,455,000.

Agency Consultation

As required by Haw. Rev. Stat. § 173A-5(i)(7), each application for land acquisition included the results of applicant consultation with the Department, the Department of Agriculture, and the Agribusiness Development Corporation "regarding the maximization of public benefits of the project, where practicable." The request form for agency consultation suggested "that a consulting agency consider the maximization of public benefits within the context of:

- (a) The criteria that the Legacy Land Conservation Commission (LLCC) may consider in forming its recommendations for acquisitions (Section 13-140-39, Hawaii Administrative Rules, see page 18), particularly:
 - (3) Linkage of protected acreage of similar resources;
 - (4) Opportunities for appropriate public access and enjoyment;
 - (5) Presence of environmental hazards;
 - (9) Urgency of need to acquire;
 - (10) Status and adequacy of management planning;
 - (11) Community support for acquisition;
 - (13) Connection to regional planning and protection efforts; and
 - (14) Capacity for long-term management.
- (b) The lands to which the LLCC shall give priority in its recommendations for acquisition (Section 173A-2.6, HRS) . . . ; and
- (c) The appropriate legal mechanisms to ensure the long-term protection of the land and to preserve the interests of the State (see Section 173A-4, HRS). In particular, would the consulting agency be willing to accept/hold a conservation easement, agricultural easement, deed restriction, or covenant that runs with the land, or would an exemption from the easement requirement be more appropriate?"

For each FY2023 grant application, the Department of Agriculture and the Agribusiness Development Corporation responded to the consultation request with "We do not wish to comment on the proposed project." The Department responded with "We do not object to the proposed project" for each application, and provided comments on three applications – (1) B, Kamealoha Kuleana; (1)C, Makali'i; and (1)D, Makolelau 5th parcel, as summarized in the DISCUSSION section below.

Application Review, Ranking, and Recommendation

In accordance with Haw. Rev. Stat. § 92-2.5(a)(1), concerning permitted interaction of members to investigate a matter relating to the official business of their board, the LLCC held a public meeting on December 15, 2023 (Meeting 78), during which it assigned four groups—composed of two to four commissioners each—as task forces to investigate the

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applications for grant funding (including a field visit at each location proposed therein), and appointed a lead commissioner for each group (Agenda Item D.1). The LLCC held a second public meeting on February 9, 2023 (Meeting 79), during which each assigned group reported on the findings and recommendations of its respective investigation (Agenda Item 2). The LLCC held a third public meeting on February 9-10, 2023 (Meeting 80) that included discussion about the applications that were the subject of each group's investigation (Agenda Items 2 and 3).

The LLCC reviewed and ranked the five grant applications that it received, incorporating the results of agency consultations, Commission investigations, field visits, and public testimony into the recommendation that the LLCC issued on February 10, 2023 (Meeting 80, Agenda Items 4 and 5). The attached LLCC Ranking and Recommendation Summary (**Attachment 1**) also includes maps and photos as submitted with each application. In reviewing the applications and advising the Department and the Board, the LLCC is required by statute to give the following lands priority in its recommendations for acquisitions (Haw. Rev. Stat. § 173A-2.6):

- (1) Lands having exceptional value due to the presence of:
 - (A) Unique aesthetic resources;
 - (B) Unique and valuable cultural or archaeological resources; or
 - (C) Habitats for threatened or endangered species of flora, fauna, or aquatic resources;
- (2) Lands that are in imminent danger of development;
- (3) Lands that are in imminent danger of being modified, changed, or used in a manner to diminish its value;
- (4) Lands providing critical habitats for threatened or endangered species that are in imminent danger of being harmed or negatively impacted;
- (5) Lands containing cultural or archaeological sites or resources that are in danger of theft or destruction; and
- (6) Lands that are unique and productive agricultural lands.

Legislative Consultation

On February 8, 2023, the Department forwarded the LLCC recommendation to the Senate President and the Speaker of the House of Representatives, along with the Department's request for consultation. The Department met with each legislator, who In written replies dated March 9, 2023 (Senate President) and March 29, 2023 (Speaker of the House of Representatives) stated "no concerns or objections" about the Legacy Land Conservation Commission recommendations concerning the grant awards that are presented for approval in this Board submittal (**Attachment 2**).

LEGACY LAND CONSERVATION COMMISSION RECOMMENDATION

As indicated in **Attachment 1**, the Legacy Land Conservation Commission ("LLCC") recommended that the Board approve full funding for each of the top four applications for a Fiscal Year 2023 ("FY2023") land acquisition grant, in the order ranked, as funds are

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available. Board approval of the LLCC recommendation would result in maximum awards of:

- (1)A. Ho'okua'aina, up to \$2,900,000, for the acquisition of approximately 116.49 acres at District of Ko'olaupoko, Island of O'ahu (Pālāwai), Tax Map Key Numbers (1) 4-2-006:008 (por), (1) 4-2-007:001, and (1) 4-2-008:001
- (1)B. Kipuka Kuleana, up to \$1,845,000, for the acquisition of a conservation easement over approximately 3.45 acres at District of Halele'a, Island of Kaua'i (Kamealoha Kuleana), Tax Map Key Number (4) 5-9-003:009
- (1)C. Kauluakalana, up to \$1,560,000 for the acquisition of approximately 59.27 acres at District of Ko'olaupoko, Island of O'ahu (Makali'i), Tax Map Key Numbers (1) 4-2-006:001 and (1) 4-2-006:008 (por)
- (1)D. Division of Forestry and Wildlife, up to \$650,000, for the acquisition of approximately 257.8 acres at District of Kona, Islands of Molokai (Makolelau 5th Parcel), Tax Map Key Number (2) 5-7-002:011

However, because (1) the total amount requested for these four applications (\$6.955 million) exceeds the funding available for FY 2023 grant awards, and (2) the ranking scores for these four applications grouped tightly within the "exemplary" to "above average" range, the LLCC recommended that each of these four grantees receive, initially, an equal percentage of the total amount requested in its application, as funds are available (currently estimated at 91.3% of the amount requested for each grant).

As a general practice for grant financing, the Legacy Land Conservation Program ("LLCP") seeks to facilitate maximum encumbrance of available grant funds in each fiscal year. In order to provide for greater flexibility in the awards program, the LLCC also recommended that the Board :

- (1) Approve—as a contingency in the event that Ho'okua'aina, Kipuka Kuleana, Kauluakalana, or Division of Forestry and Wildlife declines its FY2023 Legacy Land grant award, or is unable to accept or expend all or part of its awarded funds—awards of remaining, available funds in the FY2023 Land Conservation Fund, up to the amounts originally requested in the FY2023 applications, to each other approved FY2023 grant awardee, in equal percentage, as first alternates, up to the full amounts requested, and second, to the LLCP management grant program, in an amount not to exceed \$255,000, as second alternate.
- (2) Authorize the Chairperson, if needed, to redirect up to the full amount of remaining, available funds from a FY2023 Legacy grant award—that were declined, not accepted, or not expended by Ho'okua'aina, Kipuka Kuleana, Kauluakalana, or the Division of Forestry and Wildlife—first, in equal percentage to the remaining, active, FY2023 Legacy Land grantees so as to accomplish full funding for each Applicant's approved application, as funds are available, and second, to the FY2023 LLCP management grant award program, up to \$255,000.

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DISCUSSION

The following discussion of individual applications includes summaries of and excerpts from each application, while **Attachment 3** provides key sections from each application that address Importance and Threats (Section G), Stewardship and Management (Section H), and Cultural and Historical Significance (Section I).

Based on prior consultation with the Deputy Attorney General assigned to the Legacy Land Conservation Program ("LLCP"), Recommendation 1.2.iii continues to propose that each Fiscal Year 2023 LLCP grant agreement land acquisition include a signature from each prospective easement holder as a Consenting Party to the Grant Agreement, with regard to standard State requirements for (1) Board approval to dispose of, encumber title/interests in, or convert the use of the conservation easement, and (2) revenue sharing with the State for the net proceeds of an easement sale.

A. Pālāwai: Ho'okua'āina applied for \$2,900,000 to acquire approximately 116.49 acres at District of Ko'olaupoko, Island of O'ahu (three parcels), for seven of the nine Legacy Land resource preservation purposes established in subsection 173A-5(g), Hawai'i Revised Statutes ("Haw. Rev. Stat.") (see Application, Section D):

- (1) Watershed protection
- (2) Habitat protection
- (3) Cultural and historical sites
- (4) Parks
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the Pālāwai application explains that:

On the windward side of O'ahu in Maunawili Valley are more than 1,084 acres of what was once a thriving "breadbasket" for the island. Maunawili Valley consists of critical waterways, dozens of cultural and historic sites, and fertile agricultural and conservation lands. For years, the Maunawili and Kailua community as well as Hui Maunawili-Kawainui have fought to safeguard these vital lands and return them to community-based stewardship for restoration and sustainable agriculture. The Makali'i property comprises ~ 59 acres of the larger 1,084 acres in Maunawili that the community is determined to protect. Makali'i contains many cultural sites on its own, including agricultural terraces and stone workshops. Kāne and wahine stones and boundary markers lie outside of the property boundaries but in the same 'ili 'āina.

Restoring spring(s), lo'i, māla, agroforestry, and native forest at Makali'i would provide groundwater recharge and prevent erosion and runoff into Kawainui fishpond and wetland and Kailua Bay. Kawainui was the second largest fishpond in Hawai'i, and is now the largest remaining wetland in Hawai'i. The health of Kawainui is dependent on the health of Makali'i.

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A revitalized Makali'i, with flowing spring(s) and native forest, would also provide important habitat for endemic and endangered birds.

In ancient times, the kalo grown in Maunawili was famed for its sweetness and specifically requested by the ali'i (chiefs). Maunawili was once a vital food producing region for the people of O'ahu, thanks to abundant streams, springs, and fertile agricultural lands. The Makali'i property contains approximately five acres of Hanalei soil – the most productive growing soil in Hawai'i.

Makali'i will be transferred to Kauluakalana to transform these lands back to 'āina momona (fat, fertile land), create community well-being, perpetuate 'āina-based education, restore traditional farming and agroforestry, and increase our island's food security.

The application garnered supporting resolutions from (1) the State Senate (SCR 189, 2021, urging that the Department "work with The Trust for Public Land, Hui Maunawili-Kawainui, Ho'okua'āina, and Kauluakalana in their efforts to acquire these important and rich agricultural, cultural, and historic lands and return them to community stewardship") and (2) the Kailua Neighborhood Board, along with 82 letters of support from a wide range of individuals and community organizations, including 39 letters from youth and students, as well as a letter from the O'ahu Branch, Division of Forestry and Wildlife, noting that:

[The Division] has partnered with TPL and the Hui to protect this special place and intends to acquire the balance of the Mau[n]awili lands (~909 acres) for the management of the cultural, historic, watershed, recreational, and agroforestry values of the area. The mission of [the Division] is to responsibly manage and protect watersheds, native ecosystems, and cultural resources and provide outdoor recreation and sustainable forest product opportunities while facilitating partnerships, community involvement, and education. Malama I ka aina. We have cultivated long-standing successful relationships implementing land management practices that benefit wildlife and produce food with the community groups involved and look forward to continuing the collaboration for the benefit of the land and people of this place.

At Meeting 80 of the Legacy Land Conservation Commission (held February 9-10, 2023), staff from The Trust for Public Land (applicant partner) and leaders from Ho'okua'āina presented the application, followed by numerous written and spoken testimonies in support.

The applicant expects to receive matching funds estimated at 65.2% of total project costs. Most of these matching funds are already secured through the City & County of Honolulu Clean Water and Natural Lands Fund, with additional support from The Trust for Public Land and Hawaiian Islands Land Trust. The City & County of Honolulu and Hawaiian Islands Land Trust would hold a conservation easement over the property.

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B. Kamealoha Kuleana: Kipuka Kuleana applied for \$1,845,000 to acquire a conservation easement over approximately 3.45 acres (one parcel) at District of Halele‘a, Island of Kaua‘i, for all nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (see Application, Section D):

- (1) Watershed protection
- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (5) Recreational and public hunting areas
- (6) Parks
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the Kamealoha Kuleana application explains that:

Kamealoha is located in Limahuli, in the ahupua‘a of Hā‘ena, within Halele‘a moku, on the north shore of Kaua‘i. This parcel stretches from Kūhio Highway ma kai of Limahuli Garden to the coast. It is the northwestern-most kuleana in the main Hawaiian islands still held by descendants of the original Māhele claimants. The ‘āina is within the Limahuli watershed, managed mauka to makai by National Tropical Botanical Garden and Hui Maka‘āinana o Makana. Limahuli Stream, which borders the parcel, is one of the healthiest in Hawai‘i, home to all five species of ‘o‘opu. Kamealoha sits at the base of Makana, a prominent peak and site of ‘ōahi fire brand ceremonies. The home of Hailama, the last teacher of ‘ōahi, was located partially on the parcel from the early 1900s to the 1950s, hosting many visitors. An intact terraced lo‘i system spans the entire parcel, with an ‘auwai running along the eastern border. Traditional land use was kalo farming, cultivation of other Polynesian cultivars such as ‘uala, a base for coastal fishing, and a habitation site. Hā‘ena has become a state-wide model for community based management of tourism as well as the near shore fishery fronting this ‘āina.

At Meeting 80 of the Legacy Land Conservation Commission (held February 9-10, 2023), staff from the Trust for Public Land (application partner) and leaders of Kipuka Kuleana presented the application, followed by numerous written and spoken testimonies in support, including written testimony from:

- State Representative Nadine K. Nakamura (District 15), noting that "Kamealoha is a critical and special piece of the puzzle ensuring community-led stewardship and protection of this region from ridge to reef", and from
- Office of Hawaiian Affairs Trustee Dan Ahuna (Kaua‘i & Ni‘ihau), writing that "On Kaua‘i, long-time families are losing connections to ancestral lands due to escalating land values, rising taxes, restricted access, and development pressure. Surrounded by gated luxury mansions, this ‘āina is a powerful assertion of Hawaiian values, lifeways and commitment

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to upholding kuleana against all odds. Protecting Kamelaoha Kuleana will ensure that it can serve as a kīpuka (place of community caretaking and cultural restoration) for future generations."

The applicant expects to receive matching funds estimated at 26.1% of total project costs through donation or private fundraising. Consultation with the Department indicates that the Division of Aquatic Resources ("DAR") "support[s] the acquisition of the land as laid out in this application. Limahuli represents one of the healthiest watershed systems in Kauai and acquiring this land will allow for this to continue. DAR is confident the stewardship of this land by the National Tropical Botanical Garden and associated NGOs will help to maintain the aquatic resources in the area."

C. Makali'i: Kauluakalana applied for \$2,658,525 to acquire approximately 59.27 acres at District of Ko'olaupoko, Island of O'ahu (two parcels) for six of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (see Application, Section D):

- (1) Watershed protection
- (3) Habitat protection
- (4) Cultural and historical sites
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

Section C.15 of the application explains that:

[T]he Makali'i property is just off Kalaniana'ole Highway, in the 'ili of Makali'i and Waipa'akikī, ahupua'a of Kailua, moku of Ko'olaupoko, mokupuni of O'ahu. The property neighbors Kawainui Fishpond and Wetland which is makai of the highway and is adjacent to the Olomana Subdivision, Olomana Golf Course, and the Kawaihoa Youth and Family Wellness Center (Hawai'i Youth Correctional Facility). The property is home to Makali'i spring and possibly several other springs, as well as a small protected valley. The valley is bounded by an elevated hill, the lower slopes of the Olomana mountain range, and the Maunawili stream. The property contains remnant stands of kalo (taro), mai'a (banana), 'ulu (breadfruit), 'ōhi'a'ai (mountain apple), niu (coconut), kukui, 'awapuhi (shampoo ginger), lā'i (ti leaf), avocado, mango, papaya, jabong, pickle tree, tamarind, and hala (pandanus tree). But due to years of neglect, the land is currently overgrown in invasive trees and vegetation. HRT acquired the property in 2000, and it has not been in active use since the last farmers were evicted in 2012. Abandoned and derelict structures still standing are sometimes used by the houseless population.

The application garnered supporting resolutions from (1) the State Senate (SCR 189, 2021), urging that the Department "work with The Trust for Public Land, Hui Maunawili-Kawainui, Ho'okua'āina, and Kauluakalana in their efforts to acquire these important and rich

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agricultural, cultural, and historic lands and return them to community stewardship") and (2) the Kailua Neighborhood Board, along with 82 letters of support from a wide range of individuals and community organizations, including 39 letters from youth and students, as well as a letter from the O'ahu Branch, Division of Forestry and Wildlife noting that:

[The Division] has partnered with TPL and the Hui to protect this special place and intends to acquire the balance of the Mau[n]awili lands (~909 acres) for the management of the cultural, historic, watershed, recreational, and agroforestry values of the area. The mission of [the Division] is to responsibly manage and protect watersheds, native ecosystems, and cultural resources and provide outdoor recreation and sustainable forest product opportunities while facilitating partnerships, community involvement, and education. Malama I ka aina. We have cultivated long-standing successful relationships implementing land management practices that benefit wildlife and produce food with the community groups involved and look forward to continuing the collaboration for the benefit of the land and people of this place.

Applicant consultation with the Department indicates that the Division of Aquatic Resources "supports the acquisition of the land as laid out in this application. The land acquisition of these two parcels will likely improve aquatic resource values in this area to Kawainui fishpond and wetland, Makali'i spring, streams and ocean which provide habitat for our aquatic resources of native fish and birds."

At Meeting 80 of the Legacy Land Conservation Commission (held February 9-10, 2023), staff from the Trust for Public Land (application partner) and leaders of Kauluakalana presented the application, followed by followed by numerous written and spoken testimonies in support.

The Applicant expects to receive matching funds estimated at 65.3% of total project costs. Most of this funding is already secured through the City & County of Honolulu Clean Water and Natural Lands Fund, with additional support from The Trust for Public Land and Hawaiian Islands Land Trust. The City & County of Honolulu and Hawaiian Islands Land Trust would hold a conservation easement over the property.

D. Makolelau 5th Parcel: The Division of Forestry and Wildlife applied for \$650,000 to acquire approximately 257.8 acres at District of Kona, Island of Molokai (one parcel) for seven of the nine Legacy Land resource preservation purposes established in Haw. Rev. Stat. § 173A-5(g) (see Application, Section D):

- (1) Watershed protection
- (2) Coastal areas, beaches, and ocean access
- (3) Habitat protection
- (4) Cultural and historical sites
- (7) Natural areas
- (8) Agricultural production
- (9) Open spaces and scenic resources

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Section C.15 of the application explains that:

The parcel is located in the Makolelau ahupua'a, Kona, southeast Molokai. The property includes native mesic forest and shrubland. A conservation unguulate fence bisects the property, which encloses the 2,500-acre Kamalo-Kapualei unit. A 4WD road also winds in and out of the property from the main Highway. Otherwise, the parcel is unimproved. The adjoining properties include dryland forest and shrubland, as well as two culturally and ecologically [important] fishponds. Makolelau is designated Critical Habitat for two forest bird species and thirty-eight plant species. Human activity in the property is not currently permitted as the area is privately owned. However, trespassers do access the property, mostly to poach hooved animals.

Applicant consultation with the Department indicates that the Commission on Water Resource Management recognizes the application's connection to regional planning and protection efforts, noting that:

The project area is located above the 'Ualapu'e Aquifer Sector Area. The management actions proposed post-acquisition (invasive species control, native species restoration, firebreaks, etc.) will have a positive impact on the ground water resources in this area, ensuring future water supplies. 'Ualapu'e supplies water to East Molokai residents for domestic (drinking) and agriculture. On March 15, 2022, the Commission on Water Resource Management (CWRM) approved the Department of Hawaiian Home Lands (DHHL) reservation of 0.105 million gallons of ground water per day (MGD). Acquisition of Makolelau supports CWRM's constitutional mandate to protect public trust uses of water, including reservations of water for DHHL.

