



WAIKAPUNA

Resources Management Plan

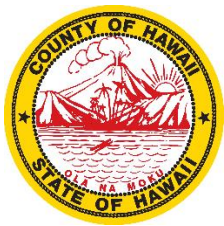
2023

Waikapuna Resources Management Plan

Final

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Prepared for:



Prepared by:



TOWNSCAPE, INC.
Environmental & Community Planning

Mahalo to the people of Ka'ū for welcoming the planning team into their community and to all who provided mana'o for their time and effort to this management plan.

Table of Contents

| | |
|--|----|
| Executive Summary..... | v |
| Introduction | 1 |
| Background | 1 |
| Plan Purpose | 2 |
| County Public Access, Open Space, and Natural Resources Preservation Fund..... | 2 |
| State Legacy Land Conservation Program | 2 |
| Benefits of the Conservation Easement & Grant Funding..... | 4 |
| Area Excluded from the Conservation Easement | 4 |
| Planning Process | 5 |
| Location..... | 5 |
| Summary of Existing Land Use Regulatory Planning..... | 7 |
| Land Tenure History..... | 13 |
| Wahi Pana | 14 |
| Site Description | 16 |
| Climate | 16 |
| Geology and Topography..... | 16 |
| Soils | 16 |
| Vegetation..... | 17 |
| Groundwater Hydrology | 19 |
| Hazards..... | 19 |
| Climate Change and Sea Level Rise..... | 19 |
| Lava | 19 |
| Seismic and Tsunami..... | 20 |
| Fire | 20 |
| Existing Uses..... | 20 |
| Access..... | 21 |
| Infrastructure & Structures..... | 21 |
| Cultural and Natural Resources | 22 |
| Cultural Practices & Gathering..... | 22 |
| Cultural & Historic Sites | 23 |

| | |
|---|----|
| Native Plant Habitat | 25 |
| Native Invertebrates | 27 |
| Aquatic Fauna | 27 |
| Native Sea Bird Habitat | 27 |
| Sense of Place | 27 |
| Issues and Concerns..... | 30 |
| Management Plan..... | 31 |
| Key Action Items | 34 |
| Archaeological, Cultural, and Historic Resources | 36 |
| Goals | 36 |
| Threats | 36 |
| Action Items | 37 |
| Native Plants | 39 |
| Goals | 39 |
| Threats | 39 |
| Action Items | 40 |
| Marine & Avian Resources..... | 42 |
| Goal | 42 |
| Threats | 42 |
| Action Items | 42 |
| Fire Prevention and Management..... | 44 |
| Goals | 44 |
| Concerns | 44 |
| Action Items | 44 |
| Existing Structures, Roads, Trails, & Utilities | 47 |
| Goal | 47 |
| Concerns | 47 |
| Action Items | 47 |
| Guidelines & Standards for the Renovation and Reuse of Existing Structures..... | 48 |
| Creating Spaces for Knowledge Cultivation and Community Stewardship | 49 |
| Implementation | 52 |
| Stewardship Committee | 53 |
| Administrative Coordinator | 53 |

| | |
|---|----|
| Resource Specialists..... | 54 |
| Summary of Administrative Tasks | 55 |
| Regulatory Review, Permits, & Approvals | 55 |
| Preliminary Phasing Plan..... | 58 |
| References | 60 |

List of Figures

| | |
|---|----|
| Figure 1. Location Map | 6 |
| Figure 2. Regulatory Land Use Designations..... | 8 |
| Figure 3. County LUPAG Map Designation (2005) | 10 |
| Figure 4. County LUPAG Map Designation (Proposed in August 2019 draft of the 2040 General Plan).... | 12 |
| Figure 5. Vegetation Map by Zones (from Terry & Hart, 2017)..... | 18 |
| Figure 6. Sites as identified by ASM Affiliates from their 2018 Draft AIS Report | 24 |
| Figure 7. Management Plan Topic Areas | 34 |
| Figure 8. Waikapuna Stewardship Concepts | 35 |
| Figure 9. Order of Priority for access to the Reservation System for Community Managed Access | 51 |
| Figure 10. Possible Framework for Plan Implementation | 52 |
| Figure 11. Stewardship Committee Members..... | 53 |
| Figure 12. Preliminary Phasing Plan..... | 58 |

List of Tables

| | |
|---|----|
| Table 1. List of Native Plant Species (from Geometrician Associates, 2017)..... | 26 |
| Table 2. Example of Quarterly Reservations for Community Managed Access | 51 |
| Table 3. Example of Mālama ‘Āina Projects..... | 54 |

Appendix

| | |
|------------|---|
| Appendix A | Grant of Conservation Easement between the County and Ala Kahakai Trail Association |
| Appendix B | Warranty Deed |
| Appendix C | Summary of comments received on Draft Plan |
| Appendix D | Comment Letter from the State Legacy Land Conservation Program on the Draft Plan |

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Executive Summary

Situated in the ahupua'a of Kāhilipali'iki-Kahaea¹ and Kāhilipalinui in the district of Ka'ū on the island of Hawai'i is a treasured wahi pana (storied/legendary place) and wahi kūpuna (ancestral places) referred to as Waikapuna. It stretches for more than two miles makai of Nā'ālehu town through challenging terrain to a remote coastline where one can immerse oneself in the natural beauty and elements. In the past, Waikapuna was a thriving fishing community until the devastating earthquake and tsunami of 1868. Today, Waikapuna remains a place known for its abundant marine resources. There are numerous intact cultural sites that provide a glimpse into what was once home to generations of Hawaiian families, including one of three springs that remains there and the coastal Alaloa (trail) which previously encircled the island. Native wiliwili trees rise up from Waikapuna Pali and the graceful noio can be found nesting among the tall sea cliffs. The coastal area provides food such as fish, limu, shellfish, and salt for local families, as it once did for those who lived in the village near the bay. The mauka areas are used by local Ka'ū ranchers who have ranched the property for generations. Families trace their lineages to this place and enjoy spending time together here connecting with the 'āina, learning and perpetuating Hawaiian values and practices and local traditions important to the Ka'ū way of life.

Waikapuna, similar to other large tracts of land on the Ka'ū coastline, has been subjected to the threat of development over the years. These threats grew considerably after the closure of the sugar plantation in the late 1990s. In 2019, Ala Kahakai Trail Association (ATA)², a non-profit organization, acquired the 2,317-acre Waikapuna parcel (identified as Tax Map Key 9-5-007: 016) in fee-simple for conservation and placed a conservation easement over the property to protect it from future development. ATA's interest in preserving these lands is to protect the ancient trail network including the surrounding cultural, historical and natural landscape by facilitating partnerships and creating community connections through stewardship and education. Funds raised from The Trust for Public Land; the State Legacy Land Conservation Program (LLCP); the County's Public Access, Open Space, and Natural Resources Preservation Fund (Preservation Fund); and private donors were utilized to purchase the property. The County holds the conservation easement over the property, which was acquired using monies from the County's Preservation Fund that is funded by two percent of the County's annual real property tax revenues (County Charter Section 10-15). The conservation easement protects the property from future development.

The purpose of this management plan is to guide stewardship actions and strategies to protect, preserve, and conserve the significant cultural, historical, and natural resources of Waikapuna for present and future generations. A summary of the resources of the property is provided in this report, along with proposed actions items and strategies. The contents of the management plan follow the components outlined in the Conservation Easement agreement (Appendix A). The plan also recommends a framework for implementation, including outlining administrative tasks to be executed by ATA to support this management plan and a preliminary phasing plan. The phasing plan is not meant

¹ The land divisions of Kāhilipali'iki and Kahaea are usually combined as the ahupua'a of Kāhilipali'iki-Kahaea. Records pertaining to the Māhale 'Āina of 1848 delineate the two land divisions as separate ahupua'a, but both became Government Lands and the boundary between them was never surveyed, resulting in the combination of the two.

² ATA is a different entity from the U.S. National Park Service, Ala Kahakai National Historic Trail.

to be comprehensive but is intended to identify major milestones to help guide the stewardship of Waikapuna and to evaluate progress in implementing the plan.

Proposed action items and strategies presented in this management plan must be aligned with the values as outlined in the County's Grant of Conservation Easement³ and the State's Legacy Land Conservation Program grant agreement⁴. This management plan fulfills one of the conditions of the County's grant agreement requiring ATA to prepare a management plan, which also has to be updated every ten years.

A wide range of community members and various public agencies and community organizations was engaged through a series of talk story sessions to develop this plan. Community members included kūpuna, descendants of the place, and current Ka'ū and non-Ka'ū residents who have ties to Waikapuna or have visited the place before. Individuals also identified as fishers, cultural practitioners, hikers, biologists, botanists, archaeologists, and ranchers. Through the outreach process, people provided insight on what they value about Waikapuna and offered intimate knowledge of the place. Information from previous studies also helped to inform strategies for this management plan.

Two key concepts are presented in this plan: **CULTIVATING KNOWLEDGE** and **COMMUNITY STEWARDSHIP**. Knowledge cultivation and community stewardship are simultaneously activated by creating spaces that welcome individuals, families, and entities to have a role in stewardship where knowledge can be shared and cultural practices perpetuated from one generation to the next. In doing so, the community's relationship with the 'āina is strengthened, supporting a robust and culturally appropriate stewardship framework. These spaces can be created at Waikapuna through:

- **Kūpuna days** - a space for kūpuna of the place to access the cultural landscape and to share their knowledge of the place and practices that have been passed down generation to generation.
- **'Ohana days** - an opportunity for families to explore wahi pana and wahi kūpuna of Ka'ū, to practice kuleana to steward resources, and to perpetuate cultural traditions and practices.
- **Organized mālama 'āina workday(s)** - a means to empower community groups/individuals to host mālama 'āina workday(s) to carry out one or more of the action items presented in this management plan or to participate in an ATA-organized workday; all who call Hawai'i home have kuleana to support good stewardship of resources.
- **Community managed access** – to provide community access for subsistence fishing and gathering, family overnight stays on public property at the shoreline, and to perpetuate Ka'ū traditions.

The desired outcome from cultivating knowledge and encouraging community stewardship is a community that is (re)connected to functional wahi kūpuna and engaged in stewardship and education. Healthy ecosystems will be achieved through traditional resource management practices, built upon the foundation of Hawaiian values, combined with modern scientific approaches to steward the 'āina. The spaces provided through the kūpuna days, 'ohana days, organized mālama 'āina workdays, and

³ Document No A-72890592 recorded with the State Bureau of Conveyances made on December 16, 2019 between Ala Kahakai Trail Association and the County of Hawai'i.

⁴ Number 66886 dated May 10, 2018 between Ala Kahakai Trail Association and the State of Hawai'i.

community managed access facilitate meaningful conversations among communities and families and build community capacity to care for the resources that are the foundation of life for the people of Ka'ū. Additionally, organized mālama 'āina activities are intended to help protect, preserve, and conserve the resources outlined in the Conservation Easement and State grant agreement. Community members and organizations may propose additional mālama 'āina activities that support the management priorities outlined in the management plan (over and above those that ATA organizes). These proposals will be considered on a case-by-case basis to ensure that all of the management priorities are being addressed and to accommodate ATA's and/or the Stewardship Committee's ability to provide support.

Action items are categorized into five topic areas, as generally outlined in the Grant of Conservation Easement: Archaeological, Cultural & Historic Resources; Native Plants; Marine & Avian Resources; Fire Prevention & Management; and Existing Structures, Roads, Trails & Utilities. Goals, or desired results from implementation of this management plan, are provided for each of the topic areas. In addition to these topic areas, action items related to Educational and Outreach Activities are proposed.

To support ATA's management of these lands, a Stewardship Committee will serve in the following capacities: 1) oversee implementation of the management plan and 2) organize and lead stewardship activities, as well as advise ATA on stewardship programs and projects that affect resources for Waikapuna. This Committee is a WORKING committee with individuals who will organize and lead stewardship activities that support the management plan priorities. Over time, as ATA increases capacity, staff such as the Administrative Coordinator may take on some of those responsibilities. However, the Stewardship Committee will still oversee and lead some of the activities to continue with ATA's efforts for community-led management. The Stewardship Committee should be comprised of individuals who represent kūpuna, lineal descendants, fishers, cultural practitioners, Ka'ū residents, youth, educational specialists, ecologists, and the ATA Board of Directors. The wide range of stewardship committee members will help to address the diversity and complexity of resources present at Waikapuna. In addition to the Stewardship Committee, an Administrative Coordinator and Resource Specialists, who will work closely with the Stewardship Committee, are proposed to assist with plan implementation. Service-learning internships are also encouraged to promote learning opportunities to engage the younger generation in conservation ethics and values.

This management plan proposes weekend overnight access, which is similar to the existing overnight access that has been in place. Reservations are required, where individuals can only make one reservation at any given time. Reservations are made available on a quarterly basis to avoid reservations being filled far out in advance. Participation in mālama 'āina activities will be encouraged. Access to the reservation system for weekend overnight access will be prioritized for individuals who participated in mālama 'āina activities. Therefore, no one is denied access to the weekend overnight opportunities, but those who engage in mālama 'āina activities will be able to make their reservations first. One weekend a month will be dedicated to mālama 'āina work, where no weekend overnight access will be available.

Access during the week is also permitted through the kūpuna days and 'ohana days. This would allow residents to be able to seek one-day access without having to reserve far out in advance. One-day access would be based on availability since only one group would be allowed at a time. There is no restriction on who can request one-day access, but because time spent would be only a few hours, it is anticipated that most, if not all, of those requesting this type of access would be Ka'ū residents. The

proposed access protocols are intended as a **starting point** and will be reassessed to see if they are working the way they were intended. This management plan also suggests that ATA conduct a baseline documentation and record the number of Ka'ū residents requesting access/obtaining access in order to ensure that unintended consequences can be avoided or addressed.

While the desired outcome is to empower community to take on a more prominent role in caring for resources and to shape the future of the place, community mālama 'āina workdays will initially be hosted by ATA. Over time, other organizations and groups may partner with ATA to host community mālama 'āina workdays at Waikapuna to implement stewardship actions as outlined in this management plan. Eventually, there may be opportunities for ATA to enter into an agreement with organizations/groups through a Community Stewardship Agreement/Memorandum of Understanding (MOU) to "Adopt-a-Site."

While Waikapuna has its own unique uses and management needs, management activities occurring on adjacent properties will also impact Waikapuna. Additionally, some management activities may benefit from regional scale resource protection and planning that also takes into consideration regional interconnections. Therefore, stewardship and responsible land management of the entire region through partnerships with adjacent properties are also proposed as critical for success at Waikapuna.

It is important to understand that implementation of this management plan, including specific administrative tasks, may take some time to carry out due to limited personnel capacities and funding. ATA will need to seek funding through various grants to assist with plan implementation. In order to successfully execute this management plan, a level of trust and relationship must be developed and maintained between ATA and the community through on-going dialogue and willingness to work together to ensure that Waikapuna remains a place known for its sense of place, abundant marine resources and native coastal plants, intact cultural sites, and a place where families can continue to spend time together to perpetuate Hawaiian values and practices and local traditions important to the Ka'ū way of life. This management plan will also need to be periodically updated to assess the progress of plan implementation, any issues resulting from management projects and programs, new information gathered through research and monitoring, and new conditions to be addressed. Adaptive management must be employed, and land uses re-examined particularly with external factors such as climate change looming.

Introduction

Waikapuna, a treasured wahi pana (storied/legendary place) and wahi kūpuna (ancestral places), is part of a broader Hawaiian cultural landscape in the district of Kaʻū on the island of Hawaiʻi. Situated in the ahupuaʻa of Kāhilipaliʻiki-Kahaea⁵ and Kāhilipalinui, the 2,317-acre “Waikapuna parcel” (identified as Tax Map Key 9-5-007: 016) stretches for more than two miles makai of Nāʻālehu town through challenging terrain to the remote coastline where one can immerse oneself in the natural beauty and elements at Waikapuna Bay. In the past, Waikapuna was a thriving fishing community until the devastating natural disasters of 1868. Today, Waikapuna remains a place known for its abundant marine resources. There are numerous intact cultural sites that provide a glimpse into what was once home to generations of Hawaiian families, including one of the three springs used by the surrounding village and the coastal Alaloa (trail) which previously encircled the island. Native wiliwili trees rise up from Waikapuna Pali and the graceful noio can be found nesting among the tall sea cliffs. The coastal area provides food such as fish, limu, shellfish, and salt for local families, as it once did for those who lived in the village near the bay. The mauka areas are used by local Kaʻū ranchers who have ranched the property for generations. Families trace their lineages to this place and enjoy spending time together here connecting with the ʻāina and learning and perpetuating Hawaiian values and practices and local traditions important to the Kaʻū way of life. This management plan seeks to protect, preserve, and restore this wahi pana and wahi kūpuna in a manner that balances existing uses and respects the historical legacy of this place.

For the purposes of this report, the name “Waikapuna” is used loosely to refer to the entire “Waikapuna parcel,” which is inclusive of the mauka areas beyond the Waikapuna bay or beach area. Specific discussions to the Waikapuna bay or beach area will be referred to as “Waikapuna Bay.”

Background

Waikapuna, similar to other large tracts of land on the Kaʻū coastline, has been subjected to the threat of development over the years. These threats grew considerably after the closure of the sugar plantation in the late 1990s. Development plans for Waikapuna have included construction of a spaceport and a commuter airport facility. Around 2016, the landowners were moving forward with plans for a subdivision development to create 22 lots on the property. While there were discussions with the State of Hawaiʻi (State), County of Hawaiʻi (County), and U.S. National Park Service to see if they would be interested in taking ownership of Waikapuna to protect it from development, these entities at that time did not feel they had the capacity to manage these lands. Thus, Ala Kahakai Trail Association (ATA)⁶, a local, 501 (c)3 non-profit and federally listed Native Hawaiian Organization, was approached and asked if they would accept the kuleana of ownership, to assist in the stewardship of the place. ATA's interest in preserving these lands is to protect the ancient trail network including the surrounding cultural, historical and natural landscape by facilitating partnerships and creating community connections through stewardship and education.

In 2019, Waikapuna was successfully acquired in fee-simple for conservation through the use of funds raised from The Trust for Public Land; the State Legacy Land Conservation Program (LLCP); the County's

⁵ The land divisions of Kāhilipaliʻiki and Kahaea are usually combined as the ahupuaʻa of Kāhilipaliʻiki-Kahaea. Records pertaining to the Māhale ʻĀina of 1848 delineate the two land divisions as separate ahupuaʻa, but both became Government Lands and the boundary between them was never surveyed, resulting in the combination of the two.

⁶ ATA is a different entity from the U.S. National Park Service, Ala Kahakai National Historic Trail.

Public Access, Open Space, and Natural Resources Preservation Fund (Preservation Fund); and private donors. The County also holds a conservation easement over the property, which protects it from future development.

What is a Conservation Easement?

A Conservation Easement is a voluntary, legal agreement that permanently limits uses of the land in order to protect its conservation values.

Plan Purpose

The purpose of this management plan is to guide stewardship actions and strategies to protect, preserve, and conserve the significant cultural, historical, and natural resources of Waikapuna for present and future generations. A summary of the resources of the property is provided in this report, along with proposed action items and strategies and recommendations for a framework for implementation. Proposed action items and strategies presented in this plan must be aligned with the values as outlined in the County's Grant of Conservation Easement⁷ and the State's Legacy Land Conservation Program grant agreement⁸. This management plan also fulfills one of the conditions of the County's Conservation Easement agreement to prepare a management plan, which has to be updated every ten years. Refer to Appendix A for a copy of the Conservation Easement agreement which summarizes the requirements of this management plan, along with outlining compliance requirements.

County Public Access, Open Space, and Natural Resources Preservation Fund

The County holds a conservation easement over the Waikapuna parcel which protects it from the threat of future development. The conservation easement was acquired using monies from the County's Preservation Fund, which is funded by two percent of the County's annual real property tax revenues (County Charter Section 10-15). The County's Property Management Division under the Finance Department is responsible for administering and managing the Preservation Fund to purchase or acquire lands and conservation easements.

State Legacy Land Conservation Program

In addition to the use of monies raised from the County's Preservation Fund, The Trust for Public Land, and private donors, the State's LLCP provided grant funding to ATA to protect specific preservation values. These values as identified in the land acquisition grant application submitted to the State LLCP in 2016 are provided below. The majority of the text is taken verbatim from the grant application, although some text has been condensed. Information submitted in the grant application was based on information available at that time. Subsequent observations and studies may find different or changing conditions that can be used to update the management plan, although the general approach to management of the resources will still apply.

- **Watershed protection:** Protection of the property will have a significant positive continued impact on the immense resources of Waikapuna bay and ocean waters. The makai section of the

⁷ Document No A-72890592 recorded with the State Bureau of Conveyances made on December 16, 2019 between Ala Kahakai Trail Association and the County of Hawai'i.

⁸ Number 66886 dated May 10, 2018 between Ala Kahakai Trail Association and the State of Hawai'i.

property is dominated by native coastal vegetation, including nohu, nehe, 'ilima papa, maiapilo, pili, pōhuehue, and kauna'oa.

- **Coastal areas, beaches and ocean access:** The property consists of 2.3 miles of diverse coastline with a large sandy bay or lagoon, rocky coves, and a number of sea caves. There are three sections along the coastal area that each have distinct and significant native vegetation. Together, these areas present an intact and highly valuable botanical community worthwhile of immediate protection and care.
- **Natural areas:** The property includes lava tubes and caves; remnants of a lowland dry forest with the occasional native wiliwili, lama or alahe'e tree; the cliff of Māniania Pali which has a 100-foot coastal plant strand; a freshwater spring (the last remaining of at least three springs on the property before the 1868 earthquake); extensive native coastal plant populations; a lagoon and intertidal pool complex at Waikapuna bay; massive sea caves; and sand dunes covered with native coastal strands.
- **Habitat protection:** Abundant and diverse wildlife reside on the Waikapuna property in the following habitats:
 - Sea caves: hundreds of indigenous Noio (black noddies) and Noio Kaha (brown noddies).
 - Sea cliffs: colonies of endangered 'Ua'u (Hawaiian petrel), indigenous 'Ūlili (wandering tattlers), indigenous Koa'e Kea (white-tailed tropicbirds), and federal candidate-species 'Akē'akē (band-rumped storm petrels).
 - Waikapuna bay intertidal pool complex: a nursery and refuge area for numerous marine invertebrates and fishes and home to one of the largest kūpe'e species in Ka'ū.
 - Ocean: NOAA's marine biomass surveys done in the area show nearshore resources as good as those found in the Northwestern Hawaiian Islands.
 - Coastal land: Native plants including maiapilo, 'āweoweo, 'ihi, nohu, and nehe.
 - Pasture land: sporadic alahe'e, lama, wiliwili, 'ilima, naio, and noni.
- **Agricultural production:** Mo'olelo refers to 'uala production and there are remains of the Keonepoko agricultural complex. Two ranchers lease the mauka section of the property, totaling 1,477 acres. Grass fed beef contributes to the local food supply. Agriculture is vital to Ka'ū's economy, and ranching is a significant part of Ka'ū's agricultural production.
- **Cultural and historical sites:** The property consists of hundreds of cultural sites and thousands of archaeological items. These sites include heiau, burials, lava tubes, house foundations, ahu (altar), habitation caves, petroglyphs, papamū (stone for a traditional Hawaiian board game), salt gathering ponds, agricultural terraces, canoe sheds, a stone-lined spring, kamala (three-sided wind shelters walled with stone), and the actual remaining footpath of the Ala Kahakai or ala loa.
- **Open spaces and scenic resources:** The property provides breathtaking views of the green hills of Kāhilipali, the rugged sea cliffs of Wai'ōhinu to the south, and Waikapuna bay.
- **Recreational and public hunting areas:** The property is not within a Game Management Area and is not open for public hunting. Specific local hunters may have been allowed onto the property in the past by having a good working relationship with one or both of the ranchers. ATA will address the benefits and risks of tightly managed hunting in its management plan.

Additionally, ATA's vision as stated in the Legacy Land Grant Application is as follows:

Ala Kahakai Trail Association's vision for Waikapuna is a protected and living Hawaiian cultural landscape cared for by the Ka'ū community, and connected to the surrounding ahupua'a and the entire island by the network of trails known as the Ala Kahakai.

Benefits of the Conservation Easement & Grant Funding

The County's Conservation Easement over Waikapuna, along with the grant agreement with the State, protects it from future development in perpetuity. The restriction on development is also part of the property deed so that in the future, if Waikapuna is sold to another entity, the new landowner would have to follow the conditions of the Conservation Easement and manage the property consistently with the purposes for which the State LLCP grant was awarded. See Appendix B for a copy of the Warranty Deed. Also, the property is eligible for stewardship funding from the State LLCP as well as the County's Public Access, Open Space, and Natural Resources Maintenance Fund, which provides funding for the maintenance of lands and conservation easements acquired through the Preservation Fund. The Maintenance Fund is made up of 0.25 percent of the County's annual real property tax revenues (County Charter Section 10-16).

Area Excluded from the Conservation Easement

The County's Department of Environmental Management (DEM) has identified the mauka area of Waikapuna as a candidate for a new wastewater treatment plant (WWTP) to serve the Nā'ālehu community. At the time of writing, the status of the WWTP project and locations of other sites being considered are unknown.

Approximately 28.7 acres of the northeastern corner of the Waikapuna parcel is excluded from the existing conservation easement. The County has until December 16, 2029 (ten years from the Waikapuna closing date) to implement the WWTP project at this site, if selected. In the event that construction does not begin by that date, then a conservation easement will be placed over the entire 28.7 acres, which would protect that area from future development, similar to the remainder of the Waikapuna parcel. However, should the County begin construction for the WWTP within the ten-year timeframe, a conservation easement will be placed on any land not within the final as-built layout for the WWTP. The County has indicated that the 28.7 acres identified as the potential project area is larger than what they expect to need for the WWTP to allow for design flexibility.

The preliminary conceptual site plans for the WWTP include an odor control facility, a number of lagoons, and a "disposal grove" where treated effluent will be sprayed. It also extends onto the adjacent mauka property that is privately owned. Some community members have expressed concerns with the potential impacts on cultural sites and ground water resources associated with the proposed WWTP at the Waikapuna parcel. Should the WWTP project move forward at the Waikapuna parcel, the County will need to prepare a Chapter 343 Environmental Review to evaluate the potential environmental impacts anticipated from the proposed project. During the Chapter 343 Environmental Review process, the general public will have an opportunity to articulate their concerns specifically for the WWTP project and its potential impacts on the environment.

Planning Process

This management plan was developed through a series of talk story sessions with a wide range of community members and various public agencies and community organizations. Community members included kūpuna, descendants of the place, and current Ka'ū and non-Ka'ū residents who have ties to Waikapuna or have visited the place before. Individuals also identified as fishers, cultural practitioners, hikers, biologists, botanists, archaeologists, and ranchers. Through the outreach process, people provided insight on what they value about Waikapuna and offered intimate knowledge of the place. Information from previous studies also helped to inform strategies for this management plan.

Talk story sessions were conducted one-on-one or in small groups, via in-person, phone, or videoconference. To date, more than 60 individuals participated in a talk story, in which many engaged with the Planning Team at least more than once.

