

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

November 14, 2025

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Kauai

Pursuant to Act 90, Session Laws of Hawaii 2003, as mutually agreed upon between Department of Land and Natural Resources and Department of Agriculture and Biosecurity, Approve the Set Aside to the Department of Agriculture and Biosecurity for Pasture Purposes, Revocable Permit No. S-7770, Lincoln Y.T. Ching, Permittee, Covering Portion of Government Land, Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Hawaii, Tax Map Key: (4) 4-5-015:029; and Revocable Permit S-7790, Lincoln Y.T. Ching, Permittee, Covering Portion of Government Land, Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Hawaii, Tax Map Key: (4) 4-5-015:010 and 028.

APPLICANT:

State of Hawaii, Department of Agriculture and Biosecurity ("DAB").

LEGAL REFERENCE:

Sections 171-11, -13, and 166E-3, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Revocable Permit (RP) S-7770: Portion of Government Land, Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Hawaii, Tax Map Key: (4) 4-5-015:029

Revocable Permit (RP) S-7790: Portion of Government Land, Kapaa Rice and Kula Lots, Kawaihau, Kapaa, Hawaii, Tax Map Key: (4) 4-5-015:010 and 028.

As shown on the maps attached as **Exhibit A**.

AREA:

RP S-7770: Approximately 0.987 acres, more or less  
RP S-7790: Approximately 30.353 acres, more or less

ZONING:

TMK (4) 4-5-015:010

State Land Use District: Urban  
County of Kauai Zoning: Open

TMK (4) 4-5-015:028

State Land Use District: Urban  
County of Kauai Zoning: Open

TMK (4) 4-5-015:029

State Land Use District: Agriculture  
County of Kauai Zoning: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act  
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

PURPOSE OF SET-ASIDE:

For pasture purposes.

CURRENT USE STATUS:

TMK (4) 4-5-015:010

RP S-7790 to the Permittee for pasture purposes  
LOD S-24790: Perpetual sewer line easement to the County of Kauai  
LOD S-27404: Perpetual utility easement to the Citizens Utilities Company and Hawaiian Telephone Company

TMK (4) 4-5-015:028

RP S-7790 to the Permittee for pasture purposes  
LOD S-24790: Perpetual sewer line easement to the County of Kauai  
LOD S-27404: Perpetual utility easement to the Citizens Utilities Company and Hawaiian Telephone Company

TMK (4) 4-5-015:029

RP S-7770 to the Permittee for pasture purposes

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules (HAR) § 11-200.1-15 and the Exemption List for the Department of Land and Natural Resources reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an environmental assessment pursuant to General Exemption Type 1 that states, “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, Item 36 that states, “Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order.” The proposed set-aside to the Department of Agriculture and Biosecurity is a de minimis action that will probably have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment and the requirements of § 11-200.1-17, HAR.

The proposed actions would not result in any changes to the current use of the land. The land has been in long term use for pasture purposes and those uses will continue under the set-aside. There are no known impacts to the land that have resulted from the pasture use, therefore no such impacts are expected to occur as a result of the set-aside and grant of easement. Furthermore, since this is a pasture area, it is not a sensitive environment. Staff consulted with DAB and the DLNR Division of Forestry and Wildlife (DOFAW).

#### APPLICANT REQUIREMENTS:

DAB shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

#### PUBLIC TRUST ANALYSIS

The proposed actions require the Board to balance competing public trust uses. If the set-aside were not approved, then the lands would become vacant upon termination of the RP. This would provide for public use, access and recreation on the land consistent with the provision of land for public use, a public trust purpose specified in Section 5(f) of the Admissions Act. However, in consultation with the DOFAW, unlike other pasture lands transferred under Act 90, there is no intention to dedicating these parcels for forest reserve purposes.

However, the Board also has a duty to promote diversified agriculture pursuant to Article XI, Section 3 of the Hawaii State Constitution:

The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands.

Additionally, the use of public lands for the development of farm and home ownership on as widespread a basis as possible is also a public trust purpose under Section 5(f) of the

Admissions Act. The proposed actions support the long-term viability and security of local agricultural operations. It also allows for the local production of food, supporting the goal of food sustainability and food security for Hawai'i. It may also translate into lower prices for consumers when meat and produce does not have to be shipped to Hawai'i from outside of the state.

Ultimately, staff defers to the Board to determine which public trust use should be prioritized in this instance, which is noted in the Recommendations section.