At Meeting 80 of the Legacy Land Conservation Commission (held February 9-10, 2023), Emma Yuen, Program Manager for Native Ecosystems Protection and Management, presented the Division's application.

The Applicant notes that "While this application lists no matching funds, and only covers the acquisition of the 5th parcel, it is important to understand that this is actually the final step in a larger acquisition that contributed over \$2.3 million in matching funds from a Federal grant and the private owner land [value] donation" (Application Attachment A-16). At its meeting held March 11, 2022, under Item C-1, the Board of Land and Natural Resources (Board) approved a subgrant of federal funds to The Nature Conservancy for acquiring five Makolelau parcels totaling over 1,045 acres, subsequently valued at \$2.94 million. At its meeting held July 22, 2022, under Item C-2, the Board authorized (1) the State's acquisition, by donation from The Nature Conservancy, of four of these parcels, totaling over 529 acres, and (2) a Memorandum of Understanding between the Department and The Nature Conservancy for the State's acquisition of Makolelau 5th Parcel.

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Conservation Easements, Agricultural Easements, Deed Restrictions, and Covenants

Under Haw. Rev. Stat. §§ 173A-4(c) and (d), a recipient of funds from the LLCP must:

provide a conservation easement under chapter 198, or an agricultural easement or deed restriction or covenant to the department of land and natural resources; the department of agriculture; the agribusiness development corporation; an appropriate land conservation organization; or a county, state, or federal natural resource conservation agency, that shall run with the land and be recorded with the land to ensure the long-term protection of land having value as a resource to the State and preserve the interests of the State . . . [and t]he board shall require as a condition of the receipt of funds that it be an owner of a conservation easement.

However, § 173A-4(d) provides that "[t]he board or an appropriate land conservation organization or county, state, or federal agency required to be provided an easement pursuant to this section may grant an exemption for any easement required pursuant to this section."

Historically, the Department has required that each recipient of LLCP funding record a deed of conveyance that includes restrictions and covenants that meet the requirements of § 173A-4. Similar to many federal land acquisition programs, the LLCP restrictions for deeds to county and nonprofit grantees reference the grant agreement that is executed between the Board and the grantee, and all deeds must recite the State's statutory restrictions on the sale, lease, or other disposition of the acquired interests and rights in land. These statutory restrictions include (1) a requirement that the Board approve disposition of the land (§§ 173A-4 and 173A-9) and (2) post-disposition payback provisions (§ 173A-10). Per the grant agreement, deed restrictions also require that an owner manage the land in a manner consistent with the protection of the resources as described in the original grant application.

The Board is authorized to impose a conservation easement on land acquired by LLCP grant recipients, and to grant exemptions from the easement requirements. The Department advises that the deed restrictions that the LLCP customarily imposes on grant recipients—as bolstered by statutory and contractual provisions—are generally sufficient to ensure the long-term protection of land having value as a resource to the State and to preserve the interests of the State, and the Department generally recommends that the Board exempt a State agency awardee from additional easement requirements.

Thus the Division advises that the Board exempt the State grant for Item (1)D (Makolelau 5th Parcel) from the easement requirement, where grant funds would be used to acquire lands that would be held and managed by the Department. Because the seller (The Nature Conservancy) used federal funds from the U.S. Department of Interior (Fish & Wildlife Service) for its acquisition of the property, the deed of conveyance to the State would include restrictions mandated by a federal natural resource agency. The grant for Item (1)B (Kamealoha Kuleana) would be used by a nonprofit land conservation organization to acquire a conservation easement, so an additional conservation easement is not required.

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The Division advises that the Board require, for the remaining two applications recommended for funding ((1)A Pālāwai and (1)C Makali'i), that each awardee provide a conservation easement to an appropriate land conservation organization or a county, state, or federal natural resource conservation agency. As advised by the Deputy Attorney General assigned to the LLCP, the Division requires that each prospective easement holder sign the LLCP grant agreement as a Consenting Party:

Item (1)A. Pālāwai – Ho'okua'āina

This grant is for the acquisition of fee title by a nonprofit land conservation organization. The application included (1) a letter from Hawaiian Islands Land Trust indicating that the City & County of Honolulu and Hawaiian Islands Land Trust are willing to hold a conservation easement over the property. These entities hold conservation easements over other privately owned properties and work with the LLCP to monitor the management of several other properties conserved with grants from the Land Conservation Fund. Honolulu Council Resolution 22-221 confirms the City's commitment.

Item (1)C. Makali'i – Kauluakalana

This grant is for the acquisition of fee title by a nonprofit land conservation organization. The application included (1) a letter from Hawaiian Islands Land Trust indicating that the City & County of Honolulu and Hawaiian Islands Land Trust are willing to hold a conservation easement over the property. These entities hold conservation easements over other privately owned properties and work with the LLCP to monitor the management of several other properties conserved with grants from the Land Conservation Fund. Honolulu Council Resolution 22-221 confirms the City's commitment.

Chapter 343, Hawai'i Revised Statutes, Environmental Review

1. Statutory Exemptions

Section 343-5(a), Hawai'i Revised Statutes ("Haw. Rev. Stat.") provides, in part, that an environmental assessment is not required for an action that proposes the use of state funds for the acquisition of unimproved real property. However, Chapter 343 does not define "unimproved real property." Regardless of this definitional uncertainty, the Division advises that the results of the application process, narrowly interpreted, indicate that none of the properties that the Legacy Land Conservation Commission ("LLCC") recommended for Fiscal Year 2023 acquisition are "unimproved."

2. Administrative Exemptions

Routine Activities and Ordinary Functions (de minimis activity)

Haw. Rev. Stat. § 343-6(a)(2) provides for "procedures whereby specific types of actions, because they will probably have minimal or no significant effects on the environment, are declared exempt from the preparation of an environmental assessment." In 2019, the repeal of Chapter 11-200, Hawai'i Administrative Rules ("Haw. Admin. R.") and the adoption

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of Haw. Admin. R. § 11-200.1 (new chapter cited below) established new procedures that simplify the Department's process for exempting the use of state funds for a land acquisition grant—awarded through the Legacy Land Conservation Program—from the preparation of an environmental assessment by securing concurrence from the Environmental Council for a two-part "exemption list" as defined in § 11-200.1-2 and implemented as follows:

§ 11-200.1-16 Exemption lists. (a) Each agency, through time and experience, may develop its own exemption list consistent with both the letter and intent expressed in this subchapter and in chapter 343, HRS, of: (1) Routine activities and ordinary functions within the jurisdiction or expertise of the agency that by their [de minimis] nature do not have the potential to individually or cumulatively adversely affect the environment more than negligibly and that the agency considers to not rise to the level of requiring chapter 343, HRS, environmental review

(b) An agency may use part one of its exemption list, developed pursuant to subsection (a)(1), to exempt a specific activity from preparation of an EA and the requirements of section 11-200.1-17 [Exemption Notices] because the agency considers the specific activity to be de minimis.

On March 3, 2020, the Environmental Council concurred with the Department's new two-part exemption list, and on November 10, 2020, the Environmental Council concurred with a revised version. The list includes, under Exemption Class 1 (Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing), PART 1:

- Action Type 38, "[a]cquisition of land or interests in land," and
- Action Type 42, "[t]he award of grants under Haw. Rev. Stat. Chapter 173A [Acquisition of Resource Value Land] provided that the grant does not fund **an activity that causes any material change of use of land or resources beyond that previously existing**" (emphasis added, see discussion below).

Exemption for Item (1)D (Makolelau 5th Parcel) under Action Type 38, "[a]cquisition of land or interests in land."

The Division believes that the exemption for Action Type 38 applies only to an acquisition that transfers ownership to the Department, which in this case applies to Item (1)D (Makolelau 5th Parcel).

Exemptions for Items (1)A (Pālāwai), (1) B (Kamealoha Kuleana), (1)C (Makali'i), and (1)D (Makolelau 5th Parcel) under Action Type 42, "the grant does not fund an activity that causes any material change of use of land or resources beyond that previously existing."

The governing authorities for Action Type 42 (Chapter 343, Haw. Rev. Stat.; Chapter 11-200.1, Haw. Admin. R.; and the Department Exemption List) do not define "material change

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of use," and the Board and the State courts have not addressed the interpretation and application of this exemption. The Division believes (1) that the "activity" of land acquisition funded by a grant from the Legacy Land Conservation Program merely enables the possibility of—rather than "causes" with certainty—a future "change of use" action by an awardee that takes ownership of a property, and (2) that such land acquisition is thus exempt from the preparation of an environmental assessment. Importantly, a post-acquisition "change of use" action would be subject to environmental review requirements under Chapter 343, subsequent to and independent of the acquisition, if applicable at that time to that action.

Based on the applications, presentations, and public comments received by the Division during the grant application process, the Division concludes that the mere acquisition of interests in land funded by each grant to a state agency or nonprofit land conservation organization, in and of itself, is not an activity that causes any material change of use of land or resources beyond that previously existing. Moreover—as authorized under Haw. Admin. R. § 13-140-24(a)(8)—the Division may require awardees to meet any requirements of Chapter 343 prior to disbursing funds for land acquisition grants. Internally, the Department's Land Division imposes the same requirement on land acquisition by a State agency. In any case, it is important to distinguish that post-acquisition management activity described in an application is aspirational, not obligatory, and does not, by itself, represent an irrevocable commitment that would be enforceable under a Legacy Land Conservation Program grant agreement.

Therefore, the Division believes that the proposed awards of State grant funds for land acquisition at Pālāwai (Item (1)A); Kamealoha Kuleana (Item (1)B); (Item (1)C); and Makolelau 5th Parcel (Item (1)D) through the Legacy Land Conservation Program (using the Fiscal Year 2023 Land Conservation Fund), are exempt from the requirement to prepare an environmental assessment, pursuant to State environmental review law.

RECOMMENDATIONS

That the Board:

1.1) Approve a grant award from the Fiscal Year 2023 Land Conservation Fund, using a total of up to \$650,000 from beneath the Fiscal Year 2023 spending ceiling for the Legacy Land Conservation Program, to the Division of Forestry and Wildlife—including an exemption from any additional conservation easements that may be required under Section 173A-4, Hawai'i Revised Statutes—and authorize the Chairperson to execute a letter of offer to the landowner and encumber funds from the Land Conservation Fund for the acquisition of approximately 257.8 acres at Kona District, Island of Molokai (Item (1)D, Makolelau 5th Parcel), as identified at present by Tax Map Key Number (2) 5-5-001:015, subject to the availability of funds; the approval of the Governor; compliance with Chapter 173A, Hawai'i Revised Statutes; the standard process and procedures for the acquisition of lands by the State; the imposition of Legacy Land Conservation Program restrictions and covenants into the deed; the submission and acceptance of standard Legacy Land Conservation Program forms for Project Accounting, Matching Funds, and Resource Value Documentation; and special conditions that (1) the Department engage in a community outreach and dialogue process to develop a

FISCAL YEAR 2023 LEGACY LAND CONSERVATION PROGRAM

management plan for the Makolelau 5th parcel, and (2) the community outreach management plan be completed within 24 months of closing on the land acquisition deal. As one of four grant awards recommended by the Legacy Land Conservation Commission for equal percentages of requested funding, the initial amount transferred from the Land Conservation Fund for this acquisition shall be up to \$593,458 (91.3% of the amount requested in the application).

1.2) Authorize the Chairperson to enter into agreements and encumber Fiscal Year 2023 funds from the Land Conservation Fund with:

- a. Ho'okua'āina, for up to \$2,900,000 for the acquisition of approximately 116.49 acres at District of Ko'olaupoko, Island of O'ahu (Pālāwai), as identified at present by Tax Map Key Numbers (1) 4-2-006:008 (por), (1) 4-2-007:001, and (1) 4-2-008:001, with a conservation easement held by Hawaiian Islands Land Trust and the City & County of Honolulu;
- b. Kipuka Kuleana, for up to \$1,845,000 for the acquisition of a conservation easement over approximately 3.45 acres at District of Halele'a, Island of Kaua'i (Kamealoha Kuleana), as identified at present by Tax Map Key Number (4) 5-9-003:009; and
- c. Kauluakalana, for up to \$1,560,000 for the acquisition of approximately 59.27 acres at District of Ko'olaupoko, Island of O'ahu (Makali'i), as identified at present by Tax Map Key Numbers (1) 4-2-006:001 and (1) 4-2-006:008 (por), with a conservation easement held by Hawaiian Islands Land Trust and the City & County of Honolulu,

together using a total of up to \$6,305,000 from beneath the Fiscal Year 2023 spending ceiling for the Legacy Land Conservation Program. In accordance with the recommendation from the Legacy Land Conservation Commission for awarding equal percentages of requested funding, the initial total amount encumbered in the Fiscal Year 2023 Land Conservation Fund shall be up to \$575,642 (91.3% of the total amount requested for all three applications), distributed as 91.3% of the amount requested in each application (Ho'okua'āina, up to \$2,647,735; Kipuka Kuleana, up to \$2,684,508; Kauluakalana, up to \$1,424,499). Each grant agreement shall be subject to each of the following provisions:

- i. compliance with Chapter 173A, Hawai'i Revised Statutes;
- ii. compliance with Chapter 343, Hawai'i Revised Statutes;
- iii. execution of a Grant Agreement with the Board, including requirements that each prospective easement holder sign the Grant Agreement as a Consenting Party;
- iv. certification of an appraisal by the Department;
- v. insertion of Legacy Land Conservation Program restrictions and covenants into the deeds as a condition of contractual agreements with the grant recipients;
- vi. approval of the Grant Agreement and of the Deeds by the Attorney General's office;
- vii. the availability of funds;
- viii. the approval of the Governor; and

FISCAL YEAR 2023 LEGACY LAND CONSERVATION PROGRAM

- ix. such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

2) Exempt the following four proposed uses of State funds (for Fiscal Year 2023 Legacy Land Conservation Program grant awards from the Land Conservation Fund to acquire interests and rights and interests in land having value as a resource to the State) from the requirement to prepare an environmental assessment, in accordance with Sections 343-5 and 343-6, Hawai'i Revised Statutes; Sections 11-200.1-1, -2, -8, -13, -14, -15, and -16, Hawai'i Administrative Rules; and the Department of Land and Natural Resources Exemption List, reviewed and concurred on by the Environmental Council on November 10, 2020:

Exemption Class 1, PART 1, Action Type 38

Item (1)D.	LLCP 2023-04	Division of Forestry and Wildlife (Makolelau 5 th Parcel)
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Exemption Class 1, PART 1, Action Type 42

Item (1)A.	LLCP 2023-01	Ho'okua'aina (Pālāwai)
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Item (1)B.	LLCP 2023-02	Kipuka Kuleana (Kamealoha Kuleana)
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Item (1)C.	LLCP 2023-03	Kauluakalana (Makali'i)
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Item (1)D.	LLCP 2023-04	Division of Forestry and Wildlife (Makolelau 5 th Parcel)
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3) Approve—as a contingency in the event that Ho'okua'aina, Kipuka Kuleana, Kauluakalana, or the Division of Forestry and Wildlife declines its Fiscal Year 2023 Legacy Land grant award, or is unable to accept or expend all or part of its awarded funds—awards of remaining, available funds in the Fiscal Year 2023 Land Conservation Fund, up to the amounts originally requested in the Fiscal Year 2023 grant applications, to each other Fiscal Year 2023 grant awardee, in equal percentage, as first alternates, up to the full amounts requested, and second, to the Legacy Land Fiscal Year 2023 management grant program, in an amount not to exceed \$255,000, as second alternate.

4) Authorize the Chairperson, if needed, to redirect up to the full amount of remaining, available funds from a Fiscal Year 2023 Legacy Land grant award—that were declined, not accepted, or not expended by Ho'okua'aina, Kipuka Kuleana, Kauluakalana, or the Division of Forestry and Wildlife—first, in equal percentage to the remaining, active Fiscal Year 2023 Legacy Land grantees, so as to accomplish full funding for each approved grant award, as funds are available, and second, to the Legacy Land Fiscal Year 2023 management grant program, in an amount not to exceed \$255,000.

5) Authorize the Department to proceed with all due diligence and negotiations that may be necessary to carry out the Fiscal Year 2023 Legacy Land Conservation Program grants and acquisitions approved by the Board and the Governor.

FISCAL YEAR 2023 LEGACY LAND CONSERVATION PROGRAM

Respectfully submitted,



DAVID G. SMITH, Administrator

APPROVED FOR SUBMITTAL:



DAWN N.S. CHANG, Chairperson
Board of Land and Natural Resources

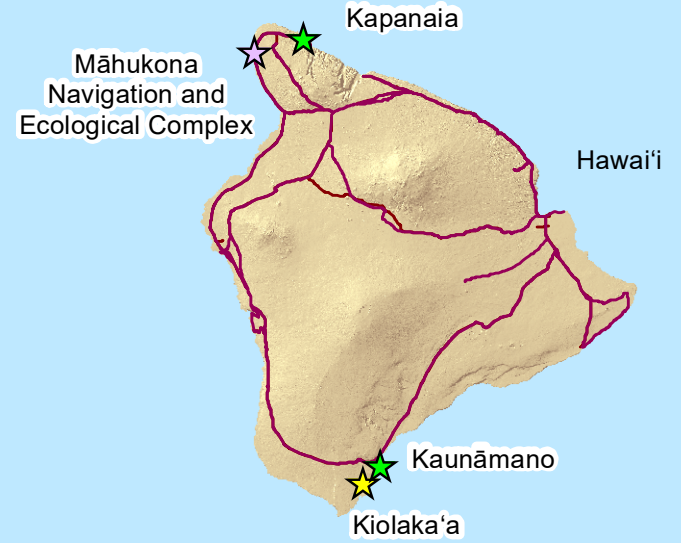
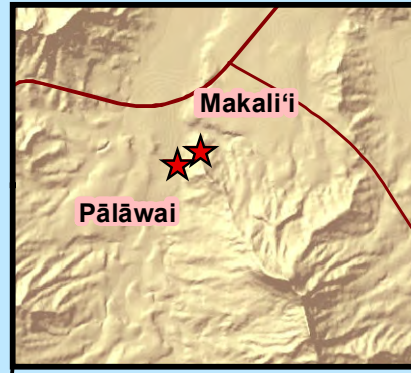
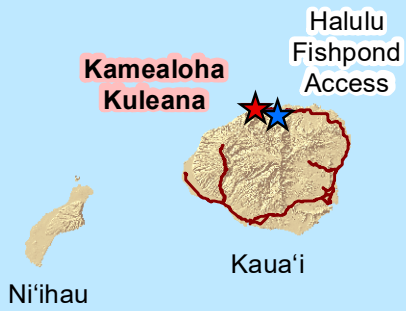
ATTACHMENTS:

- Attachment 1:** Map and Table of recommended awards for the Fiscal Year 2023 Legacy Land Conservation Program, with project maps and photos for Items (1)A, (1)B, (1)C, and (1)D
- Attachment 2:** Consultation Letters from the President of the Senate (March 9, 2023) and the Speaker of the House of Representatives (March 29, 2023)
- Attachment 3:** Application Sections G, H, I for Items (1)A, (1)B, (1)C, and (1)D

Attachment 1
April 28, 2023

**Map and Table of recommended
grant awards for the Fiscal Year
2023 Legacy Land Conservation
Program**

**(6 pages, followed by maps and
photos for projects (1)A - (1)D)**



- ★ Capital Improvement Project authorized by 2022 Legislature
- ★ Property conserved in Fiscal Year 2022
- ★ Property conserved in Fiscal Year 2023
- ★ Application approved in Fiscal Year 2022
- ★ Application Recommended for Approval in Fiscal Year 2023



**Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2023
February 10, 2023 (Meeting 80, Agenda Items 4 & 5)**

*Commission Recommendation at bottom of last page (page 5).
Text in *italics* indicates revised information, as requested by applicant during the meeting and accepted by Commission, or corrected/modified by staff.