In addition to the talk story sessions, an initial community meeting was held via videoconference on January 26, 2022 from 6:30 p.m. – 8:00 p.m. to introduce the planning process and schedule, gather input on important resources to protect and preserve, understand major management issues and concerns, and identify ideas for stewardship. A total of 64 participants joined the meeting online or called in by phone. A second community meeting was held on March 22, 2023 via videoconference to share the draft management plan and to gather feedback. A total of 55 participants joined the second community meeting to provide input. Recordings of the meetings and meeting notes were made available to the public.

Location

The Waikapuna parcel lies within the ahupua'a of Kāhilipali'iki-Kahaea and Kāhilipalinui in the moku of Ka'ū⁹ on the southeast coast of Hawai'i Island. It is located makai of Nā'ālehu town that has a population of no more than 1,000 residents¹⁰ and to the southeast of Wai'ōhinu which has fewer than 200 residents (U.S. Census, 2020).

The northern boundary abuts two parcels, including a 26-acre parcel currently leased for ranching. To the east are several large privately-owned parcels that extend towards the coastline (referred to as the Kāwala¹¹ lands) also currently used for cattle ranching and a 65-acre triangular shaped parcel along the coast that is State unencumbered lands (Figure 1). The Pacific Ocean lies along the southern boundary that stretches for about two miles. To the west of Waikapuna are State lands (managed by the Division of Forestry; DOFAW), with the mauka sections leased for ranching and approximately 1,353 acres of the

⁹ Of the nine planning districts on the island of Hawai'i, Ka'ū is the largest geographic district covering over 660,000 acres. It includes over 65 miles of coastline and extends all the way to the summit of Mauna Loa (13,681 feet above sea level). The population of Ka'ū consists of more than 9,000 residents compared to a population of 200,629 for the County of Hawai'i (U.S. Census Bureau, 2020).

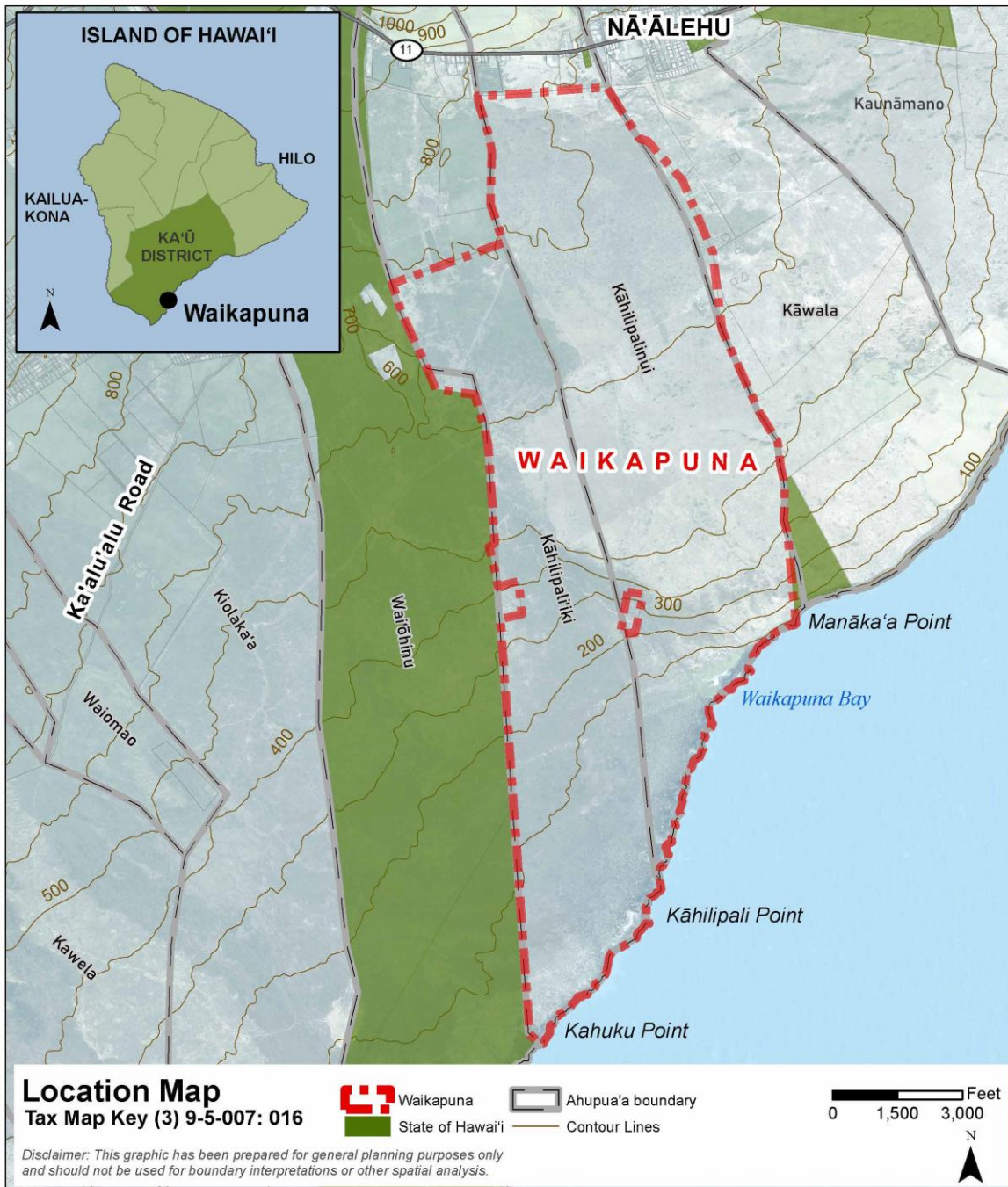
¹⁰ The population of the Nā'ālehu Census Designated Place (CDP) in 2020 was 811 and the population of the Wai'ōhinu CDP was 198 (U.S. Census).

¹¹ ATA holds a conservation easement for the Kāwala lands. The purpose of the conservation easement for the Kāwala lands is "to conserve the agricultural and cultural values of the Property and more particularly to preserve, protect, and perpetuate the agricultural, historic, cultural, natural, scenic, open space, and watershed importance of the Property."

makai lands that are part of the Ka'ū Forest Reserve (Kamilo Unit). In addition to the State lands managed by DOFAW, two other large landowners to the south of Waikapuna towards Ka Lae are Kamehameha Schools and the State Department of Hawaiian Home Lands (DHHL).

A small privately-owned kuleana parcel is located within the Waikapuna parcel, and another along the western boundary abutting the ahupua'a of Wai'ōhinu. According to the County's website, there are multiple owners listed for both of these kuleana parcels.

Figure 1. Location Map



Summary of Existing Land Use Regulatory Planning

In addition to the land use restrictions as outlined in the County's Conservation Easement and State grant agreement, land uses for Waikapuna must be aligned with the existing regulatory land use designations underlying the Waikapuna parcel. A brief summary of the land use designations is provided below.

The **State Land Use Designation** for the Waikapuna parcel is Agriculture and Conservation, with the majority located in the State Land Use Agriculture District (Figure 2). The area along the shoreline is designated in the State Land Use Conservation. Agriculture Districts are regulated by the County, while Conservation Districts, regulated under HRS 183C and HAR 13-5-13, are administered by the State Board of Land and Natural Resources and uses are governed by rules promulgated by the State Department of Land and Natural Resources (DLNR). Lands within the Conservation District are further classified into one of the five conservation district "subzones," which includes (from most protective to least): Protective Subzone, Limited Subzone, Resource Subzone, General Subzone, and Special Subzone. All of the lands within the Conservation District at Waikapuna are classified as "Resource Subzone." Permitted land uses and activities within each conservation district subzone are restricted and generally require a Conservation District Use Permit from DLNR. The objective of the Resource Subzone is to develop, with proper management, areas to ensure sustained use of the natural resources.

The Waikapuna coastline is within the **Special Management Area (SMA)**, which is the most sensitive area of the coastal zone that is placed under special development control to effectively manage, use, protect, and develop areas along the coast. Any uses or activities classified as "development", as defined in HRS Chapter 205, within the SMA will require either an SMA Minor Permit or an SMA Major Permit, which is determined based on construction costs.

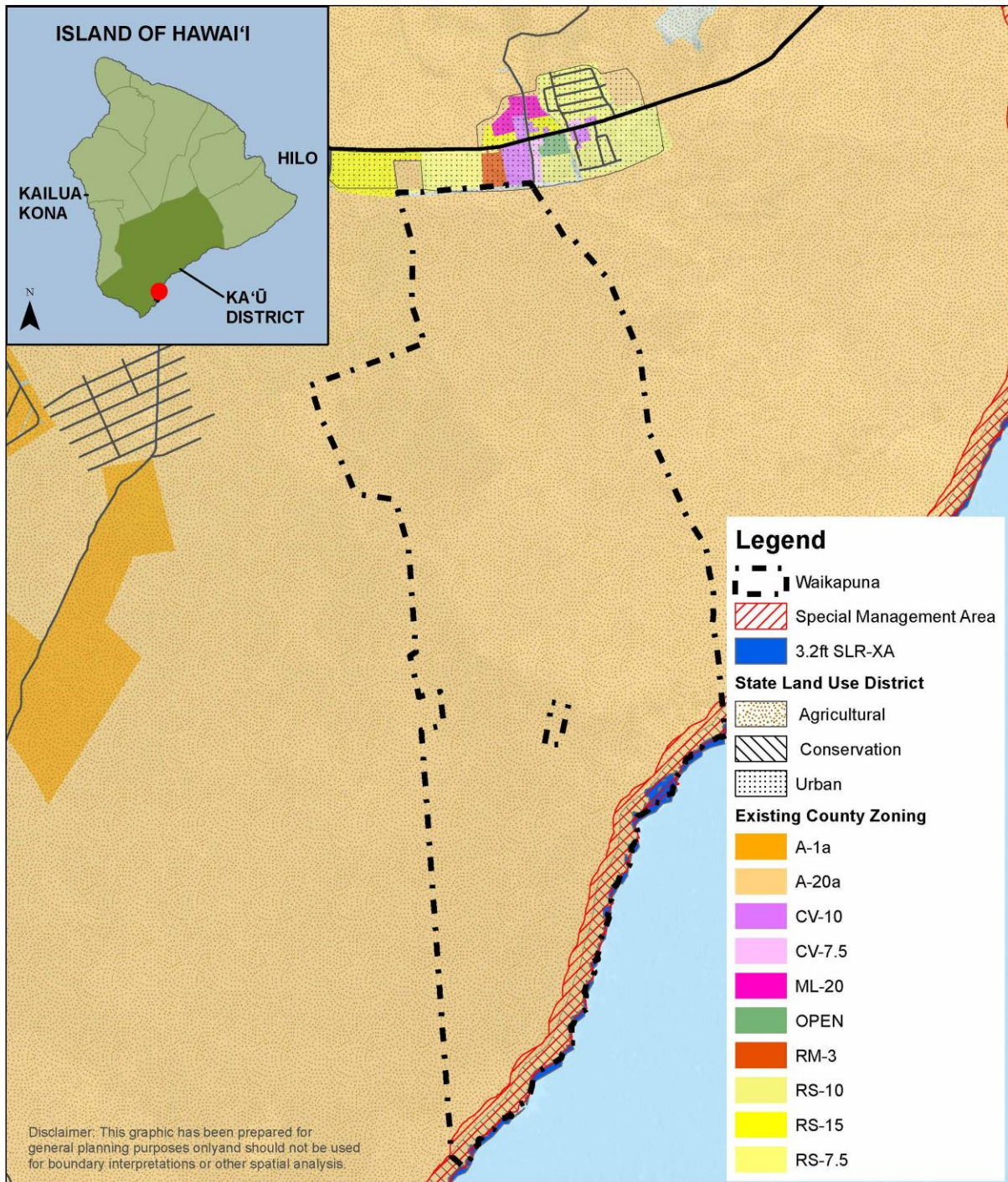
The **County Zoning** for Waikapuna is A-20a (Agricultural District, minimum building site of 20 acres). The County's Zoning Code (Chapter 25) specifies permitted uses of lands on the Island of Hawai'i. The Agricultural district provides for "agricultural and very low density agriculturally-based residential use, encompassing rural areas of good to marginal agricultural and grazing land, forest land, game habitats, and areas where urbanization is not found to be appropriate."

The current **County General Plan Land Use Pattern Allocation Guide (LUPAG)** Map Designation consists of Open Area, Low Density Urban, Extensive Agriculture, and Urban Expansion (Figure 3). The Hawai'i County General Plan (2005) is the County's comprehensive land use policy for guiding long-range development on the Island of Hawai'i. It specifies goals, policies, and standards of development for the most desirable land uses on the island and includes the LUPAG map which indicates the general location of designated land utilization areas.

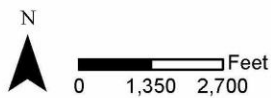
The 2005 General Plan is being updated by the County through the "2040 General Plan" process. The August 2019 draft of the 2040 General Plan proposed LUPAG designations of Conservation, Recreational Area, Pastoral, and Low Density Urban for Waikapuna (Figure 4). These designations are applied as follows:

- Conservation: Forest and water reserves, natural and scientific preserves, areas in active management for conservation purposes, areas to be kept in a largely natural state with minimal facilities consistent with open space

Figure 2. Regulatory Land Use Designations



Land Use
Waikapuna
TMK (3) 9-5-007: 016



uses, such as picnic pavilions and comfort stations, and lands within the State Land Use Conservation District.

- **Recreational Area:** Parks and other recreational areas, such as golf courses, historic sites, and shoreline setback areas.
- **Pastoral:** Includes lands that are not capable of producing sustained, high agricultural yields without the intensive application of modern farming methods and technologies due to certain physical constraints such as soil composition, slope, machine tillability and climate. These lands are better suited for other less intensive agricultural uses such as grazing and pasture. (40 acre minimum lot size)
- **Low Density Urban:** Residential, with ancillary community and public uses, and neighborhood and convenience-type commercial uses; overall residential density may be up to six units per acre.

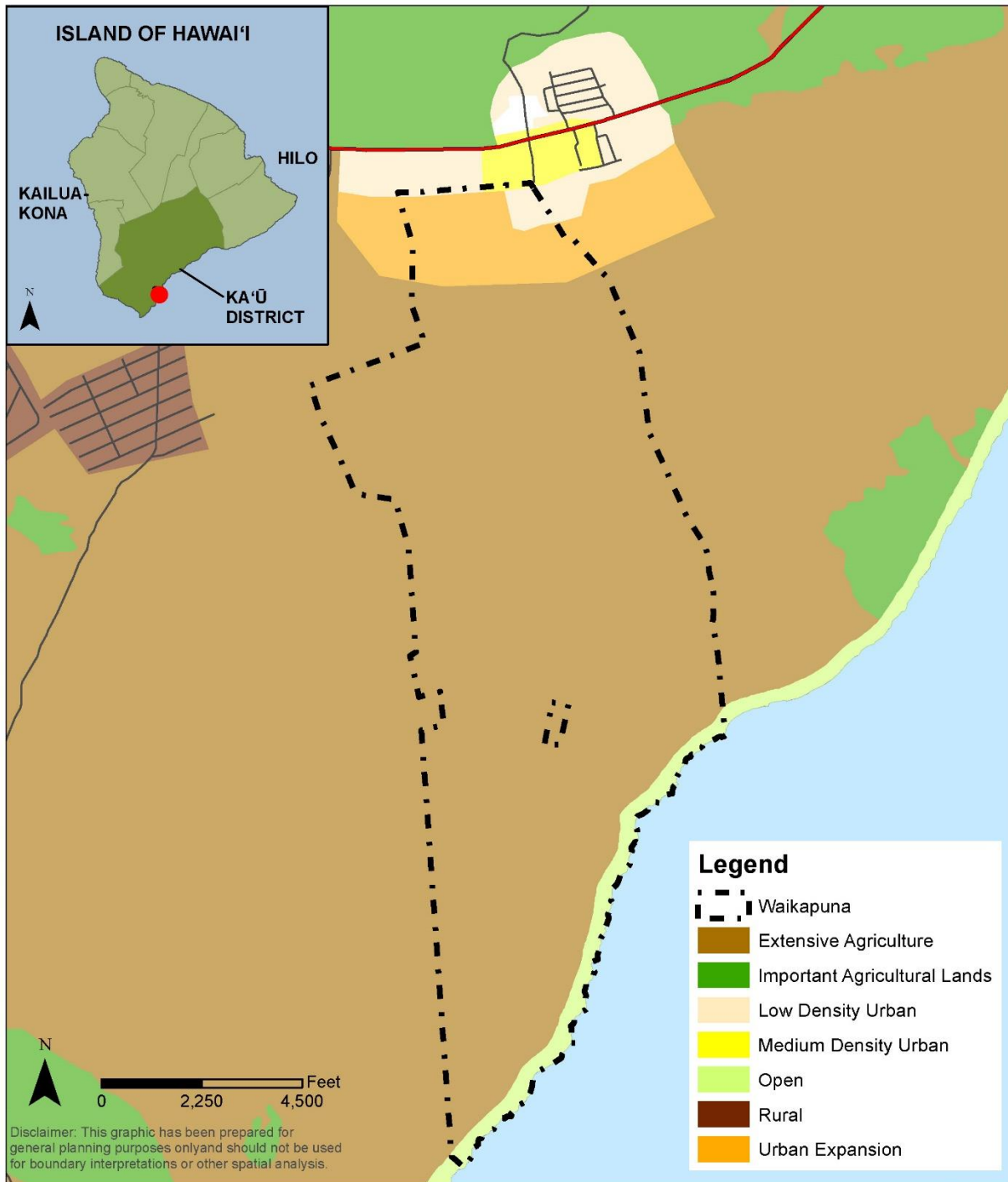
The **Ka'ū Community Development Plan (CDP)** was adopted by County Council in 2017. It translates and implements the broad goals of the County's General Plan on a regional basis. The CDP is intended to be a forum for community participation in managing growth and coordinating the delivery of government services to communities. The Ka'ū CDP area covers most of Hawai'i County's Judicial District 9, which includes the areas of Pāhala, Punalu'u, Nā'ālehu, Discovery Harbour, and Ocean View. In 2022, candidates were selected to form the Ka'ū CDP Action Committee, an entity charged with assisting in the implementation of the CDP. The CDP sets forth the following community objectives applicable to Waikapuna:

- Objective 3: Protect, restore, and enhance ecosystems, including mauka forests and the shorelines, while assuring responsible access for residents and for visitors.
- Objective 4: Protect, restore, and enhance the unique cultural assets, including archaeological and historic sites and historic buildings.
- Objective 6: Encourage community-based management plans to assure that human activity does not degrade the quality of Ka'ū's unique natural and cultural landscape.
- Objective 9: Preserve and greatly enhance nā 'ohana economy.

Section 4 of the Ka'ū CDP focuses on "protecting and enhancing Ka'ū's rich heritage of natural and cultural resources, including coastal areas, agricultural land, mauka forests, scenic resources, ecosystems, historic and cultural features, and public access and trails." The following are strategies, land use policies, and County actions relevant to Waikapuna:

- 4.1 Expand the Local System of Preserves
 - Policy 21: Support the efforts of landowners to establish conservation and agricultural easements.
 - Policy 22: Secure in public trust (fee simple or by easement) priority coastal land that achieves one or more of the Community Objectives.

Figure 3. County LUPAG Map Designation (2005)



LUPAG (2005 General Plan)

Waikapuna
TMK (3) 9-5-007: 016



May 2023

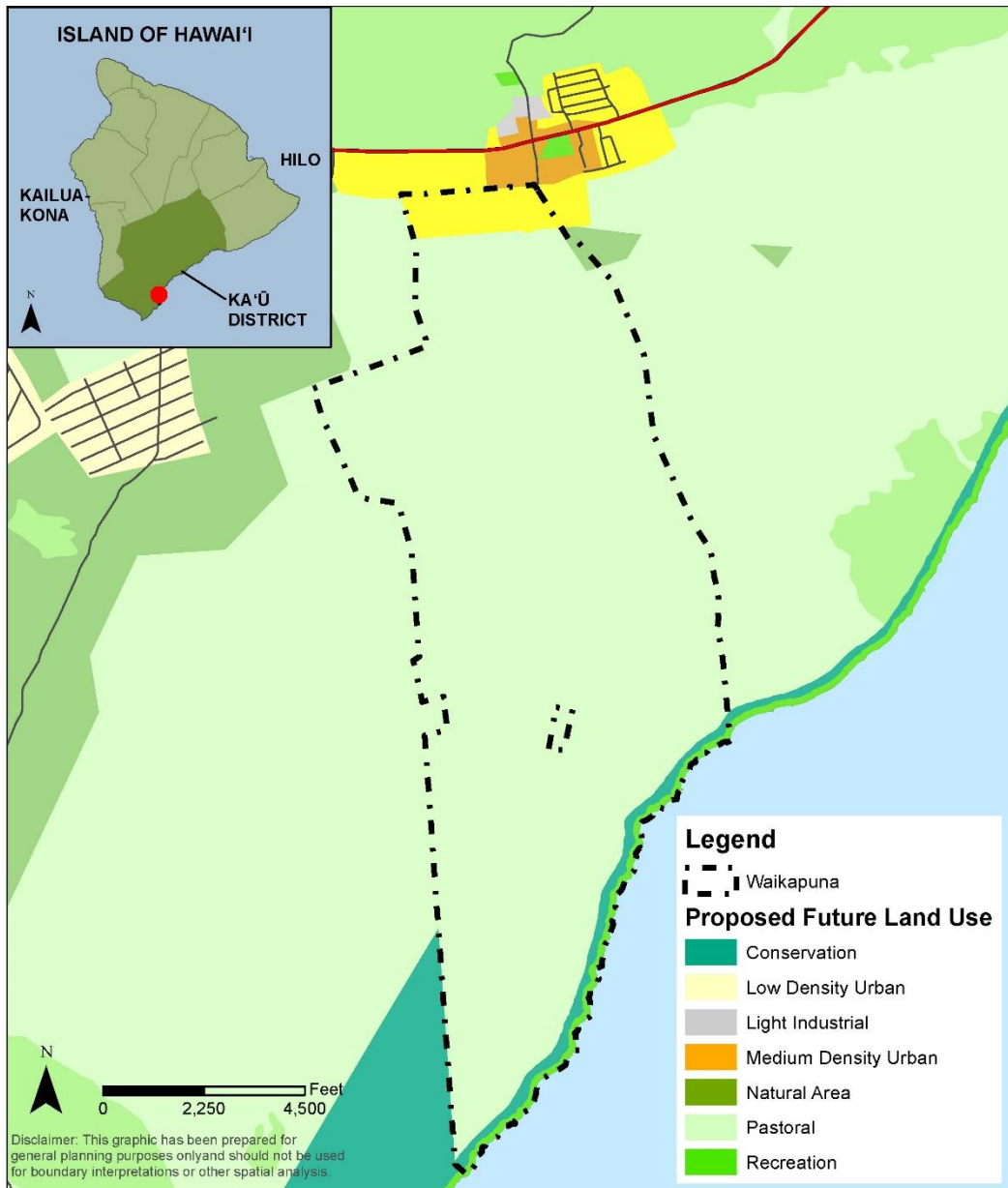
- 4.2 Protect the Coast from Development
 - Policy 24: Maintain the shoreline for recreational, cultural, education, and/or scientific uses in a manner that is protective of resources and is of the maximum benefit to the general public.
- 4.3 Protect Agricultural Lands & Open Space
 - Policy 32: Conserve and protect agricultural lands.
 - Policy 33: Preserve the agricultural character of Ka'ū, including the open space preserved by agricultural lands.
- 4.5 Preserve Scenic Views
 - Policy 53: Protect, preserve and enhance the quality of open space, areas endowed with natural and scenic beauty, and public views to and along the shoreline.
- 4.6 Protect and Enhance Ecosystems
 - Policy 62: Protect, preserve, and effectively manage forests, watersheds, shoreline areas, natural areas, and rare or endangered species and their habitats.
- 4.7 Protect and Enhance Cultural Assets
 - Policy 69: Protect, restore, and enhance the sites, buildings, and objects of significant historical and cultural important to Hawai'i.

In response to the adoption of State House Concurrent Resolution No. 5 (2005), the South Kona-Ka'ū Coastal Conservation Task Force was established in 2005 to review and analyze the impacts being made on the coastal lands and nearshore marine areas of South Kona and Ka'ū. The Task Force was given a number of responsibilities, including to identify coastal lands and nearshore marine areas that have environmental, cultural, and recreational values in need of protection and to identify mechanisms for the protection and management of such resources. In the "Report to the Twenty-Fourth Legislature 2007 Regular Session," the **South Kona-Ka'ū Coastal Conservation Task Force** provided the following policy recommendations applicable to Waikapuna:

- A special conservation zone be established and called the "Ka'ū Coastal Protection Trust" that extends from the southern boundary of Hawai'i Volcanoes National Park to the ahupua'a of Manukā from the shoreline inland for 1.5 miles and from the shoreline out into the ocean a distance that would be determined by the boundaries of specific Marine Life Conservation Districts, Fishery Restricted Areas, Marine Protected Areas, active and historical Koa, and any other new or historical marine managed areas along the Ka'ū Coast.
 - Organized uses of the areas within the Ka'ū Coastal Protection Trust shall emphasize education as a living classroom open to all levels of education and expertise to include agriculture, aquaculture, and traditional and existing uses.
- The creation of an advisory board comprised of seven members who are Ka'ū Kupuna, landowners, land managers, or residents who shall advise and recommend action to DLNR and/or the Planning Department of the County of Hawai'i on any land use requests that involves development and subdivisions in areas identified to be protected.
- Establishment of a "No-Development" setback line from the coast to protect resources, subject to changes where preservation corridors may be enhanced by the development.

- The State, in conjunction with the County of Hawai'i, the federal government, and interested private parties, should develop financial plans for the purchase of private lands in the project area.

Figure 4. County LUPAG Map Designation (Proposed in August 2019 draft of the 2040 General Plan)



LUPAG (Proposed 2019 Draft General Plan)

Waikapuna
 TMK (3) 9-5-007: 016



May 2023

Land Tenure History

During the Māhele 'Āina of 1848, the ahupua'a of Kāhilipalinui was awarded to William Pitt Leleiōhoku and the land divisions of Kahaea and Kāhilipali'iki were commuted to the Government by Asa Kaeo and Kinimaka, respectively. While the ahupua'a of Kāhilipalinui was surveyed, the land divisions of Kahaea and Kāhilipali'iki were never surveyed because they became Government Lands. A total of fifteen individuals submitted 30 Land Commission Awards claims for kuleana parcels within the ahupua'a of Kāhilipalinui, Kāhilipali'iki, and Kahaea. Eighteen separate parcels were awarded to nine individuals within these ahupua'a; seven of these awards are included within the Waikapuna boundaries. Between 1852 and 1876, a total of five land grants containing a total of six parcels were sold within Waikapuna.