#### REMARKS:

##### Request:

The Department of Agriculture and Biosecurity (DAB) has identified the subject parcels encumbered by RP's S-7770 and S-7790 as being suitable for transfer from the inventory of the Department of Land and Natural Resources (DLNR). At its meeting of April 22, 2025, agenda Item IV.A.1, the Board of Agriculture, now known as the Board of Agriculture and Biosecurity (BAB) approved the transfer of the subject parcels from DLNR to DAB. Both RP S-7770 and S-7790 are currently awarded to Lincoln Y.T. Ching, Permittee, for pasture purposes.

##### Background:

The set-aside of agriculture lands to DAB is pursuant to Act 90, Session Laws of Hawaii 2003 (Act 90), later codified at Chapter 166E, HRS. The purpose of Act 90 is to ensure the long-term productive use of public lands leased or available to be leased by the DLNR for agricultural purposes by allowing those lands to be transferred to and managed by DAB.

DLNR has transferred approximately 26,000 acres<sup>1</sup> to DAB over the years but, prior to 2023, retained large pasture leases adjacent to forest reserves, such as the subject lands, due to the important natural resource value these lands have. DLNR has reconsidered its position and is now recommending the transfer of certain pasture lease lands to DAB, including the parcels under RP S-7770 and S-7790.

Parcels (4) 4-5-015:010 & 028 were previously encumbered by RP S-7435 to the Permittee for pasture purposes. RP S-7435 was approved by the Board at its meeting on September 14, 2007, under agenda item D-1. Prior to that, the parcels were leased by the Permittee under General Lease S-5245 for pasture purposes, from June 19, 1992, to June 18, 2007. As part of its approval of RP S-7435, the Board also approved a sale of a new lease for the subject parcels at public auction for pasture purposes. RP S-7435 was intended as an interim disposition to allow the Permittee to continue to use the parcels until the long-term lease was awarded via public auction.

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<sup>1</sup> This figure represents acreage that has formally been transferred to DAB by a signed Governor's executive order. BLNR and BOA have approved additional transfers that are still pending survey, and in some cases subdivision, such as the transfer of 24,767 acres in Kau, Hawaii, under lease and revocable permit to Kapapala Ranch, that BLNR approved for transfer in 2023.

Parcel (4) 4-5-015:029 was previously encumbered RP S-7306 to the Permittee. RP S-7306 was approved by the Board at its meeting on November 16, 2001, under agenda item D-12. The parcel was under a RP for pasture purposes since August 1, 1989. However, the prior permittee wished to relinquish their RP to the current Permittee, as the Permittee had pasture lease GL S-5245 for nearby lands at the time. The Board approved the termination of the prior RP along with the approval of RP S-7306. Due to the parcel's small size for pasture use, it was determined that a revocable permit was a more appropriate disposition than a lease via public auction.

At its meeting on November 22, 2010, under agenda item D-1, the Board approved the re-issuance of new revocable permits to 169 RP holders statewide. The purpose was to execute new RP documents that contained the current terms and conditions, specifically the new insurance provisions. This action resulted in the current RP S-7770 and 7790 replacing the prior RP's.

Reverter Clause:

DAB will assume management responsibilities for the parcels encumbered by RP's S-7770 and S-7790 upon the Governor's execution of the executive order making the set-aside. Once lands are set-aside to DAB, Chapter 166E, HRS, provides that DAB is not required to seek BLNR approval under Chapter 171, HRS, for any disposition of the land DAB makes thereafter.<sup>2</sup> Notwithstanding Chapter 166E, HRS, DAB and the current Permittee agree, that should the land no longer be used for pasture purposes, the land will revert to BLNR, except with prior BLNR approval. This is to ensure that any future use of these public trust lands remains consistent with the set-aside.

RECOMMENDATION:

That the Board:

1. Determine whether the proposed set-aside is consistent with the public trust. If the Board determines that this action is consistent with the public trust, then the Board is recommended to approve the following:
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200.1, HAR, the proposed action will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis action.
3. Approve of and recommend to the Governor the issuance of an executive order setting aside the parcels identified as Tax Map Keys (4) 4-5-015:010, 028 and 029 to the Department of Agriculture and Biosecurity under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:

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<sup>2</sup> See Sections 166E-8 and -12, HRS.