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$ Requested	TOTAL \$
2B	1	Pālāwai	Ho'okua'āina	Ko'olaupoko, O'ahu	Fee + Easement (County of Honolulu and Hawaiian Islands Land Trust)	<p>On the windward side of O'ahu in Maunawili Valley are approximately 1,084 acres of what was once a thriving "breadbasket" for the island. Maunawili Valley consists of critical waterways, dozens of cultural and historic sites, and fertile agricultural and conservation lands. For years, the Maunawili and Kailua community as well as Hui Maunawili-Kawainui have fought to safeguard these vital lands and return them to community-based stewardship for restoration and sustainable agriculture. The Pālāwai property comprises 116 acres of the larger 1,084 acres in Maunawili that the community is determined to protect.</p> <p>Preserving Pālāwai would aid freshwater stream and wetland restoration. Five tributary streams: Palapū, 'Ōma'ō, 'Ainoni, Makawao, and Olomana feed the Maunawili stream system, Palapū and Olomana converge on the Pālāwai property with the main stem of Maunawili Stream which then flows into Kawainui fishpond and wetland and out into Kailua Bay. Kawainui was the second largest fishpond in Hawai'i, and is now the largest remaining wetland in Hawai'i. The health of Kawainui, is dependent on the health of Pālāwai. Restoring lo'i kalo at Pālāwai would filter sediment, provide ground water recharge and flood control, protecting Kailua town and the Kailua Bay ecosystem. A revitalized Pālāwai, abundant in lo'i kalo, would also provide important habitat for endemic and endangered waterbirds. The Pālāwai property is home to many cultural and archaeological sites including lo'i kalo, an 'auwai (irrigation ditch), a grinding stone, and a hill called Kuelepu'u. In ancient times, the kalo grown in Pālāwai was famed for its sweetness and specifically requested by the ali'i (chiefs). The Pālāwai property contains 68 acres of Hanalei soil – the most productive growing soil in Hawai'i.</p> <p>Pālāwai will be transferred to Ho'okua'āina to transform these lands back to 'āina momona (fat, fertile land), create community well-being, perpetuate 'āina-based education, restore traditional lo'i kalo, dryland farming and agroforestry, and increase our island's food security.</p> <p>TMKs: (1) 4-2-006:008 (por), (1) 4-2-007:001, (1) 4-2-008:001</p> <p><i>TMK (1) 4-2-006:008 would be subdivided into three parcels, with applicant Ho'okua'āina receiving title to one of them.</i></p>	116.49	Agricultural	Ag-2	5,441,000 65.2%	2,900,000	8,341,000

**Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2023
February 10, 2023 (Meeting 80, Agenda Items 4 & 5)**

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
2D	2	Kamealoha Kuleana	Kipuka Kuleana	Hā'ena, Kaua'i	Conservation Easement	<p>This acquisition will codify protection of Kamealoha, a cultural kīpuka with unique historic, ecological and genealogical importance. The remnant walls and 'auwai represent an intact lo'i kalo terrace system that has existed for 400 to 1200 years, based on estimates from archaeological surveys on adjacent properties. Kalo farming, as well as the cultivation of vegetables, perpetuated the 'āina's intention of feeding 'ohana and the surrounding community.</p> <p>Wahi pana envelop Kamealoha ma uka to ma kai. The coastal area fronting the 'āina is where Lohi'au surfed after being revived by Hi'iaka according to the mo'olelo of Hi'iakaikapoliopole. The property sits in the coastal hala zone of the Limahuli watershed, in the most biodiverse ecoregion in the state that is home to endangered species of plants, insects and birds. It is adjacent to the Limahuli Stream, an aquatic resource critical to the health of 'o'opu, 'ōpae, hīhīwai and the entire watershed, which is a high priority area of conservation and restoration. This inextricable connection to the Limahuli watershed carries an important kuleana to protect the health of the entire ecosystem, which includes non-human and human beings.</p> <p>Its close proximity to Limahuli Garden and Hui Maka'āinana o Makana is significant in extending ma uka, ma kai community-based, culturally grounded stewardship of 'āina and resource protection for the public good. Of the utmost importance, Kamealoha is the northwestern-most remaining kuleana land in the main Hawaiian islands still held by descendants of the original Māhele claimants. We believe that two kuleana families remain in Limahuli, with less than five kuleana families remaining in Hā'ena. The 'ohana who own this property have fought tirelessly to care for and protect it, shouldering the financial burden of rising property taxes and pressure of being among the last standing kuleana holders. Surrounded by gated luxury mansions visited by second or third homeowners, this 'āina is a powerful assertion of Hawaiian values, lifeways and commitment to upholding kuleana against all odds.</p> <p>TMK: (4) 5-9-003:009</p>	3.45	Conservation (Limited Subzone)	Open	652,000 26.1%	1,845,000	2,497,000

Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2023
February 10, 2023 (Meeting 80, Agenda Items 4 & 5)

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
2E	3	Makali'i	Kauluakalana	Ko'olaupoko, O'ahu	Fee + Easement (County of Honolulu and Hawaiian Islands Land Trust)	<p>On the windward side of O'ahu in Maunawili Valley are more than 1,084 acres of what was once a thriving "breadbasket" for the island. Maunawili Valley consists of critical waterways, dozens of cultural and historic sites, and fertile agricultural and conservation lands. For years, the Maunawili and Kailua community as well as Hui Maunawili-Kawainui have fought to safeguard these vital lands and return them to community-based stewardship for restoration and sustainable agriculture. The Makali'i property comprises ~ 59 acres of the larger 1,084 acres in Maunawili that the community is determined to protect.</p> <p>Makali'i contains many cultural sites on its own, including agricultural terraces and stone workshops. Kāne and wahine stones and boundary markers lie outside of the property boundaries but in the same 'ili 'āina.</p> <p>Restoring spring(s), lo'i, māla, agroforestry, and native forest at Makali'i would provide groundwater recharge and prevent erosion and run off into Kawainui fishpond and wetland and Kailua Bay. Kawainui was the second largest fishpond in Hawai'i, and is now the largest remaining wetland in Hawai'i. The health of Kawainui, is dependent on the health of Makali'i.</p> <p>A revitalized Makali'i, with flowing spring(s) and native forest, would also provide important habitat for endemic and endangered birds.</p> <p>In ancient times, the kalo grown in Maunawili was famed for its sweetness and specifically requested by the ali'i (chiefs). Maunawili was once a vital food producing region for the people of O'ahu, thanks to abundant streams, springs, and fertile agricultural lands. The Makali'i property contains approximately 5 acres of Hanalei soil – the most productive growing soil in Hawai'i.</p> <p>Makali'i will be transferred to Kauluakalana to transform these lands back to 'āina momona (fat, fertile land), create community well-being, perpetuate 'āina-based education, restore traditional farming and agroforestry, and increase our island's food security.</p> <p>TMKs: (1) 4-2-006:001, (1) 4-2-006:008 (por)</p> <p><i>TMK (1) 4-2-006:008 would be subdivided into three parcels, with applicant Kauluakalana receiving title to one of them.</i></p>	59.27	Agricultural	Ag-2	2,935,000 65.29%	1,560,000	4,495,000

**Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2023
February 10, 2023 (Meeting 80, Agenda Items 4 & 5)**

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
2C	4	Makolelau 5 th Parcel	DLNR-Division of Forestry and Wildlife	Kona, Molokai	Fee	<p>Makolelau has been a protection interest for many years due to its local and regional conservation value, connectivity, and threats. The Makolelau 5th parcel acquisition is a strategic link to connect a much larger network of conservation lands. Four other parcels have been acquired by the State and, if acquisition of the 5th parcel occurs, all will be designated as part of the Moloka'i Forest Reserve. Beyond that, this property connects the over 8,200-acre Kawela ahupua'a, which contains The Nature Conservancy's Kamakou Preserve, to the 5,200-acre Kamalo and Kapualei managed area, thereby creating an over 13,500-acre managed corridor that would complete a series of protected areas encompassing the south shore of the island. Management agreements with adjacent Kawela Plantation to the west and Kamehameha Schools to the east permit landscape-scale conservation actions such as invasive species control, fencing and hooved animal removal, and endangered species monitoring and outplanting. Through a collaborative network of conservation partnerships, restoration and preservation efforts will transcend ownership boundaries, creating tangible results at large and meaningful scales. This includes management of upland conservation ungulate fences that span multiple landowners and protect the remaining upland watershed forests and dozens of endangered species.</p> <p>The property contains critical habitat for 38 endangered plant species and two forest birds. It also provides quality habitat for other forest birds, the endangered Hawaiian hoary bat, and suitable habitat for the nēnē. Ten listed endangered plant species are known to occur at Makolelau: <i>Viola tracheliifolia</i>, <i>Schiedea lydgatei</i>, <i>Schiedea sarmentosa</i>, <i>Zanthoxylum hawaiiense</i>, <i>Silene lanceolata</i>, <i>Nothocestrum latiflorum</i>, <i>Spermolepis hawaiiensis</i>, <i>Cyperus fauriei</i>, <i>Vigna o-wahuensis</i> and <i>Neraudia servicea</i>, and three more endangered plant species, <i>Alectryon macrococcus</i>, <i>Asplenium dielirectum</i>, and <i>Silene alexandri</i> have historically occurred at Makolelau. Two threatened plant species (<i>Peucedanum sandwicense</i> and <i>Tetramolopium rockii</i> var. <i>calcisabulorum</i>) also occur in the area. Three of these species are on the "Plant Extinction Prevention" list, which are species so rare that there are 50 or fewer individuals in the wild. The Division of Forestry and Wildlife has expert botanists and takes the lead on the Plant Extinction Prevention Program (PEPP) and ensuring that these species do not go extinct.</p> <p>TMK: (2) 5-5-001:015</p>	515.75	Conservation (Protected Subzone) + Agricultural	Agriculture/ Interim	-0-0%	650,000	650,000

**Legacy Land Conservation Commission Ranking and Recommendations* Summary, Fiscal Year 2023
February 10, 2023 (Meeting 80, Agenda Items 4 & 5)**

Item	Rank	Application	Applicant	District, Island	Type	Description	Acres approx	State Land Use District	County Zoning	Matching \$ Match % (rounded)	LLCP \$	TOTAL \$
2A	5	Hoku Ula Loko I'a Heiau	Ua Mau Ke Ea	Hāna, Maui	Fee + Easement (Holder uncertain)	<p>The location is a fishing complex. The property contains fresh water that flows and exchanges with the fish pond which creates a dependent relationship. The threat of urban building creates an impending harm to the ecosystem due to ground disturbances and pollutants of nitrogen into the ground water that will be a threat of algae blooms similar to what is evidenced in the Kanaha pond in Kahului.</p> <p>This parcel is significant and important because it is the last segment of the Haneo'o fish pond complex . The Haneo'o fish pond complex is a complete ecosystem that encompasses important underground water that exchanges and permeates underground to provide the correct ecosystem balance for the fish pond. This location is also significant because it contains the graves and the heiau which are the cultural component of the entire complex. This acquisition will provide the greatest protection from urban development which will directly destroy the importance and significance of the property and its relationship to the Hawaiian people and the balance of the natural ecosystem interaction with the adjacent loko i'a fish pond. This understanding of systems approach highlights that the cumulative health of the complex is highly dependent on the preservation of each segment/parcels which make up the whole complex, and their high dependency on each other for the future cultural and ecosystem sustainability for generations to come.</p> <p>TMK: (2) 1-4-008:001</p>	1.48	Rural	Agricultural	508,500 25.3%	1,500,000	2,008,500
<p><i>Based on ranking results and the limited amount of funding available for Fiscal Year 2023, the Legacy Land Conservation Commission did not recommend a grant award for this application.</i></p>												

***Agenda Item 5 - Recommendations**

The Legacy Land Conservation Commission (Commission) recommends that the Board of Land and Natural Resources (Board) approve 4 awards for grants from available funds in the Land Conservation Fund, for equal-percentage funding of the 4 top-ranking FY2023 applications for land acquisition grants, as funds are available.

In order to provide for greater flexibility in the awards program, the Commission also recommends that the Board:

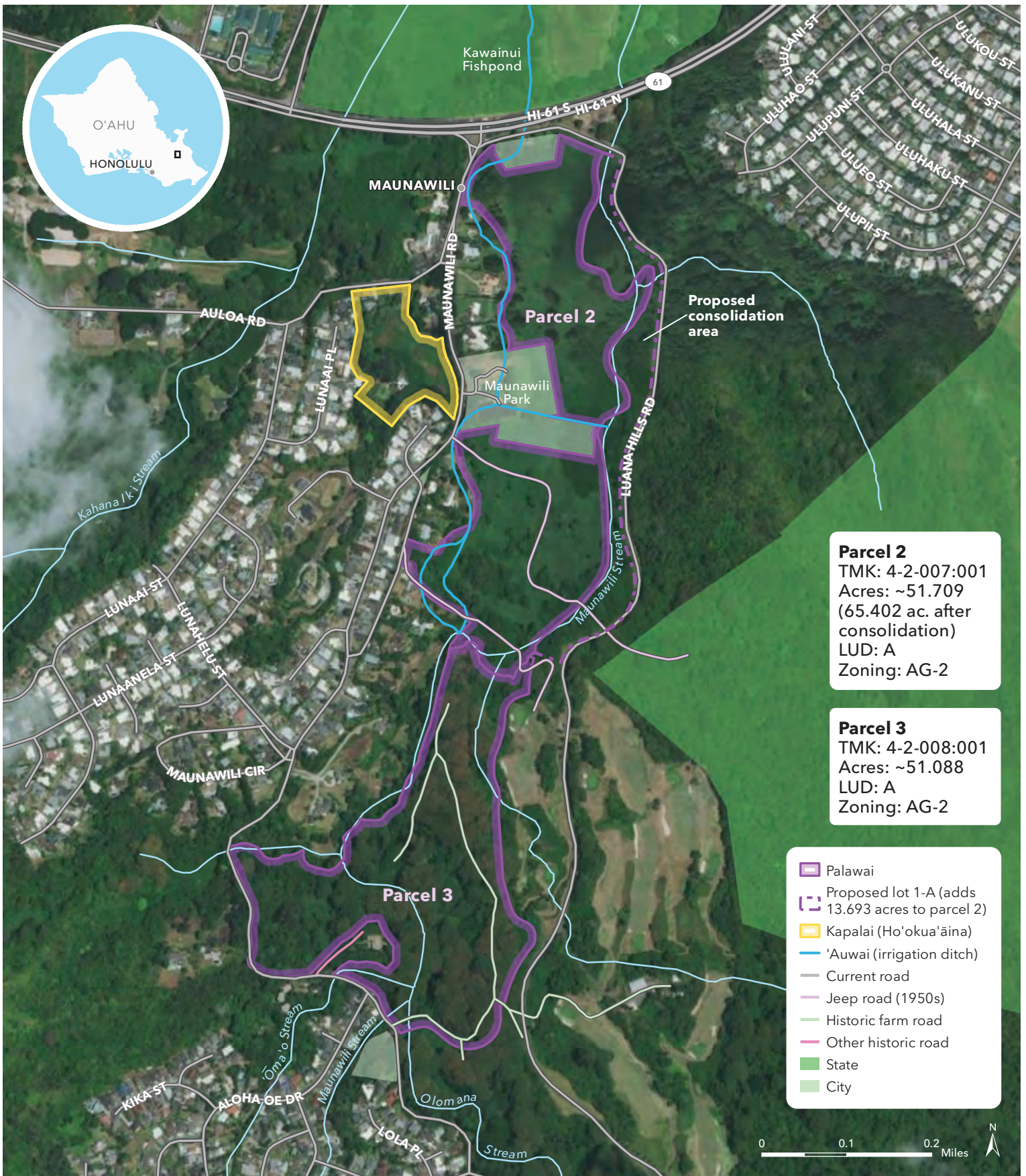
- (1) Approve—as a contingency in the event that Ho'okua'aina, Kipuka Kuleana, Kauluakalana, or DLNR-Division of Forestry and Wildlife declines its Fiscal Year 2023 Legacy Land grant award, or is unable to accept or expend all or part of its awarded funds—awards of remaining, available funds in the Fiscal Year 2023 Land Conservation Fund, up to the amounts originally requested in the FY2023 applications, to each other awardee, in equal percentage, as first alternates, up to the full amounts requested, and second, to the LLCP management grant program, in an amount not to exceed \$255,000, as second alternate.
- (2) Authorize the Chairperson, if needed, to redirect up to the full amount of remaining, available funds from a Fiscal Year 2023 Legacy grant award—that were declined, not accepted, or not used by Ho'okua'aina, Kipuka Kuleana, Kauluakalana, or Division of Forestry and Wildlife—in equal percentage to the other FY2023 grantees so as to accomplish full funding for APPLICANT's approved application, as funds are available; then to the Fiscal Year 2023 grant LLCP management grant award program, up to \$255,000.

For the DLNR-Division of Forestry and Wildlife application (2C, Makolelau 5th Parcel), the Commission recommends that the Board require “that the Department [of Land and Natural Resources] engage in a community outreach and dialogue process to develop a management plan for the Makoleau parcel. The community outreach management plan shall be completed within 24 months of closing on the land acquisition deal.”