Based on a review of the original deed from Sam Parker to Hutchinson Sugar Plantation Company for the entire ahupua'a of Kāhilipalinui, below is a *general* overview of the land tenure for the section of Waikapuna within Kāhilipalinui, which is approximately 2,100 acres. Information extracted from the Draft Archaeological Inventory Survey (ASM Affiliates, 2018) and County's Real Property Tax Office website is also provided below for the years following the purchase of the ahupua'a of Kāhilipalinui from Hutchinson Sugar Plantation Company.

- 1850 Following William Pitt Leleiōhoku's death in 1848, Ruth Ke'elikōlani is awarded title to Kāhilipalinui in the Māhele 'Āina LCA 9971:10.

- 1877 William Pitt Leleiōhoku II is deeded Kāhilipalinui by Royal Patent #6882 (He dies in the same year with no heirs).

- 1882 Ruth Ke'elikōlani sells the entire ahupua'a of Kāhilipalinui to Samuel Parker.

- 1883 Samuel Parker deeds one undivided half interest to William Irwin.

- 1884 Samuel Parker and William Irwin sell to Hutchinson Sugar Plantation Company.

The study area becomes part of the Hutchinson Sugar Plantations' ranching subsidiary, which was referred to as Ka'alu'alu Ranch. This operation went by several names, originally as the Wai'ōhinu Agricultural and Grazing Company and later as the Nā'ālehu Ranch and Dairy, Inc. The study area was primarily used for grazing cattle.

- 1958 Ka'alu'alu Ranch was amended to Hawaiian Ranch Company, which was created to manage the ranches and dairies owned by the four subsidiary companies of C. Brewer & Co.

- Early
1960s The ranch and dairy properties of Hawaiian Agricultural Co. and Hutchinson Sugar Co. were spun off into two new subsidiaries: Kapapala Ranch, Inc. and Nā'ālehu Ranch and Dairy, Inc. Hawaiian Ranching Company's Ka'alu'alu and Kapapala units were merged with C. Brewer's Keauhou Ranch to create "Sea Mountain Ranch."

- 1975 Sea Mountain Ranch sold to Parker Ranch.

- 2005 Deeded to Ka'ū Holding Co., LLC.
- 2006 Deeded to WWK Hawai'i-Waikapuna LLC.
- 2013 Deeded to HI BIV Land LLC.
- 2015 Purchased by Ka'ū Mahi, LLC (operating through a Colorado-based holdings company called Resources Land Holdings).
- 2019 Purchased by ATA with a conservation easement held by the County.

Wahi Pana

This section shares the wahi pana and mo'olelo associated not only with this area, but also adjacent areas, to provide an overview of the landscape and to better understand Waikapuna's relationship with the broader region, as plants, animals, ecosystems, and cultural practices extend beyond property boundaries. Information presented below is primarily taken from Place Names of Hawai'i by Mary Kawena Pukui et. al. (1974). It highlights the historical/legendary significance of this place in addition to the presence of fresh water and ocean resources of the area. It also brings an awareness of the natural hazards and conditions for Waikapuna.

The parcel overlaps the ahupua'a of Kāhilipalinui on the eastern section of the property and Kāhilipali'iki-Kahaea on the western section of the property. **Kāhili-pali** is described by Mary Kawena Pukui et al. (1974) as a cliff and point in the district of Ka'ū. It translates literally as “[wind-] swept cliff” named for an ancient priest, which is also suggestive of the windy conditions along this coast. Kāhilipali is also the name of a point located to the south of Waikapuna Bay, about midpoint along the coastline of the project parcel near the boundary between the ahupua'a of Kāhilipalinui and Kāhilipali'iki-Kahaea.

Springs once supported the fishing village at **Wai-ka-puna**, which translates literally as “water [of] the spring.” Pukui et al. (1974) notes that there are “springs at the bay below sea level and on shore.” Waikapuna was once home to a coastal settlement wiped out by the 1868 earthquake and tsunami. In Native Planters in Old Hawai'i, Handy and Handy (1991) related this account by Mary Kawena Pukui of some of the changes that occurred at Waikapuna:

“On these visits [to Waikapuna by Mrs. Pukui and her grandmother Poai] they would erect a shelter on the pahoehoe lava just above the water holes at the southwest corner of the beach area. In those days there were three water holes. In the highest, the **lua wai inu** (drinking-water-hole), there was good potable water. The next below this, the **lua wai holo umeke** (water-hole-for-utensil-washing), was slightly brackish, but good enough for washing dishes. The one nearest the sea, the **lua wai auau** (bathing-water-hole), was for clothing and body washing. Only this remains. The water lies at the bottom of a pit in solid lava. It formerly was a larger pool and the water was more plentiful...The tidal wave filled up the other holes, and perhaps the [underground shifting of the] fault reduced the flow of water. Probably this was the reason why all the people moved away.

In those days there was more land behind the sandy beach, and the great rocks had not been thrown up along the edge of the breakers. These came up during storms and tidal waves in the

last half century [since 1868]. It was a much more habitat spot. Where there was once a sandy beach is now bare, jagged, sea-worn lava.”

A mo’olelo associated with Waikapuna refers to a beneficent shark god, Ke-ali’i-kau-o-Ka’ū (the placed god of Ka’ū), who married a girl at Waikapuna and she gave birth to a kindly green shark. Another mo’olelo refers to a stone in the sea at Waikapuna called Pōhaku-wa’uwa’u-’ili (skin-scratching stone). A boy or girl would take a sweetheart from elsewhere to this stone and scratch his or her skin so that others would know that he or she was taken.

At the northeast end of the beach is **Kawai-uhu**, where uhu fish was caught. A small point named **Noio** projecting seaward south of the bay was a good place for ‘ulua fishing.

Situated at the eastern boundary of Waikapuna are **Ma-nā-ka’a Point** and **Māniania Pali**. Ma-nā-ka’a refers to a stone, beach, and hill. It is said that the stone was a man named Ma-nā-ka’a who was turned to stone by Pele as he grieved over the loss of his children, Kanoa and Pōpō-’ohai. Māniania is a cliff that translates literally as “a shuddering sensation.” Pukui et al. (1974) shares a mo’olelo associated with Māniania: “At Ka’ū, Hawai’i, a man called Ni’aupe’o attempted to climb a coconut tree named Niu-loa-hiki. As he climbed, the tree, in its eel form, lifted itself skyward. The man called down to his mother, *Ē Hina ē, ē Hina ē, māniania mai nei o’u mau wāwae*, Hina, O Hina, my feet have a shuddering feeling.”

Nā-’ā-lehu is the closest community to the north of Waikapuna. It means “the volcanic ashes.” To the west of Waikapuna is the ahupua’a of **Wai-’ōhinu**. It is also a community to the south of Nā-’ālehu and means “shiny water.” **Kamilo**, a point to the south of Waikapuna, confirms the strong current that runs south along the coastline. It translates literally as “twisting (of current).” Pukui et al. (1974) mentions two places at Kamilo known as Ka-milo-pae-ali’i (Ka-milo landing [of] chiefs) and Ka-milo-pae-kānaka (Ka-milo landing [of] commoners). Drowned commoners washed in at the latter, chiefs at the former. It is said that Ka’ū people traveling to Puna would cast leis with loincloths and pandanus clusters into the sea at Puna; when the leis drifted back to Ka-milo, the Ka’ū people knew that the travelers had reached Puna.

To the east of the ahupua’a of Kāhilipali’nui is the ahupua’a of **Kāwala**, which is a land section extending from Kāhilipali. Kāwala means to strike backwards.

Site Description

Climate

The climate in the Hawaiian Islands is generally influenced by the prevailing trade winds from the Northeast, which carry with them moisture picked up over the ocean. There are generally two seasons that are distinguished by cooler temperatures and wet conditions during the winter months, typically between October and April, and drier and warmer conditions during the summer months. The average annual high temperature recorded in the vicinity of Waikapuna is 75.7 degrees Fahrenheit and the average annual low temperature is 68.8 degrees Fahrenheit. While temperatures only vary a few degrees between seasons, the warmest month for this area is typically August and the coolest month is usually February. Annual rainfall for the area averages 32.4 inches, with November being the wettest month (5.2 inches on average) and June being the driest (0.74 inches on average; Giambelluca et al. 2014).

Geology and Topography

The Hawaiian Islands are the result of volcanic eruptions over time as the Pacific Plate moves in a northwest direction over a “hot spot” in the Earth’s mantle. As a result, the age of the islands increases to the northwest, making the island of Hawai’i the youngest of the main Hawaiian Islands. Hawai’i Island is also the largest of all Hawaiian Islands and was built by eruptions from its five volcanos: Kohala, Mauna Kea, Mauna Loa, Kīlauea, and Hualālai. The southern part of the island is still volcanically active with ever-changing lava flows creating new land along the coastline.

Waikapuna is located on the southeastern slope of Mauna Loa, an active volcano. Mauna Loa is a shield volcano made of Ka’ū Basalt and is the largest volcano on the island, with a summit at 13,681 feet above sea level. However, from the sea floor to the volcano’s summit, the total height of Mauna Loa is about 56,000 feet, making it the largest volcano in the world. While Mauna Loa is active, it has not erupted since 1984, making this the longest period of quiet in recorded history although there has been increased earthquake activity and inflation of the summit reported beginning in September 2022.

Elevations on the Waikapuna parcel range from sea level to about 755 feet above sea level.

Soils

The United States Department of Agriculture (USDA) Natural Resources Conservation Service Web Soil Survey has mapped eight soil types for the Waikapuna parcel. The soil types consist of:

- Lava flows, ‘ā’ā, 2 to 20 percent slopes
- Lava flows, pahoehoe, 2 to 20 percent slopes
- Dune land, 2 to 20 percent slopes
- Lava flows-Kanohina complex, 2 to 20 percent slopes
- Kanohina ashy fine sandy loam, 2 to 10 percent slopes
- Nā’ālehu medial silty clay loam, 3 to 10 percent slopes
- Puueo extremely cobbly medial silt loam, 2 to 10 percent slopes
- Kanohina-Lava flows complex, 2 to 10 percent slopes

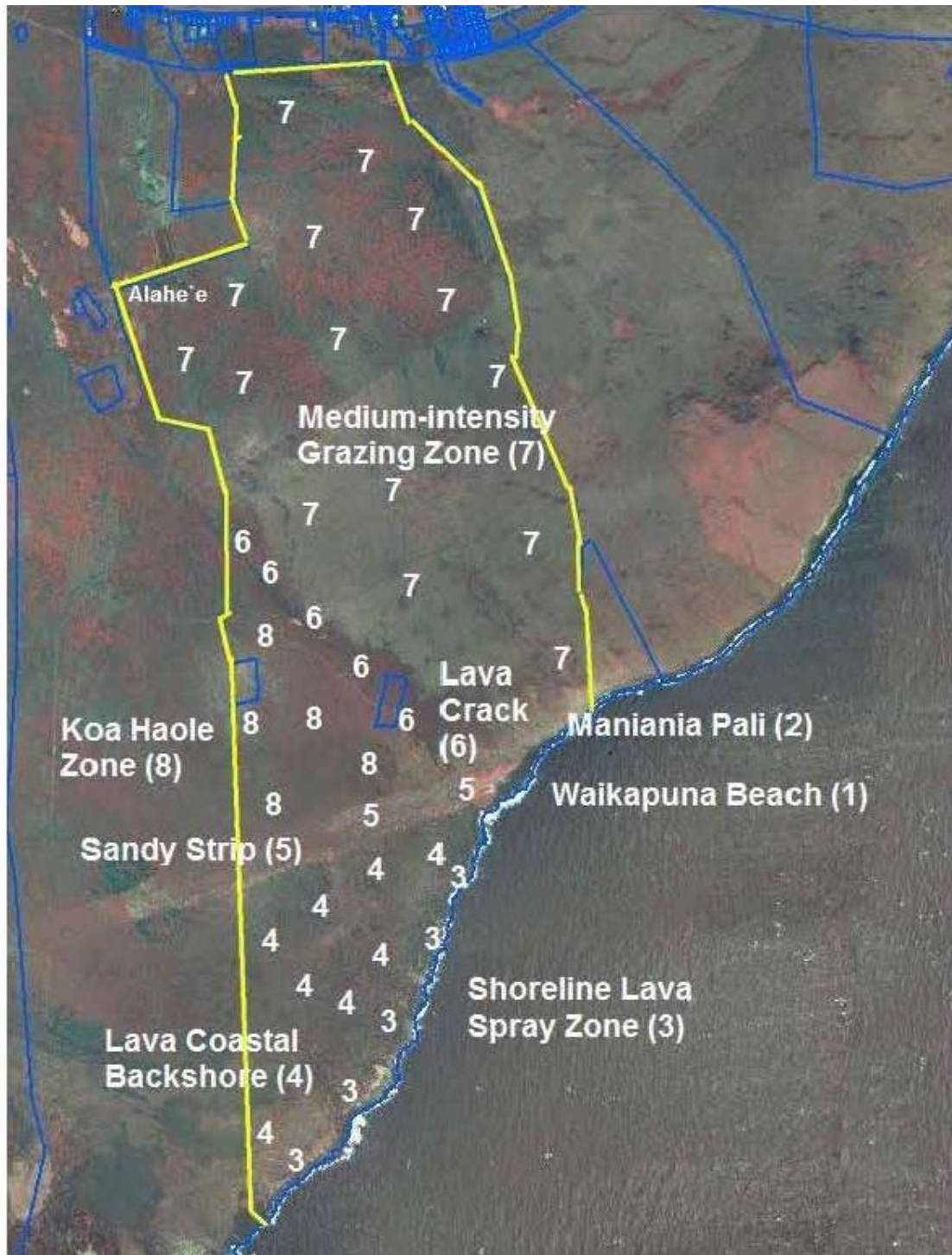
The mauka lands of Waikapuna leased for ranching are predominately Lava flows-Kanohina complex (2 to 20 percent slopes) and Kanohina ashy very fine sandy loam (2 to 10 percent slopes).

Vegetation

As described by Geometrician Associates (2017), the vegetation at Waikapuna can be categorized into the following zones that are referenced by number in Figure 5:

- 1) **Waikapuna Beach** – Naupaka (*Scaevola taccada*) is the dominant native shrub in this beach area behind a zone of tidepools. Other native plants present include ‘ilima, koali, ‘awa (*Ipomoea indica*) and nohu. A clump of non-native tree heliotrope (*Tournefortia argentea*) is located along the southern side of the beach area.
- 2) **Māniania Pali** – Located along the coast to the far north of the property. A narrow, steeply sloping strip of mostly native vegetation about 100 feet in width transitions quickly in the mauka direction to koa haole (*Leucaena leucocephala*), also referred to locally as “ekoa”, and guinea grass. Non-native Bermuda grass (*Cynodon dactylon*) and swollen-finger grass (*Chloris barbata*), along with ‘ilima, pa’ū o Hi’iaka (*Jacquemontia ovalifolia*), nehe (*Melanthera integrifolia*), and other native plants can be in this area.
- 3) **Shoreline Lava Spray** – Located adjacent to the shoreline extending inland to 300 feet from the far south of the property to the south edge of Waikapuna Beach. There is little to no vegetation near the seacliffs, but vegetation becomes dominated by the native akulikuli (*Sesuvium portulacastrum*), mau’u (*Fimbristylis cymosa*), and naupaka.
- 4) **Lava Coastal Backshore** – Located mauka from the shoreline lava spray zone extending inland about 4,000 feet. This zone is completely dominated by highly diverse native plant species including naupaka, pili, pa’ū o Hi’iaka, koali ‘awa, ‘ilima, ‘uhaloa (*Waltheria indica*), alahe’e (*Psydrax odorata*), naio (*Myoporum sandwicense*). There is also a high concentration of nehe and scattered occurrences of the rare shrub maiapilo (*Capparis sandwichiana*).
- 5) **Sandy Strip** – Extends diagonally from Waikapuna Beach to the southwest direction almost two miles inland. This zone consists of a roughly 700-foot wide ribbon of sand deposits over lava and dominated by head-high koa haole, but also contains ‘ilima, kauna’oa, nohu, and ‘uhaloa.
- 6) **Lava Crack** – Runs diagonally northwest to southeast through the property from Nā’ālehu to Waikapuna Beach for a length of about 6,300 feet. This area consists of primarily native vegetation including a dozen rare wiliwili trees (*Erythrina sandwicensis*), as well as two small herbs known as ‘ala ‘ala wai nui, (*Peperomia leptostachya* and *Plectranthus parviflorus*), the brambly ‘ilie’e (*Plumbago zeylanica*), the vines koali ‘awa and huehue (*Cocculus orbiculatus*), and the shrub kakalaioa (*Caesalpinia bonduc*).
- 7) **Medium-intensity Grazing Zone** – Covers about two-thirds of the property. There are few natives and no rare plants. A small patch of alahe’e is present on the extreme western corner of this zone. A non-native forest is present consisting of Christmasberry (*Schinus terebinthifolius*), Java plum, koa haole, sourbush (*Pluchea carolinensis*), *Senna pendula*, balloon plant (*Asclepias physocarpa*), lantana (*Lantana camara*) and Sacramento bur (*Triumfetta semitriloba*). The low forest in the mauka areas is dominated by Java plum and Christmasberry, which transitions into grass-dominated (mainly Guinea grass) and koa haole pasture on the older, soil-covered lava flows on the northern part of this zone.
- 8) **Koa Haole Zone** – Located in the southwestern third of the property mauka of the sandy strip, this zone is densely covered in koa haole, with a few other non-native shrubs, small trees and grasses.

Figure 5. Vegetation Map by Zones (from Geometrician Associates, 2017)



Groundwater Hydrology

The majority of Waikapuna overlies the Ka Lae Aquifer System Area with the exception of the mauka section of the property that overlies the Nā'ālehu Aquifer System Area. Both of these Aquifer Systems are part of the greater Southeast Mauna Loa Aquifer Sector Area and are currently utilized for drinking water. The estimated sustainable yield, or the amount of ground water that can be withdrawn without depleting or negatively impacting the quality of the source, for the Ka Lae aquifer is 31 million gallons per day (MGD), and the estimated sustainable yield for the Nā'ālehu aquifer is 117 MGD (County of Hawai'i, 2010). The ground water nearest the shoreline may not be suitable for drinking, as indicated by the "Underground Injection Control (UIC) Line" that the Hawai'i Department of Health uses to identify potential sources of underground drinking water.

According to the DLNR Division of Aquatic Resources (DAR) watershed delineations, Waikapuna lies within the Nā'ālehu, Wai'ōhinu, and Kawela watersheds, covering 5,070, 19,694, and 25,485 acres, respectively.

Hazards

Climate Change and Sea Level Rise

The effects of global climate change have resulted in air temperature increasing by 0.76 degrees Fahrenheit over the last century and a general downward trend in rainfall. Sea surface temperatures and ocean pH (an indicator of acidity) have also increased. Annual rainfall in the vicinity of Waikapuna has decreased at least one percent per decade between 1920 to 2012. (U.S. Global Change Research Program, 2018)

Increasing temperatures and decreasing rainfall will lead to an increased frequency of droughts. The frequency of wildfires is also expected to increase as low rainfall creates dry vegetation that increases fuel loads. Climate change is also expected to cause more severe rainfall events, which will increase runoff to the nearshore waters. Higher sea-surface temperatures and ocean acidification, both impacts of climate change, will have detrimental effects on aquatic and marine ecosystems, including deterioration of coral reefs. Rising sea levels will inundate areas near shorelines, thus having a direct impact on habitat for nearshore resources and public use. The coastal areas of Waikapuna, particularly near Waikapuna Bay, will be impacted with 3.2 feet of sea level rise which is anticipated by the end of the century.

Lava

The United States Geological Survey (USGS) categorizes lava flow hazard areas into nine zones, with lava flows most likely to occur in Zone 1 and least likely to occur in Zone 9. These lava flow hazard zones are based on characteristics of past eruptions, topographic features that could affect the path of lava, and the assumption that future eruptions will be similar to those in the past. The resulting map was designed primarily to provide information for general planning purposes to communicate long-term lava flow hazards.

According to the USGS hazard classification, Waikapuna is in Lava Flow Hazard Zone 6. This area is described as being "protected from southwest rift zone eruptions by a completed faulty topography." The lava underlying Zone 6 are all older than 4,000 years.

Seismic and Tsunami

The largest earthquake recorded in the history of Hawai'i occurred in April 1868, measuring a magnitude of 7.7 on the Richter scale. This event, often referred to as the great Ka'ū earthquake, likely changed the historical trajectory of Ka'ū. Within minutes of the initial earthquake, a catastrophic tsunami hit the coast and washed inland. The wave is reported to have destroyed homes in Ka'ū and took the lives of 77 people (Hawaiian Volcano Observatory, 2018).

According to the Tsunami Evacuation Zone maps, Waikapuna is located outside of the tsunami evacuation zone, but there are some low-lying areas within the Waikapuna property and records of tsunami wave heights at nearby Honu'apo were 14 feet in 1946, 7 feet in 1957, and 17 feet in 1960 (Loomis, 1976).

Fire

Based on data from DLNR Division of Forestry and Wildlife (DOFAW, 2007), the area north of Waikapuna is identified as an area with medium risk from Wildland Fires. The nearby communities at risk from wildfires for this area include Nā'ālehu, Wai'ōhinu, Mark Twain Estates, and Discovery Harbour. In September 2017, a large brush fire burned at least 1,600 acres along the coastline between Waikapuna Bay to within three-quarters of a mile to homes in the nearby Green Sand Beach subdivision (Big Island News, 2017). Additional information related to fire is provided in the Fire Prevention and Management section of this report.

Existing Uses

Existing uses of the Waikapuna parcel at the time of acquisition consisted of:

- **Cattle ranching** of the mauka areas of the property leased to two different ranchers.
- **Community managed access** for uses generally during the weekend. These uses include but are not limited to passive enjoyment, fishing and gathering of nearshore resources, salt gathering, cultural practices, hiking; and often involve overnight stays at the beach.



Brushfire in 2017. Photo Credit: Hawaii County Fire Department

The term “community managed access” refers to the regulated access for individuals which, in the past, allowed for overnight access for one group at a time to Waikapuna Bay.

- **Wireless telecommunication tower facilities** located near the boundary of Waikapuna and the adjacent Kāwala parcel leased to telecommunication companies.

Access

At the present-time, there are two vehicular entry points into the Waikapuna parcel, only one that leads to the designated access roadway to Waikapuna Bay via Arena Road. This existing vehicular, and legal, access, from Arena Road (which crosses over several privately-owned parcels) enters into the adjacent Kāwala property (identified as TMK 9-5-010: 001; owned by Kuahiwi Ranch) before arriving at the boundary of the Waikapuna parcel. At the present time, there are gates along this 3.75-mile access route as it traverses through pasture lands used for cattle ranching. It is an unpaved ranch road that requires the use of high clearance four-wheel drive vehicles. The other access point, primarily used by the existing ranching lessee, is through Nā'ālehu Spur Road.

There is also a non-exclusive easement for pedestrian and vehicular ingress and egress and utility purposes from Māmalahoa Highway that is located to the north of the Waikapuna parcel. This easement is situated on a parcel identified as TMK 9-5-022: 001 (a 26-acre parcel owned by a private landowner). However, there is currently no physical road access through this easement.

Public pedestrian access to the Waikapuna parcel is through the adjacent State land along the coastal trail.

Infrastructure & Structures

Existing infrastructure within the Waikapuna parcel is minimal and primarily has been installed to support cattle grazing. Infrastructure consists of waterlines that feed into water troughs and fencing/gates. There are also overhead utility lines, three worn-down structures formerly used as ranching headquarters, sleeping quarters, and pig pens, and three wireless telecommunication tower facilities.

Cultural and Natural Resources

This section provides a general overview of the key cultural and natural resources of Waikapuna, and includes information shared by individuals during the outreach process.

Cultural Practices & Gathering

Waikapuna has become an integral part of the way of life for many families who have settled and reside in nearby communities for generations. It is one of the places where people would access for **fishing and gathering of resources**, “an icebox for families.” The practice typically involved staying at the beach for several days and nights, which facilitated families spending time together. During this time, important values and practices were learned.

Harvesting of salt is another cultural practice shared by many individuals. A community member recalled how it was so beautiful to see the sheets of salt, and another reminisced gathering salt as a child from Waikapuna and Honuapo using a rice bag. Many people agreed that the salt from this area as having a lot more flavor than store-bought salt, “it’s fantastic...essence of [the] ocean is so good.” Residents described how they would gather salt to pulehu meats, to make poke, or to dry fish. They emphasized the importance of protecting the salt ponds, as it is one of the few places where they can still be found along this coastline.



Many community members continue to gather salt at Waikapuna.

A fisherman further described the salt as being “quite tasty” and explained the process of harvesting salt from the pali south of Waikapuna Bay. There are pools of water captured along the pali after a period of very rough water and splash from big surf (which usually occurs during the summer swell). He explained that the ocean spray gathers in these pockets and when followed by a period of sunshine, a crust of salt can be found as a result of natural solar evaporation, maybe within a two-week period.

In addition to the gathering of ocean resources and salt, a kupuna recalled going to Waikapuna with her family to gather seeds from the wiliwili trees to make leis, while another individual shared the practice of gathering kūpe‘e from Waikapuna for lei making for hula. The practice of caring for cultural sites and connecting to their ancestors at Waikapuna was also emphasized.