- A. The standard terms and conditions of the most current executive order form, as may be amended from time to time; provided, however, that the executive order shall be subject to the following exceptions and reservations and shall additionally provide that any new lease, permit or other disposition that DAB may issue over the land or any portion of it, shall expressly include the following exceptions and reservations in favor of the BLNR:
  - i. In the event DAB ever seeks to change the allowed use of the subject lands from pasture to a different agricultural or non-agricultural use, DAB shall be required to seek prior BLNR approval for the change notwithstanding the provisions of Chapter 166E, HRS; and
  - ii. In the event the land is no longer needed for pasture purposes, the executive order setting aside the lands to the DAB shall be canceled and the lands returned to the inventory of the DLNR, except with prior approval of BLNR.
- B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the set-aside;
- C. Review and approval by the Department of the Attorney General; and
- D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



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Ian Hirokawa  
Acting Administrator

APPROVED FOR SUBMITTAL:



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Dawn N. S. Chang, Chairperson

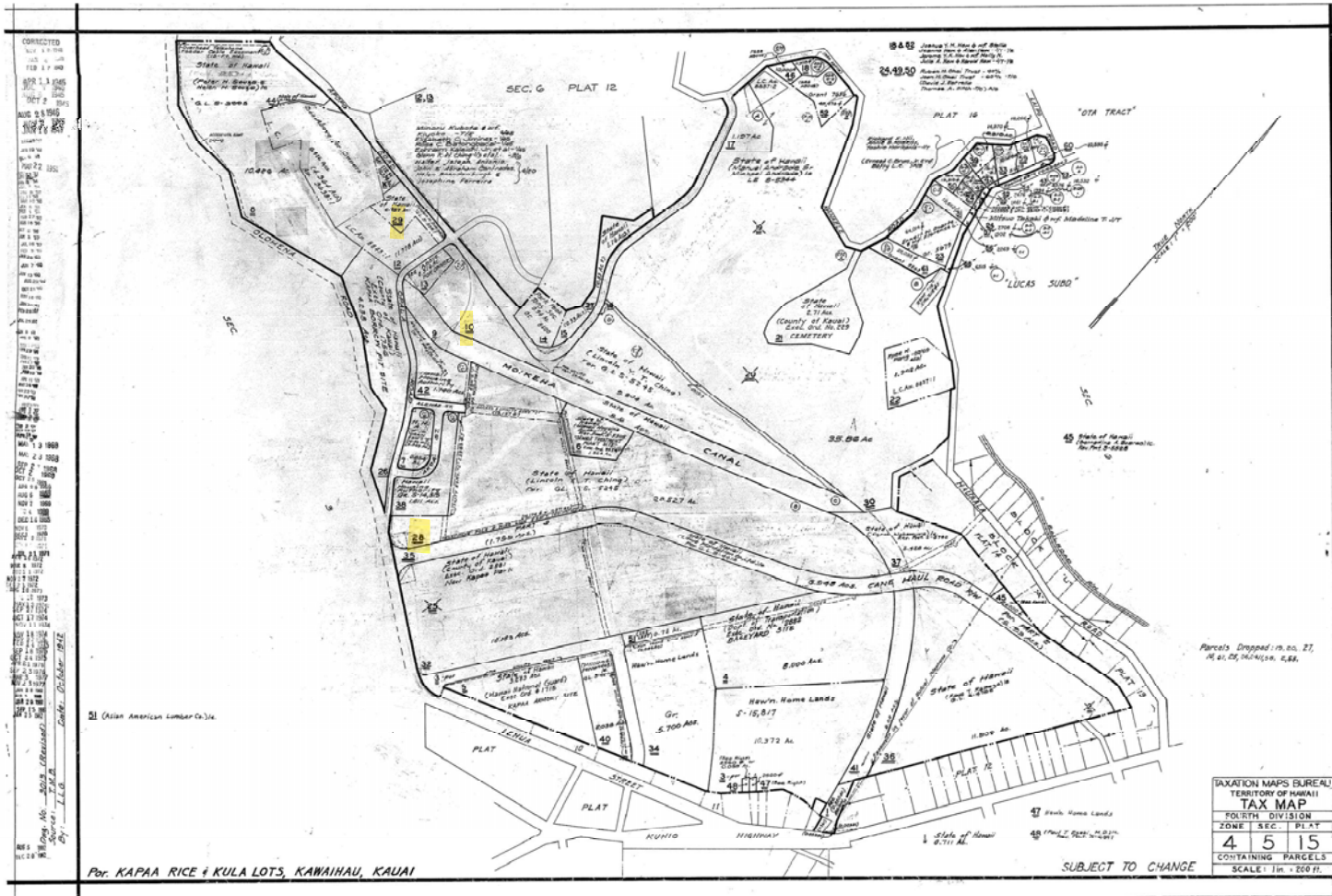
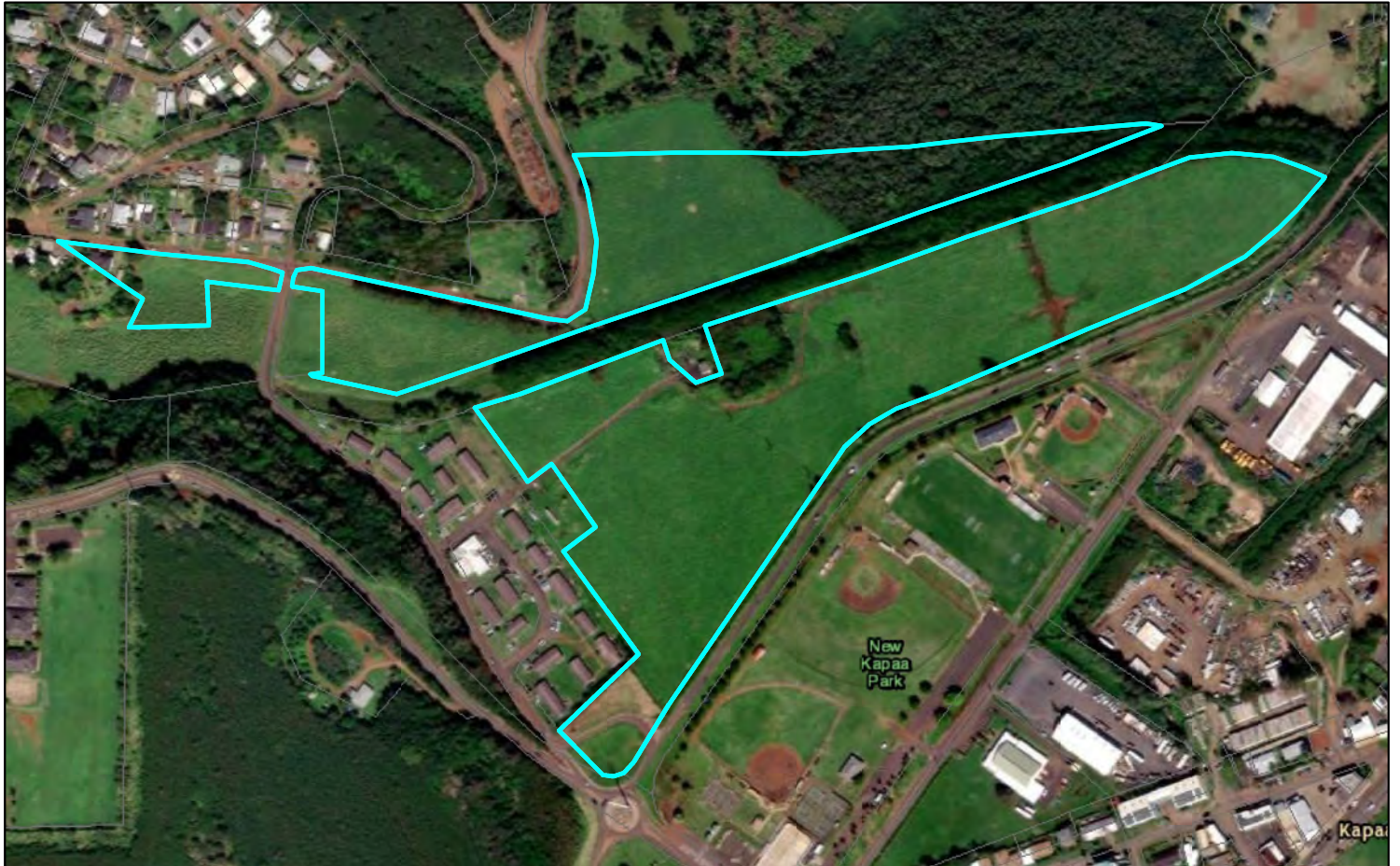


EXHIBIT A

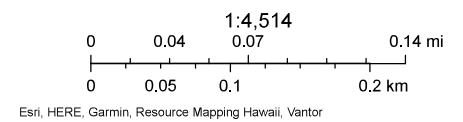


## Public Land Trust Information System



November 3, 2025

## EXHIBIT A



The content within the PLTIS, including maps and data, has been collected from multiple city, county, and state sources, and may not have been prepared