Attachment 1(A)
Pālāwai

Ko‘olaupoko, O‘ahu

Maps & Photos

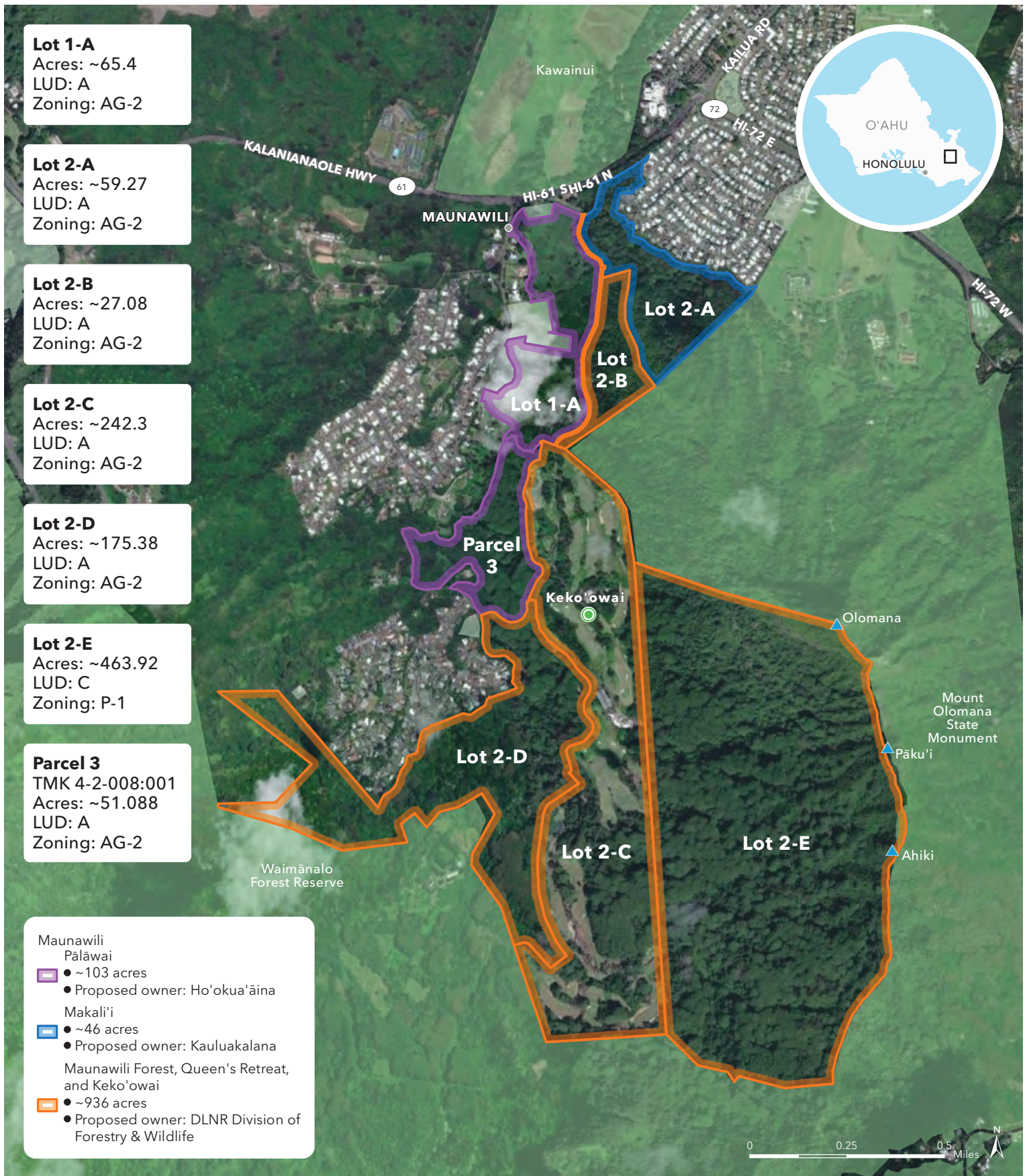


Palawai, Kihuluhulu, & Kalaekoa

KAILUA, KO'OLAUPOKO, O'AHU HAWAII

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Lot 1-A
 Acres: ~65.4
 LUD: A
 Zoning: AG-2

Lot 2-A
 Acres: ~59.27
 LUD: A
 Zoning: AG-2

Lot 2-B
 Acres: ~27.08
 LUD: A
 Zoning: AG-2

Lot 2-C
 Acres: ~242.3
 LUD: A
 Zoning: AG-2

Lot 2-D
 Acres: ~175.38
 LUD: A
 Zoning: AG-2

Lot 2-E
 Acres: ~463.92
 LUD: C
 Zoning: P-1

Parcel 3
 TMK 4-2-008:001
 Acres: ~51.088
 LUD: A
 Zoning: AG-2

Maunawili Pālāwai
 ● ~103 acres
 ● Proposed owner: Ho'okua'āina

Makali'i
 ● ~46 acres
 ● Proposed owner: Kauluakalana

Maunawili Forest, Queen's Retreat, and Keko'owai
 ● ~936 acres
 ● Proposed owner: DLNR Division of Forestry & Wildlife

Maunawili Forest & Lo'i

proposed consolidation & subdivision

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- 20 12,830 sf
- 24 13,000 sf
- 25 9,800 sf
- 26 10,770 sf
- 23 10,450 sf

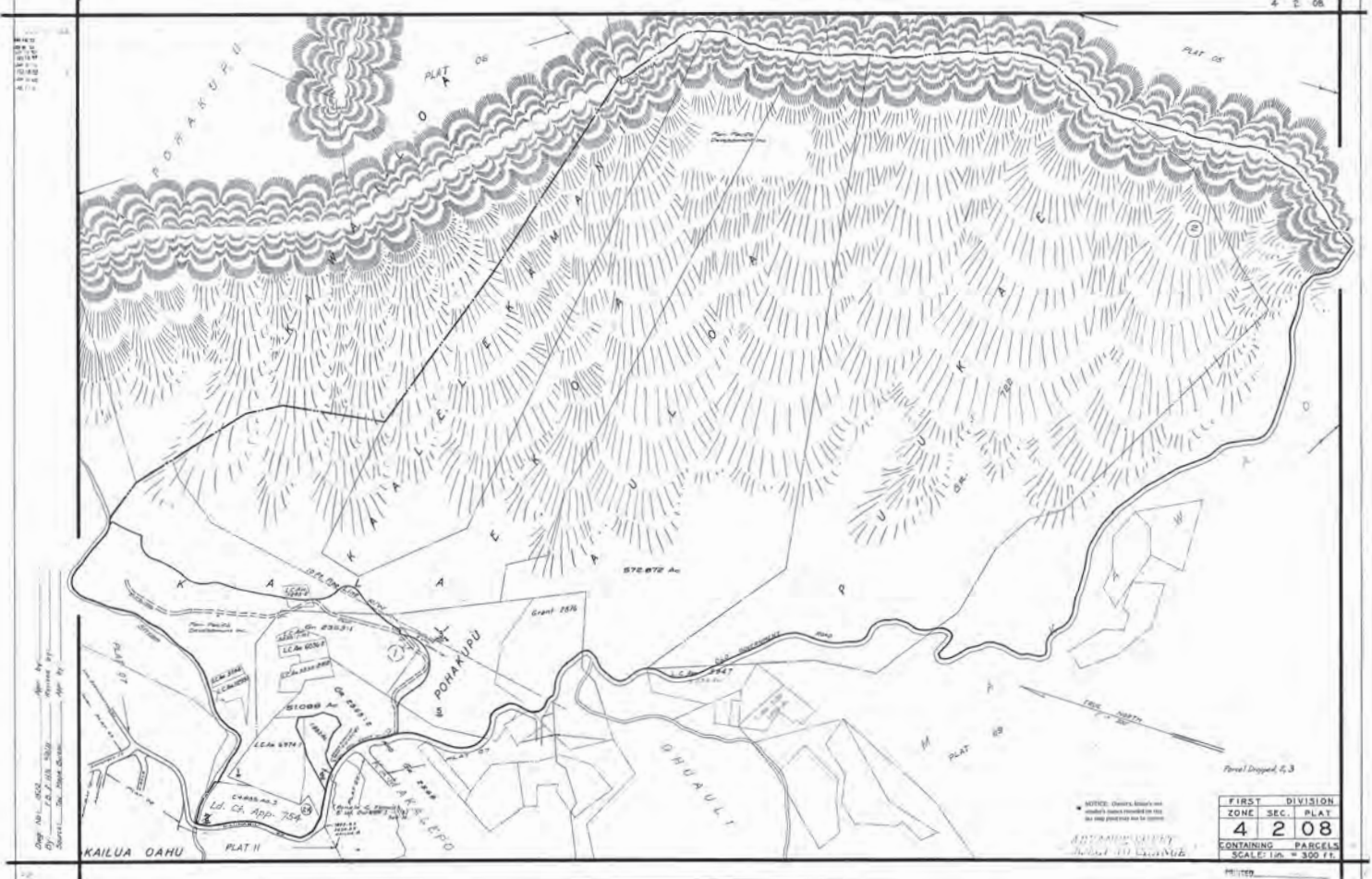
City of Kailua
 Department of Planning
 1000 Kailua Road
 Kailua, HI 96734

KAILUA, KOOLAUPOKO

Parcels Dropped: 26, 23, 25, 24, 25
 20, 24, 25, 26, 23

FIRST	DIVISION
ZONE	SEC. PLAT
4	2 07
CONTAINING PARCELS	
SCALE: 1" = 200'	

PRINTED



Map No. 10-1000
 City of Kailua, Oahu, 1922
 Surveyed by J. H. ...
 Approved by ...

NOTE: Owner's name and
 address shown on this
 map are for reference only.

FIRST DIVISION		
ZONE	SEC.	PLAT
4	2	08
CONTAINING PARCELS		
SCALE 1 in. = 300 ft.		

Parcel Dropped 4, 3



Pālāwai Wetlands & Maunawili Stream, with Kōnāhuanui in the background

Photo Credit: Trust for Public Land



'Auku'u (Black-crowned night heron) in Maunawili Stream

Photo Credit: Trust for Public Land



Grinding Stone

Photo Credit: Trust for Public Land



Grasslands in the 'ili of Waipa'akikī, Kapalai, and Pālāwai

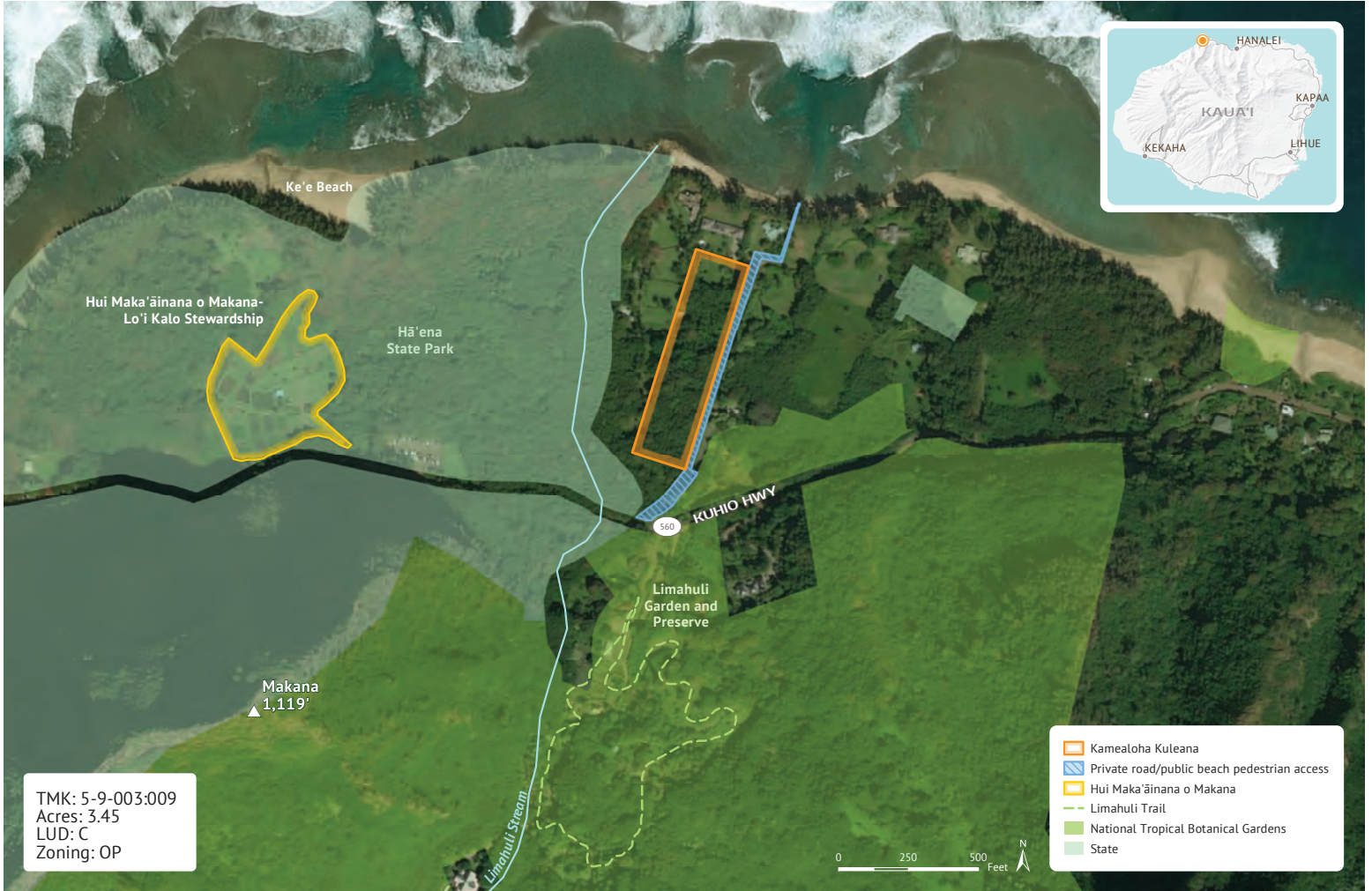
Photo Credit: Piliamo'o from *Kailua*. Kailua Historical Society, 2009.

Attachment 1(B)

Kamealoha Kuleana

Halele‘a, Kaua‘i

Maps & Photos



Kamealoha Kuleana

ISLAND OF KAUAI, HAWAII

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DRAFT

Kamealoha Kuleana

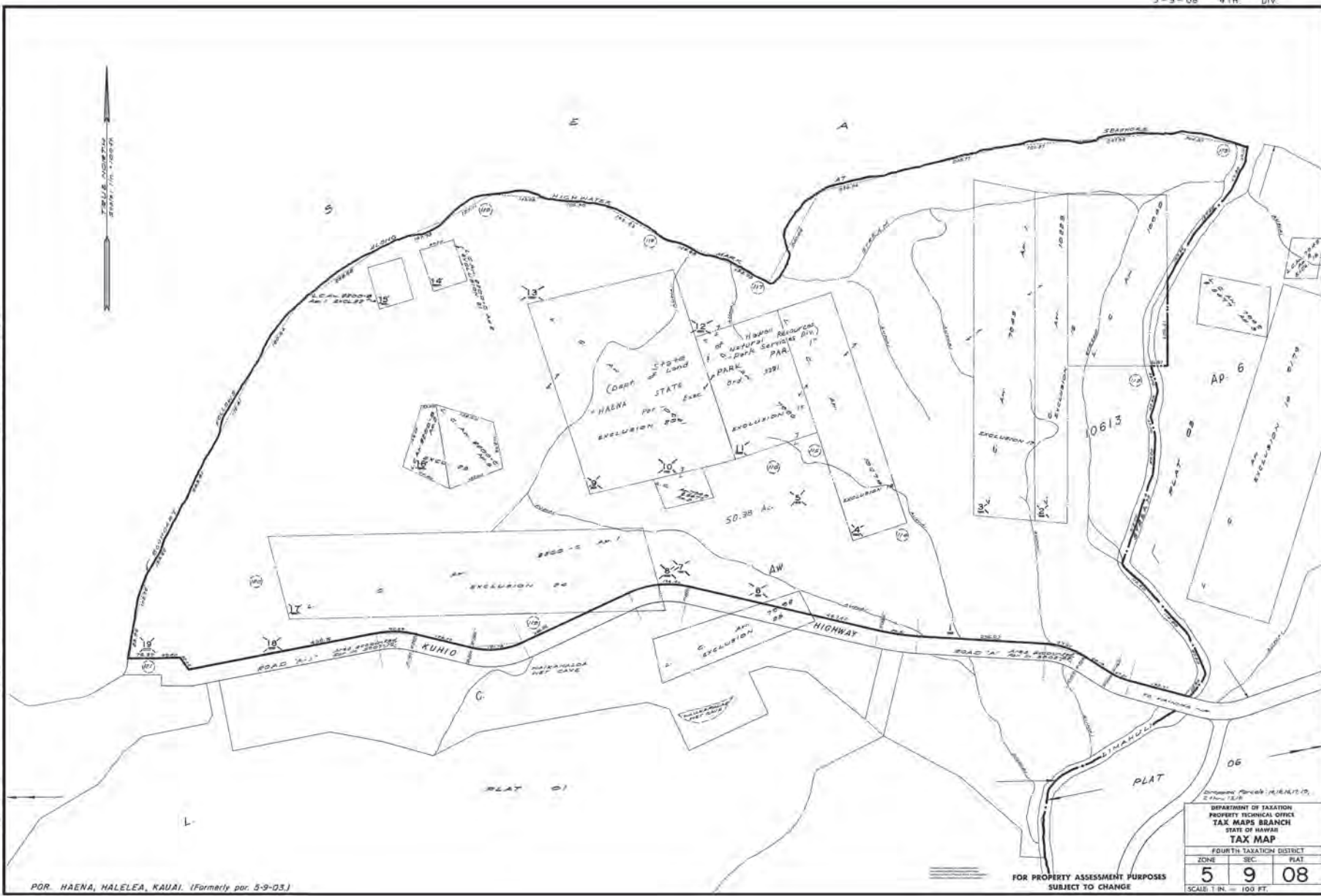
ISLAND OF KAUA'I, HAWAII

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DATE: 05/08/08
BY: [unclear]
SOURCE: [unclear]
DRAWN: [unclear]



POR. HAENA, HALELEA, KAUI. (Formerly par. 5-9-03.)

FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE

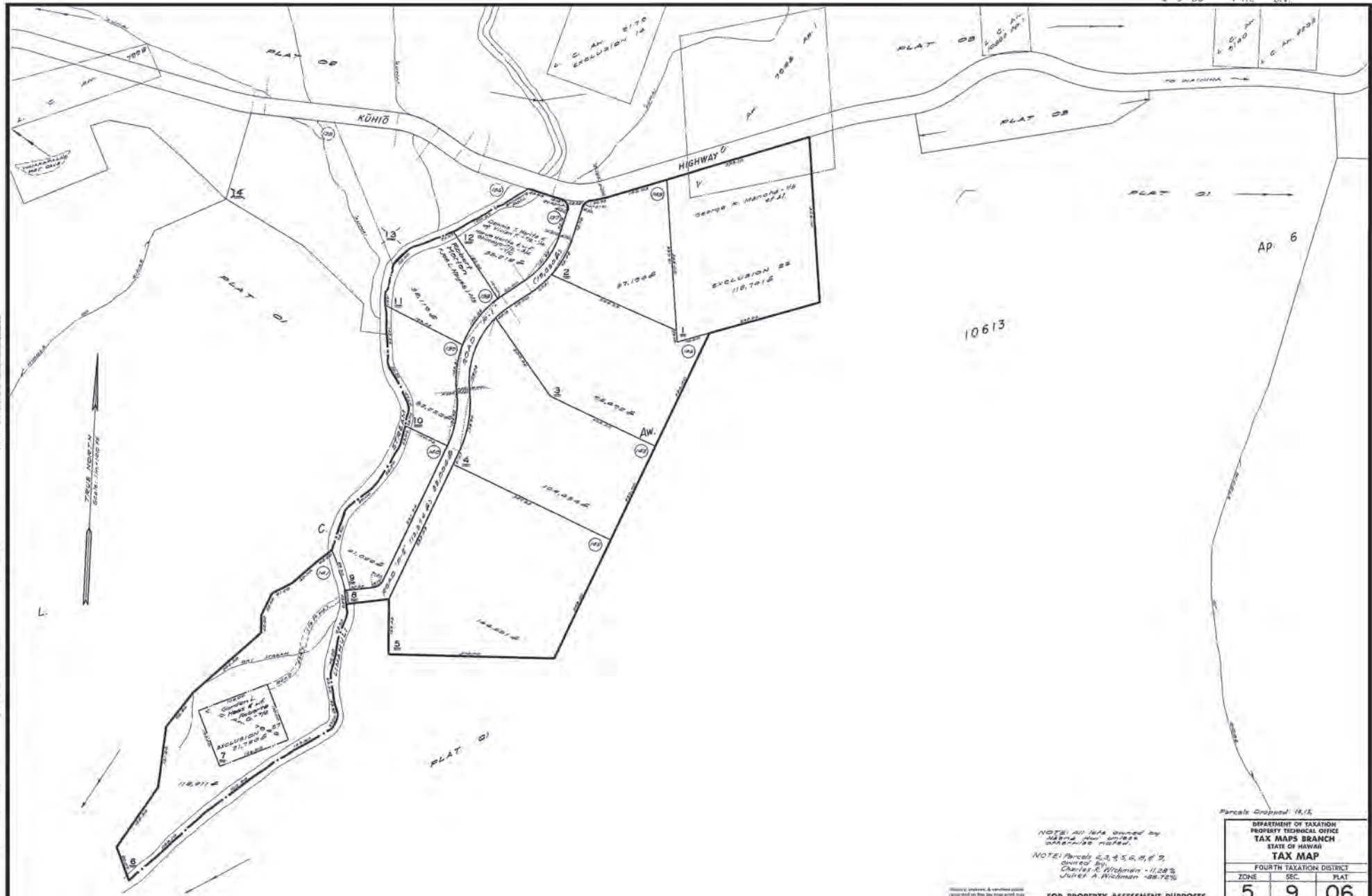
Department of Taxation
PROPERTY TECHNICAL OFFICE
TAX MAPS BRANCH
STATE OF HAWAII
TAX MAP

FOURTH TAXATION DISTRICT		
ZONE	SEC.	PLAT
5	9	08

SCALE 1 IN. = 100 FT.

FEB 1 2007
10:00 AM
1000
1000
1000

DATE: 02/01/07 BY: JAY L. FRY SOURCE: 02/01/07 - 02/01/07 DWS NO. 0000



P.O.R. HAENA, HALELE'A, KAUAI. (Formerly por. 5-9-01 B 03.)