Cultural & Historic Sites

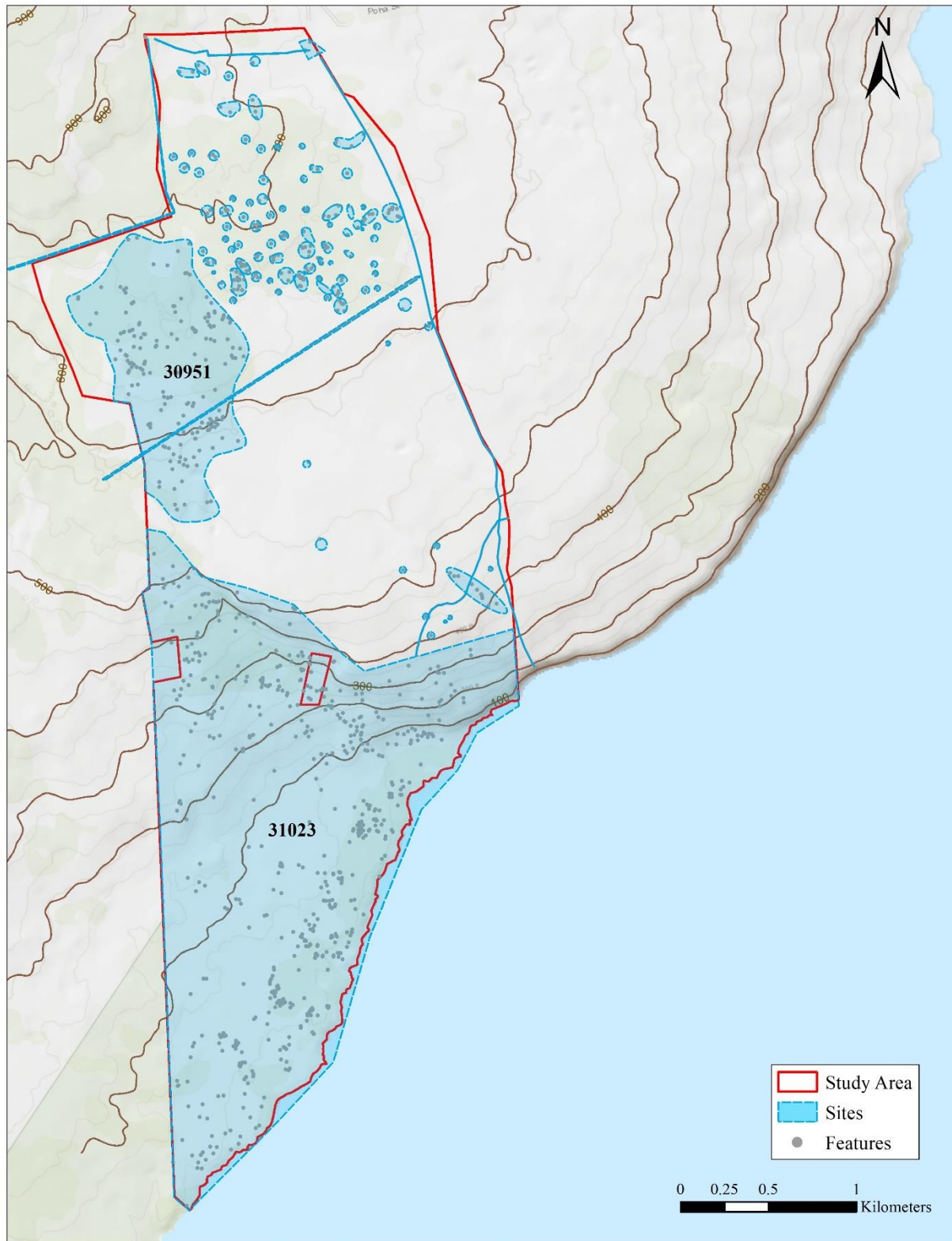
Cultural and historic sites are located throughout the Waikapuna parcel. These sites include heiau, trails, caves, burials, petroglyphs, salt pans, and a coastal village surrounding the sand beach. Archaeological fieldwork identified 98 sites within the Waikapuna parcel. Three sites were previously identified during initial archaeological fieldwork by Rechtman Consulting, LLC between September 2006 and October 2007. Subsequent fieldwork by ASM Affiliates in April and May of 2018 documented an additional 95 sites containing a total of 1,011 features.



The coastal village can be seen upslope of the sand beach.

Two large site complexes contain the majority of the features, Site 50-10-74-30951 (identified as “30951” in Figure 6) that occupy the upper part of the parcel within the ahupua‘a of Kāhilipali‘iki above Waikapuna Pali and Site 50-10-74-31023 (identified as “31023” in Figure 6) that includes the makai area below Waikapuna Pali. The draft archaeological inventory survey completed by ASM Affiliates (2018) states that “these complexes represent fairly intact cultural landscapes that record the diachronic history of the land at its use by humans since the arrival of the first Polynesian voyagers to the shores of Ka‘ū through the present day, and provide a tangible connection to the past for the modern residents of the area.” The survey also suggested that this area consisted of former house sites and agricultural fields. House lots were primarily near the coast since it provided easier access to marine resources and freshwater found in springs that were once active adjacent to Waikapuna Bay. The agricultural fields were located further inland in areas protected by coastal winds, such as at the western/southwestern foot of the pali.

Figure 6. Sites as identified by ASM Affiliates from their 2018 Draft AIS Report



Native Plant Habitat

The coastal area of Waikapuna is described as being “an intact and botanically highly valuable community,” whereas the inland area has been “substantially altered by grazing and heavily dominated by non-native vegetation.” (Geometrician Associates, 2015)

A total of 32 native plant species in the coastal ecosystem, including two rare, threatened, or endangered species, have been identified during surveys of the property by Warshauer (2003) and Geometrician Associates (2015). The rare endemic shrub maiapilo can be found in a small area near the southern boundary of the parcel makai of the jeep road. Although it has not been recently confirmed on the property, the endangered herb ‘ihi (*Portulaca villosa*) was identified by a survey conducted by Warshauer in 2003 in the backshore on a lava substrate. Threatened and endangered species are listed under and protected by the federal Endangered Species Act. Additional threatened and endangered plant species may be present at Waikapuna and it has been suggested by Geometrician Associates (2017) that the most likely location would be along the coastal zones where a few individuals of the endangered ‘ōhai (*Sesbania tomentosa*) could be present. Aside from the coastal areas, endemic wiliwili trees are located on the property near the lava crack/scarp and a patch of alahe’e in the mauka areas near the southwestern section of the property.

A list of native plants species surveyed by a previous study from Geometrician Associates (2017) is provided below.



Rare endemic shrub maiapilo found near the southern boundary of the parcel.



A large wiliwili tree growing toward the makai end of the lava crack/scarp.

Table 1. List of Native Plant Species (from Geometrician Associates, 2017)

| Scientific Name | Family | Common Name | Life Form | Status | Survey |
|---------------------------------------|------------------|---------------------------|-----------|--------|--------|
| <i>Boerhavia repens</i> | Nyctaginaceae | Alena | Herb | I | G,W |
| <i>Caesalpinia bonduc</i> | Fabaceae | Kakalaioa | Vine | I | G |
| <i>Capparis sandwichiana</i> | Capparaceae | Maiapilo | Shrub | E | G,W |
| <i>Chenopodium oahuense</i> | Chenopodiaceae | 'Aweoweo | Herb | E | G,W |
| <i>Cocculus orbiculatus</i> | Menispermaceae | Huehue | Vine | I | G |
| <i>Cuscuta sandwichiana</i> | Convolvulaceae | Kaunaoa pehu, dodder | Vine | E | G,W |
| <i>Diospyros sandwicensis</i> | Ebenaceae | Lama | Tree | E | W |
| <i>Dodonea viscosa</i> | Sapindaceae | 'A'ali'i | Shrub | I | G |
| <i>Doryopteris decora</i> | Sinopteridaceae | Kumuniu | Fern | E | W |
| <i>Fimbristylis cymosa</i> | Cyperaceae | Mau'u | Sedge | I | G,W |
| <i>Heliotropium anomalum</i> | Boraginaceae | Hinahina | Herb | I | G,W |
| <i>Heliotropium curassavicum</i> | Boraginaceae | Hinahina | Herb | I | G,W |
| <i>Heteropogon contortus</i> | Poaceae | Pili grass | Herb | I | G,W |
| <i>Ipomoea indica</i> | Convolvulaceae | Koali 'awa, morning glory | Vine | I | G,W |
| <i>Ipomoea pes-caprae</i> | Convolvulaceae | Beach morning glory | Vine | I | G,W |
| <i>Jacquemontia ovalifolia</i> | Convolvulaceae | Pa'u O Hi'iaka | Vine | I | G,W |
| <i>Mariscus phleioides phleioides</i> | Cyperaceae | No common name | Sedge | E | W |
| <i>Melanthera integrifolia</i> | Asteraceae | Nehe | Herb | E | G,W |
| <i>Myoporum sandwicense</i> | Myoporaceae | Naio | Shrub | I | G,W |
| <i>Nephrolepis exaltata</i> | Nephrolepidaceae | Sword Fern | Herb | I | G,W |
| <i>Nototrichium sandwicense</i> | Amaranthaceae | Kului | Shrub | E | G |
| <i>Ophioglossum polyphyllum</i> | Ophioglossaceae | Puapuamoa | Fern | I | G,W |
| <i>Osteomeles anthyllidifolia</i> | Rosaceae | 'Ulei | Shrub | I | G |
| <i>Panicum fauriei</i> | Poaceae | No common name | Herb | E | W |
| <i>Peperomia leptostachya</i> | Piperaceae | 'Ala 'ala wai nui | Herb | I | G |
| <i>Plectranthus parviflorus</i> | Lamiaceae | 'Ala 'ala wai nui | Herb | I | G |
| <i>Plumbago zeylanica</i> | Plumbaginaceae | 'Ilie'e | Herb | I | G,W |
| <i>Portulaca lutea</i> | Portulacaceae | 'Ihi | Herb | I | W |
| <i>Portulaca villosa</i> | Portulacaceae | 'Ihi | Herb | END | W |
| <i>Psilotum nudum</i> | Psilotaceae | Moa | Fern ally | I | G |
| <i>Psydrax odorata</i> | Rubiaceae | Alahe'e | Shrub | I | G,W |
| <i>Scaevola taccada</i> | Goodeniaceae | Naupaka | Shrub | I | G,W |
| <i>Sesuvium portulacastrum</i> | Aizoaceae | 'Akulikuli | Herb | I | G,W |
| <i>Sida fallax</i> | Malvaceae | 'Ilima | Shrub | I | G,W |
| <i>Tribulus cistoides</i> | Zygophyllaceae | Nohu, puncture vine | Herb | I | G,W |
| <i>Waltheria indica</i> | Sterculiaceae | 'Uhaloa | Herb | I | G,W |

Status: A = alien, E = endemic, I = indigenous, End = Federal and State listed Endangered Species
 Survey: G=Geometrician 2015-2017; W-Warshauer 2003

Native Invertebrates

Geometrician Associates (2017) suggest that the endangered yellow-faced bee *Hylaeus anthracinus* could be present at Waikapuna since it has been observed near South Point. They did note the presence of a large patch of non-native *Tournefortia argentea* trees that are favored by yellow-faced bees, but did not find any yellow-faced bees present at the time of their visit.

Aquatic Fauna

The beach area offers a haul out location for federally threatened green sea turtles (*Chelonia mydas*) and federally endangered Hawaiian monk seals (*Neomonachus schauinslandi*), but does not seem favorable for Hawaiian hawksbill sea turtles to nest due to the rocky substrate fronting the beach area. Consultations indicate that humpback whales (*Megaptera novaeangliae*) travel close to shore due to the sharp drop in the sea shelf and green sea turtles have been observed in the nearshore waters off of Waikapuna Bay. Geometrician Associates (2017) state that the “aquatic and marine life may be the most valuable biological asset at Waikapuna” and referenced data from NOAA:

NOAA-CRED data was generated using a randomized stationary point count (SPC) from a NOAA visit in 2013 that observed areas 15 meters in diameter. Data compiled by a biologist indicates that researchers observed 41 species of fish during their survey. The benthic cover at 5.85 meters in depth was composed of 66% turf algae, 20% crustose coralline algae, 14% coral cover, with no macro algae or sand cover. The biomass was similar to other Hawai‘i Island locations. Overall, this survey, along with others conducted by NOAA in 2005, 2006 and 2008, found an extremely healthy aquatic biota and habitat.

Native Sea Bird Habitat

The coastal area provides valuable sea bird habitat, particularly the sea cliffs along the shoreline where hundreds of Black Noddies or Noio (*Anous minutus*) have been recorded.

Biologists have also observed the federally endangered Hawaiian Hawk or ‘io (*Buteo solitarius*) and the following migratory birds at Waikapuna: ruddy turnstone or ‘akekeke (*Arenaria interpres*), wandering tattler or ‘ulili (*Heteroscelus incanus*), the Pacific golden-plover or kōlea (*Pluvialis fulva*), and the bristle-thighed curlew or kioea (*Numenius tahitiensis*). Note that the kioea is not commonly seen on Hawai‘i Island.



Noio nest in crevices in the sea cliffs along the Waikapuna shoreline.

Sense of Place

Waikapuna is an important place for nearby Nā‘ālehu and Wai‘ōhinu residents, but also for kama‘āina from other communities in the Ka‘ū District and other regions of Hawai‘i Island. When asked about the significance of Waikapuna to them, individuals described unique connections to the place. For lineal descendants, Waikapuna connects them to their families through their iwi kūpuna who are buried there

and the house sites they have left behind are memories of people who once lived and were part of the thriving fishing village at Waikapuna. “For us, Ka’ū is a **special place**. It’s our ancestral home,” said a lineal descendant. He added that “Waikapuna reminds me of a different time,” and explained how Waikapuna evokes memories of old Hawai’i. He recalled stories of his family relocating to mauka areas after the tsunami and shared how they would grow sweet potatoes, load up mules every summer and head to Waikapuna. They would stay a couple of weeks seaside and he remembered a time when people would share freely.

For the kama’āina who once worked during the plantation days and for paniolo during the ranching era, Waikapuna was a place where only a select group of people were permitted to access the place. “Waikapuna used to be closed off, sugar company and ranch had locked gate, only way [to access] if you got the key from the plantation,” shared a former employee of Hutchinson Sugar Plantation Company. He explained that it was a **privilege** to go down to Waikapuna beach, as it was usually reserved for the supervisors and was not made available to the general public.

Another Ka’ū resident reflects on the significance of **spending time with the family** at Waikapuna:

Wonderful feeling to be able to gather from the land. The only thing we used to bring was rice or poi. For us, it bought a closeness to rely on family together as a whole unit that provided for...and teaching. The things my dad and husband taught me and that we taught our children...the respect of the ‘āina and our culture.... Those were special times with grandpa. Him



Waikapuna Bay (facing north)

teaching them what his parents taught him. Going as a whole unit. When the generations can unite and appreciate the special places in Ka'ū.

She also recalled learning at Waikapuna at a young age from her dad, “how to do our hooks...specific places to go [fishing] day or nighttime, my dad followed the moon, even for planting. Follow the old ways. Learned how to adapt to change.” She further explained that Waikapuna “allows us to practice what we were taught....and to keep that way of life. There was a purpose of my dad teaching us to survive and to take care of one another and he would say if you can survive in Ka'ū, you can survive anywhere.”

One individual recalled visiting Waikapuna as a child and shared fond memories of riding her horse with her mom for day trips to the beach at a young age while her dad would drive down and go fishing and lay net in the pond. Another individual shared that he enjoys going to Waikapuna with his wife and kids and “just being ma'a to the place.” He adds, “The beach...there is so much to do, fishing and gathering. It truly is a classroom...to show kids how special the place is.”

A Ka'ū resident reiterated the value of Waikapuna as **a place for education and perpetuating Hawaiian practices:**

Everybody learn how to fish. Get room to play and swim. Take the older people, sit down in the sand. Down there...just for the kids to enjoy, learn how to fish, throw net, and dive.

He shared his sentiments and feelings evoked while at Waikapuna:

Just family, no matter what...It's about family. No more service for phone. Only radio to turn on to catch music. Get to climb on the pali. Every memory is great...just with the family. It's not just about the fishing, gotta feel the beach. Enjoying the sand. The feeling...the vibe is different. Even the kids...the beach...just nice to walk from one end. Enjoyment. Catch pipipi...kids enjoy catching [...] Take the stress out of life.

A kama'āina from Ka'ū also shared the significance of Waikapuna to his learning, “We used to go down there with Dad to clean up, clean up brackish pond. Spend time with my dad...where I first learned how to throw net and fish.” Years later, he wants to share that experience with his own children: “For the younger kids...to walk out to throw net, for younger kids to start learning, just to be down there, just a feeling...the beach...do a little, help a little...keep it clean, leave [the] beach better than you found it.”

For most, Waikapuna is one of the special places in Ka'ū to go to “slow down the pace of life.” Referred to by some as “the last of the frontiers,” a fisherman explained that not much has changed since he first visited Waikapuna in the 1960s except that vegetation has gotten thicker and bigger. “The beauty of Ka'ū is that it is untouched,” said another fisherman. Waikapuna is a place to pass the time. People shared that they enjoy going there to be able to get away from everybody and because it is **secluded**. “Don't have to worry about other people coming around....nobody can bother us,” said a fisherman but also felt by many people consulted.

A resident explains the importance of Waikapuna: “To me, it's about a very heavy feeling...It feels like you go back in time, pick up in time...the landscape changed with the tidal wave, a piece of that puzzle,

starting at Honu‘apo and walking all the way over there, and then make it to Ka Lae, [Waikapuna is] one piece of the puzzle [connecting this Ka‘ū coastline].”

Issues and Concerns

In addition to the significant resources shared by the community, the outreach process provided information on issues and concerns relating to these resources. A summary of these issues and concerns are described below (not listed in any specific order), while more detailed descriptions of key threats to specific resources are outlined in subsequent sections.

- **Access** to Waikapuna facilitates family spending time together and is important to the way of life for Ka‘ū residents. Community members need to visit the property to engage in subsistence gathering, cultural practices, and connection with the place, and to hand down traditions and stories. Some expressed concerns that residents would no longer have access because of landowner restrictions or too many people wanting access.
- It is feared that too many visitors will take away from the remote sense of place enjoyed by families. Too many visitors and/or visitors that do not have a connection with this place may result in inadvertent damage to the property and its resources, such as causing wildfires, damaging cultural sites, spreading invasive plant species and/or diseases, inappropriate depositing of trash, looting, etc.
- Vagrancy and associated impacts have become both a threat to the resources, sense of place, and overall experience for other site users at Waikapuna.
- Risk of **fire** as a result of increased public use and drought conditions.
- **Damages to cultural and historic sites** from use of heavy machinery and bulldozing; cattle foraging; and inadvertent impacts from human use and fire suppression.
- **Safety** related to the rough ocean conditions, strong currents, steep cliffs, lack of emergency phone service along the coastline and challenging terrain, particularly for first time visitors to Waikapuna but also for experienced visitors and fishermen. Previous accidents along the cliff have resulted in serious injuries and/or deaths. Unmanaged access may interfere with ranching operations and make it difficult to know who is on property in the event of an emergency. Additionally, there are risks from earthquakes and tsunamis. It has been reported that the State’s emergency siren system cannot be heard along the coastline at Waikapuna.
- **Impacts to nearshore resources and the cultural landscape** if access is not controlled. Irresponsible visitors have engaged in unsafe behaviors or behaviors that are unsustainable or damage or overtax the resources, such as overharvesting and commercial taking of marine resources.
- The need to elevate reciprocity between **people and place**; mālama the land and hold kuleana to care for the resources.
- **Marine debris** from ocean currents and trash left from human use.
- **Invasive plants and animal species** that can exacerbate fire risk, outcompete native plant species, pose a threat to cultural sites, and disturb habitat for native species.
- Impacts of **climate change** which may result in an increased frequency of droughts, thus impacting feasibility of cattle ranching, and increased frequency of wildfires.

Management Plan

This management plan focuses on two key concepts: **CULTIVATING KNOWLEDGE** and **COMMUNITY STEWARDSHIP**.

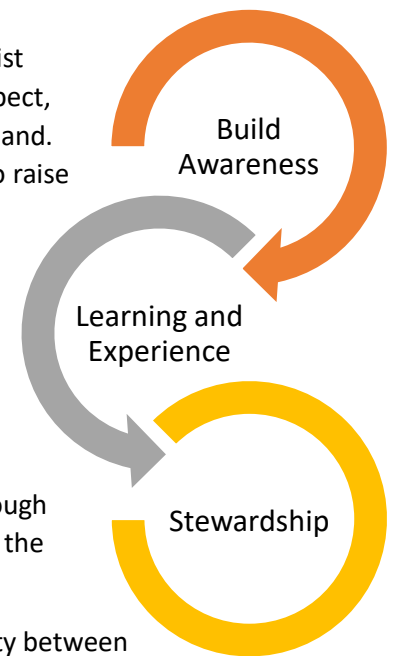
Knowledge cultivation starts with building awareness of the resources that exist which may lead to an appreciation of the place and in turn garner greater respect, willingness to care for the resources, and strengthen one's connection to the land. Public awareness may occur at Waikapuna, but there are also opportunities to raise awareness off-site. For example, outreach with keiki through local school programs and at local community events (e.g., annual July 4th parade in Ka'ū, etc.) are ways to enhance the community's understanding of the cultural and natural landscape. For people requesting overnight access to Waikapuna, awareness is reinforced through educational videos and information integrated as part of the overnight reservation process and shared both online and in-person.

Beyond having an awareness of the resources that exist, engaging people through educational access days or site visits at Waikapuna allows them to experience the place and develop a deeper understanding of the resources.

Encouraging community stewardship of Waikapuna helps to elevate reciprocity between people and place. Community stewardship allows the people to determine the fate of their own resources and shape the future of the place. Through this process, the community, particularly individuals that utilize resources for cultural or subsistence¹² practices, helps to restore and perpetuate the generational knowledge of caring for resources. The community takes an active role in re-educating others on the purpose of certain kapu, including "pono practices," and the use of traditional kapu as a conservation measure. Kūpuna and descendants of the place contribute to sharing their stories and knowledge so that information and ancestral values may be passed on to future generations.

Knowledge cultivation and community stewardship are simultaneously activated by creating spaces for individuals, families, and entities to have a role in stewardship where knowledge can be shared and cultural practices perpetuated. These spaces can be created at Waikapuna through:

- **Kūpuna days** - a space for kūpuna of the place to access the cultural landscape and to share their knowledge of the place and practices that have been passed down generation to generation.
- **'Ohana days** - an opportunity for families to explore wahi pana and wahi kūpuna of Ka'ū, to practice kuleana to steward resources, and to perpetuate cultural traditions and practices.



¹² The Governor's Task Force on Moloka'i Fishpond Restoration (1993) defines subsistence as "the customary and traditional use by Moloka'i residents of wild and cultivated renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, transportation, culture, religion and medicine, for barter or sharing, for personal or family consumption, and for customary trade." The Waikapuna management plan adopts this definition with the following modifications, "Subsistence is the customary and traditional use of renewable resources for direct personal or family consumption, including for barter or sharing, for personal or family consumption, and for customary trade, in a manner where practices are sustainable to ensure the availability of resources for future generations."

- **Organized mālama ‘āina workday(s)** - a means to empower community groups/individuals to host mālama ‘āina workday(s) to carry out one or more of the action items presented in this management plan or to participate in an ATA-organized workday; all who call Hawai‘i home have kuleana to support good stewardship of resources.
- **Community managed access** – to provide community access for subsistence fishing and gathering, family overnight stay on public property at the shoreline, and to perpetuate Ka‘ū traditions.

The desired outcome from cultivating knowledge and encouraging community stewardship is a community that is (re)connected to functional wahi kūpuna and engaged in stewardship and education. Healthy ecosystems will be achieved through traditional resource management practices that are built upon the foundation of Hawaiian values and are combined with modern scientific approaches to steward the ‘āina. The spaces provided through the kūpuna days, ‘ohana days, organized mālama ‘āina workdays, and community managed access facilitate meaningful conversations amongst communities and families and build community capacity to care for resources that are the foundation of life for the people of Ka‘ū.

Guiding Principles

The following concepts from the Kali'uokapa'akai Collective Report (2021) are shared below to provide context for the goals, actions items, and implementation approach presented in this management plan:

- The term “cultural resource management” tends to focus on just the tangible resources whereas the term “wahi kūpuna stewardship” includes intangible resources such as genealogies, inoa 'āina (place names), mo'olelo, and mele.
- Wahi kūpuna stewardship conveys a sense of reciprocity to mālama as opposed to management (where humans are superior to the 'āina and wahi kūpuna).
- The ability for Hawaiians to develop pilina (relationship, connection) with place is important to the practice of culture and the restoration of wahi kūpuna.
- There is no separation between cultural and natural resources. Hawaiian cultural resources also include the natural environment which defines and supports people's knowledge, practices, beliefs, rights, and responsibilities in relationship to the 'āina. The concepts of mālama 'āina and aloha 'āina reflect the Hawaiian worldview of caring for both natural and cultural landscapes as one and the same, as Native Hawaiians recognize the cultural significance and value of the natural world.
- A major part of restoration which is often overlooked is the restoration of people to place. Access for indigenous people to their traditional places is vital for cultural survival.
- Western historic preservation law and practice has commonly viewed the practice of preserving historic sites and ancestral places as static snapshots of the past. However, wahi kūpuna are not static; they are dynamic, living parts of our community.
- Throughout history, and in traditional practices of stewarding wahi kūpuna, it is clear that many of these sites have been actively used, built, and/or rebuilt over time, or have even fallen out of use for extended periods.
- Both preservation and restoration of wahi kūpuna are essential components of cultural survival. There is a lot of restorative work needed to repair numerous cultural sites and places that over time have been damaged, ruined, or have simply deteriorated because of misuse or lack of use.
- The restoration process of wahi kūpuna is complex because its function is dynamic. The function of wahi kūpuna can change over time and vary amongst communities. The restoration process not only includes repairing the physical aspects of the sites, but also includes the process of re-connecting people to these important places and restoring the functionality of these sites. In other words, it involves respecting, acknowledging, and accepting the role and importance of history, culture, and traditions in our lives.

Key Action Items

Action items are categorized into five topic areas, as generally outlined in the Grant of Conservation Easement (Figure 7). These action items can be achieved through building and supporting community capacity, collaborating with other non-profit organizations and partnering with other adjacent large landowners such as the State DLNR, Kamehameha Schools, and DHHL for greater landscape level protection and stewardship. Stewardship and responsible land management of the entire region through partnerships with adjacent properties are critical for success at Waikapuna.