NOTE: All lots owned by
MAMA HONOLULU
DISTRICT HIGHER

NOTE: Parcels 2, 3, 4, 5, 6, 8, 9,
owned by
Charles C. Wickman - 11/28/02
Juliet A. Wickman - 08/28/02

Parcels Omitted: N/A

DEPARTMENT OF TAXATION
PROPERTY TECHNICAL OFFICE
TAX MAPS BRANCH
STATE OF HAWAII

TAX MAP

FOURTH TAXATION DISTRICT

ZONE	SEC.	PLAT
5	9	06

SCALE: 1 IN. = 100 FT.

FOR PROPERTY ASSESSMENT PURPOSES
SUBJECT TO CHANGE



Photo of hale (house) on Kamealoha Kuleana with Makana in the background in 1892 by Alfred Mitchell (Bishop Museum)



From Lei Wann, kuleana descendant of Kamealoha Kuleana: “This illustration was done by my Uncle Charles Chu (Mary Kahili Wann’s brother). He was raised by his grandparents Hailama and Puaokina in this home. He was raised farming the lo’i of Kamealoha, living on the ‘āina of Kamealoha and Pe’e Kaua’i, and in the home of Kionolua which is illustrated here. Through this illustration, you can get a sense of the land and lo’i of Kamealoha in the early 1900s.”



Current lo'i terrace wall at Kamealoha Kuleana



Kaiāulu Ko'olau Summer Program (July 2022): Students learning about native fishes and water cycles in Limahuli Stream, which flows along Kamealoha Kuleana

Attachment 1(C)

Makali‘i

Ko‘olaupoko, O‘ahu

Maps & Photos

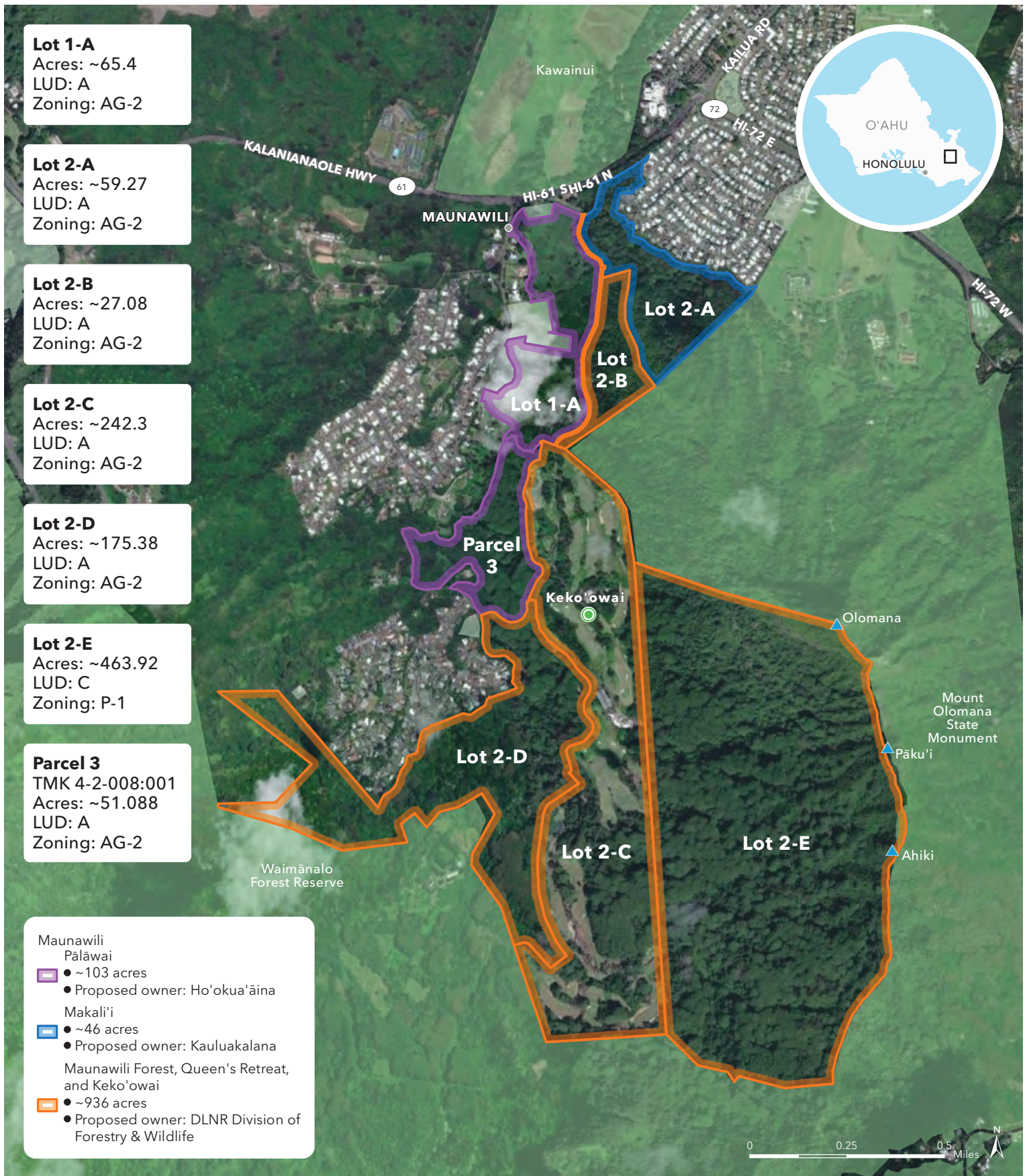


Makali'i

KAILUA, KO'OLAUPOKO, O'AHU HAWAII'

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Lot 1-A
 Acres: ~65.4
 LUD: A
 Zoning: AG-2

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 Zoning: AG-2

Lot 2-B
 Acres: ~27.08
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 Zoning: AG-2

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 Acres: ~242.3
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 Zoning: AG-2

Lot 2-D
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Maunawili Forest & Lo'i

proposed consolidation & subdivision

KAILUA, KO'OLAUPOKO, O'AHU HAWAII

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Cont. No. 189
 Date 12/20/24
 By S. E. L. A. A.
 Honolulu, Hawaii

Portion of KAILUA, KOOLAUPONO

ADJUDICATED SURVEY
 SUBJECT TO CHANGE

PARCELS DRAWING: 347.

FIRST DIVISION	ZONE	SEC	PLAT
4	2	06	

CONTAINING PARCELS
SCALE: 1 in. = 300 ft.

PRINTED

Makali'i Agricultural Lands



Makali'i Agricultural Lands

Photo Credit: Piliamo'o from *Kailua*. Kailua Historical Society, 2009.

Makali'i Spring



Makali'i Spring with Watercress: Past

Photo Credit: Piliāmo'o



Makali'i Spring: Present

Photo Credit: Trust for Public Land

Agroforestry in Makali'i



Hala (Pandanus)

Photo Credit: Trust for Public Land



Mai'a (Banana)

Photo Credit: Trust for Public Land



'Ulu (Breadfruit)

Photo Credit: Trust for Public Land

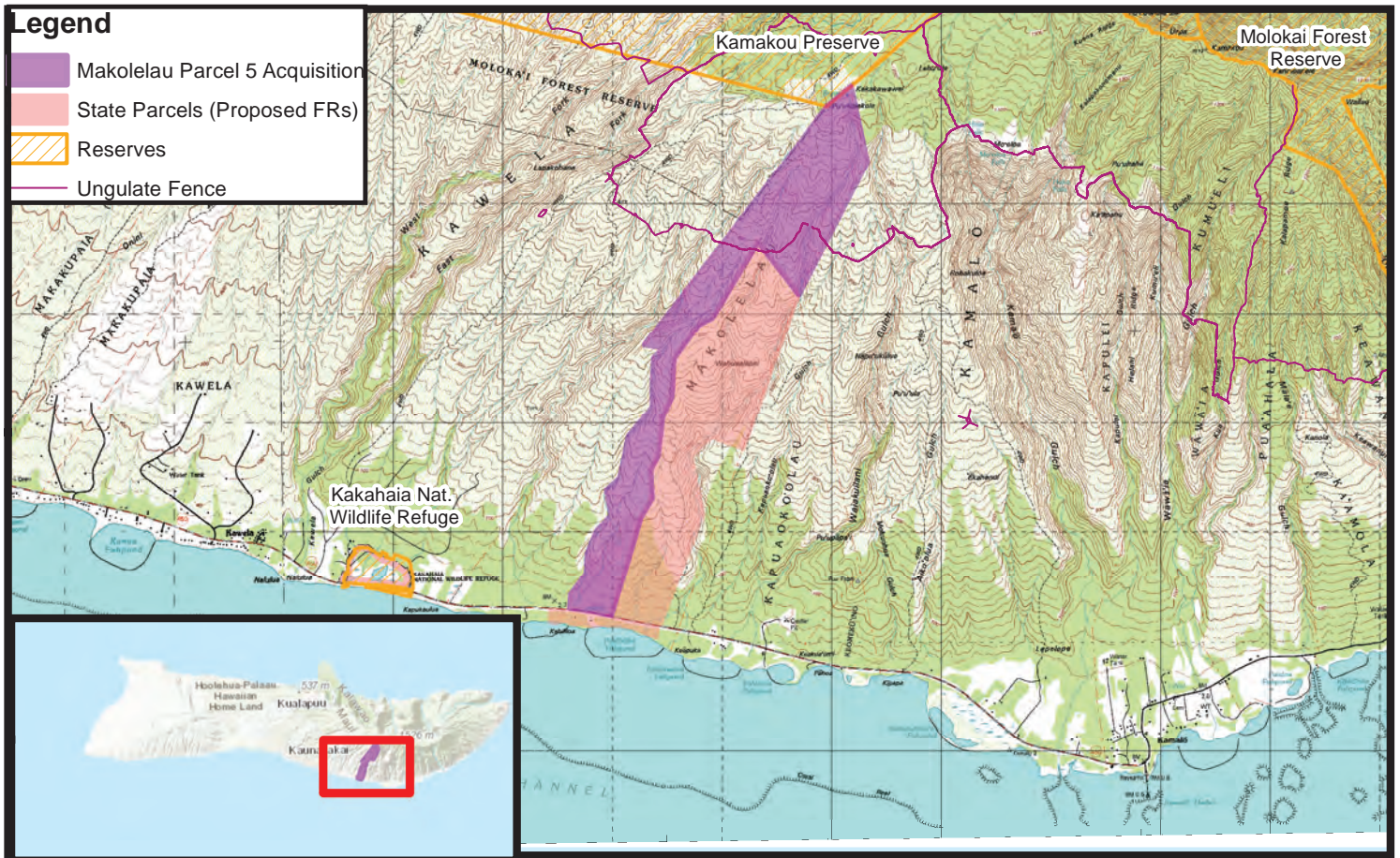
Attachment 1(D)

Makolelau 5th Parcel

Kona, Molokai

Maps & Photos

Makolelau Acquisition

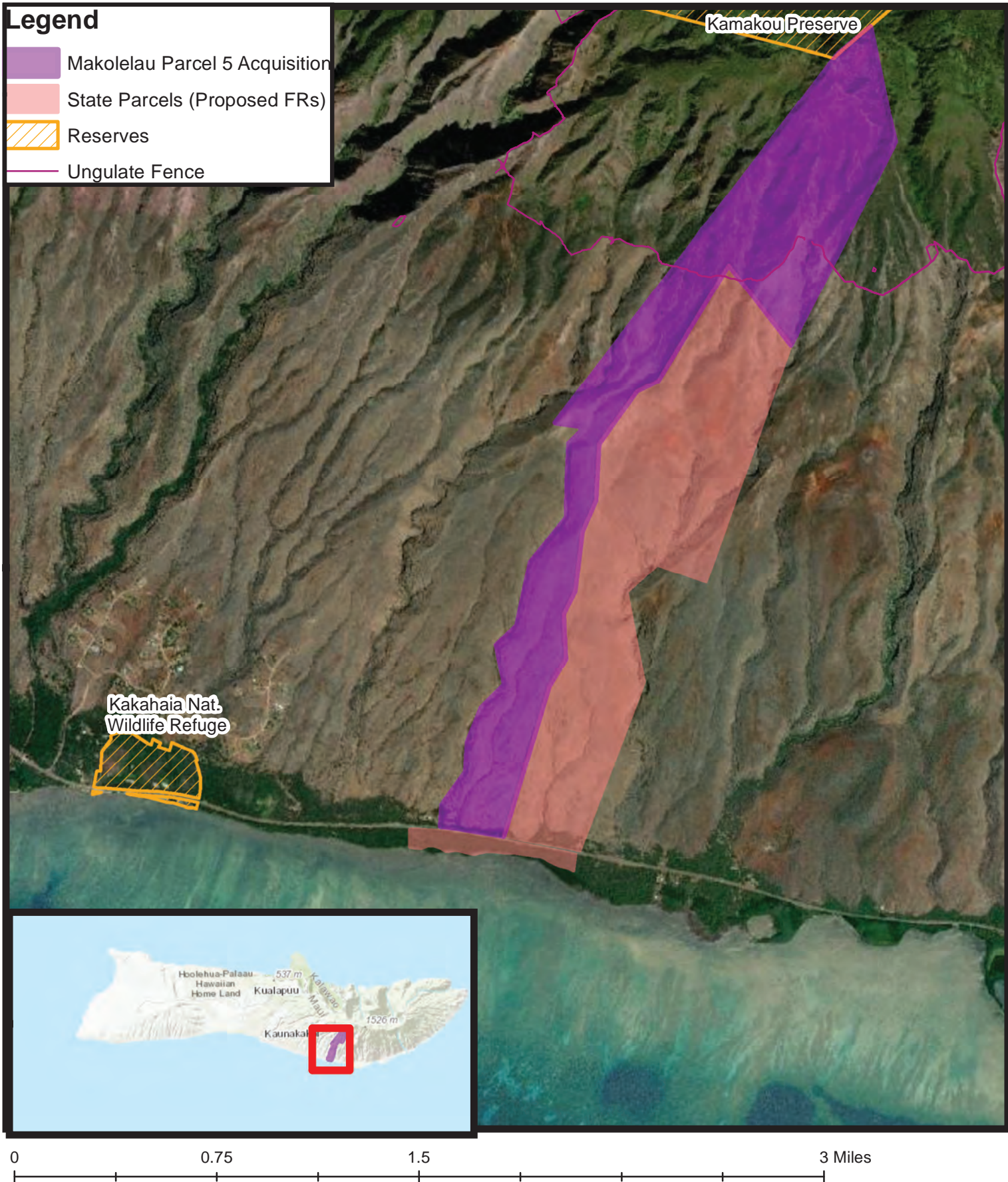


0 1.25 2.5 5 Miles

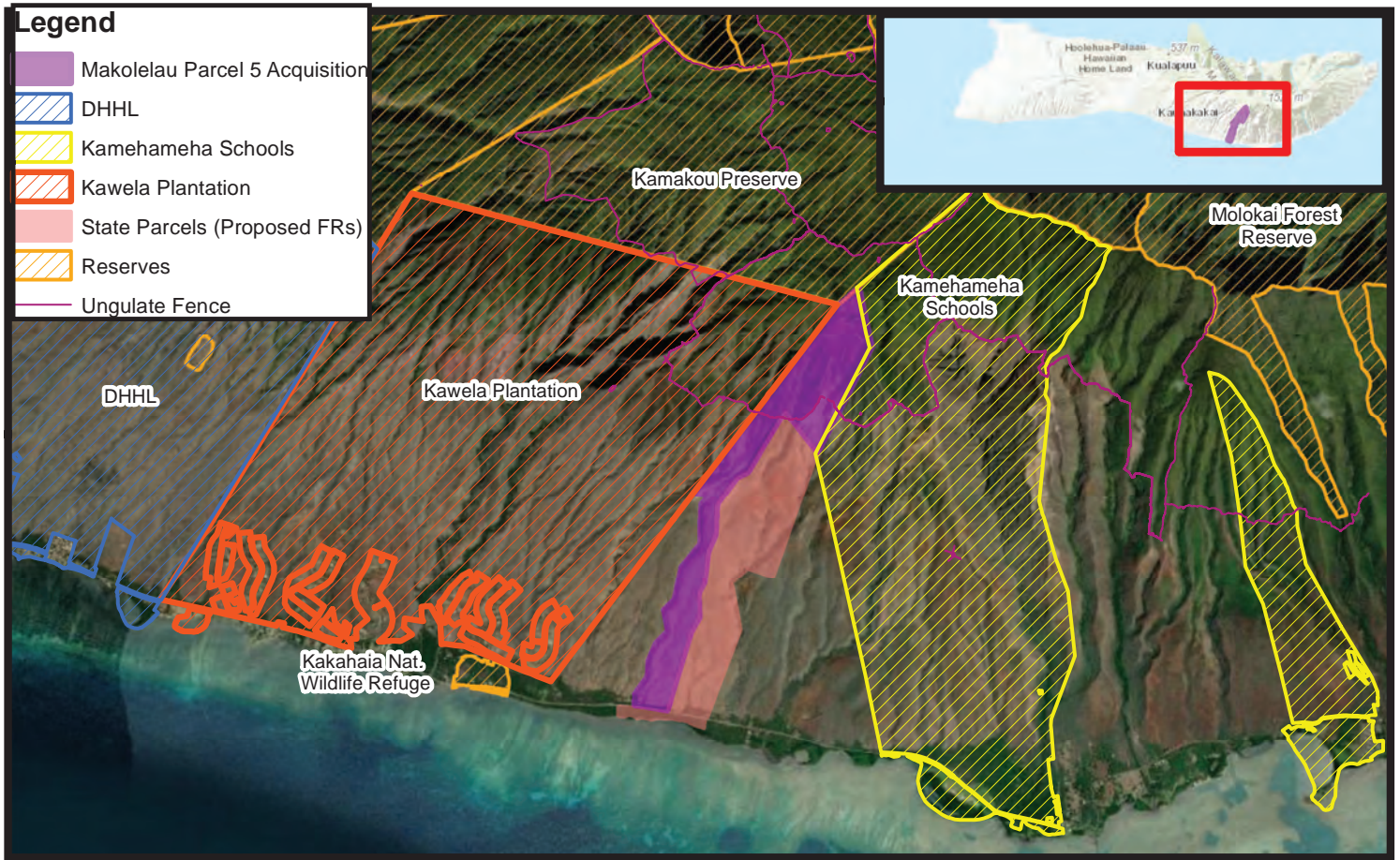


DOFAW (808) 587-4170. September 2022. Features approximate and subject to change.

Makolelau Acquisition



Makolelau Acquisition Land Ownership



0 1.5 3 6 Miles



DOFAW (808) 587-4170. September 2022. Features approximate and subject to change.

Makolelau Acquisition Conservation Fence Units

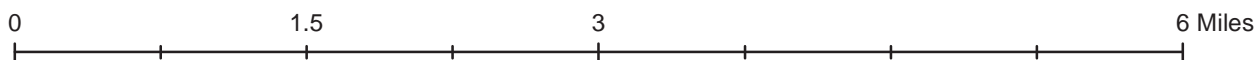
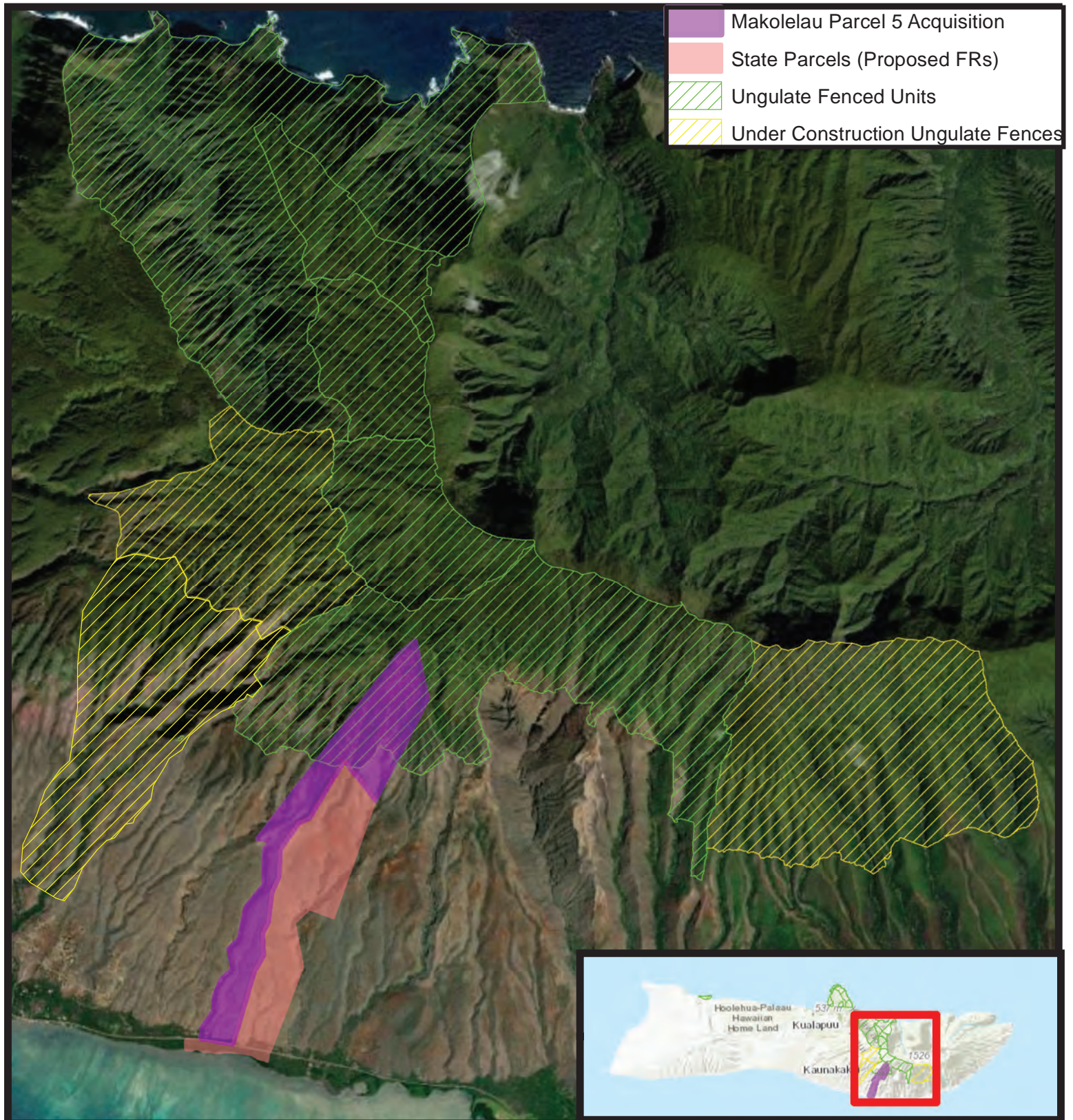




Figure 1. *View across top fenced portion of Makolelau, peering down to unfenced portion and onto makai parcels and reef. Photo Credit: Evelyn Wight.*



Figure 2. *Looking makai on Makolelau above ungulate exclusionary watershed protection fence that crosses a portion of this property. Photo Credit: Evelyn Wight.*



Figure 3. *View from the mauka boundary of Makolelau, with Ka 'apahu Peak and Kamalō Ahupua'a in the distance.* Photo credit: Stephanie Dunbar-Co.



Figure 4. Looking Mauka on Makolelau Ahupua'a.

Attachment 2

April 28, 2023

Consultation Letters

from the President of the Senate

(March 9, 2023)

and

the Speaker of the House

of Representatives (March 29, 2023)



The Senate

STATE CAPITOL
HONOLULU, HAWAII 96813

March 9, 2023

TRANSMITTED VIA EMAIL

Ms. Dawn N.S. Chang
Acting Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, Hawaii 96813

RE: Projects for the Fiscal Year 2023 Legacy Land Conservation Program

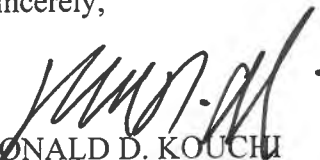
Dear Chair  Chang:

I am in receipt of your letter dated February 22, 2023 regarding the Legacy Land Conservation Commission's recommendation for the funding of projects for the Fiscal Year 2023 Legacy Land Program.

This is to confirm that I have no concerns or objections at this time as it relates to the projects enumerated in the aforementioned letter.

Thank you and should you have any questions with regard to the foregoing, please do not hesitate to contact my office.

Sincerely,



RONALD D. KOUCHI
Senate President
8th Senatorial District- Kauai and Niihau

Cc: Speaker Scott K. Saiki
Mr. David Penn, DLNR Program Specialist



HOUSE OF REPRESENTATIVES

Hale o nā Luna Makaʻāinana

STATE OF HAWAII
STATE CAPITOL, ROOM 431
415 SOUTH BERETANIA STREET
HONOLULU, HAWAII 96813

March 29, 2023

Ms. Dawn N.S. Chang
Acting Chairperson
Department of Land and Natural Resources
1151 Punchbowl Street
Honolulu, HI 96813

Via Email to:
dawn.chang@hawaii.gov

SUBJECT: Fiscal Year 2023 Legacy Land Conservation Grants

Dear Chair Chang:

Thank you for your letter dated February 22, 2023, regarding the Legacy Land Conservation Commission recommendations for grant awards from the Land Conservation Fund.

Upon review, I currently have no concerns or objections to the recommendations as proposed in your attachment.

If you have any questions or need more information, please contact my office at (808) 586-6100.

Sincerely,

Scott K. Saiki
Speaker of the House

cc: Senate President Ronald D. Kouchi
Mr. David Penn, DLNR Program Specialist

Attachment 3
April 28, 2023

Application Sections G, H, I

**Attachment 3(A)
Pālāwai**

Ko‘olaupoko, O‘ahu

Sections G, H, I



Section G

Fiscal Year 2023 Grant Application: Importance and Threats

Applicant: _____ Ho'okua'āina (Partner - Trust for Public Land)

Application Title: _____ Pālāwai

Describe the overall significance and importance of the property to be acquired:

On the windward side of O'ahu in Maunawili Valley are approximately 1,084 acres of what was once a thriving "breadbasket" for the island. Maunawili Valley consists of critical waterways, dozens of cultural and historic sites, and fertile agricultural and conservation lands. For years, the Maunawili and Kailua community as well as Hui Maunawili-Kawainui have fought to safeguard these vital lands and return them to community-based stewardship for restoration and sustainable agriculture. The Pālāwai property comprises 116 acres of the larger 1,084 acres in Maunawili that the community is determined to protect.

Preserving Pālāwai would aid freshwater stream and wetland restoration. Five tributary streams: Palapū, 'Ōma'ō, 'Ainoni, Makawao, and Olomana feed the Maunawili stream system, Palapū and Olomana converge on the Pālāwai property with the main stem of Maunawili Stream which then flows into Kawainui fishpond and wetland and out into Kailua Bay. Kawainui was the second largest fishpond in Hawai'i, and is now the largest remaining wetland in Hawai'i. The health of Kawainui, is dependent on the health of Pālāwai.

Restoring lo'i kalo at Pālāwai would filter sediment, provide ground water recharge and flood control, protecting Kailua town and the Kailua Bay ecosystem. A revitalized Pālāwai, abundant in lo'i kalo, would also provide important habitat for endemic and endangered waterbirds.

The Pālāwai property is home to many cultural and archaeological sites including lo'i kalo, an 'auwai (irrigation ditch), a grinding stone, and a hill called Kuelepu'u.

In ancient times, the kalo grown in Pālāwai was famed for its sweetness and specifically requested by the ali'i (chiefs). The Pālāwai property contains 68 acres of Hanalei soil – the most productive growing soil in Hawai'i.

Pālāwai will be transferred to Ho'okua'āina to transform these lands back to 'āina momona (fat, fertile land), create community well-being, perpetuate 'āina-based education, restore traditional lo'i kalo, dryland farming and agroforestry, and increase our island's food security.

Applicants, please note that the Legacy Land Conservation Program uses the content provided in this section to describe the proposed land acquisition to the Legacy Land Conservation Commission, the Board of Land and Natural Resources, the State populace in general, and other agencies, individuals, organizations, and media outlets. Be aware that the content provided in this [form/section] may be copied, exactly, into various other program materials, and can serve as an important basis for future review, approvals, and publicity.



Section G

Fiscal Year 2023 Grant Application: Importance and Threats

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

Pālāwai (and the greater Maunawili Valley) is in imminent danger of development. For many years, the Maunawili/Kailua community advocated for the protection of Maunawili and protested development or subdivision of these lands in Maunawili.

HRT Realty, LLC. (HRT), a real estate arm of The Harry & Jeanette Weinberg Foundation, Inc., owns approximately 1,084 acres of land in Maunawili Valley. The Pālāwai property represents 116 acres of the larger 1,084 acre landscape owned by HRT. From 2016 to 2019 HRT submitted four applications to the City Department of Planning and Permitting (DPP) to subdivide its Maunawili holdings, including this property. There was no public environmental review process or public notice of these subdivision applications.

The lands proposed for subdivision make up approximately half of the land in Kailua zoned agriculture and the vast majority of Hanalei Soil in the ahupua'a, our islands' most fertile soil. Approximately fifty-six (56) of the 1,084 acres are within the Special Management Area (SMA), but DPP did not require that HRT obtain an SMA permit. Hui Maunawili-Kawainui and the Maunawili community have grave concerns that developing these proposed subdivisions would negatively impact critical watershed areas and important agricultural lands and thus, the health and well-being of the entire Kailua ahupua'a.

Since May 2018, all four HRT subdivision applications have expired, lacking completion of additional information requested by DPP, compliance with the Conditional Use Permit (CUP) that governs some of the properties and review by the Department of Land and Natural Resources (DLNR) and the Department of Agriculture (DOA). However, HRT can submit new applications for these properties at any time and has done so when previous applications also expired.

Since the end of 2017, HRT has been in discussions and negotiations with the Trust for Public Land (TPL) to sell their Maunawili properties to TPL for conservation purposes. HRT is will to sell these lands for conservation if an agreement on price and terms can be reached. HRT has signed a willing seller letter and a letter of intent with TPL. TPL and HRT are in the final stages of negotiating an Option Agreement.

These lands include historic roads, trails, and house sites linked to travel along the Old Government Road. Following purchase of the land by HRT in 2000, the last remaining leasehold farmers were evicted from their residences along the Kalaekoa/Kihuluhulu farm road. Later, squatters moved into the abandoned structures although no standing structures remain today. The abandoned farm sites and old farm roads are occasionally used by the houseless population. Areas of the property that boarder Maunawili Road are sometimes used for illegal dumping.

Furthermore, due to years of neglect, the land is currently overgrown in invasive trees and vegetation (hau bush infilling the wetland, gunpowder tree, African tulip, Java plum, fiddlewood, macaranga, banyan, California grass, water hyacinth, and invasive vines including the ivy gourd).



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

Applicant: Ho'okua'āina (Partner - Trust for Public Land)

Application Title: Pālāwai

1. Describe the proposed future uses of the property to be acquired, including:

- Goals (short-term and long term)
- Resource management plan
- Funding sources (for start-up and for operations and maintenance)
- Permit requirements
- Management entity (identity, expertise, experience)
- Integration of existing cultural resources with the overall preservation/protection and use of the property



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

organizations to use Pālāwai as an education site for youth and families.

Sources of Funding: The following sources of funding have verbally committed support for the project: Stupski Foundation, Alakaina Foundation, Harold K.L. Castle Foundation, Kamehameha Schools, Weinberg Foundation, Omidyar Family Fund, Johnson 'Ohana Foundation. After the the majority of public funding is secured, Ho'okua'āina, in partnership with Trust for Public Land, plans to launch a community campaign to secure stewardship and management funding. Ho'okua'āina has established and secured some funding from proceeds that are generated from the kalo and poi sales.

Management Entity: Ho'oku'āina, located in the 'ili of Kapalai in the ahupua'a of Kailua is a 7.6 acre parcel with 3 acres of restored lo'i kalo that offers a Hawaiian culture-based organic farming program for youth and families emphasizing experiential learning, mentor-based instruction and hands-on involvement and reflection. The name Ho'okua'āina refers to a return to the values and lifestyle once held by the kua'āina, literally the people who were the backbone of Hawaiian society. Living sustainably, caring for the land, growing food to provide for their 'ohana, understanding hard work, and being aware of one's precious resources were some of the values held by kua'āina. Today, many desire to pursue and live these values once again. The purpose of our program is to use the land at Kapalai as a learning center where these values can be experienced and learned to strengthen the overall well-being of our community. Farming kalo is the primary means to this end.

The heart of our mission centers around a mentoring program called Kūkuluhou for young people ages 12-23, many from at-risk circumstances. The youth receive guidance and instruction in kalo farming weekly using Hawaiian values, traditions and protocol designed to promote their personal growth and development by strengthening cultural identity, self-esteem, life skills and connection to their communities. Since the official launch of the Kūkuluhou program in 2014, Ho'okua'āina has had over 250 youth participants between the ages of 12-23 who work in the lo'i several times per week allowing mentors to develop deep and meaningful relationships with each individual.

Ahupua'a Systems Apprenticeship Program: High school graduates from Windward district schools commit to 2 years in the apprenticeship working 10 hours per week to gain hands on training and experience in a lo'i kalo. In addition, they attend full time classes at WCC to attain the degree of their choice. At the end of the apprenticeship, they will receive an AA degree and a subject certificate in Ahupua'a Systems: Indigenous Resource Management and Food Production. 25-30 students participate annually.

Kupuohi - 'Āina Based Education: For six years, Ho'okua'āina has been running an educational program for students K-12. Annually, Ho'okua'āina hosts about 48 school events (including college level) reaching over 15 area schools totaling 1,500-1,700 students. A series of lessons centered on core Hawaiian values matched with common core standards have been developed to promote multiple visits (at least 4) throughout the year.

Kaiāulu - Community Engagement: Ho'okua'āina offers events every Saturday for clubs, organizations, businesses and families. About 150 community events are offered per year reaching over 3,500-4,000 visitors and volunteers annually.

Kalo and Poi Enterprise: Ho'okua'āina's social enterprise of kalo and poi production is an essential stream of revenue that helps the organization to be more self sustaining and less grant dependent. All proceeds from the sale of kalo, poi, and other value-added products are reinvested into the organization helping Ho'okua'āina become a model of financial sustainability. Currently, we are producing/harvesting over 4,000 lbs of product per month to contribute to the community food system.



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

Applicant: Ho'okua'āina (Partner - Trust for Public Land)

Application Title: Pālāwai

Describe the cultural significance and historic uses of the land to be acquired, including:

- Place names, with translations and possible interpretations
- Known pre-contact history and land uses
- Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

Maunawili (twisted mountain) Valley, in the Kailua (two sea/currents) ahupua'a (land division), has long been celebrated in Hawaiian mo'olelo (stories) for its association with akua (gods), ali'i (chiefs), and cultural heroes. The ahupua'a of Kailua was one of the favorite homes of the great chief Kākuhihewa, and was also the birthplace of the chief Kualii'i, who ruled O'ahu in the 1700s.

Maunawili supported large populations of Hawaiians, and was especially important during times of drought or famine because of the abundance of water, its vast lo'i kalo, and Kawainui and Ka'elepulu Fishponds nearby, famous for 'ānae (mullet), awa (milkfish), the Hawaiian ahole, and various types of native 'o'opu.

Maunawili Forest consists of vast cultural and agricultural landscape that is home to many pre-contact cultural and archaeological sites including: Kūkapoki Heiau, agricultural terraces, 'auwai (irrigation ditches), habitation sites, burials, alanui (paths and trails), petroglyphs, and stone workshops. Acquiring the Pālāwai property would protect cultural sites located in five (5) different 'ili (smaller land division) associated with wetland agricultural field complex still evident today - Waipa'akikī, Kapalai, Pālāwai, Kalaekoa, and Kihuluhulu.

Ancient and historic sites within the Pālāwai property suggest that this area, neighboring Kawainui, may have been widely cultivated with both irrigated and unirrigated agriculture and related habitations from the 14th century, or even earlier, through the 19th century. In the 1950s during the Mahele, native tenants submitted claims providing details that the 'ili of Palawai contained lo'i kalo, an 'auwai originally used for kalo then rice, a hill called Kuelepu'u, a field complex, an 'awa garden, four fruit gardens, an arrowroot garden, a hala tree, and a charcoal kiln. The 'ili of Kalaekoa contained house lots, an 'auwai/ rice ditch, and grinding stone. The 'ili of Kihuluhulu contained lo'i kalo and a stream retention feature.



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

The Pālāwai property is geographically and biologically connected to Kawainui, the largest remaining wetland in Hawai'i, a designated Ramsar Wetland of International Importance, and a State wildlife Sanctuary that provides habitat for endemic and endangered waterbirds. Revitalizing lo'i kalo in Pālāwai will provide healthy wetland habitat for the endangered ae'o (Hawaiian stilt), 'alae 'ula (Hawaiian mudhen), 'alae ke'oke'o (Hawaiian coot), koloa (Hawaiian duck), 'auku'u (black-crowned night heron), and possibly 'a'o (Hawaiian shearwater), as well as other Hawaiian waterbirds, migratory shorebirds and waterfowl, and native fish species.

Pālāwai is nestled on the lower slopes of Olomana, and is the natural habitat for endangered species including three (2) species of pinapinao (Hawaiian damselflies) and the O'ahu 'elepaio (flycatching forest bird) believed to be the goddess of canoe makers. Olomana's forest also support foraging and roosting habitat for the endangered 'ōpe'ape'a (Hawaiian hoary bat), threatened with extinction due to habitat loss, collisions with man-made structures such as wind turbines, impact of pesticides on food sources and roost disturbance.

Attachment 3(B)
Kamealoha Kuleana
Halele‘a, Kaua‘i
Sections G, H, I



Section G

Fiscal Year 2023 Grant Application: Importance and Threats

Applicant: _____ Kīpuka Kuleana (Partner - Trust for Public Land)

Application Title: _____ Kamealoha Kuleana

Describe the overall significance and importance of the property to be acquired:

This acquisition will codify protection of Kamealoha, a cultural kīpuka with unique historic, ecological and genealogical importance. The remnant walls and ‘auwai represent an intact lo'i kalo terrace system that has existed for 400 to 1200 years, based on estimates from archaeological surveys on adjacent properties. Kalo farming, as well as the cultivation of vegetables, perpetuated the 'āina's intention of feeding 'ohana and the surrounding community.

Wahi pana envelop Kamealoha ma uka to ma kai. The coastal area fronting the 'āina is where Lohi'au surfed after being revived by Hi'iaka according to the mo'olelo of Hi'iakaikapoliopele. The property sits in the coastal hala zone of the Limahuli watershed, in the most biodiverse ecoregion in the state that is home to endangered species of plants, insects and birds. It is adjacent to the Limahuli Stream, an aquatic resource critical to the health of 'o'opu, 'ōpae, hīhiwai and the entire watershed, which is a high priority area of conservation and restoration. This inextricable connection to the Limahuli watershed carries an important kuleana to protect the health of the entire ecosystem, which includes non-human and human beings.

Its close proximity to Limahuli Garden and Hui Maka'āinana o Makana is significant in extending ma uka, ma kai community-based, culturally grounded stewardship of 'āina and resource protection for the public good. Of the utmost importance, Kamealoha is the northwestern-most remaining kuleana land in the main Hawaiian islands still held by descendants of the original Māhele claimants. We believe that two kuleana families remain in Limahuli, with less than five kuleana families remaining in Hā'ena. The 'ohana who own this property have fought tirelessly to care for and protect it, shouldering the financial burden of rising property taxes and pressure of being among the last standing kuleana holders. Surrounded by gated luxury mansions visited by second or third homeowners, this 'āina is a powerful assertion of Hawaiian values, lifeways and commitment to upholding kuleana against all odds.