The following **Educational and Outreach Activities** are also applicable to all of the topic areas and are important to ensure the protection and preservation of Waikapuna’s resources:

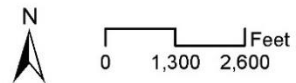
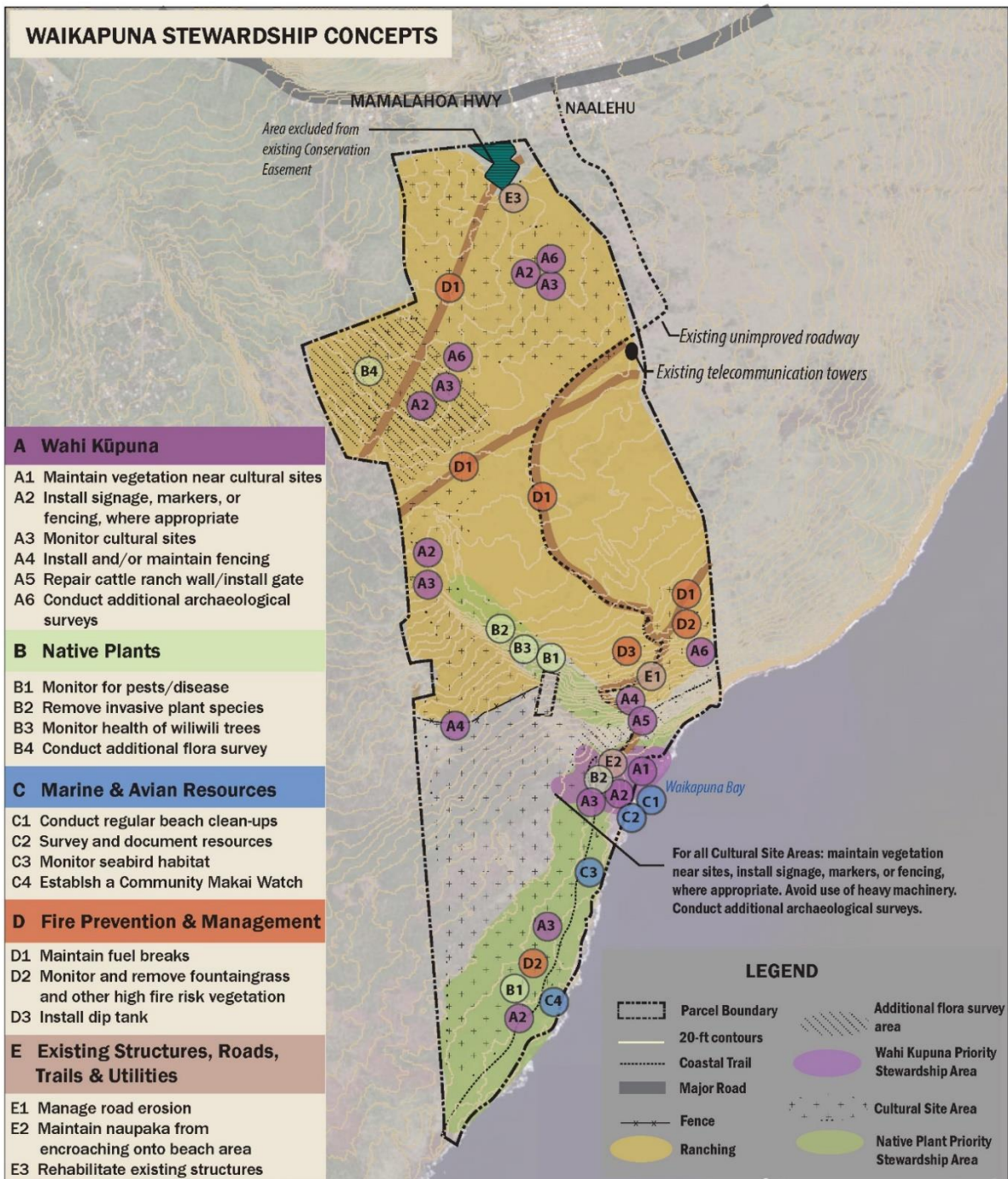
- Develop **educational materials** in consultation with kūpuna and descendants of the place that highlight the historical significance, place names, mo’olelo, mele, and traditional practices to care for resources. Information about the purpose of the County’s Conservation Easement and State’s grant should be shared with the public. Educational materials and information could be shared in print, video, or audio and made available online, and in-person during site visits, educational access days, organized mālama ‘āina workdays, and upon check-in for overnight access.
- Host **talk story sessions** in addition to kūpuna days, ‘ohana days, and organized mālama ‘āina workdays to allow the sharing of stories, knowledge, oral histories and practices to build community capacity and to pass on ancestral knowledge.
- Conduct **youth education programs** at Waikapuna and off-site at nearby schools to engage the younger generation in conservation ethics and values. Work with educators, cultural practitioners, archaeologists, researchers, and ecologists, to promote learning opportunities for youth (e.g., service learning internships and other programs).
- Create and install **signage** to remind people to be mindful and respectful of the place; consider involving keiki to create some of the signs. Educational or interpretive signs should be developed in consultation with the local community, including kūpuna and descendants of the place, to determine what type of information should be shared with the public and appropriate places to install them (e.g., along the trail or near sensitive resources). Signs should be placed strategically at various access points but without compromising the sense of place and scenic qualities of Waikapuna. Positive language should also be utilized on signs to build awareness and encourage desired behavior.

Figure 7. Management Plan Topic Areas



The following section outlines specific action items for each of the topic areas, including identifying goals, or desired results from implementation of this management plan. Figure 8 provides an overview of the general stewardship concepts recommended for Waikapuna.

Figure 8. Waikapuna Stewardship Concepts



Archaeological, Cultural, and Historic Resources

There are significant archaeological, cultural, and historic resources throughout the Waikapuna parcel, including salt pans, trails, house sites, and burials. Strategies will focus on protection of these resources from key threats, monitoring of resources, and fire management. Lineal descendants and kūpuna, along with the local community and youth, will be engaged to care for these resources and to monitor, survey, and document sites so that stewardship of wahi kūpuna is reflective of the proper stewardship techniques ingrained in the traditions and customs of the native people. The immediate approach for stewardship of cultural resources around Waikapuna Bay will focus on building awareness through education; monitoring of sites as this area will be subject to the highest use from the public; and maintaining vegetation around the cultural resources. For the areas leased for ranching, coordination and communication with lessees on cultural resources will be critical, coupled with identifying the sensitive sites that require additional protection and attention through the installation of markers or signage and monitoring of impacts. Cultural sites need to be maintained free of non-native vegetation using hand clearing methods. Such clearing and fencing of sites (if required) needs to be coupled with the capacity for the ongoing maintenance of vegetation, as overgrown vegetation can damage the sites and increase fuel loads for wildfires.

Goals

The goals for the stewardship of archaeological, cultural, and historic resources are as follows:

- Significant archaeological, cultural, and historic sites are protected from inadvertent damage.
- A Ka'ū community that is reconnected to wahi kūpuna and engaged in stewardship, education, and research.

Threats

Archaeological, cultural, and historic resources are threatened by:

- **Use of heavy machinery** from ranching practices such as dragging a chain to clear vegetation and from fire suppression activities such as bulldozing to create fire breaks.
- **Non-native vegetation** such as Christmasberry, lantana (*Lantana camara*), sourbush, and java plum (*Syzygium cumini*) compromise the structural integrity of cultural sites when their roots grow into them.
- **Cattle** sometimes wander outside their normal foraging areas during dry conditions in search of food or water and may disturb cultural sites.
- **Inadvertent impacts** from human use including trash; improper use of areas as toilets; and damage and erosion from recreational dirt bikes, ATVs, UTVs, and other off-road vehicles.
- **Lack of respect and understanding** of the history, culture, and traditions of the wahi pana.
- **Looting** of cultural resources by collectors.
- **Coastal erosion and sea level rise** as a result of climate change.

Action Items

Goal: Significant archaeological, cultural, and historic resources are protected from inadvertent damage.

- Protection
 - Fence off pastures and place water troughs strategically to ensure that cattle do not roam into significant cultural sites, which will also minimize impacts to native plants and reduce soil erosion.
 - Repair sections of the ranch rock wall so that it can be used effectively to keep cattle from traversing past this area.
 - Avoid use of heavy machinery near cultural sites; maintain vegetation around cultural sites utilizing hand clearing or small hand tools only. Consider the use of herbicides to maintain vegetation, except within 50 feet of the coastline or water sources.
 - Ensure cultural sites within pasture areas are kept free of vegetation to avoid cattle disturbing sites to forage; conduct additional monitoring during drier months.
 - Utilize markings or signage around sensitive cultural sites particularly along trails and roadways to avoid inadvertent impacts from ranching activities and human use. Fencing of sensitive sites should be considered if deemed that additional protection is needed from ranching activities and/or human use. However, fencing of any sites must be accompanied with ongoing vegetation clearing and maintenance as roots from vegetation may cause just as much or more damage to the integrity of features than non-fencing.
 - Conduct a walk through with lessees to identify the sensitive cultural sites within their leased areas and where extra care needs to be taken.
- Monitoring
 - Conduct periodic monitoring of cultural resources, particularly aboveground burial sites, to avoid adverse impacts from uses on the property. Conduct additional monitoring of sites within areas leased for cattle ranching.
- Fire Management
 - Coordinate wildfire response, including identifying a road map for fire suppression, in advance with first responders and lessees to avoid inadvertent damages to the cultural landscape.
 - Place emphasis on fire prevention through effective education and outreach for site users.
 - Maintain vegetation to minimize the need for potentially damaging activities to suppress fire. Refer to additional strategies outlined under the Fire Prevention and Management section.

- Site Users
 - Prohibit recreational dirt bikes, ATVs, UTVs, and other off-road vehicles, except through permitted activities such as stewardship and educational activities, and managed community access.
 - Direct site users to stay on designated trails and roadways.

Goal: A Ka'ū community that is reconnected to wahi kūpuna and engaged in stewardship, education, and research.

- Encourage community stewardship of Waikapuna to elevate reciprocity between people and place.
- Create spaces for individuals, families, and entities to have a role in stewardship where knowledge can be shared and cultural practices perpetuated.
- Remove leaf litter from the springs and consider outplanting native, rare, threatened, and endangered plants as long as they do not contribute significant leaf litter to the springs.
- In consultation with the descendants of the area, identify proper restoration of resources, including treatment of burial features, and place-based stewardship training.
- In consultation with the community, identify whether restoration of sites that were damaged during the previous bulldozing activities should be pursued.
- Partner with lineal descendants, community organizations, and archaeologists to regularly monitor and assess the condition of resources and to continually update archaeological data from previous surveys.
 - Best Management Practice: Utilize the opportunity to conduct archaeological surveys during drier seasons or in the event of a fire, post-fire, to identify any cultural resources that may have been concealed from overgrown vegetation.

Native Plants

The most intact native plant communities are along the coast, thus, the most intensive management of native plants will be focused along the coastal areas. The general approach is (1) to remove invasive plant species to allow existing native plants to thrive and regenerate before outplanting any additional native and rare, threatened, and endangered species; and (2) to monitor for any pests and/or diseases that may impact the existing native plants at Waikapuna. Fencing of pastures to protect cultural sites and minimize soil erosion and implementing fire management strategies will also protect existing native plant communities. Opportunities that perpetuate cultural practices and restore both native plants and cultural sites should be prioritized.

Goals

The goals for the encouragement and propagation of native plants are as follows:

- The health of existing high-quality endemic and other native plant communities are protected, restored, and improved.
- Threats to endemic and other native plant communities are minimized.
- The native and culturally significant wiliwili trees are protected and preserved.

Threats

The key threats for native plants at Waikapuna include:

- **Invasive plants** including but not limited to Christmasberry, Sourbush, Lantana (*Lantana camara*), Sandbur (*Cenchrus*), and Fountaingrass (*Pennisetum setaceum*). Invasive plant species compete with native plants for space, water, and nutrients; therefore, non-native plant species should be removed from proposed restoration sites.
- **Disease & pests** including the Bagrada (*Bagrada hilaris*), a stink bug found on maiapilo, and ants such as the yellow crazy ant, established along the shoreline, will impact native plant restoration efforts.
- **Ungulates** including goats, pigs, and cattle. Wild goats in Kiolaka'a and Wai'ohinu could be a threat if they migrate into Waikapuna and eat and trample upon native plants and spread invasive seeds. Cattle may move into beach areas, trampling cultural areas and eating native vegetation.
- **Wildfire** can wipe-out the native plant communities along the coast at Waikapuna.
- **Vehicles and pedestrians** can also trample on native plants and introduce invasive species.

Action Items

Action items related to the encouragement and propagation of native plants are presented below.

Goal: The health of existing high-quality endemic and other native plant communities are protected, restored, and improved.

- Remove Christmasberry, lantana, koa haole, fountain grass, and other invasive plant species to provide more space for existing native plant species near Waikapuna Bay and along coastal areas using hand-clearing methods.
 - Avoid using herbicide within 50 feet of the shoreline or water source.
 - As discussed in the earlier section to protect existing archaeological, cultural, and historic sites, avoid using heavy machinery at Waikapuna for vegetation management. However, if treating with herbicide, be careful of overspray where native plants may be present.
- Near Waikapuna Bay, maintain the beach heliotrope and consider replacement with a native plant such as kou (*Cordia subcordata*) or milo (*Thespesia populnea*) that will provide shade and can co-exist with other native plants in the area.
- Consider creating small restoration sites that are accessible without four-wheel drive vehicles to allow for additional mālama 'āina r groups to participate in restoration.
- Find opportunities to restore both native plants and cultural sites and learn about how they were interdependent upon one another.

Goal: Threats to endemic and other native plant communities are minimized.

- Invasive Plant Monitoring & Eradication
 - Support and encourage efforts to eradicate Christmasberry using hand clearing methods and/or herbicides instead of heavy machinery to avoid inadvertent damages to cultural sites.
 - Monitor for target invasive plant species (e.g., fountaingrass) throughout the property and remove when sighted.
- Pests & Disease Monitoring & Treatment
 - Monitor and inspect high quality native plant communities for pests and diseases as frequently as possible, or at minimum on a monthly basis, to catch early infestation. Place emphasis near the existing maiapilo, or near areas where infections previously occurred.
 - Monitor the maiapilo regularly to ensure the Bagrađa bug does not come back.

- Ungulate Management¹³
 - Partner with adjacent landowners and utilize a coordinated trapping program to help reduce the threat of ungulates such as goats and pigs, if required.
 - Install fencing to restrict cattle from traversing beyond pastures and negatively impacting native plant habitats and the cultural landscape.
- Wildfire Suppression
 - Install a catchment/dip tank to have water on site for firefighting activities and to irrigate outplantings for any restoration efforts.
- Vehicular & Pedestrian Management
 - Implement strict rules and regulations (e.g., no parking on dry grass, fire extinguisher requirement, designated fire pit areas) that must be followed for community managed access and mālama ‘āina participants and other site users to minimize the threat of fires.
 - Identify any no-go zones (“sensitive areas”), also in consideration of the cultural landscape, where high pedestrian and vehicular traffic should be avoided.
 - Utilize existing trails and ranch roads to avoid introducing pests and trampling over fragile native plant communities and cultural resources.
 - Control vehicular access from the south side of property to prevent physical damage to the cultural and natural landscape, as well as the accidental introduction of invasive species.
 - Consider having a designated decontamination area for vehicles in order to minimize the introduction of pests.

Goal: The native and culturally significant wiliwili trees are preserved and protected.

- Remove invasive plant species around wiliwili trees to allow for seedlings to sprout when they fall.
- Monitor for wiliwili seedlings that germinate and install enclosure fences to prevent grazing of seedlings by ungulates.
- Coordinate fire management strategies to protect wiliwili trees from wildfire.
- Monitor and inspect wiliwili trees for pests or diseases and treat as needed.
- Collect and store seeds from wiliwili trees on-site as a seed bank for outplanting when needed.

¹³ The land acquisition grant application submitted to the State LLCP in 2016 states that the benefits and risks of tightly managed hunting will be discussed in this management plan. Recreational hunting will not be permitted on this property, as it is not aligned with the mission of ATA. The current strategy to address the threat of feral ungulates on the landscape is to coordinate with neighboring landowners to minimize the potential for these ungulates to enter the Waikapuna property to begin with. Should the threat of ungulates such as goats and pigs escalate, then the approach to managed hunting will need to be reviewed.

Marine & Avian Resources

Emphasis will be placed on responsible land uses to protect and promote the health and sustainability of marine and avian resources. Land areas and adjacent marine waters are interconnected and inseparable units. Activities that occur on land have direct and indirect impacts to the resources of the adjacent marine waters. Building awareness through educational outreach and stewardship, along with scientific research and data collection to support local knowledge and traditional ways of stewardship, are key components to protecting the marine and avian resources for Waikapuna.

Goal

Land uses are managed in a manner that protect and promote the health and sustainability of marine and avian resources.

Threats

Key threats for marine and avian resources at Waikapuna include:

- **Light pollution** that may disorient native seabird populations, resulting in fatality events.
- **Unmanaged fishing, overfishing, or improper fishing/harvesting** (e.g., time of year, size of fish, and type of fish) of marine resources can be devastating as it creates an imbalance to the natural ecosystems.
- **Land uses** from human use, non-native plant species, and cattle ranching that may contribute to soil erosion and/or impact freshwater input may negatively affect nearshore water quality and health of resources.
- **Climate change impacts** including higher sea surface temperatures and ocean acidification will have detrimental effects on aquatic and marine ecosystems.

Action Items

- Land-Based Practices
 - Ensure land uses do not contribute to 1) any significant negative impacts to nearshore water quality and 2) any light pollution that may attract and disorient native seabird populations, resulting in fatality events.
 - Carry out all materials carried into Waikapuna, including human waste.
 - Conduct regular beach cleanups to reduce the amount of trash, plastic, and other solid waste that is blown or washed into the ocean and deposited onto the shoreline.
 - Avoid the use of chemical fertilizers within 50 feet of the shoreline.
 - Designate an area to park vehicles at Waikapuna Bay in order to reduce sources of land-based pollution to coastal waters.
 - Designate roadways for vehicular use to minimize erosion.
- Education & Awareness
 - Establish a community makai watch mālama ‘āina program to raise awareness and to increase on-site presence.
 - Utilize kūpuna days, ‘ohana days, and organized mālama ‘āina workdays to facilitate exchange of knowledge about traditional and place-based practices, such as:

- Meet present food needs without compromising the ability of future generations to meet their needs.
 - Gather only what one needs for immediate personal and family uses and only use what one takes carefully and fully without wasting. Take what you need without disrupting natural processes.
 - Observe the moon phases and its relationship to fish spawning cycles to determine when to fish for/gather specific species and when to observe kapu.
 - Avoid light pollution on native seabird populations.
- Data Gathering
 - Establish a long-term scientific monitoring program of marine resources to support traditional and local knowledge and traditional ways of monitoring.
 - Complement scientific monitoring with community-based observations and monitoring during managed access, kūpuna days, ‘ohana days, organized mālama ‘āina work days, and other times when community members are on-site. Monitoring methods may include water quality monitoring and logs of fish, spawning seasons, and lunar cycles. Identify an appropriate method to share data with the community to support stewardship initiatives.
 - Conduct long-term monitoring surveys of the noio population and habitat.
 - Utilize data from the long-term monitoring program to support traditional knowledge to employ adaptive management and to allow changes to be made to management actions, as deemed appropriate.

Fire Prevention and Management

The priority strategy is to put emphasis on fire prevention through effective education and outreach for site users. Implementation of fire mitigation efforts particularly during drought and dry seasons is critical, and particularly in consideration of climate change impacts that may result in the increased frequency and intensity of wildfires. Communication and coordination with the County's Fire Department, as they are responsible for the initial response, ahead of time are important to ensure the safety of fire personnel and the protection of the natural and cultural landscape during fire suppression.

Goals

Below are the goals related to fire prevention and management.

- Fire prevention efforts are emphasized to reduce the threat of human caused fires.
- Vegetative fuel sources managed to reduce fuel load.
- Fire suppression that is efficient and safe without negatively impacting the cultural landscape.

Concerns

- Wildfire could threaten life and property in Nā'ālehu, any visitors on-property, cattle in the ranching areas, and native plants.
- Unmanaged vegetation provides fuel for wildfires to spread across the property.
- Human activities, such as improper management and extinguishing of cooking fires, improper disposal of coals and lit cigarettes, and sparks from equipment and vehicle catalytic converters, may inadvertently start fires.
- Fire suppression actions, such as creating impromptu fire breaks, may damage cultural sites.
- Unfamiliarity with the property makes it difficult for fire fighters to navigate the unmarked roads.
- Locked gates delay fire fighter access to the property.
- Lack of water on-property creates delays as water must be trucked in.
- Rough road conditions limit the number and type of fire trucks that can access certain parts of the property.

Action Items

Action items related to fire prevention and management are presented below.

Goal: Fire prevention efforts are emphasized to reduce the threat of human caused fires.

- Incorporate fire prevention as part of the educational component and pre-entry access protocol for site users.
- Develop and enforce rules and guidelines for site users to prevent human caused fires including, but not limited to:
 - Instruct mālama 'āina participants in the proper use of equipment such as chain saws and weed whackers to prevent mechanical fires.

- Allow cooking fires within fire pits only and to be under continuous supervision. Site users shall extinguish fires completely after use and not dispose of hot coals/wood on or around vegetation.
- Vehicles are allowed only on maintained ranch roads and designated beach areas to reduce the risk of catalytic converters igniting grass fires.
- Prohibit smoking on the property.
- All ATA, cooperators vehicles, and ranch vehicles should carry at least a five-pound fire extinguisher and fire swatter on board while driving through the property.

Goal: Vegetative fuel sources managed to reduce fuel load.

- Fuel Load Reduction
 - Coordinate pasture rotations with lessees, if possible, to utilize cattle to strategically keep fuel loads down and to maintain fuel breaks.
 - Minimize fuel load near Waikapuna Bay and other areas frequently used.
 - Coordinate native plant restoration efforts near Waikapuna Bay and utilize higher water content native plants such as naupaka to serve as a green fuel break.
 - Monitor for fountain grass and other invasive, highly flammable plant species on the property and treat/remove accordingly.

Goal: Fire suppression that is efficient and safe without negatively impacting the cultural landscape.

- Detailed Fire Management Plan
 - Create a detailed fire management plan in cooperation with Hawai'i County Fire Department (HFD) and adjacent landowners that identifies the following information:
 - Emergency notification list
 - Access points, existing roadways, fuel breaks, and pre-determined fire breaks
 - "Sensitive area" maps prioritizing sites for fire protection such as native plant habitat, telecommunication facilities, and cultural resources
 - Road map to use for fire suppression to prevent inadvertent damages to sites during fire suppression
- Fuelbreak Management
 - Maintain existing roads and fence lines as potential fuel breaks (if possible) rather than create new fire breaks to fight wildfires.
 - Maintain fuelbreaks regularly, particularly during the dry season or during drought.
 - Connect all fuel breaks to anchor points, for example, natural landscape features that provide a safe area of unburnable fuels or some other barrier to fire spread such as pāhoehoe lava flows, sandy areas, cliffs or faults where vegetation is sparse.
 - Identify, map, and maintain predetermined fuel breaks.
- Vehicular Access
 - Maintain all major access roads in good condition and improve them, if needed, to facilitate use by fire fighting vehicles.

- Consider providing a secondary vehicular access to the shoreline for emergencies.
- HFD Coordination
 - Conduct regular site visits with HFD personnel to familiarize them with the property and cultural landscape.
 - Consider providing locks or keys for the gates specifically for HFD to use during emergencies unless there is regular on-site staff presence.
- Water Supply
 - Consider installing a new water tank with close proximity to existing internal roadway to assist ground units by providing an on-site water source and to minimize travel time between the fire and the staging area.

Existing Structures, Roads, Trails, & Utilities

The general approach is to renovate and reuse existing structures to facilitate and support stewardship activities, as needed. Roads, trails, and utilities will be maintained to ensure safe access for site users and to support fire suppression actions. Repairs or improvements will be implemented as long as it does not compromise the sense of place or negatively impact cultural sites. Any improvements to existing structures, roads, trails and utilities must also be done in accordance with the Grant of Conservation Easement.

Goal

Structures, roads, trails, and utilities are maintained to facilitate and support stewardship activities, to provide safe access for site users, and to support fire suppression without compromising the sense of place.

Concerns

The concerns related to the renovation and reuse of the existing structures and the maintenance of roads, trails and utilities include:

- Structural condition of existing structures
- Environmental risks from historical uses of the structures
- Theft of equipment and supplies without on-site security
- Safe access for fire fighting vehicles, site users, and ranch operations

Action Items

- Renovate and reuse existing structures
 - Assess the structural condition of the existing structures and feasibility of reusing and/or renovating them to support stewardship activities.
 - Conduct an additional analysis of any proposed land uses in the vicinity of the existing three structures to ensure that no significant environmental risks are anticipated due to the historical uses of the structures and surrounding area.
 - Consider an on-site caretaker to minimize the threat of theft and vandalism as structures are renovated and reused.
 - Create a native plant greenhouse to propagate seeds for future outplanting at Waikapuna and other coastal properties, provided there is on-site security to prevent theft and vandalism.
 - Apply the guidelines and standards for the renovation and reuse of existing structures as outlined below.
- Maintain existing roads, trails, and utilities
 - Maintain all existing major roads and trails in a safe condition for pedestrian and vehicular access, emergency access, and to serve as potential fuel breaks; improve any major roads and trails if needed to facilitate use by fire fighting vehicles and to minimize impact to surrounding areas, but keep all roads and trails unpaved if possible.

- Keep vegetation low along roads and trails to prevent fires from jumping over the fuelbreaks.
- Consider providing a secondary vehicular access to/from the shoreline for emergencies. Note that the existing alternate access goes off-property before connecting back onto the Waikapuna parcel, therefore a secondary road that stays on-property should be considered.
- Implement erosion control measures on sections of the existing road using materials on-site, if possible.
- Maintain naupaka or other vegetation near Waikapuna Bay to minimize encroachment onto the beach that may impede access.

Guidelines & Standards for the Renovation and Reuse of Existing Structures

The following guidelines and standards are provided for the renovation and reuse of the three existing structures and establishment of any future cultural or agricultural structures:

- Structures must preserve the sense of place, particularly any viewsheds and must not have a significant negative impact to the cultural and natural resources.
- Renovation or establishment of any new structures should utilize natural materials, where possible, and be designed in a manner that retains Ka'ū's rural character.
- Ensure that structures will not create any artificial light pollution that may disorient native seabirds.
- In accordance with the Conservation Easement, the cumulative footprint of any new structures to replace the existing structures must not exceed the cumulative footprint of the existing three structures which is as follows:
 - Structure 1 (former piggery) – 30 meters x 8 meters
 - Structure 2 (former bunkhouse) – 12.3 meters x 3.5 meters
 - Structure 3 (former ranch office, workshop, and storage area) – 52 meters x 23 meters
- Limit any relocation of existing structures and new replacement structures to the northeast corner of the parcel.
- Possible use of structures to include:
 - Greenhouse to propagate native plant species for outplanting on the property and surrounding properties;
 - Storage for equipment and tools for stewardship projects;
 - Gathering space for individuals and groups participating in stewardship and/or cultural/educational activities.
 - Office space to coordinate access for community members, cultural practitioners, and mālama 'āina participants.
 - Caretaker residence/office

Creating Spaces for Knowledge Cultivation and Community Stewardship

As discussed earlier, knowledge cultivation and community stewardship are simultaneously activated by welcoming individuals, families, and entities back to the land and by creating spaces where knowledge can be shared and cultural practices perpetuated from one generation to the next. In doing so, the community's relationship with the 'āina is strengthened, supporting a robust and culturally appropriate stewardship framework.

Kūpuna Days are intended to bring together kūpuna of the place to talk story with each other and to share their knowledge and stories with others so that the history and practices of the place may continue to be passed down from generation to generation. 'Ohana Days focus on providing a space for families to explore wahi pana and wahi kūpuna of Ka'ū, to engage in stewardship, and to perpetuate cultural traditions and practices. They would also provide local residents with the opportunity to access the place during the week, especially when the weather and conditions may be more favorable for certain cultural or gathering practices.

Both Kūpuna Days and 'Ohana Days are envisioned to provide kūpuna and families with the opportunity to access the place on weekdays, with the goal of achieving a community (re)connected to functional wahi kūpuna. The following guidelines for **Kūpuna Days and 'Ohana Days** are suggested:

- One Kūpuna Day or 'Ohana Day may occur each week during weekdays to avoid conflict with another group that may be there during the weekend as part of the Community Managed Access (see below).
- One family would access the place at a time. An individual from the family must have visited Waikapuna previously to ensure some familiarity with the property for safety purposes.
- Requests for keys to the access gates must be made no more than 72 hours in advance.
- This is meant to be "day access" and does not include overnight stays.

In addition to the Kūpuna Days and 'Ohana Days, organized mālama 'āina workdays are intended to engage larger groups of participants, including Ka'ū residents, to assist in stewardship. These organized mālama 'āina workdays are envisioned to occur at least once a month, initially hosted by ATA. Other community groups or organizations are also encouraged to partner with ATA to host mālama 'āina workdays at Waikapuna to carry out one or more of the action items presented in this management plan.

Lastly, the Community Managed Access is intended to allow the community to be able to safely access the property for cultural, spiritual, subsistence, educational, and stewardship purposes in a manner that does not compromise its sense of place or the health of the resources. The suggested protocol for **Community Managed Access** is outlined below.

- Continue to maintain a policy of providing overnight access to one group at a time, which has typically been allowed only on weekends (e.g., Friday to Sunday). The restriction on maintaining only one group overnight access at a time on weekends is intended to preserve the sense of place, remoteness, and privacy, which are important qualities for Waikapuna.
- One designated weekend per month will be reserved to allow for organized mālama 'āina workdays. No group overnight access would be allowed during this weekend.

- Reservations are required. An individual can only hold one reservation at any given time. Once an existing reservation is completed, then another reservation may be made. Allowing an individual to make only one reservation at a time provides opportunities for more people to participate in overnight access.
- A reservation system is to be made available on a quarterly system or other appropriate timeframe to allow for users to plan ahead while preventing reservations from being booked too far into the future. A system where reservations are opened up on a quarterly basis avoids reservations being made far in advance because of high demand.
- Participation in community stewardship activities for Waikapuna will be encouraged and will allow for *priority* access to the reservation system after each mālama ‘āina participation (example sequence: mālama ‘āina → priority access to the reservation system → mālama ‘āina → priority access to the reservation system). In other words, an individual must participate in a mālama ‘āina activity every time they wish to secure priority access to the reservation system or request access.
- In order to request access, an individual must have visited Waikapuna previously, either as a mālama ‘āina participant; a participant in a site visit or educational program; or for kūpuna days, ‘ohana days or previous overnight access, to ensure some familiarity with the property to ensure safety.

Table 2 below provides an example of a framework for accessing the reservation system on a quarterly basis (e.g., January to March, April to June, July to September, and October to December). Users would be able to start requesting reservations in the month prior to the quarter. For example, reservations for the first quarter from January to March will be available starting in December; reservations for the second quarter (April to June) will be made available starting in March; reservations for the third quarter (July to September) will be made available starting in June; and reservations for the fourth quarter (October to December) will be made available starting in September. During the month that reservations open up, the booking window will be made available on the first Monday of that month to individuals that have participated in a mālama ‘āina event through the kūpuna days, ‘ohana days, or organized community workdays.

Out of consideration for individuals that may have other commitments or conditions that restrict them from participating in a mālama ‘āina activity , opportunities will be provided for them to access the

reservation system starting on the second Monday of the month for Ka’ū residents and on the third Monday of the month for non-Ka’ū residents.

Figure 9. Order of Priority for access to the Reservation System for Community Managed Access

Figure 9 illustrates the order of priority for access to the reservation system: mālama ‘āina participants, Ka’ū residents, and non- Ka’ū residents.

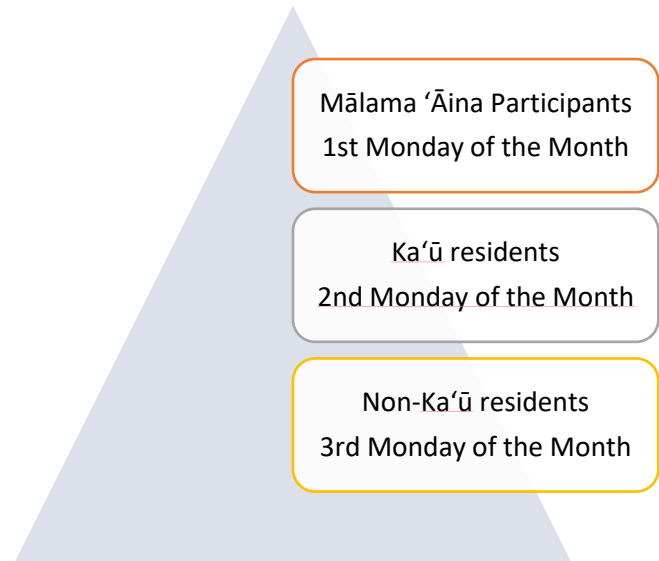


Table 2. Example of Quarterly Reservations for Community Managed Access

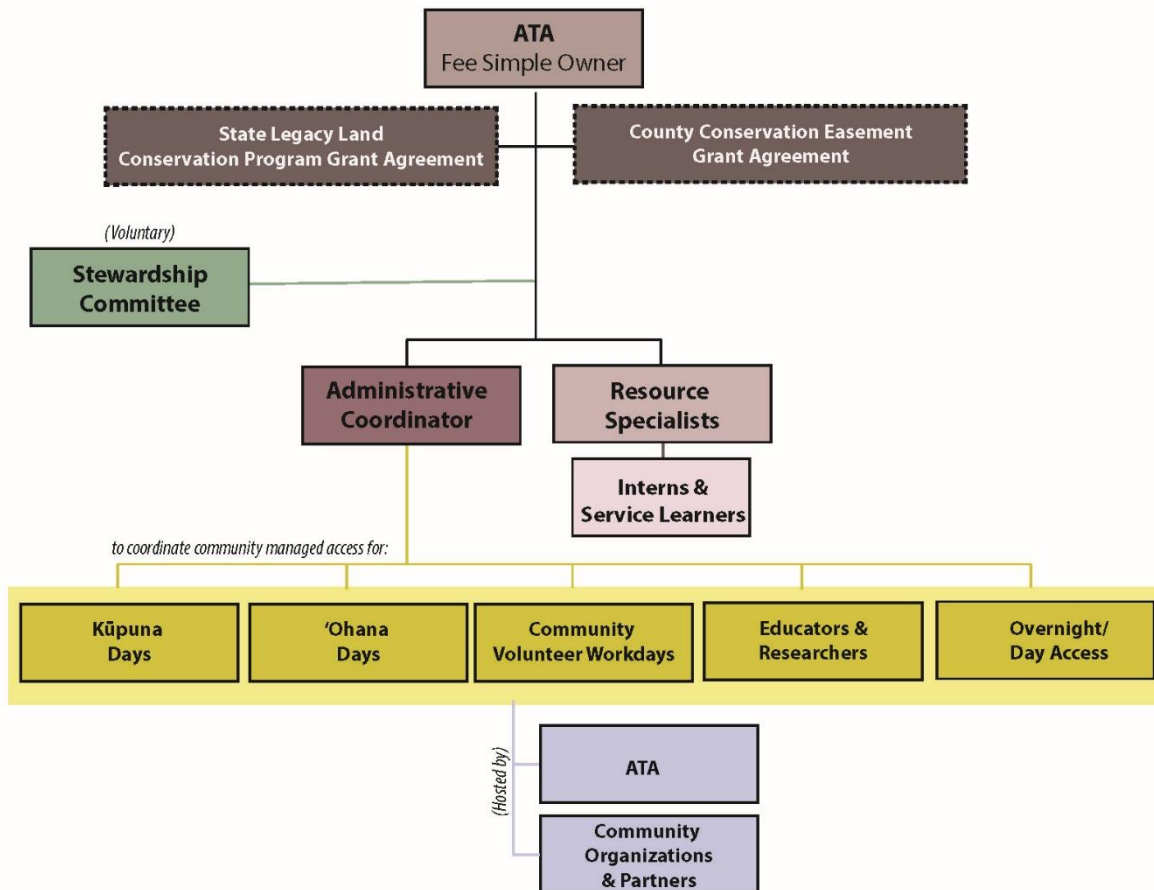
| Reservation for overnight access during: | Booking window for: | Access to reservation system starting: |
|--|--------------------------|--|
| First Quarter: January to March | Mālama ‘āina participant | First Monday of December |
| | Ka’ū residents | Second Monday of December |
| | Non-Ka’ū residents | Third Monday of December |
| Second Quarter: April to June | Mālama ‘āina participant | First Monday of March |
| | Ka’ū residents | Second Monday of March |
| | Non-Ka’ū residents | Third Monday of March |
| Third Quarter: July to September | Mālama ‘āina participant | First Monday of June |
| | Ka’ū residents | Second Monday of June |
| | Non-Ka’ū residents | Third Monday of June |
| Fourth Quarter: October to December | Mālama ‘āina participant | First Monday of September |
| | Ka’ū residents | Second Monday of September |
| | Non-Ka’ū residents | Third Monday of September |

Adaptive management must be employed, and changes will be made to the Kūpuna Days, ‘Ohana Days, Organized Mālama ‘Āina Workdays, and Community Managed Access to improve the process, account for demand and staffing fluctuations, if significant impacts are observed to the cultural and natural resources after a certain period of time, and/or if other issues or considerations arise. Access protocols should also take into consideration seasonal variations, weather and ocean conditions, and moon phases in relation to appropriate times to gather resources. Mālama ‘āina opportunities that support the management priorities outlined in the management plan (over and beyond those organized by ATA) should be considered on a case-by-case basis.

Implementation

Figure 10 illustrates a possible framework for implementing this management plan. While ATA is the fee-simple owner, land uses and activities at Waikapuna must also be aligned with the values outlined in the grant agreements with the State Legacy Land Conservation Program and the County’s Conservation Easement. This plan focuses on encouraging community stewardship as a management model to build community capacity and re-connect people to place. A Stewardship Committee, along with an Administrative Coordinator and Resource Specialists, are proposed to assist with plan implementation; their roles and responsibilities are further described below.

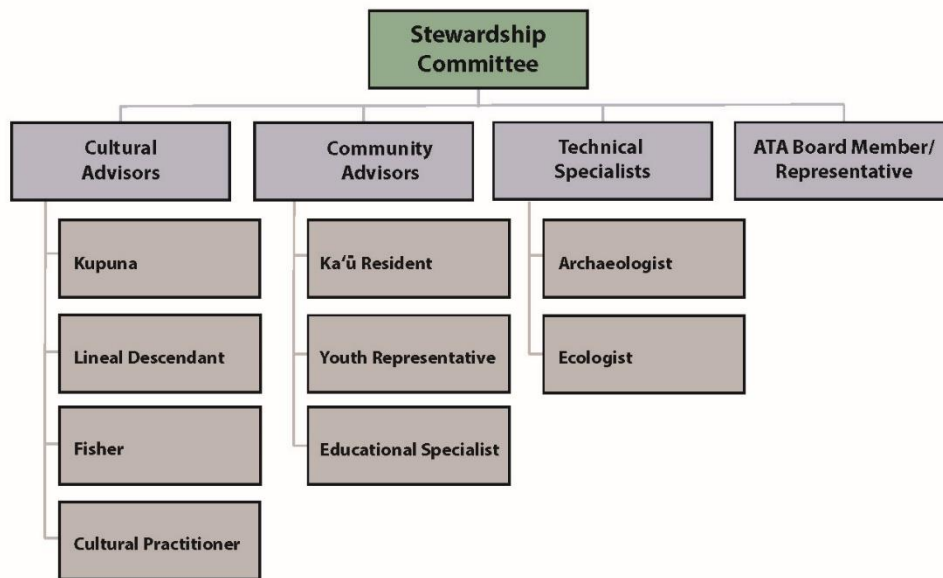
Figure 10. Possible Framework for Plan Implementation



Stewardship Committee

To support ATA’s management of these lands, a Stewardship Committee will serve in the following capacities: 1) oversee implementation of this management plan and 2) organize and lead stewardship activities, as well as advise ATA on stewardship programs and projects that affect resources for Waikapuna. To address the diversity and complexity of resources present at Waikapuna, the Stewardship Committee, with members serving in a voluntary capacity, should be comprised of Cultural Advisors, Community Advisors, Technical Specialists, and an ATA representative/Board Member, with individuals as shown in Figure 11. This Committee is a WORKING committee with individuals who will organize and lead stewardship activities that support the management plan priorities. Over time, as ATA increases capacity, staff such as the Administrative Coordinator may take on some of those responsibilities. However, the Stewardship Committee will still oversee and lead some of the activities to continue with ATA’s efforts for community-led management.

Figure 11. Stewardship Committee Members



Administrative Coordinator

A coordinator, who will work in close consultation with the Stewardship Committee, will oversee the day-to-day administration of the kūpuna days, ‘ohana days, and organized mālama ‘āina workdays, as well as handle the coordination of check-in/check-out and engaging with community managed access. The coordinator will work with the resource specialists to manage the different groups that may be on-site to engage in stewardship activities. The coordinator will also be responsible for reporting to the Stewardship Committee on information relating to participation in the various stewardship and community managed access programs. While it may not be feasible to implement the coordinator position immediately due to funding constraints, a phased approach may be applied, whereby the Stewardship Committee fulfills the duties of the administrative coordinator position in the near term, and then transitions those duties to the coordinator position at a future time.

Resource Specialists

The resource specialists will provide hands-on oversight of the land and resources and direct groups and/or individuals during community mālama ‘āina workdays and/or other stewardship initiatives at Waikapuna. They will also implement some of the actions recommended through this management plan that may not be as suitable to be carried out by the general public, such as monitoring sensitive sites. Actions that may require more technical expertise or specific training, such as application of chemical spray for invasive plant species removal, would also be conducted by the resource specialists. The resource specialists will oversee any interns and/or service learners and work with the Administrative Coordinator to report to the Stewardship Committee on information related to the stewardship activities on-site. Similar to the Administrative Coordinator position, the Stewardship Committee will have to fulfill the duties of the resource specialists in the interim until funding is secured for these positions.

Although not an exhaustive list, below is an example of mālama ‘āina projects to be completed during kūpuna days, ‘ohana days, and organized mālama ‘āina workdays.

Table 3. Example of Mālama ‘Āina Projects

| Cultural Resources | Marine & Avian Resources | Native Plants | Fire Prevention & Management |
|---|--|---|---|
| <ul style="list-style-type: none"> • Create, install and maintain educational and interpretive signs • Capture and document oral histories • Maintain vegetation near cultural sites • Monitor cultural resources • Survey and document cultural sites | <ul style="list-style-type: none"> • Conduct routine beach cleanups • Conduct baseline and ongoing monitoring and surveying of marine resources • Conduct marine educational outreach • Participate in Makai Watch group • Monitor and survey seabird populations | <ul style="list-style-type: none"> • Remove invasive plants • Outplant native plant species • Monitor native plants for pests and diseases | <ul style="list-style-type: none"> • Monitor for fountaingrass and other highly flammable vegetation • Maintain fuel breaks and manage vegetation |

Summary of ATA Administrative Tasks

Below is a summary of administrative tasks to be implemented by ATA to support this management plan.

- Establish the Stewardship Committee
 - Develop protocols for holding meetings, meeting schedules, the level of commitment needed from members, and a procedure for establishing the Stewardship Committee.
 - Ensure that the Stewardship Committee understands their duties and responsibilities.
 - Hold regular meetings as necessary to coordinate with the Stewardship Committee.
- Update existing lease agreements and areas to reflect the values and action items as presented in this management plan.
- Develop clear policies to establish the kūpuna days, 'ohana days, overnight weekend access, and organized mālama 'āina workday programs.
- Identify and implement a simple online platform to host and streamline the reservation process for community managed access, including providing safety information and administering the liability waiver forms and other pertinent documents to increase operational efficiency.
- Inform the public about the protocols for requesting access. Make information available on ATA's website and/or hold public meeting(s) at least three months prior to launching the new access protocols to provide information, answer questions, and offer a tentative timeframe for implementing various management actions.
- Seek funding for and hire local staff to coordinate kūpuna days, 'ohana days, and organized mālama 'āina workdays and to administer access requests for overnight and day use. In the interim, have the Stewardship Committee fulfill this role.
- Implement the mālama 'āina and managed access programs.
- Conduct baseline documentation, including since ATA's acquisition if available, and assess the number of Ka'ū residents requesting access/obtaining access in order to ensure that unintended consequences can be avoided or addressed.

Regulatory Review, Permits, & Approvals

Most of the actions in this management plan may be implemented with few permitting requirements and/or approvals, as actions are intended to preserve, conserve, and protect resources. This section outlines some of the state and county agency review, permits or approvals that may be required for various action items presented in this management plan.

State of Hawai'i

- State Environmental Review Law
 - The State Environmental Review Law (Chapter 343, HRS) requires an environmental review of any action that proposes the use of State or County funds; or any proposed use within land classified as a conservation district. Environmental review will need to be completed prior to submittal of a State Conservation District Use Application, if needed.

- Department of Land and Natural Resources
 - Legacy Land Conservation Program
 - Review required grant recipient report and inspect property to ensure compliance with HRS Chapter 173A, Acquisition of Resource Value Lands, and the terms of the grant agreement between ATA and the State.
 - Office of Conservation and Coastal Lands
 - Administrative or Board of Land and Natural Resources approval for Conservation District Use Applications required for certain actions within the State Conservation District. Actions such as installing signage; removing existing plants; planting native and endemic plants; clearing land for fire pre-suppression and prevention; installing a new fence; or implementing erosion control projects may require approval.
 - State Historic Preservation Division
 - Reviews projects for compliance with HRS Chapter 6E Historic Preservation; approves Archaeological Inventory Surveys or other plans such as Preservation Plans or Restoration Plans; any relocation or preservation in place of previously identified Hawaiian burials over 50 years old must obtain approval of the Hawai'i Island Burial Council.

County of Hawai'i

- Department of Public Works
 - A building permit will be required for all building, electrical, and plumbing work on or to a building or structure, including repairs and renovations and demolitions. Installation of water tanks or catchments intended for potable use or fire protection will also require a permit from the County.
- Finance Department
 - The County's Finance Department is responsible for conducting an annual monitoring of the property for compliance with the Conservation Easement agreement. Per the Conservation Easement agreement, the County's approval is required for activities and uses on property such as the demolition or construction of any structure; use of any structure as a dwelling such as by an onsite caretaker; and creation of any new unpaved road or trails and/or paving of any existing or new road or trail.

In addition to the review, approvals, and permits required, coordination with the following federal, state, and county agencies may help to support management plan actions. Coordination with community or environmental conservation organizations on stewardship activities and neighboring landowners on fire management strategies will also strengthen plan implementation.

Federal

- **U.S. Department of Agriculture** – Coordinate with the Natural Resources Conservation Service to engage in conservation practices and to implement systems that conserve water and soil resources.
- **U.S. Fish and Wildlife Service** – Responsible for making the decision on whether or not a proposed project may affect federally listed threatened and endangered species or designated critical habitat under section 7 of the Endangered Species Act and overseeing the Migratory Bird Treaty Act. Coordinate and consult regarding stewardship activities, as there is a possibility that activities may attract federally listed threatened and endangered species.
- **U.S. National Oceanic and Atmospheric Administration** – Coordinate efforts to support the responsible stewardship of marine resources.
- **U.S. National Park Service Ala Kahakai National Historic Trail** – Coordinate efforts for trails management and engagement with the community.

State of Hawai'i

- **Department of Land and Natural Resources**
 - **Division of Aquatic Resources** – Coordinate with educational outreach specialist(s) on various aquatic resource topics; scientific monitoring of marine resources; engage with the State's Holomua Marine 30x30 initiative to further the concept of place-based management and region-specific seasons and gathering based on moon phases.
 - **Division of Conservation and Resource Enforcement** – Coordinate efforts to support the responsible stewardship of marine resources.
 - **Division of Forestry and Wildlife** – Coordinate land management actions and consultation on natural resources and trails management with the Nā Ala Hele, Wildlife Management, and Forest Management Programs.

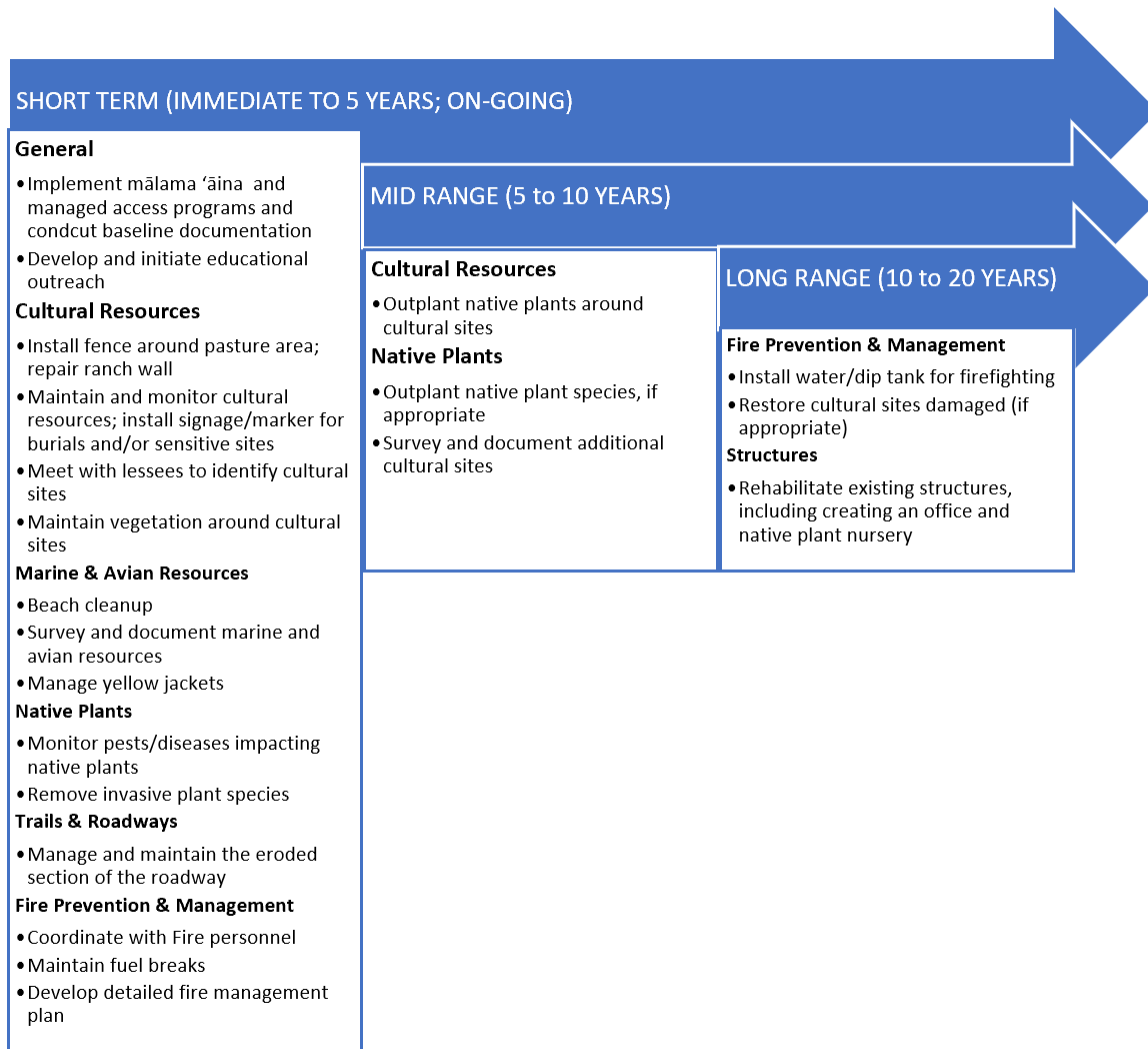
County of Hawai'i

- **Finance Department** – Oversees the Preservation Maintenance Fund which could provide funding to support stewardship projects for Waikapuna.
- **Fire Department** – The Hawai'i County Fire Department is responsible for the initial response to fire, medical, and associated emergencies at Waikapuna. Coordinate fire preparedness and response, including consulting with them to develop a detailed fire management plan for Waikapuna.
- **Police Department** – Coordinate response during emergency situations and any illegal activities reported.

Preliminary Phasing Plan

The following is a preliminary phasing plan for the major tasks associated with implementing the action items outlined in this management plan. The table is not meant to be comprehensive but is intended to identify the major milestones to help guide the stewardship of Waikapuna and to evaluate progress in implementing this management plan. ATA will need to seek funding through various grant opportunities to assist with plan implementation. Actions specific to leased areas will be coordinated between ATA and lessees through further discussion.

Figure 12. Preliminary Phasing Plan



While the desired outcome is to empower community to take on a more prominent role in caring for resources and to shape the future of the place, community workdays will initially be hosted by ATA. Over time, other organizations and groups may partner with ATA to host community workdays at Waikapuna to implement stewardship actions as outlined in this management plan. Eventually, there may be opportunities for ATA to enter into an agreement with organizations/groups through a

Community Stewardship Agreement/Memorandum of Understanding (MOU) to “Adopt-a-Site.” Community resources should be leveraged to support implementation of this management plan. For example, other non-profit organizations could also seek funding to support stewardship activities through the County’s Preservation Maintenance Fund and/or other funding sources.

In addition to the community mālama ‘āina workdays, it is hoped that, by creating spaces for individuals, families, and entities to engage with the place for cultural, spiritual, subsistence, educational and stewardship purposes, the community will be (re)connected to functional wahi kūpuna. Cultivating knowledge along with building and supporting community capacity are critical elements of this management plan. Collaboration with other non-profit organizations and partnerships with other adjacent large landowners such as the State DLNR, Kamehameha Schools, and DHHL for greater landscape level protection and stewardship are also important for success at Waikapuna. While Waikapuna has its own unique uses and management needs, management activities for adjacent properties will also impact Waikapuna. Additionally, some management activities such as fire mitigation require regional scale planning.

It is crucial to understand that implementation of this management plan, including specific administrative tasks, may take some time to carry out due to limited personnel capacities and funding. In order to successfully execute this management plan, a level of trust and relationship must be developed and maintained between ATA and the community through on-going dialogue and willingness to work together to ensure that Waikapuna remains a place known for its sense of place, abundant marine resources and native coastal plants, intact cultural sites, and a place where families can continue to spend time together to perpetuate Hawaiian values and practices and local traditions important to the Ka’ū way of life. This management plan will also need to be periodically updated to assess the progress of plan implementation, any issues resulting from management projects and programs, new information gathered through research and monitoring, and new conditions to be addressed. Adaptive management must be employed and land uses re-examined particularly with external factors such as climate change looming.