Applicants, please note that the Legacy Land Conservation Program uses the content provided in this section to describe the proposed land acquisition to the Legacy Land Conservation Commission, the Board of Land and Natural Resources, the State populace in general, and other agencies, individuals, organizations, and media outlets. Be aware that the content provided in this [form/section] may be copied, exactly, into various other program materials, and can serve as an important basis for future review, approvals, and publicity.



Section G *Fiscal Year 2023 Grant Application: Importance and Threats*

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

One threat to this property is the increasing land values and luxury home building in this area of Kaua'i. The Hā'ena area is attractive to outside buyers as a private, quiet and remote haven on the island. Celebrities and high net worth individuals have sought out Hā'ena as the development site for their luxury mansions with gated entries and privacy walls. For example, neighboring properties of Kamealoha have been owned by Eagles guitarist Glen Frey and actress Julia Roberts. Many of these newly built luxury homes sit on iwi kūpuna. Skyrocketing land values on Kaua'i have resulted in sharply rising property taxes, which are unsustainable for long-time families who do not possess unlimited financial reserves. According to public records, the market value of this 'āina in question has increased from \$2,499,300 in 2022 to \$4,146,600 in 2023. Current real estate listings for properties in the Hā'ena area range from \$1.96M for a half-acre lot of undeveloped land to \$12.5M for a 2,000 sqft coastal home (RedFin, 5 Dec 2022). Over the past two years, an influx of new residents and homeowners seeking a safe protected place from which to work remotely during the pandemic, drove up housing prices on Kaua'i, as reflected in the 57% increase in median house prices between November 2020 and November 2021 (Hawai'i News Now, 4 Jan 2022). An estimated one in eight homes on Kaua'i sits vacant, purchased as luxury second homes, vacation rentals or investment (Hawai'i News Now, 4 Jan 2022). As a result of this economic landscape, long-time families are displaced and separated from the ancestral 'āina that defines them and depends on their care.

Another threat to this property is the widespread invasive hau bush, a Polynesian-introduced plant that can damage archaeological sites on the property. Other invasive plants that pose a threat include the Java Plum tree, Banyan tree, Autograph tree, and other smaller invasive shrubs.

In recent catastrophic floods, including the April 2018 Flood, this property fared well. The nearby mainstream Limahuli Stream did overflow on the highway and went down to the ma kai section of the property. It spread some debris and sedimentation onto the bottom ma kai section of the property, but no major damage occurred on the property.



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

Applicant:

Kīpuka Kuleana (Partner - Trust for Public Land)

Application Title:

Kamealoha Kuleana

1. Describe the proposed future uses of the property to be acquired, including:

- Goals (short-term and long term)
- Resource management plan
- Funding sources (for start-up and for operations and maintenance)
- Permit requirements
- Management entity (identity, expertise, experience)
- Integration of existing cultural resources with the overall preservation/protection and use of the property

Kīpuka Kuleana will acquire a conservation easement over the property. Under this proposed project structure, descendant 'ohana will be able to retain ownership through a CE acquisition. Kīpuka Kuleana's mission is to perpetuate kuleana, ahupua'a-based natural resource management and connection to place through protection of cultural landscapes and family lands on Kaua'i. Kīpuka Kuleana holds the vision that long-time families continue to live in, share the practices of, and care for every ahupua'a on Kaua'i. The proposed CE acquisition is an important step forward in protecting this historic, culturally significant 'āina from sale and development and codifying the rights of lineal descendants to continue serving the caretakers and educators of this 'āina: the people of place. Kīpuka Kuleana would work hand in hand with the 'ohana owners to ensure compliance with the CE terms.

In collaboration with kuleana descendants and key community members, Kīpuka Kuleana will co-develop a community management plan to guide restoration, stewardship and access/use of the property.

Kīpuka Kuleana worked closely with kuleana descendants to craft the following proposed goals.

In the short term, we aim to: establish an advisory committee of 'ohana descendants, Kīpuka Kuleana and other key community members; initiate the permitting process to clear invasive species; begin mapping and documenting cultural sites; and initiate annual 'ohana weekend visits and quarterly 'ohana and community work days. Potential mālama workday partners could include groups such as: hālau, interns from conservation organizations, Kīpuka Kuleana's summer program Kaiāulu Ko'olau, and classes from Kawaikini New Century Public Charter School, Island School, Hanalei and Kīlauea elementary, Kapa'a Elementary and High Schools.

In the long term, we aim to: clear invasive species to restore ecosystem health; initiate restoration of habitat for 'o'opu and other aquatic species; begin planting pāpala and culturally significant plants; protect the land and cultural sites in perpetuity; maintain access for 'ohana and managed, guided community access; restore lo'i kalo



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

and cultivation of food crops; and lead educational experiences on 'āina that perpetuate Hā'ena-specific cultural traditions and lifestyle (e.g., pono fishing, 'ōahi). Kīpuka Kuleana has foundational experience and invaluable relationships with kuleana descendants, community members, partners and agencies that will ensure effective implementation of the proposed acquisition. Incorporated in 2018 as a nonprofit organization and land trust, Kīpuka Kuleana works to protect cultural landscapes and family lands on Kaua'i through four program areas: A'ō (Education and Research), Mālama (Stewardship), Kāko'o ('Ohana Support) and Ho'omalū (Policy and Land Protection). The organization formed in response to growing concern for 'ohana who are losing connections to ancestral 'āina due to escalating land values, rising taxes, restricted access, development pressure and other challenges that threaten identity and perpetuation of cultural practice across generations.

Our board of directors is comprised of four Native Hawaiian and allied women rooted on Kaua'i with expertise in land trust and conservation work across Hawai'i, legal consultation, 'āina-based education and research, and community engagement and stewardship. During our short tenure, we have accomplished many milestones, including: conducting and sharing in-depth 'āina research focused on ten different ahupua'a across Kaua'i; educating 220 community members through workshops on family land protection; supporting 10 'ohana working to keep their ancestral lands; directing two 'āina-based summer programs for keiki, youth and adults serving over 40 individuals; passing county and state-level ancestral land protection policies. In 2016, prior to incorporation, the founders of Kīpuka Kuleana assisted a long-time family in Kalihiwai in keeping their ancestral land by bridging them to a conservation buyer, who purchased the property on the family's behalf. This arrangement allows the family to buy back their land eventually and in the short term, gather on 'āina for mālama workdays, lū'au and celebrations, funerals and other important events.

Kīpuka Kuleana works toward long-term solutions for protecting land tenure, access and cultural vitality by holding lands in trust and cultivating kīpuka: places of community caretaking and cultural restoration, grounded in kuleana. The proposed acquisition will be a landmark for Kīpuka Kuleana and will pave the way for future land protection efforts aligned with our mission and vision. Kīpuka Kuleana will receive funding from diverse sources (e.g. government grants, foundations, individual and corporate donations) and plans to partner with the Trust for Public Land on a campaign to fundraise for the vision of Kamealoha.



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

Applicant: Kīpuka Kuleana (Partner - Trust for Public Land)

Application Title: Kamealoha Kuleana

Describe the cultural significance and historic uses of the land to be acquired, including:

- Place names, with translations and possible interpretations
- Known pre-contact history and land uses
- Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

The known cultural and historic significance of this 'āina is largely due to the oral histories and writings passed down through the lineal descendant 'ohana, who have worked hard to perpetuate this 'āina's rich legacy.

Place Names and Translations

Kamealoha, the name of this 'āina, means "the place of love and gratitude." The bordering kuleana property on the northwest and southwest sides of the property is called "Pe'e Kaua'i," which means "Hidden Kaua'i." Kionolua is a place near the mouth of Limahuli Stream where 'ōahi practitioner Alexander Hailama would use his canoe to travel to his birthplace of Nihoa and fish down the Nā Pali Coast. Kionolua is also the name of Hailama's home, or the Chu family home that originally bordered this property. Hauwa is the swimming hole near this property where the Wann 'ohana's descendants would bathe, wash clothes and dishes, and visit with 'ohana from around Hā'ena. Hauwa was translated by the Wann 'ohana as "Icy/Ice Place," leading to the English translation of "Cold Pond," the name commonly used today. Folks still use this swimming hole for the same purposes as the lineal descendants for generations. Limahuli, which translates to "turning hands" or "turn the hands to work," is the name given to the prominent valley and stream.

History and Land Uses

Remnant walls of intact and well-preserved lo'i kalo terraces span the entire property, a living representation of the historic lo'i that once nourished 'ohana and surrounding community with kalo and vegetables. There was once a birthing house on the fringes of the southwestern boundary of the property, where a known female ancestor of the Wann 'ohana was born. This 'āina holds multiple locations of iwi kūpuna burials, as do the sand dunes on adjacent properties. This property is uniquely affiliated with the customary practice of 'ōahi, or displays of firebrands, practiced at Makana and one other place on the Nā Pali Coast.



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

'Ōahi practitioner Alexander Hailama lived in a home on the northwestern fringes of the property, where he trained La'amaikahiki, the last known student of 'ōahi, and prepared pāpala for the 'ōahi ceremony. According to NOAA and Papahānaumokuākea Marine Fisheries, Hailama is the only Nihoa descendant ever identified and recorded. Hailama, a famous waterman whose feats are chronicled in the mele Hula o Makī, regularly sailed from the property down Nā Pali Coast to Ni'ihau and to Nihoa in the late 1800s and early 1900s. The coastal area in front of the property also holds cultural significance; mo'olelo Hi'iakaikapoliopole tells of Lohi'au surfing at the very spot across from this parcel after being revived by Hi'iaka. The fringing reef just outside of this property has been a source of sustenance for 'ohana and surrounding community for generations.

Neighboring Areas and Management Entities

The majority of Limahuli Valley is managed and stewarded by conservation entity Limahuli Garden and Preserve, part of the National Tropical Botanical Garden. Limahuli Garden is home to hundreds of native seabirds, native forest birds, native bats, native plants, native stream life, and native ecology found nowhere else in the world. Limahuli Garden specializes in the perpetuation of native plants found in Limahuli Valley and also houses one of the largest collections of polynesian cultivars in Hawai'i.

Established in 1997, Hui Maka'āinana o Makana currently manages and stewards Hā'ena State Park, including 16 acres of coastal region adjacent to Kamealoha, through a curatorship with the state. Hui Maka'āinana o Makana derives from the original group of 38 native Hā'ena tenants comprising Hui Ku'ai 'Aina o Makana, which formed in the 1870s during the time of the Māhele to preserve the communal lands of Limahuli. In the 1800s, the Hui claimed title to nearly 1000 acres within Limahuli. What was left of these lands by the 1970s was about 16 acres. Today the reformed Hui Maka'āinana o Makana, comprised of descendants of the original claimants and other community members, co-manages and stewards Hā'ena State Park, including the ticketing, shuttle system, and parking at the park. They have reduced the amount of tourism in Hā'ena State Park and created a comprehensive management plan that has become a model for all of the state.

Born from Hā'ena community engagement and kuleana to pono fishing and resource management, the Hā'ena Community-Based Subsistence Fishing Area ensures sustainability of the surrounding marine environment through culturally-rooted, community-based management. It has since inspired similar community rules for pono fishing and resource management on Hawai'i Island and Moloka'i.

In partnership with the 'ohana, Hui Maka'āinana o Makana, and the Hā'ena Community-Based Subsistence Fishing Area fronting this 'āina, Kīpuka Kuleana may contribute to the protection of and care for surrounding coastal habitats through managed access during mālama workdays and educational programs

Attachment 3(C)

Makali‘i Ko‘olaupoko, O‘ahu

Sections G, H, I



Section G

Fiscal Year 2023 Grant Application: Importance and Threats

Applicant: _____ Kauluakalana (Partner - Trust for Public Land)

Application Title: _____ Makali'i

Describe the overall significance and importance of the property to be acquired:

On the windward side of O'ahu in Maunawili Valley are more than 1,084 acres of what was once a thriving "breadbasket" for the island. Maunawili Valley consists of critical waterways, dozens of cultural and historic sites, and fertile agricultural and conservation lands. For years, the Maunawili and Kailua community as well as Hui Maunawili-Kawainui have fought to safeguard these vital lands and return them to community-based stewardship for restoration and sustainable agriculture. The Makali'i property comprises ~ 59 acres of the larger 1,084 acres in Maunawili that the community is determined to protect.

Makali'i contains many cultural sites on its own, including agricultural terraces and stone workshops. Kāne and wahine stones and boundary markers lie outside of the property boundaries but in the same 'ili 'āina.

Restoring spring(s), lo'i, māla, agroforestry, and native forest at Makali'i would provide groundwater recharge and prevent erosion and run off into Kawainui fishpond and wetland and Kailua Bay. Kawainui was the second largest fishpond in Hawai'i, and is now the largest remaining wetland in Hawai'i. The health of Kawainui, is dependent on the health of Makali'i.

A revitalized Makali'i, with flowing spring(s) and native forest, would also provide important habitat for endemic and endangered birds.

In ancient times, the kalo grown in Maunawili was famed for its sweetness and specifically requested by the ali'i (chiefs). Maunawili was once a vital food producing region for the people of O'ahu, thanks to abundant streams, springs, and fertile agricultural lands. The Makali'i property contains approximately 5 acres of Hanalei soil – the most productive growing soil in Hawai'i.

Makali'i will be transferred to Kauluakalana to transform these lands back to 'āina momona (fat, fertile land), create community well-being, perpetuate 'āina-based education, restore traditional farming and agroforestry, and increase our island's food security.

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Section G *Fiscal Year 2023 Grant Application: Importance and Threats*

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

Makali'i (and the greater Maunawili Valley) is in imminent danger of development. For many years, the Maunawili/Kailua community advocated for the protection of Maunawili and protested development or subdivision of these lands in Maunawili.

HRT Realty, LLC, a real estate arm of The Harry & Jeanette Weinberg Foundation, Inc., owns more than 1,084 acres of land in Maunawili Valley. The Makali'i property represents 59 acres of that larger 1,084 acre landscape owned by HRT. From 2016 to 2019 HRT submitted four applications to the City Department of Planning and Permitting (DPP) to subdivide its Maunawili landholdings, including this property. There was no public environmental review process or public notice of these subdivision applications.

The lands proposed for subdivision make up approximately half of the land in Kailua zoned Agriculture and the vast majority of Hanalei soil in the ahupua'a, our islands' most fertile soil. Approximately 56 of the 1,084 acres are within the Special Management Area (SMA), but DPP did not require that HRT obtain an SMA permit. Hui Maunawili-Kawainui and the Maunawili community have grave concerns that developing these proposed subdivisions would negatively impact critical watershed areas and important agricultural lands and, thus, the health and well-being of the entire Kailua ahupua'a.

Since May 2018, all four HRT subdivision applications have expired, lacking completion of additional information requested by DPP, compliance with the Conditional Use Permit (CUP) that governs some of the properties, and review by the Department of Land and Natural Resources (DLNR) and the Department of Agriculture (DOA). However, HRT can submit new applications for these properties at any time and has done so when previous applications also expired.

Since the end of 2017 HRT has been in discussions and negotiations with the Trust for Public Land (TPL) to sell their Maunawili properties to TPL for conservation purposes. HRT is willing to sell these lands for conservation if an agreement on price and terms can be reached. HRT has signed a willing seller letter and a letter of intent with TPL. TPL and HRT are in the final stages of negotiating an Option Agreement.

These lands include historic roads and trails, and house sites. Following purchase of the land by HRT in 2000, the last remaining leasehold farmers were evicted from their residences in 2012. Later squatters moved into the abandoned structures and farm sites, and are still sometimes used by the houseless population. Areas of the property are sometimes used for illegal dumping.

Due to years of neglect, the land is currently overgrown in invasive trees and vegetation (hau bush, gunpowder tree, African tulip, schefflera, Java plum, fiddlewood, macaranga, banyan, California grass, Guinea grass, invasive vines including ivy gourd).



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

Applicant: Kauluakalana (Partner - Trust for Public Land)

Application Title: Makali'i

1. Describe the proposed future uses of the property to be acquired, including:

- Goals (short-term and long term)
- Resource management plan
- Funding sources (for start-up and for operations and maintenance)
- Permit requirements
- Management entity (identity, expertise, experience)
- Integration of existing cultural resources with the overall preservation/protection and use of the property

Resource Management Plan: Kauluakalana will own, manage, and steward the Makali'i property and is committed to developing a community-based management plan within 24 months of taking ownership, in partnership with the Maunawili community, descendants, residents, organizations, and stakeholders. In alignment with its mission, this plan will focus on community-based restoration of the lands and waters of Makali'i in part through culturally rich 'āina education programming. As a result, Kauluakalana aims to not only help enhance the ecological integrity of one of the most significant areas of Maunawili, but also the entire Kailua community.

Short Term Goals:

- Develop a restoration management plan and identify funding sources to begin implementation
 - Begin to clean and restore the Makali'i spring
- Begin to remove large invasive trees in the entrance of Makali'i valley and replace with native and/or fruit producing trees
 - Begin to restore five (5) acres of lo'i, māla, and/or agroforestry
- Establish a welcoming space for schools, community groups, and volunteers who come to participate in the 'āina programming
 - Begin educational programming and group hosting on site
- Identify funding sources to remove dilapidated houses and structures and to renovate or build new structures within the footprint of the existing ones
 - If funding is obtained, begin to remove dilapidated houses and structures at entrance of valley
 - If funding is obtained, first begin building a multi-purpose structure at the opening of the valley to support our 'āina based operations and serve as site security



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

- If additional funding is obtained, then construct a traditional hale out of natural materials (loulou, mangrove, pōhaku) to provide additional, culturally appropriate space for educational programs, community meetings, and ceremonial gatherings.

Long Term Goals (in perpetuity):

- Remove remaining dilapidated houses, vehicles, and other structures in the valley's interior
 - Begin building other structures as needed
 - Build the living 'āina science lab
- Expand cultivation of native and food-producing plants (lo'i kalo, māla, agroforestry)
 - Harvest produce weekly in the valley to feed the community
- Sustain a welcoming and life-giving place for the Kailua community and the broader public to come together, share, and heal.

Sources of Funding: Kauluakalana understands that the achievement of these goals and successful realization of their plan depends in large part on the availability of funding. They anticipate start-up and other operational funding to come from a diverse set of sources ranging from grants and contracts from government agencies and private foundations (with whom Kauluakalana already has a positive working and grant-based relationships) to individual and corporate donations to earned program revenue. Also, in partnership with Trust for Public Land, Kauluakalana plans to launch a capital campaign to raise funds to support the realization of their vision of Makali'i.

Management Entity: Kauluakalana's mission is to restore and grow healthy relationships between people and place through retelling our Kailua-specific stories, replanting and eating our ancestral foods, and caring for the sacred sites, lands, and waters of Kailua. Kauluakalana is committed to achieving their mission through two interlocking areas of work – 'Āina Education and 'Āina Restoration – for the purposes of cultural revitalization, community regeneration, identity reclamation, and the renewal of kuleana (responsibility) in Kailua, O'ahu. Kauluakalana's staff and leadership bring with them decades of experience in the fields of Conservation Biology, Community Education, Agriculture, and Natural Resource Management in private, public and non-profit sectors.

Kauluakalana has demonstrated the ability to transform land back to 'āina at Kūkanono, which includes Ulupō heiau and the northeastern bank of Kawainui fishpond. They have converted 10 of the 15 acres to lo'i kalo and māla, harvesting thousands of pounds of kalo and other food crops per year to feed the community. Due to their success, Kauluakalana received a Right of Entry permit from the State of Hawai'i to cultivate 25 acres of land within the 'ili of Manu. Since June 2021, Kauluakalana has restored 3 acres at Manu to kalo, 'uala, and kō production. The return of traditional farming practices have resulted in the return of endangered Hawaiian waterbirds, like the 'alae 'ula (fewer than 400 remaining) that are finding safe, healthy habitats in lo'i kalo to thrive once again.