References

- Ala Kahakai Trail Association. 2019. *Conservation Easement Baseline Documentation Report*.
- ASM Affiliates. 2018. *An Archaeological Inventory Survey of the 2,296-acre Waikapuna Property*. Prepared by Joshua Gastilo and Matthew Clark. Prepared for Ka'ū Mahi, LLC.
- Brown and Caldwell. 2018. *Nā'ālehu Wastewater Treatment Plant Preliminary Engineering Report*. Prepared for County of Hawai'i Department of Environmental Management.
- Brown and Caldwell. 2018. *Phase 1 Environmental Site Assessment Nā'ālehu Wastewater Treatment Plant*. Prepared for County of Hawai'i Wastewater Division.
- Clark, J. 1985. *Beaches of the Big Island*. Honolulu: University of Hawai'i Press.
- County of Hawai'i. 2010. *Hawai'i County Water Use and Development Plan Update*. Prepared by Fukunaga & Associates, Inc.
- "Delays in Release of Spaceport Plans Fuel Skepticism of Ka'ū Residents." *Environment Hawai'i*. Volume 4, Number 1. Published July 1993.
- Ford & Associates, Inc. 2019. *Environmental Hazard Mitigation Plan*. Prepared for The Trust for Public Land.
- Ford & Associates, Inc. 2019. *Phase 1 Environmental Site Assessment*. Prepared for The Trust for Public Land.
- Geometrician Associates, LLC. 2015. *Biological Overview Report*. Prepared by Ron Terry and Patrick Hart. Prepared for Resource Land Holdings, LLC.
- Geometrician Associates, LLC. 2017. *Biological Reconnaissance Report TMKs 9-5-007: 005, 008, and 016*. Prepared by Ron Terry and Patrick Hart. Prepared for Ka'ū Mahi, LLC.
- Giambelluca, T.W., Q. Chen, A.G. Frazier, J.P. Price, Y.-L. Chen, P.-S. Chu, J.K. Eischeid, and D.M. Delporte. 2013. *Online Rainfall Atlas of Hawai'i*.
- Handy, E.S. Craighill, E. Handy and M. Pukui. 1991. *Native Planters in old Hawai'i* (Rev. ed). Honolulu: Bishop Museum Press.
- Handy, E.S. Craighill and M. Pukui. 1998. *The Polynesian Family System in Ka'ū, Hawai'i*. Honolulu: Mutual Publishing.
- Hawai'i Comprehensive Wildlife Conservation Strategy. Seabirds Noio or Black Noddy Fact Sheet. 2005 October 1.
- Hawai'i County Department of Planning. 2017. *Ka'ū Community Development Plan*.
- "Hawai'i Island Firefighters Contain 1,600-Acre Ka'ū Blaze." *Big Island News*. 2017 September 24. <https://bigislandnow.com/2017/09/24/hawaii-island-firefighters-contain-1600-acre-kau-blaze/>
- Hawai'i Wildfire Management Organization. 2010. *Ka'ū Community Wildfire Protection Plan*.

Hawaiian Volcano Observatory. "Volcano Water – Disaster strikes Ka'ū in 1868: The rest of the story." 5 April 2018. <https://www.usgs.gov/observatories/hvo/news/volcano-watch-seismic-event-devastated-kau-150-years-ago>

Kali'uokapa'akai Collective. 2021. *The Kali'uokapa'akai Collective Report, Re-envisioning Wahi Kūpuna Stewardship in Hawai'i*. Honolulu, Hawai'i.

KFC Airport, Inc. 1990. *Nā'ālehu Airport Feasibility Study*. Prepared for C. Brewer Properties, Inc.

Magin, J. "Lehman loan jams up Big Island project." *Pacific Business News*. 23 March 2009.

National Park Service. 2006. *Ka'ū Coast, Island of Hawai'i Reconnaissance Survey*.

National Park Service. 2009. *Ala Kahakai National Historic Trail Comprehensive Management Plan*.

Pukui, Mary K., S. Elbert, and E. Mookini. 1974. *Place Names of Hawai'i*. Honolulu: University of Hawai'i Press.

State of Hawai'i Bureau of Conveyances Recorded. *Warranty Deed, Ka'ū Mahi, LLC & Ala Kahakai Trail Association, December 16, 2019, Doc No(s) A-72890591*.

State of Hawai'i Department of Land and Natural Resources. 2006. *Report to the Twenty-Fourth Legislature 2007 Regular Session from The South Kona - Ka'ū Coastal Conservation Task Force*.

The Trust for Public Land & Ala Kahakai Trail Association. 2016. *Waikapuna Application to the State Legacy Land Conservation Program*.

U.S. Census Bureau. 2020. American Community Survey 5-year estimates. Retrieved from Census Reporter Profile page for Ka'ū CCD, Hawaii County, HI
<<http://censusreporter.org/profiles/06000US1500191170-kau-ccd-hawaii-county-hi/>>

U.S. Department of Agriculture Soil Conservation Service. 1994. *Ka'ū River Basin Study*. Prepared for County of Hawai'i Ka'ū Soil and Water Conservation District.

U.S. Soil Conservation Service. 1973. *Soil Survey of Island of Hawai'i, State of Hawai'i*. Washington: US.A. Soil Conservation Service.

U.S. Global Change Research Program. (2018). *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA.



Community members shared the practice of harvesting salt at Waikapuna.

Waikapuna
Resources Management Plan

Appendix A

Grant of Conservation Easement between the County and Ala Kahakai Trail
Association

NC



STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

December 16, 2019 8:01 AM

Doc No(s) A-72890592



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B-33434133

/s/ LESLIE T. KOBATA
REGISTRAR

✓

LAND COURT SYSTEM

REGULAR SYSTEM

Return by Mail (X) Pickup () To:

TG: 201824304-S

RS/3

County of Hawai'i

TGE: 18112042
Jeremy Trueblood

Department of Finance

Attn: Public Access, Open Space, and Natural Resources Preservation Program
(Re: Waikapuna)

25 Aupuni Street, Suite 2103
Hilo, Hawai'i 96720

TMK: (3) 9-5-007-016

Total No. of Pages: (35)

GRANT OF CONSERVATION EASEMENT

This Grant of Conservation Easement ("Easement") is made this 16 day of December, 2019 by and between Ala Kahakai Trail Association, a Hawai'i nonprofit corporation, whose mailing address is P.O. Box 2338, Kamuela, Hawai'i 96743 ("Grantor"), and the County of Hawai'i, a political subdivision of the State of Hawai'i, whose mailing address is 25 Aupuni Street, Suite 2103, Hilo, Hawai'i 96720 ("Grantee").

RECITALS

WHEREAS, Grantor is the fee simple owner of all of that certain parcel of land situate at Kāhilipali'iki and Kāhilipalinui ahupua'a, District of Ka'u, Island and County of Hawaii, State of Hawai'i, bearing Tax Map Key designation (3) 9-5-007-016 and containing an area of 2,317.844 acres, more or less, including the historic fishing village of Waikapuna, and more specifically described in Exhibit "A" attached hereto and made a part hereof ("Waikapuna", "the Property", or "the Waikapuna Property"); and

WHEREAS, Grantee's Department of Environmental Management has identified Fifteen (15) to Twenty (20) acres on the mauka portion of Waikapuna as a potential location for the Na'alehu Wastewater Treatment Plant; and

WHEREAS, in order to allow Grantee and the Ka'ū community the opportunity to further explore this potential location, the Parties have agreed to exclude said area from this Grant of Conservation Easement, with said excluded area more specifically described in Exhibit "B" attached hereto; and

WHEREAS, the subject of this Grant of Conservation Easement is therefore Waikapuna without the excluded area described in Exhibit "B" ("the Easement Property"); and

WHEREAS, Grantor, through its board members, has been working for years with various partners, including Native Hawaiian lineal descendants, Grantee, The Trust for Public Land, the State of Hawai'i Department of Land and Natural Resources, and Ka'ū community organizations to purchase Waikapuna, and through its work, Grantor has gained intimate knowledge about Waikapuna and the cultural and natural resources on the Property; and

WHEREAS, the sources of funding for Grantor's acquisition of the Property and securing this Easement came through public and private funding sources as more particularly described in Exhibit "C" attached hereto and made a part hereof; and

WHEREAS, the execution of this Grant of Conservation Easement is a condition of such funding; and

WHEREAS, the Waikapuna Property has exceptional cultural, historical, environmental, and natural significance and value as it contains 2.3 miles of coastline that includes the ancient Alaloa footpath which once encircled the island, also known as the Alanui or Ala Kahakai National Historic Trail, and the Property is presently used by local fishermen, Native Hawaiian descendants, and gatherers of various natural and marine resources for subsistence, recreational, and cultural purposes; and

WHEREAS, there are numerous and well-preserved cultural sites on the Waikapuna Property in addition to the coastal Alaloa, including an ancient village consisting of heiau, burials, lava tubes, house foundations, ahu (altar), habitation caves, petroglyphs, papamū (stone for the game kōnane), salt-gathering ponds, agricultural terraces, canoe sheds, kamala (three-sided wind shelters walled with stone) and mauka-makai trails connecting the village with Na'alehu and Waiohinu. Waikapuna was named for the three freshwater springs that once sustained a fishing community on the Property, and two have been destroyed and one spring which is lined in stone remains; and,

WHEREAS, the resonant history and stories of Waikapuna have been preserved and passed on through the intimate knowledge and experience of revered Hawaiian scholar Mary Kawena Pukui, who was raised by her grandmother, Nali'ipo'aimoku from Waikapuna, who was a kahuna la'aulapa'au, midwife, and hula dancer in the court of Queen Emma. Kawena spent her childhood summers at Waikapuna with her grandmother. Knowledge passed down from Nali'ipo'aimoku to Kawena at Waikapuna

provided a considerable amount of the foundation upon which the 20th century Hawaiian cultural renaissance and beyond has relied. Most notably informed by Kawena's experience and time spent on the Ka'ū coast and Waikapuna is the critical cultural contribution of "The Polynesian Family System in Ka'ū." Some of the sites and areas Kawena describes in her book can still be clearly seen and experienced today on the Waikapuna Property; and

WHEREAS, the Waikapuna Property includes the makai portion of two ahupua'a, and its protection will have a significant positive continued impact on the immense resources of Waikapuna Bay and the ocean waters. Marine and coastal resources include a lagoon and intertidal pool complex at Waikapuna Bay which is a nursery and refuge area for numerous marine invertebrates and fishes. The nearshore area is home to Hawksbill and green sea turtles, whales, Hawaiian monk seals, diverse fish, limu, crustacean, shark, and urchin populations. Many in the Ka'ū community still rely on these diverse marine resources for subsistence; and

WHEREAS, native and endangered bird and plant species thrive on the Waikapuna Property. A massive sea cave is home to hundreds of indigenous Noio (black noddies) and Noio Kōhā (brown noddies). Sea cliffs provide habitat to colonies of endangered 'Ua'u (Hawaiian petrel), indigenous 'Ūlili (wandering tattlers), indigenous Koa'e Kea (whitetailed tropic birds), and Federal-candidate species 'Akē'akē (band rumped storm petrels). Vegetation along the coast, covering sand dunes, and on the cliff of Manienie Pali is primarily native and includes nohu, nehe, 'ilima papa, maiapilo (limited remaining specimens at last survey), pili, pōhuehue, and kauna'oa. The pasture lands include remnants of a lowland dry forest through occasional native and Polynesian-introduced trees - alahe'e, lama, wiliwili, 'ilima, naio, and noni; and

WHEREAS, local Ka'ū ranchers have ranched the Property for generations, perpetuating Ka'ū's paniolo (cowboy) heritage, contributing to Ka'ū's agricultural economy, ensuring a regular knowledgeable presence on the Property, and providing the added benefit of wildlife control to protect Waikapuna's native species and cultural sites; and

WHEREAS, Grantor and Grantee recognize the special character of the Property as a wahi pana (sacred or storied place) and wahi kūpuna (ancient place) that is part of a broader Hawaiian cultural landscape of Ka'ū. Grantor and Grantee therefore acknowledge a common purpose to conserve, preserve, and perpetuate, and prevent use of the Property that would harm, the historic, cultural, agricultural, natural, marine, scenic, open space, fresh water, and native and endemic plant and animal habitat importance of the Property (hereinafter referred to as the "Conservation Values" or "Purpose"); and

WHEREAS, the specific Conservation Values of the Property are documented in Grantor and The Trust for Public Land's County of Hawai'i PONC Nomination Form and Conservation Easement Baseline Documentation Report shared with Grantee, both of which provide written and photographic documentation of the Conservation Values that the parties agree provides an accurate representation of the Property on the date that the Conservation Easement is recorded in the State of Hawai'i (the "Effective Date"),

and which is intended to serve as an objective informational baseline for monitoring compliance with the terms of this Conservation Easement; and

WHEREAS, Grantor and Grantee collectively desire to conserve, preserve, and protect in perpetuity the Conservation Values of the Property; and

WHEREAS, Grantor intends to establish a management plan to ensure the conservation, preservation, and protection of the Conservation Values of the Property; and

WHEREAS, Grantor and Grantee understand that in establishing a management plan it will take time and resources to conduct the necessary studies and surveys concerning the Property and its historic, cultural, agricultural, natural, marine, scenic, open space, fresh water, and native and endemic plant and animal habitat values, and the best feasible means of ensuring the conservation, preservation, and protection of all these elements concerning the Property; and

WHEREAS, Grantor and Grantee desire to establish this conservation easement as the primary foundation to perpetuate the Conservation Values of the Property.

AGREEMENT

NOW, THEREFORE, in consideration of Grantee providing to Grantor a portion of the funding source for Grantor's acquisition of the Property, subject to the terms, covenants and conditions of this Easement and conditioned on the granting of this Easement to Grantee, together with other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, and the covenants, terms, conditions, and restrictions contained herein, Grantor hereby grants, creates, conveys, and establishes a perpetual conservation easement for and in favor of Grantee, including its successors and assigns, upon the Easement Property, which shall run with the land and be binding upon Grantor, including its successors and assigns, and shall remain in full force and effect forever, with the following terms, covenants, conditions and restrictions:

COVENANTS AND RESTRICTIONS

A. Purpose and Declaration.

Grantor and Grantee affirm that the Easement Property shall be used and maintained in a manner consistent with this Easement. Grantor and Grantee agree that the purposes of this Easement are to conserve, preserve and protect in perpetuity the historic, cultural, agricultural, natural, marine, scenic, open space, fresh water, and native and endemic plant and animal habitat values (together, "the Conservation Values") of the Easement Property in perpetuity.

Grantor agrees to establish a viable land management plan in the manner as set forth below in Section C.2. for said Property.

For all the purposes set forth in herein, Grantor hereby declares and agrees that the Easement Property is and shall be in perpetuity dedicated to the Conservation Values and shall be held, maintained, utilized, operated, or otherwise managed by the Grantor, its successors and assigns, in a manner consistent with the law, and further subject to

the declarations, covenants, conditions and restrictions as set forth in this Easement. This Easement shall run with the Easement Property in perpetuity.

B. Rights of Grantor.

Subject to existing encumbrances of record, and any limitations set forth in this Easement, Grantor reserves all customary rights and privileges of ownership, not granted to Grantee as to the Property including, but not limited to, the following:

1. Alienation. The right to sell, lease, and devise the Property (subject to this Easement), subject to the provisions in Section I herein.
2. Privacy and Quiet Enjoyment. The right of privacy and the right to deny access to other persons, including without limitation the right to undertake activities reasonably necessary to carry out the rights reserved to Grantor, provided such actions are not inconsistent with the Purpose of this Easement; no right of access to any portion of the Property is granted to any person by the provisions of this Easement, except the inspection rights of Grantee as expressly set forth in Section G of this Easement.
3. Access. The right to permit or invite others, including the general public, to engage in, any use of, or activity on, the Property permitted by this Easement and not inconsistent with the Purpose of this Easement, including the right to manage public access consistent with intent of this Easement, as limited by Section C.2.
4. Structures. The right to construct, maintain, renovate, and use structures to permit appropriate use of the Property by the public that is not inconsistent with the protection of the Conservation Values, and as limited by Sections D.1., E.1. and E.2.
5. Utility Services. Wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communications, or other utility services to the improvements permitted herein may be installed, maintained, repaired, removed, relocated and replaced, and, subject to the restrictions in Sections D.1., E.1. and E.2., Grantor may grant easements over and under the Property for such purposes.
6. Motorized Vehicles and Equipment. The right to use motorized vehicles and equipment for permitted land management activities allowed under applicable federal, state, and county laws, including but not limited to, tractors, mowers, ATVs, trucks, excavators, bulldozers, graders, chainsaws, chippers, and "weed eaters" so long as such use does not harm the Conservation Values.
7. Signs. The right to post signs on the Property against trespassing and erect identification, interpretive and warning signs.

8. Emergencies. The right to take any emergency action Grantor reasonably believes necessary to protect human, animal or plant life, or improvements permitted by this Easement on the Property.
9. Roads, Trails and Rights of Way. The right to establish roads, trails and reasonable rights-of-way, including providing roadway and utility access, and to cut trees, grass, and other vegetation to provide such access and rights-of-way. Roadway or utility improvements made under this provision shall be done in a manner so as to create the least possible disturbance to the Conservation Values, and in no event shall such improvements be greater than those allowed by governmental regulations and/or consents.
10. Affirmative Obligations. Unless otherwise specified below, nothing in this Easement shall require Grantor to take any action to restore the condition of the Property after any act of God or other event over which Grantor had no control or no ability to foresee.
11. Use and Maintenance of Water Sources. The right to use and maintain water sources, water courses and water bodies within the Property.
12. Chemical Applications. Subject to all applicable labeling requirements and laws, the right to apply agricultural or natural resource management chemicals to the Property for bona fide agricultural or natural resource management purposes, in a managed careful manner that recognizes the preference for no chemical application near Waikapuna lagoon and tidepools, the shoreline, the freshwater spring, and food crops, and recognizes that water moves mauka to makai from the Property directly into Waikapuna lagoon and tidepools, and the ocean.
13. Intellectual Property. The right to own and control all Intellectual Property rights arising from activities, studies, and research at Waikapuna, including discoveries, findings, writings, processes, reports, research results, images and materials prepared, whether or not patentable or eligible for trademark or copyright protection ("Project Information").
14. Patent, Trademark and Copyright. The right to prepare, file and maintain patent, trademark and/or copyright application with respect to Project Information;.
15. Fences. Fences may be maintained and replaced, and new fences installed if they are necessary (i) for agricultural operations on the Property; (ii) to mark boundaries of the Property; or (iii) to protect any cultural sites and natural resources on the Property.
16. Agricultural Production. The production, processing, and marketing of agricultural crops and livestock is allowed, provided that it is conducted in a manner which must (a) preserve the sense of place within the Property and (b) promote the conservation, preservation, and protection of the

Conservation Values. The Parties acknowledge a shared strong preference for agriculture that produces healthy food for the Hawai'i market, including ranching to produce beef for the Hawai'i market, and farming of produce for the local market. The Parties also acknowledge that growing native and/or endangered plants on the Property for planting on the Property or taking to market is an agricultural use that supports the Conservation Values. The Parties acknowledge that pesticides and fertilizer used in agricultural production on the mauka portion of the Property could harm the marine, freshwater, and native habitat resources on the makai portion of the Property. Grantor shall avoid use of pesticides and fertilizers that will likely affect the marine, freshwater, and/or native habitat resources.

17. Other Rights. Any other rights consistent with the Purpose of this Easement set forth in Section A of this Easement and not specifically prohibited or limited by this Easement.

C. Use of the Property. Grantor agrees to use the Property in accordance with the following provisions.

1. Compliance with the Law and Easement. Grantor acknowledges and agrees to use the Property in a manner consistent with all federal, state and county laws including, without limitation, land use and zoning laws, rules, and regulations (collectively referred to herein as the "law") and further subject to the declarations, covenants, conditions and restrictions set forth in this Easement.
2. Land Management Plan. Grantor agrees to work with Grantee to develop a written land management plan for the Property ("Management Plan") in accordance with the following parameters.
 - a. Timing. Grantor shall develop the Management Plan within eighteen (18) months from the Effective Date. Any extension of the deadline for the Management Plan shall require the written approval of Grantee. In developing the Management Plan, Grantor agrees to consult with Grantee during all major phases in the development of the Management Plan, and to give best efforts to meaningfully incorporate Grantee's feedback before finalizing the Management Plan. The final adoption of the Management Plan shall be by consensus involving Grantor and Grantee. Grantee's review and approval of the Management Plan shall be exercised in good faith with timely diligence. The failure or inability of the Grantor and Grantee to agree on the Land Management Plan shall not invalidate this Easement.
 - b. Management Plan Elements. The following baseline surveys and studies and plans for the Property shall comprise the key elements of the Management Plan.

- i. The baseline elements of the Management Plan shall be comprised of the following baseline studies and surveys to the extent that resources permit:
 1. The Waikapuna Conservation Easement Baseline Documentation Report;
 2. A terrestrial flora and fauna survey;
 3. Cultural and historic land documentation and reports; and
 4. A Phase 1 environmental site assessment.
- ii. Plan for the conservation, preservation, and protection of the historic, cultural, agricultural, natural, scenic, marine, open space, fresh water, and native and endemic plant and animal habitat elements and values of the Property.
- iii. Plan for restoration, to the extent applicable and appropriate, of any archaeological, cultural, or historic features that may be currently known or discovered in the future.
- iv. Plan for the encouragement and propagation, where appropriate, of native and endemic plant and animal species.
- v. Plan for the reception of and protocols regarding Hawaiian cultural practitioners who wish to access the Property to engage in their cultural and religious practices and beliefs.
- vi. Plan for education of trail users on the Alaloa entering the Waikapuna Property on foot. The Parties acknowledge that there is public pedestrian access on the Alaloa.
- vii. Plan for Managing Community Access to the Property. The Parties acknowledge that the Ka'ū community accesses the Property for subsistence fishing and gathering, family camping on public property at the shoreline, and perpetuation of Ka'ū traditions. In the past, this Ka'ū community access is typically provided to one Ka'ū camping group per weekend, who are required to sign a waiver acknowledging that they are aware of the dangerous ocean conditions, lack of fresh water, restroom facilities, trash collection, life guards and emergency services, and steep unimproved dirt roads leading down to Waikapuna Bay which require a reliable Four Wheel Drive if accessing by vehicle.
- viii. Plan for Managing Educational Access Days. In addition to access for Hawaiian cultural practitioners, hikers on the Alaloa, and Ka'ū community access, the Management Plan will include a plan for educational access to the Property for at least one (1)

specified day per year to further the purpose of this Easement, provided the plan of access will include the following minimum requirements: (1) safe access to the Property and safety best practices for all general public participants and volunteers shall be given the highest priority; and (2) conservation, preservation, and protection of the historic, cultural, agricultural, natural, marine, scenic, open space, fresh water, and native and endemic plant and animal habitat elements and values of the Property during all educational access activities shall be paramount with the establishment of proper protocol and safety procedures.

From the Effective Date until the adoption of the Management Plan, Grantor will use best efforts to maintain reasonable interim safe access and conservation measures, will use best efforts to continue providing managed community and cultural access, and will provide at least one (1) educational access day per year until the adoption of the Management Plan.

- ix. Guidelines and standards for the possible renovation and reuse of the three existing structures on or partially on the Property; and establishment in the future of any cultural or agricultural structures, all of which must (a) preserve the sense of place within the Property and (b) promote the conservation, preservation, and protection of the Conservation Values.
 - x. Plan for the maintenance of existing roads, trails, and utilities; and for any necessary additional roads, trails and utilities.
 - xi. Plan for Fire Prevention and Management.
- c. Management Plan Review and Adoption. The standards and guidelines under which the parties agree to review and ultimately adopt by consensus the Management Plan are as follows:
- i. The Management Plan must fulfill the Purpose of this Easement.
 - ii. The Management Plan shall include all of the Management Plan Elements provided hereinabove.
 - iii. The Management Plan shall include a projected cost of management on a rolling three (3) to five (5) year basis, with projected annual budgets for each new year.
 - iv. The Management Plan shall incorporate the Conservation Values of the Property.
- d. Annual Report. Grantor shall provide Grantee with an annual self-monitoring report that is substantially similar to the State Legacy Land

Conservation Program Grant Recipient Self Report Form and provide a copy of said annual self-monitoring report to the State Legacy Land Conservation Commission. In each annual self-monitoring report, Grantor will include the dates of the educational access day(s), and any additional access opportunities provided by Grantor. Each annual report shall also detail any requests received for cultural or community access, and shall specify Grantor's response to, and handling of, each such request for community access in sufficient detail to demonstrate Grantor's best efforts to accommodate such requests. Grantor's annual written report will assist Grantee to monitor compliance with this Easement and will not create significant additional work for Grantor. Grantor shall also provide Grantee with a copy of any State Legacy Land Conservation Program Grant Recipient Self Report Form required by the State Legacy Land Conservation Program.

- e. 10-Year Review. The Management Plan is a living document. Grantor and Grantee agree to review the Management Plan at least once a year to ensure that the mission and purpose of the Easement are effectively being met. Grantor shall review The Management Plan at least every ten (10) years commencing from the date of the adoption of the Management Plan to consider possible amendment and restatement of the 10-year Management Plans. Grantor shall not engage in any action that materially deviates from the Management Plan unless adopted by consensus among the parties hereto.
3. Environmental Assessment or Other Study. In the event that an environmental assessment under Hawai'i Revised Statutes Chapter 343 or any other study arising from law or court order is required for or in any way related to the Property, or any part thereof ("Environmental Assessment"), the Grantor and Grantee agree as follows:
- a. Grantor shall fully comply with every law or final court order applicable to the use and occupation of the Property as described in this Easement;
 - b. Grantor shall assume full responsibility for paying the cost of any Environmental Assessment, study, survey, permit and/or inspection required by law or by any final court order;
 - c. Grantee shall bear no responsibility to pay the cost of any requirement described in this Section C.3; and
 - d. Grantor shall use its best efforts to remove any encumbrance on title arising from any final judgment affecting the Property.

D. Uses and Activities Inconsistent With the Purpose of the Easement; Default.

1. Limitations on Uses and Activities. Grantor shall not use the Easement Property in any manner inconsistent with this Easement, including without limitation all of its declarations, covenants, conditions, and restrictions. Without limiting the generality of the foregoing, the following uses of, or activities on, the Easement Property, though not an exhaustive list of inconsistent uses or activities, are inconsistent with the Conservation Values and Purposes of this Easement and shall be prohibited, except as expressly provided herein.
 - a. Subdivision. Grantor shall not subdivide or submit the Easement Property to a condominium property regime (CPR).
 - b. Structures. Grantor shall limit development on the Easement Property to three (3) structures, which is the number of structures currently on the Property, excluding water tanks, water troughs, interpretive kiosks, and compost toilets. Since the three (3) structures – (a) an old piggery approximately 30 meters x 8 meters, (b) an old bunkhouse approximately 12.3 meters x 3.5 meters, and (c) an old ranch office, workshop, and storage area, approximately 52 meters by 23 meters (partially collapsed), on the Easement Property were built across TMK lines that are now owned by different entities, the location of the structures can be changed, but the location must not adversely impact the sense of place within the Easement Property and must not adversely impact the Conservation Values. If new structures are to replace any existing structures (and the existing/old structures must be removed following all applicable laws), the cumulative footprint of any new structures will not exceed the cumulative footprint of the existing three structures. Re-located and new structures must be limited in purpose to (a) preserve a sense of place within the Easement Property and (b) perpetuate the Purpose of this Easement. Possible structures are a ranch building to aid in the furtherance of ranching and/or farming, a building to store equipment for restoration work on the land such as removal of invasive species and planting of native species, a greenhouse to start native species for outplanting on the Property, and a community gathering/cultural/science and/or interpretive structure, which may be a modern structure or a traditional Hawaiian halau/hale, or a combination of the two. The aforementioned potential structures are not intended to be an exhaustive list. Grantor shall not construct any dwelling unit or lodging unit, including cabins or other temporary lodging, on the Property, except a modest caretaker's unit may be included in one of the allowed three (3) structures to facilitate longer stretches of work by restoration staff or volunteers on the Property. Re-location of existing structures and any new

replacement structures will be limited to the northeast corner of the property, and shall not adversely impact any of the Resource Values for which this Conservation Easement is established.