Every year, Kauluakalana engages thousands of pre-K to post-secondary students, teachers, and administrators, 'ohana, and other community members in 'āina learning experiences via school field trips, volunteer service and learning days, youth intersession and summer programs, work-based learning internships, and family-oriented cultural restoration programs.



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

Applicant:

Kauluakalana (Partner - Trust for Public Land)

Application Title:

Makali'i

Describe the cultural significance and historic uses of the land to be acquired, including:

- Place names, with translations and possible interpretations
- Known pre-contact history and land uses
- Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

Kailua was historically known as a center of cultural excellence in our islands as well as a bountiful, calabash-like land division able to support a large population. It was a seat of political power for O'ahu's chiefs like Kakuhihewa and Kualii; the birthplace of great deep-ocean navigators like Paumakua and Kauluakalana (for whom Kauluakalana's organization is named); and home to the second largest fishpond in Hawai'i (Kawainui) and the largest heiau of its kind on O'ahu (Ulupō).

Makali'i (tiny; also the name of the Pleiades constellation) has its own spring with the same name, known as Makali'i spring. Identified in 1850s land claims and testimonies, Makali'i spring was described as a vital feature for residents in this community, as it not only fed lo'i kalo by the same name, but functioned as a source of fresh drinking water and provided resources to other cultural practices such as lā'au lapa'au, kapa making, and cooking. In 1880, a mele inoa (name chant) was published in the Hawaiian newspaper Ko Hawaii Pae Aina by Miss H. Kekahakulani entitled "He Ma'i no H.L. Kaleimomi." A year later, in 1881, another mele inoa entitled "He Inoa no H.L. Kaleimomi" was published by the same composer, expressing the importance and attributes of the waters of Makali'i: "Ho'i mai kāua i ka poli/Lipolipo wai 'olu o Makali'i" (Let us, we two, return to the poli, to the embrace of/The dark, refreshing water of Makali'i) and "Ho'i nō e ka 'olu o Makali'i/I ka nu'a wai 'olu lipo i ke alo" (Let cool comfort return to Makali'i/Into the presence of its lush, dark, exhilarating water). If Makali'i is protected, Kauluakalana will restore Makali'i spring so that the "wai 'olu o Makali'i" will forever flow and nourish the lands and people of Maunawili and Kailua. It is also through this imagery of water and returning within these two Native texts in our Native language that Kauluakalana defines its new-but-old vision for Makali'i. For cool comfort to return to Makali'i ("Ho'i nō e ka 'olu i Makali'i i ka nu'a wai 'olu lipo i ke alo"), there must also be a returning of people to care and cultivate its land, to restore and manage the flow of water to nourish those lands, and to relearn and relive together as a community the stories and songs that remind us what Makali'i once was and can be again if we commit to returning, regenerating, and revitalizing. No laila, e ho'i kākou i ka poli lipolipo wai 'olu o Makali'i – Therefore, let us return to the embrace of the dark, refreshing water of Makali'i. It is there that we will find healing, where we will find life.



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

In 1895, Hika'alani, a kupa'āina of the 'ili 'āina (smaller land division) of Palalupe, just ma kai of Makali'i, testified about her intimate knowledge of her environment, the devastating decline of her community due in part of the loss of resources like water, and loss of land and water-based cultural practices as a result of Maunawili water resources being diverted to Waimānalo for sugar plantations. But, community organizations like Kauluakalana and their "parent" organization, Hika'alani (named after this kupuna farmer) are rising to the challenge of reconnecting kānaka and 'āina, people and place, in their ahupua'a of Kailua.

Kauluakalana (the nonprofit) is named after a famous 12th century Kailua navigator who is credited with voyaging and returning to his homeland with the lepo 'ai (edible mud), which he placed into Kawainui fishpond. From that time on, the lepo 'ai became widely known and is referred in many mo'olelo, including the feeding of Kamehameha's warriors after their battle of Nu'uaniu in 1795 and the delicacy that Kamehameha's great-granddaughter Pauahi experienced firsthand during her 1872 voyage expedition to Kawainui with her hānai sister, Likelike.

Kawainui fishpond and its surrounding lands is the piko of Kailua, a site of convergence, connection, and intersection that sustained and nourished a community for generations. One of the most significant mo'olelo is of Makalei, the fish-attracting branch of Kawainui, recorded by Samuel Keko'owai in the 1922-1924 issues of the Hawaiian-language newspaper Kuokoa. This mo'olelo tells of a time the people of Kailua came together at the piko of Kailua to address a community-identified problem: Kawainui fishpond had become so overgrown with vegetation that Kailua's people could not catch fish to feed their families. The problem was urgent and the need was great, so the people of Kailua called on their neighbors from bordering communities to work alongside them. It is at Kawainui where the Kailua community was once reunited and where Kauluakalana now works to bring their community together again in this contemporary time.

Maunawili Valley, which lies ma uka of Kawainui fishpond is a vast cultural, archaeological, and agricultural landscape which is home to Kūkapoki Heiau, agricultural terraces, 'auwai (irrigation ditches), habitation sites, burials, alanui (paths and trails), petroglyphs, and stone workshops. These lands include the 'ili of Makali'i. Acquiring the Makali'i property would protect its important cultural and historic sites and ensure this vast landscape is not fragmented.

Kula and Kahawai Geoarchaeological and Historical Investigation done for HRT by AMEC in 2002 reveals there are several significant archaeological sites on the Makali'i property. Site 11-2244 includes boundary markers, a concrete wall (probably from a well), and various rock structures used as a slope retention, agricultural terraces, and clearing features. Site 11-2245 which lies on the boundary of Makali'i and Waikapa'akiki, consists of stone mounds and rock-faced terraces used for dryland agriculture.

In the 'ili of Makali'i and Kapalai (outside the property boundary) there are boulders that may mark the 'ili boundaries, and are considered kāne (male) and wahine (female) stones. Kāne stones are typically upright, with an altar, and indicate the boundary of an area or a transitional area (such as a cliff or pass). Wahine stones are typically large colluvial boulders that may include a crack and would signify the land being a sacred place. Together, kāne and wahine stones are considered a symbol of the momona (fertility, productiveness) of the land.

Attachment 3(D)

**Makolelau 5th Parcel
Kona, Molokai**

Sections G, H, I



Section G

Fiscal Year 2023 Grant Application: Importance and Threats

Applicant:

Hawai'i DLNR: Division of Forestry & Wildlife

Application Title:

Makolelau 5th Parcel

Describe the overall significance and importance of the property to be acquired:

Makolelau has been a protection interest for many years due to its local and regional conservation value, connectivity, and threats. The Makolelau 5th parcel acquisition is a strategic link to connect a much larger network of conservation lands. Four other parcels have been acquired by the State and, if acquisition of the 5th parcel occurs, all will be designated as part of the Moloka'i Forest Reserve. Beyond that, this property connects the over 8,200-acre Kawela ahupua'a, which contains TNC's Kamakou Preserve, to the 5,200-acre Kamalo and apuaiei managed area, thereby creating an over 13,500-acre managed corridor that would complete a series of protected areas encompassing the south shore of the island. Management agreements with adjacent Kawela Plantation to the west and Kamehameha Schools to the east permit landscape-scale conservation actions such as invasive species control, fencing and hooved animal removal, and endangered species monitoring and outplanting. Through a collaborative network of conservation partnerships, restoration and preservation efforts will transcend ownership boundaries, creating tangible results at large and meaningful scales. This includes management of upland conservation ungulate fences that span multiple landowners and protect the remaining upland watershed forests and dozens of endangered species.

The property contains critical habitat for 38 endangered plant species and two forest birds. It also provides quality habitat for other forest birds, the endangered Hawaiian hoary bat, and suitable habitat for the nēnē. Ten listed endangered plant species are known to occur at Makolelau: *Viola tracheliiifolia*, *Schiedea lydgatei*, *Schiedea sarmentosa*, *Zanthoxylum hawaiiense*, *Silene lanceolata*, *Nothoctrum latiflorum*, *Spermolepis hawaiiensis*, *Cyperus fauriei*, *Vigna o-wahuensis* and *Neraudia servicea*, and three more endangered plant species, *Alectryon macrococcus macrococcus*, *Asplenium dielirectum*, and *Silene alexandri* have historically occurred at Makolelau. Two threatened plant species (*Peucedanum sandwicense* and *Tetramolopium rockii* var. *alcisabulorum*) also occur in the area. Three of these species are on the "Plant Extinction Prevention" list, which are species so rare that there are 50 or fewer individuals in the wild. DOFAW has expert botanists and takes the lead on the PEPP program and ensuring that these species do not go extinct.

Applicants, please note that the Legacy Land Conservation Program uses the content provided in this section to describe the proposed land acquisition to the Legacy Land Conservation Commission, the Board of Land and Natural Resources, the State populace in general, and other agencies, individuals, organizations, and media outlets. Be aware that the content provided in this [form/section] may be copied, exactly, into various other program materials, and can serve as an important basis for future review, approvals, and publicity.



Section G

Fiscal Year 2023 Grant Application: Importance and Threats

Identify and assess conditions that threaten the significance and importance of the property. Address, where applicable, erosion, sedimentation, polluted runoff, flooding, invasive species, conflicting activities:

This acquisition enhances long-term landscape-scale regeneration of native forests, to reduce risks such as flooding and erosion to vital community assets along the south shore of Moloka'i. Whether living directly on shore or upslope on higher ground, the people of Moloka'i are coastal, all aspects of life intertwined with their marine surroundings. The south shore fringing reef serves as the basis for the community fishery – stretching 30 miles and marking the longest in the U.S. and its holdings. In addition, the island community is entirely reliant on a small number of transportation routes, limited on the south and east shores to just one highway (Hwy 450), marginally offset from the shoreline. Furthermore, historic fishponds along the south shore provide significant cultural assets to the Moloka'i community, and have been consistently prioritized for restoration efforts.

Historical and ongoing pressure from non-native, feral ungulates (goats, deer, pigs) has degraded Moloka'i's landscape over the past two centuries, particularly along its south-facing leeward slopes. What once consisted of a diverse and healthy mesic and dry forest system, dominated by endemic flora and fauna, is now mostly barren or covered by non-native and fire-adapted grasses. Moloka'i has a history of large wildland fires on the south slope that cause massive erosion and nearshore sedimentation. One particularly damaging one was in 1998, when a fire burned 15,000 acres and threatened many utilities and residences.

Forest loss is the primary threat to many of Hawaii's most important coral reefs. The largest threat to the south slope reef is sedimentation, primarily from conversion of forests to barren areas due to fire and hooved animals (USGS, 2008). The U.S. Geological Survey has conducted a long-term study of the south slope, revealing that sediment is eroding 100 times faster than historical rates before the hooved animals had impacted the landscape. Additionally, after hooved animals were significantly reduced through aerial shooting, vegetation cover rebounded from 0% to 70% within 5 years (USGS, 2014).

Forests significantly reduce flooding, because they have many times higher infiltration rates than grasslands or barren areas. Hydrological models of adjacent Kawela watershed predict that if the forested landcover converted to shrubs, shrublands went to grasslands, and grasslands became barren, the top ten peak floods will increase in volume by 42.6% (Rosa, 2013).

The State is planning to address these threats by repairing and improving existing roads to act as firebreaks, and continue a project to retrofit the entire Kamalo-Kapualei fence from 4' tall to 8' to exclude deer. Acquisition would greatly facilitate these long-term investments.



Section H *Fiscal Year 2023 Grant Application: Stewardship and Management*

Applicant: Hawai'i DLNR: Division of Forestry & Wildlife

Application Title: Makolelau 5th Parcel

1. Describe the proposed future uses of the property to be acquired, including:

- Goals (short-term and long term)
- Resource management plan
- Funding sources (for start-up and for operations and maintenance)
- Permit requirements
- Management entity (identity, expertise, experience)
- Integration of existing cultural resources with the overall preservation/protection and use of the property

Acquisition of this parcel would facilitate protection of watersheds, habitats, natural areas, and historic resources, as well as provide public access. The parcel, and four adjoining parcels, will be designated as part of the Moloka'i Forest Reserve. Long-term management would include ungulate control actions such as maintaining existing fences, management of rare species, and potentially opening the area to public hunting.

DLNR now owns four of the five Makolelau parcels, and the unconsolidated land ownership is impeding management and community benefits. TNC does not permit public access to the 5th parcel due to liability reasons, and the main road up the property winds between the parcels, which effectively blocks public access to the entire mauka property spanning over 1,000 acres. The road is of key importance to the State to fight fires and access the ungulate fence in the mauka section of the property. The 5th parcel also contains a good parking area that could be used as a trailhead that could allow the public to safely access both the mauka and makai State properties. In addition to the benefits for hiking the stunning upland trail, this parking area could serve coastal access for fishing and beach enjoyment. The State would also like to conduct aerial shooting in the parcel (which has been a major gap in the larger south slope aerial shooting project) however, under TNC ownership, that would require additional legal steps such as developing Right Of Entry agreements and other complications. The south slope aerial shooting project, which has occurred for decades, has proven to dramatically restore native vegetation, and reduce erosion into the coral reef. The project also protects endangered species, eliminates hooved animals within fence units, and is the main tool to cull exploding populations of axis deer, which have warranted two Emergency Proclamations from the Governor.

If permitted by the conditions of the Federal grant, the State would also like to provide ungulate removal opportunities makai of the fence, which would be one of the of the only areas on the South Slope legally available for public hunting. Further, the State is waiting on making major investments to the property



Section H

Fiscal Year 2023 Grant Application: Stewardship and Management

it is acquired. Investments include road improvements and retrofits so it can serve as a firebreak, installation of additional firefighting infrastructure such as water tanks, and nēnē predator-proof fencing. Other operational complexities exist due to the divided ownership, such as relying on TNC to provide access through the locked gates, and complications and permissions needed for urgent actions such as wildfire fighting.

A requirement of the Federal grant that purchased the larger Makolelau property is a management plan. Without the acquisition of the 5th property, drafting a management plan would be very ineffective, since so much of the management requires State ownership of all parcels. Once the 5th parcel is purchased, DLNR-DOFAW will write a management plan that includes the actions listed above, and seek public input and involvement. As a State parcel, the public would have the ability to comment on and influence management actions. Further, the State has set up community co-management arrangements with caretakers and non-profits, such as in Ke'anae Arboretum on Maui, where the local community has entered into a MOU with DLNR-DOFAW to steward the area. DLNR-DOFAW is interested in similar arrangements if the local community desires to actively manage these resources. Those options are unavailable under current private ownership.

Management would enable increased protection of the culturally and ecologically important fishponds and fringing coral reef on adjacent properties through erosion and sedimentation control. Further, while the applicant is not aware of formal archeological surveys of the area, it clearly contains multiple ahu, which are likely ko`a, fishing shrines. A recent archeological survey of a nearby ridge to the west (Kawela) yielded many important archeological sites that were submitted to the State Register, and it is very likely that this area has similar historical importance. Currently, TNC's Moloka'i program does not have capacity or expertise to survey or manage these sites.

There are multiple Federal recovery plans for the endangered species of the property that are consistent with DLNR-DOFAW's plans for preservation of existing species, and re-establishment of non-present species in their historic ranges. Given the prior survey in Makolelau, as well as significant Critical Habitat in and adjacent to the property, numerous others plants in the recovery plans are likely in and near Makolelau thus making it ideal for management for preservation and restoration.

DOFAW has many years of experience in successfully acquiring and managing land for many public benefits. DOFAW's mission is to responsibly manage and protect watersheds, native ecosystems, and cultural resources and provide outdoor recreation and sustainable forest products opportunities, while facilitating partnerships, community involvement and education. DLNR-DOFAW has attached its operating budget to this application, however that ledger only includes State funds and excludes many of the Federal grants that DOFAW receives competitively. DLNR has been successful at receiving many grants to augment management, such as a recent \$1.8m grant from the National Fish and Wildlife Foundation to install additional fences near Makolelau. DLNR is taking a very active role in protecting the south slope, and currently, three fence projects are under construction – the 3,000-acre Lower Kamakou/Kawela gulch unit, the 2,400-acre Pakui unit, and a retrofit of the 2,500-acre Kamalo-Kapualei unit. DLNR also has multiple permanent civil service staff on Moloka'i, with expertise in endangered species protection, watershed management, fire prevention, and infrastructure improvements. DOFAW has a baseyard and the equipment needed to maintain infrastructure.

No permits are anticipated for this management, except consultation with the State Historic Preservation Division and an Exemption Declaration from an Environmental Assessment for infrastructure such as a predator-proof nēnē fence or a water tank.



Section I *Fiscal Year 2023 Grant Application: Cultural and Historical Significance*

Applicant: Hawai'i DLNR: Division of Forestry & Wildlife

Application Title: Makolelau 5th Parcel

Describe the cultural significance and historic uses of the land to be acquired, including:

- Place names, with translations and possible interpretations
- Known pre-contact history and land uses
- Information about neighboring areas, land divisions, and management units, in relationship to the land to be acquired

This parcel includes a large portion of the Makolelau ahupua'a. "Lexicology: mākole-lau. PEM: many red eyes. mākole lau. PE: leaf turning yellow or red, or drying." Makolelau ahupua'a is not named in the Mahele Book. An extensive history of the adjacent ahupua'a of Kawela states that the region was likely settled much later (around 1600) as they were too dry for traditional crops. Fishing and fishponds were likely most important for survival in the dry lowlands (Curtis, 2016). The post-European contact history of this region includes missionary influences, land division and sale to private entities, and degradation from introduced hooved animals and fire.

Makolelau watershed feeds into two culturally and ecologically fishponds and the 35-mile long fringing reef—the longest in the nation. In the lower Makolelau (outside of the 5th parcel) there are two ancient loko 'umeiki (shore fishpond/trap with lanes leading in and/or out); Panahaha and Kanukuawa. Fishponds are extremely important to Hawaiian culture and have potential to increase food security. They also provide a range of ecosystem services, such as sediment retention, flood mitigation, wave attenuation, and stormwater filtering (UH Manoa, 2022). Controlling erosion in this parcel is important to maintain the health and functionality of these fishponds.

Many Moloka'i residents seek to preserve traditional culture by limiting external development pressures that have significantly altered the character of other Hawaiian Islands. The history of the Makolelau property reflects these trends. This property changed hands frequently, sometimes advertised as a potential development site. For example, in 2003, a founder of a large software company owned the property. The owner advertised the land for sale in the Wall Street Journal and other national outlets, touting its "excellent development potential." The advertisement of the land sparked protests. According to the Associated Press, "Protesters carried signs that said "Developers Go Home," "Auction Canceled Today," "Don't Buy" and "Stop the Sale" to try and dissuade bidders. The entire 12-member Molokai police force was called out to control the protesters, which tried to push



Section I

Fiscal Year 2023 Grant Application: Cultural and Historical Significance

their way onto the property.” According to the Star Bulletin, a community meeting was held that drew about 100 people to dispute the auction and development of the property.

The Makolelau acquisition permanently prevents development and speculation of this cherished ahupua’a. In addition to the multiple benefits listed in this application, this reduces the economic implications of development that the protesters were concerned about, which could drive up land prices and make Moloka’i too expensive for the local community.

Adjacent to Makolelau are Kawela ahupua'a and Kamalo ahupua'a. The landowners in this ahupua'a are the founding members of the East Molokai Watershed Partnership, established in 1999. Makolelau has always been a major omission in that partnership, thwarting active management plans and strategies. As a valuable addition to a conservation network of contiguous lands, the Makolelau 5th parcel acquisition will complement conservation efforts at the Moloka'i Forest Reserve, State Natural Area Reserves, East Moloka'i Watershed Partnership, The Nature Conservancy (TNC) Preserves, Moloka'i Land Trust conservation lands, the Pu'u O Hoku Ranch/Hawai'i Land Trust conservation easements, and the Pua'ahala Watershed Recovery Land Acquisition.