- c. Commercial Activities. Grantor shall not engage in any commercial activities on the Property, except that Grantor may: 1) ranch, farm, or lease the Property for agriculture with a strong preference toward agriculture that adds to the local food market; 2) lease the Property for installation and operation of telecommunication facilities; and 3) harvest, and cook on the Property, provided that the aforementioned activities will not significantly impact the Conservation Values. Grantor may also conduct film and photography in a manner consistent with the Purpose and that does not significantly impact the Conservation Values. Prohibited commercial activities shall not include programs and activities on the Property that (a) preserve a sense of place within the Property and (b) perpetuate the Purpose of this Easement.
- d. Entrance fees. No fees shall be charged for entrance or admission to the Property. Entrance fees shall not include nominal fees or donations associated with programs and materials provided by Grantor.
- e. Mineral extraction. Grantor shall not engage in any mineral extraction activities on the Property.
- f. Erosion or Water Pollution. Any use or activity on the Easement Property that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface waters.
- g. Water Rights. Grantor recognizes the traditional and customary usage of water and the critical function of freshwater in Waikapuna's history. Grantor shall not transfer, encumber, sell, lease or otherwise separate any water or water rights appertaining to the Property or change the traditional and customary and historic use of the water in Waikapuna. Grantor shall not abandon or allow the abandonment of, by action or inaction, any of the water or water rights for the Property.
- h. Limitation on Impervious Surfaces. Impervious surfaces will not exceed one-tenth of one percent (0.1%) of the total area contained within the Easement Property, as determined by survey of the Easement Property. "Impervious surfaces" are defined as material that does not allow water to percolate into the soil on the Easement Property; including, but not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs.

2. Default. Any one or more of the following events shall constitute an "Event of Default":
 - a. Grantor shall fail to comply with the law and covenants, conditions and restrictions set forth in of this Easement;
 - b. Grantor shall fail to develop and comply with the requirements relating to a Management Plan as set forth in Section C.2 herein;
 - c. Grantor shall become bankrupt or insolvent or shall make an assignment for the benefit of creditors, or file any debtor proceedings;
 - d. Grantor shall abandon the Property or any estate or interest hereunder to be taken under any writ of execution.

Upon an Event of Default, Grantee shall have the right to exercise the affirmative rights and remedies provided in Sections G and H herein.

E. Activities and Uses on Property Requiring Grantee's Approval.

The following activities and uses are permitted on the Easement Property only upon receiving approval by Grantee pursuant to the approval procedures set forth in Section J.1.:

1. Construction Activities. Demolition or construction of any structure. Grantor and Grantee understand that the Property is within the Special Management Area (SMA), and Grantor understands that Hawai'i Revised Statutes (HRS) Chapter 205A, the Coastal Zone Management (CZM) law, requires Grantor to receive a SMA permit before any demolition or construction on the Property. The Parties acknowledge that the utmost care must be taken to protect the Property's many cultural sites in any construction activity, and Grantor shall follow all legal requirements and best archaeological practices. This section does not apply to fences or agricultural water troughs and systems.
2. Dwelling. Use of any structure as a dwelling, such as by an onsite caretaker.
3. Non-Prohibited Commercial Activities. Activities and uses which are not specifically identified as allowable exceptions in Section D.1. of this Easement, but that Grantor believes are nonetheless warranted because they would not significantly impact the Conservation Values of the Property, would afford Grantor supplemental financial or other opportunities, which may assist in assuring the economic viability of the primary activities that benefit or protect the Conservation Values, and Grantor believes the proposed activities and uses comply with Section D. in that they (a) preserve a sense of place within the Property, and (b) perpetuate the Purpose of this Easement.
4. New Roads. Creation of a new unpaved road or trail, and/or any paving of an existing or new road or trail. The Parties acknowledge that as there are existing dirt roads through the Property, historic trails through the Property that connect to the Alaloa (Ala Kahakai), and numerous cultural sites throughout the

Property, the Parties' shared strong preference is to not create any new roads through the Property, and to keep all roads and trails unpaved.

F. Grantee's Rights and Obligations.

Grantee shall ensure Grantor's compliance with this Easement, including without limitation, the declarations, covenants, conditions, and restrictions set forth in this Easement. Grantee shall monitor and enforce this Easement.

Grantee shall have the responsibility for the stewardship and monitoring of this Easement, determining if a violation has occurred, and for considering and replying to all approval requests pursuant to the Easement. These duties may be fulfilled directly by Grantee or its agent. Grantee is responsible for any costs incurred in enforcing the terms of this Easement, including any attorney's fees and any costs of suit. Grantee can recover costs from Grantor or a third party as described in Grantee's Remedies below.

G. Affirmative Rights Conveyed to Grantee.

To accomplish the Purpose of this Easement the following rights are conveyed to Grantee:

1. Protection. Grantee has the right to preserve and protect in perpetuity the Conservation Values of the Easement Property, and to prevent any use of, or activity on, the Easement Property that will significantly impair or interfere with the Purpose of the Easement.
2. Right of Entry. Subject to the limitations set forth below, Grantee, or its agent, has the right to enter the Property at reasonable times to carry out the Purposes of this Easement and as further described below:
 - a. Annual Monitoring. Upon fourteen (14) days prior Notice to Grantor (in the manner set forth set forth in Section J.4.), and without unreasonably interfering with Grantor's use of the Property, Grantee has the right to enter upon the Property, at reasonable times and in a reasonable manner in order to monitor Grantor's compliance with, and otherwise enforce the terms of, this Easement; provided that in the absence of evidence which gives Grantee a reasonable basis to believe there has been a violation of the provisions of this Easement (which evidence shall be made available to Grantor at the time of such Notice and request to enter the Property), such entry shall not occur more often than once per year. The Parties acknowledge that they have a positive working partnership, and Grantor may invite Grantee to join an educational or cultural access in addition to the Annual Monitoring.
 - b. Emergency Entry. Where Grantee has a reasonable belief that a violation of the Easement is occurring or has occurred or that there is a significant and imminent threat to the Purpose of this Easement, or to public safety, Grantee has the right but not the obligation to enter the Property for the purpose of mitigating or terminating the violation or obtaining evidence for

the purpose of seeking judicial enforcement of the Conservation Easement. Possible violations or threats to public safety giving rise to Grantee's entry right include, but are not limited to, trespass onto the property, any criminal activity, and any activity on the Easement Property that harms or could harm the Conservation Values, including, but not limited to, lack of maintenance, and harm or potential harm to the cultural resources and/or rare and endangered native species. Grantee has the right but not the obligation to remain or have a regular presence on the Easement Property, and to actively manage the Easement Property, for as long as necessary to mitigate or terminate the violation, or obtain evidence for the purpose of seeking judicial enforcement of the Conservation Easement. Such entry shall be without notice. However, where time permits, Grantee shall make good faith efforts to provide at least twenty-four hours' Notice to Grantor in the manner set forth in Section J.4. for emergencies.

3. Enforcement. Grantee has the right to enforce this Easement and the covenants and restrictions herein, including, but not limited to, the right to enjoin any use of, or activity on, the Easement Property that is inconsistent with the Purpose of this Easement, and to require the restoration of such areas or features of the Easement Property as may be damaged by uses or activities inconsistent with the provisions of this Easement. Grantor and Grantee agree to engage in alternative dispute resolution methods, such as mediation, as preferred methods of resolving any and all disputes. A good faith effort shall be made by all parties to avoid the costs of litigation, if this can reasonably be accomplished without harming or threatening the Conservation Values, Purpose of this Easement, or Grantor's property rights.
 - a. Notice of Violation, Corrective Action, Opportunity to Cure. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written Notice to Grantor (in the manner set forth in Section J.4.) of such violation and may demand corrective action sufficient to cure the violation (within the permitted time periods set forth in Section G.3.b. below) and, where the violation involves injury to the Easement Property resulting from any use or activity inconsistent with the Purpose of this Easement, require Grantor to restore the portion of the Easement Property so injured to its prior condition in accordance with a plan approved by Grantee.
 - b. Grantor's Failure to Cure. Grantee may bring an action as provided in this Section if Grantor:
 - i. Fails to cure the violation within thirty (30) days after receipt of Notice thereof from Grantee; or
 - ii. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such

violation within the thirty (30) day period and fails to continue diligently to cure such violation until finally cured.

H. Grantee's Remedies; Damages.

Subject to the limitations set forth in this Grant of Conservation Easement, Grantee's rights and remedies identified in this Section apply equally in the event of either actual or threatened violations of the terms of this Easement and shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

1. Grantee's Action.

- a. Injunctive Relief. Grantee may bring an action at law or in equity to enforce the terms of this Easement:
 - i. To enjoin the violation -- including ex parte, to the extent permitted by procedural rules of the court -- by temporary, preliminary or permanent injunction; and
 - ii. To require the restoration of the Easement Property to the condition that existed prior to any such injury.
- b. Damages. Grantee shall be entitled to recover damages for any breach by Grantor of the terms of this Easement or injury to any of the Conservation Values protected by this Easement, to the extent such damages may be ascertained, including without limitation, any and all costs for enforcement of the terms so breached. Without limiting Grantor's liability in any way, Grantee may apply any damages recovered to the cost of undertaking corrective or restoration action on the Easement Property. Grantor is barred from using this provision regarding damages as an affirmative defense against Grantee's rights to injunctive relief.
- c. No Bond Required. Any action for injunctive relief or damages may be taken without Grantee being required to post bond or provide other security. Grantor is barred from using this provision regarding damages as an affirmative defense against Grantee's rights to injunctive relief.
- d. Possible Dissolution of Grantor. In the event there is a plan of dissolution of Grantor, or Grantor is otherwise dissolved while holding the Property, and if the terms of the dissolution fail to provide a successor, then Grantor, Grantor's surviving officers, or Grantee may institute in a court of competent jurisdiction a proceeding to appoint an appropriate successor to Grantor, provided however, that any transfer of Grantor's interest shall remain subject to the approval of the State of Hawai'i Board of Land and Natural Resources and Grantee.

2. Grantee's Forbearance. Forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor, its agents, employees, contractors, invitees or licensees shall not be

deemed or construed to be a waiver by Grantee of such term or any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

3. Waiver of Certain Defenses. Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by counsel of its terms and requirements. In full knowledge of the provisions of this Easement, Grantor hereby waives any claim or defense it may have against Grantee under or pertaining to this Easement based upon waiver, laches, estoppel, or prescription.
4. Acts Beyond Grantor's Control; Emergency Conditions. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, earth movement, tsunami, any other act of God, vandalism, terrorism, condemnation, and/or for acts of trespassers, that Grantor could not reasonably have anticipated or prevented, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes or to protect bona fide public health or safety in an emergency situation.

I. Provisions Required by the Board of Land and Natural Resources.

Grantor and the State of Hawai'i Board of Land and Natural Resources have entered into an agreement relating to the Property, identified as "State of Hawai'i Legacy Land Conservation Program Grant Agreement Number 66886," dated May 10, 2018, as amended, ("LLCP Agreement"). Section 7 of Attachment 1 of the LLCP Agreement requires Grantor to include the following additional terms in this Easement, which are by incorporation below and made a part hereof:

"The fee interest that this conservation easement encumbers has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number 66886, dated May 10, 2018, as amended, and is subject to all of the terms and conditions of the grant agreement.

The Holder of the conservation easement shall also be subject to the terms and conditions of the grant agreement to the extent applicable under the holder's rights and responsibilities under the conservation easement.

The Grantor covenants that the property shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes.

The Holder, for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of this conservation easement without the written approval of the DLNR or its successor agencies.

The Holder further covenants that whenever this conservation easement is sold by the Holder, that portion of the net proceeds (sale price less actual expenses of sale) of such sale, equal to the proportion that the state grant bears to the original cost of the property, shall be paid to the State of Hawaii.”

J. Approval; Breach; Compliance Certificates.

1. Approval by Grantee. Whenever this Easement requires Grantor to obtain Grantee’s approval before taking an action, Grantor shall follow the procedures set forth in this Section.
 - a. Approval Procedures. Grantor shall request approval from Grantee in writing. The request for approval shall describe the nature, scope, location, timetable, identify its conformity with this Easement, and, when applicable, evidence conformity with existing land use regulations, and any other material aspect of the proposed activity. Delivery of the request shall conform to the service methods set forth in Section J.4. Grantee shall have sixty (60) days from receipt of the request in which to approve, disapprove, or approve subject to modification, the request. In the case of withholding of approval, Grantee shall notify Grantor in writing with reasonable specificity of the reasons for withholding of approval, and the conditions, if any, on which approval might otherwise be given.
 - b. Standard of Approval. Grantee shall not unreasonably withhold or delay approval of a proposed use or activity requiring approval under this Conservation Easement where the proposed activity or use will not significantly impact the Conservation Values, or this Easement’s managed access requirements.
2. Breach of Approval Provisions. If Grantor undertakes without approval any action for which Grantee’s approval is required under this Easement, Grantor shall be deemed to be in material breach of this Easement and Grantee shall be entitled to such rights or remedies as may be available under Section H of

this Easement. Should such a material breach occur, Grantor and Grantee may, at Grantee's sole and absolute discretion, discuss whether a cure of the breach is possible and, if so, under what circumstances.

3. Compliance Certificates. Grantee, or its successor, as the steward and enforcer of this Easement shall, within sixty (60) days of a request by Grantor, execute and deliver to Grantor, or to any party designated by Grantor, any document, including an estoppel certificate, that certifies Grantor's compliance or lack thereof with any obligation of Grantor contained in this Easement and otherwise evidences the status of this Easement. Such certificate shall be binding upon Grantee. Such certification shall be limited to the condition of the Property as of the most recent inspection carried out by Grantee. If Grantor requests more current documentation, Grantee shall conduct an inspection, at Grantor's expense, within sixty (60) days of receipt of Grantor's written request.
4. Notices and Responses. Any notice, demand, request, consent, approval, or communication (collectively "Notice") that either party desires or is required to give to the other shall be in accordance with the following procedures.
 - a. In ordinary circumstances, the Notice shall be in writing and either served personally or sent by certified mail, return receipt requested, postage prepaid, with a copy by electronic mail, addressed to the appropriate party, at the appropriate address set forth below in this Section. Where Notice is served by certified mail, the receipt of Notice shall be considered to have occurred upon the elapse of six days after mailing.
 - b. In emergency circumstances, the party shall provide Notice by electronic mail and shall also make best efforts to deliver the Notice in writing personally. Where Notice is served by electronic mail, the party serving the Notice shall, in addition, make concurrent attempts to notify the other party by telephone of the Notice, and attempt to receive oral or written confirmation from the party or the party's attorney that the Notice has been received.
 - c. Notices may also be served by any other method mutually agreed to between the parties in writing, signed by all parties.
 - d. Notices shall be served at the following addresses or to such persons, entities, and/or other addresses as the parties from time to time shall designate by written notices to the others:

To Grantor:

Ala Kahakai Trail Association
Attn: Waikapuna Resource Manager
P.O. Box 2338
Kamuela, HI 96743
Phone: (808) 351-6279

Email: fox@alakahakaitrail.org

To Grantee:

The County of Hawai'i
Department of Finance
Property Management Division
Attn: Property Manager (Regarding Waikapuna)
25 Aupuni Street, Suite 1101
Hilo, HI 96720
Phone: (808) 961-8009
Email: hventura@hawaiiicounty.gov

With an additional copy to:

Department of the Corporation Counsel
Attn: Public Access, Open Space, and Natural Resources
Preservation Commission
(Regarding Waikapuna)
Hilo Lagoon Centre, 101 Aupuni Street, Unit 325
Hilo, HI 96720
Phone: (808) 961-8251
Email: corpcounsel@hawaiiicounty.gov

K. Costs, Liabilities and Insurance, Taxes, Environmental Compliance and Indemnification.

1. Costs, Legal Requirements, Liabilities and Insurance. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of insurance coverage that is reasonable under the circumstances. Grantor shall cause, at Grantor's expense, for Grantee to be named as additional insureds on the policy or policies obtained. Grantor and Grantee release and relieve the other, and waive their entire right to recover for loss or damage to the extent that the loss or damage is covered by proceeds of the injured party's insurance. This waiver applies whether or not the loss is due to the negligent acts or omissions of Grantor or Grantee. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any activity or use permitted by this Easement, and any such activity or use shall be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements. Nothing in this Easement shall relieve Grantor of complying with all applicable federal, state, and local laws, regulations, and requirements.
2. Indemnity. Grantor shall indemnify, hold harmless and defend Grantee, its officers, directors, employees, agents, invitees, and contractors of Grantee, and its heirs, successors, and assigns (collectively "Grantee's Parties"), for any

and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions and causes of action or sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee or Grantee's Parties may be subject or incur relating to the Property, which may arise from Grantor, its officers, directors, employees, agents, invitees, contractors of Grantor, and each of the successors and assigns of such parties (collectively "Grantor's Parties") negligent acts or omissions or Grantor's or Grantor's Parties breach of any representation, warranty, covenant, agreements contained in this Easement, or violations of any federal, state or local laws, including all Environmental Laws.

3. Taxes. Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "Taxes"), including any taxes imposed upon, or incurred as a result of, this Easement. If Grantor fails to pay any Taxes when due, Grantee is authorized, but in no event obligated, to make or advance such payment of Taxes upon three (3) days prior written Notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the Taxes or the accuracy of the bill, statement or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.
4. Environmental Warranty and Remediation.
 - a. Grantee acknowledges and understand that Grantor has taken ownership of the Property on the assumption that the Property is without any existing recognized environmental condition. Grantor warrants that Grantor has no actual knowledge of a release or threatened release of any Hazardous Materials on, at, beneath or from the Property exceeding regulatory limits. Grantor has obtained a Phase I Environmental Site Assessment dated August 23, 2019 which found no recognized environmental conditions.
 - b. Grantor shall be responsible for any Hazardous Materials contributed after the Effective Date.
 - c. If at any time, there occurs, or has occurred, a release in or on the Property of a Hazardous Material, Grantor agrees to take all steps necessary to assure its containment and remediation, including any cleanup that may be required, unless the release was caused by Grantee.
 - d. Grantor agrees to follow the recommendations in Section 10 (Findings, Opinions, and Conclusions) of the Phase I Environmental Site Assessment dated August 23, 2019.
 - e. For purposes of this Easement, "Hazardous Materials" means *any materials, discharges or other substance governed by the Comprehensive*

Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sec. 9601 et. seq. ("CERCLA"), The Resource Conservation and Recovery Act, 42 U.S.C sec. 6901 et. seq. ("RCRA") The Superfund Amendments and Reauthorization Act, 42 U.S.C. Sec. 9601 et. seq. ("SARA") or any other federal or state based statutory, regulatory or common law cause of action) related to environmental matters or liability with respect to or affecting the Property.

L. Transfer; Amendment; Extinguishment.

1. Transfer of Property. Grantor may not transfer, assign, or otherwise convey the Easement Property without the prior written consent of the Grantee. Grantor agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which Grantor transfers any interest in all or a portion of the Easement Property, including, without limitation, a leasehold interest. If Grantor is preparing for dissolution or dissolves, is unable to carry out the terms of this Easement and desires to transfer the Easement Property to another entity that would be able to carry out the terms of this Easement, or believes that another entity is better suited to carry out the terms of this Easement and desires to transfer the Easement Property, or for any other reason desires to transfer the Easement Property, Grantor must consult with Grantee in a timely fashion as to the need or desire to transfer the Easement Property to another entity, the timeframe of a potential transfer of the Easement Property, potential entities that could carry out the terms of this Easement, and other relevant factors. Any such transfer is subject to Grantee's consent and such consent shall not be withheld if the transferee is a like entity that has capacity to own and steward the Easement Property, and adhere to the terms of this Easement; has experience caring for and/or restoring ancient trail systems, native habitats and marine resources; has a longstanding and deep understanding of Hawaiian cultural heritage and history, and proper Hawaiian protocol and practices to care for Hawaiian cultural sites; has demonstrated experience in involving community including schools, Native Hawaiian cultural practitioners, and the broader public; and the ability to appropriately care for the Conservation Values of the Easement Property. The nonprofit The Trust for Public Land that facilitated this conservation easement and prior fee purchase by Grantor may be available as a resource for Grantor and Grantee if a transfer of the Property is considered in the future. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.
2. Limitations on Amendment. This Easement may not be modified, amended, or otherwise changed in any manner, except by a written amendment executed by Grantor and Grantee, or their successors in interest, it being understood that neither Grantor nor Grantee shall ever be obligated to negotiate or enter into any such amendment. If circumstances arise under which an amendment to this Easement would be appropriate, Grantor and Grantee may jointly amend this Easement; provided that no amendment shall be allowed that shall affect

the qualification of this Easement or the status of Grantee under any applicable laws, including Hawai'i Revised Statutes Chapter 198 or Section 170(h) of the Internal Revenue Code of 1986, as amended (or with the Purpose of this Easement), shall not affect its perpetual duration, shall be in accordance with the Assignment of Rights referred to in Section M below and shall be recorded in the State of Hawai'i Bureau of Conveyances or the Land Court, as appropriate. Furthermore, this Easement may only be amended or modified in furtherance of the Purpose of this Easement and Conservation Values described herein.

3. Limitations on Extinguishment. If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, including but not limited to the inability of Grantor and/or a court appointed receiver to locate a successor to Grantor qualified to own and steward the Property in accordance with this Easement, this Easement can be terminated or extinguished, whether with respect to all or part of the Easement Property, only by judicial proceedings in a court of competent jurisdiction. The parties to this Easement shall take steps to avoid or mitigate harm to the Conservation Values, and/or use any proceeds in a manner consistent with the Purpose of this Easement.
4. Condemnation. If all or any part of the Easement Property is proposed to be taken under the power of eminent domain, Grantor and Grantee shall work with the State of Hawai'i and join in appropriate proceedings at the time of such proposed taking to recover the full value of their respective interests in the Easement Property subject to the taking and all incidental or direct damages resulting from the taking. All expenses reasonably incurred by the parties to this Easement in connection with such taking shall be paid out of the recovered proceeds. The parties to this easement shall take steps to avoid or mitigate harm to the Conservation Values, and/or use any proceeds in a manner consistent with the Purpose of this easement.

M. Provisions Required by County of Hawai'i Charter.

- a. This easement was acquired with moneys from the Public Access, Open Space, and Natural Resources Preservation Fund. It shall be held in perpetuity for the use and enjoyment of the people of Hawai'i County and may not be sold, mortgaged, traded or transferred in any way.

N. General Provisions.

1. Reasonableness Standard. Grantor and Grantee shall follow a reasonableness standard and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner and shall cooperate with one another and shall take all other reasonable action suitable to that end.
2. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Hawai'i and any applicable federal law.

3. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed to fulfill the Purpose of this Easement and the policy and purpose of HRS Chapter 198. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.
4. Severability. If any provision of this Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected.
5. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Property and supersedes all prior discussions, negotiations, understandings, or agreements between Grantor and Grantee relating to the Property, all of which are merged into this Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section L.2.
6. No Forfeiture. Nothing contained in this Easement shall result in a forfeiture or reversion of Grantor's title in any respect.
7. Successors and Assigns; Runs with Land. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties to this Easement and their respective successors, and assigns, and shall continue as a servitude running in perpetuity with the Easement Property.
8. Termination of Rights and Obligations. A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Easement Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.
9. Counterparts. The parties may execute this instrument in two or more counterparts. Each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.
10. Effective Date. This Easement shall be effective as of the date on which this Easement is recorded in the State of Hawai'i Bureau of Conveyances (referred to in this Easement as the "Effective Date").
11. No Merger. Grantee agrees to take whatever steps are necessary to ensure that merger of the fee and Easement estates does not occur in order to ensure the continued viability of this Easement.

END OF TEXT; SIGNATURES ON NEXT PAGE

GRANTOR:

ALA KAHAKAI TRAIL ASSOCIATION

By: *Linda Kaleo Paik*

LINDA Kaleo Paik

Its Secretary, Board of Directors

NOTARY ACKNOWLEDGMENT

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

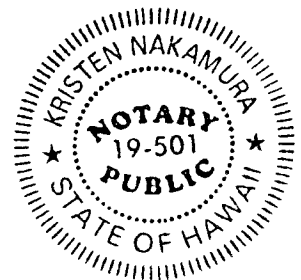
State of Hawaii

CITY & County of HONOLULU

On this 10TH day of DECEMBER, 2019, before me personally appeared LINDA KALEO PAIK, to me known to be the person described in and who executed the foregoing instrument and acknowledged that he/she/they executed the same as their free act and deed.

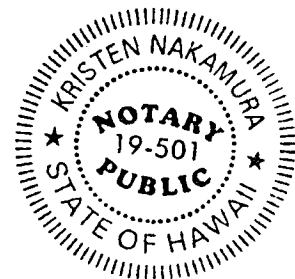
Kristen Nakamura
Signature of Notary Public

Print Name: KRISTEN NAKAMURA
EXPIRATION: November 24, 2023
My Commission expires: _____




(Seal)


NOTARY CERTIFICATE, STATE OF HAWAII
Doc. Description/ID: GRANT OF
CONSERVATION EASEMENT
Doc. Date: UNDATED Pages: 35
Notary Name: Kristen Nakamura 1st Circuit
Kristen Nakamura 10 DEC 2019
Notary Signature Cert. Date




GRANTEE:

COUNTY OF HAWAII

By: 

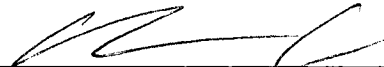
 Harry Kim
Mayor

Approval Recommended:

By: 

Deanna Sako
Director of Department of Finance

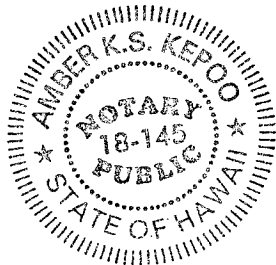
Approved as to form and legality

By: 

Ronald Kim
Deputy Corporation Counsel

STATE OF HAWAI'I)
) SS.
COUNTY OF HAWAI'I)

On this 10th day of December, 2019, before me personally appeared ROY TAKEMOTO, to me personally known, who, being by me duly sworn, did say that he is the Managing Director of the County of Hawai'i, a municipal corporation of the State of Hawai'i, that the foregoing instrument was signed on behalf of the County of Hawai'i by authority given to said Mayor of the County of Hawai'i by Sections 5-1.3 and 13-13 of the County Charter, County of Hawai'i (2016), as amended, and assigned by the Mayor to the Managing Director pursuant to Section 6-1.3(h) of the County Charter; and said ROY TAKEMOTO acknowledged said instrument to be the free act and deed of said County of Hawai'i.



Amber K.S. Kepono
Signature

AMBER K.S. KEPOO
Print or Type Name

Notary Public, State of Hawai'i

My Commission Expires: 04/01/22

| NOTARY CERTIFICATION | |
|--|-------------------------|
| Doc. Date: <u>Undated</u> | No. of Pages: <u>37</u> |
| Notary Name: <u>AMBER K.S. KEPOO</u> <u>Grant of Conservation</u> | Third Circuit |
| Doc. Description: <u>Easement</u> | |
| | |
| | |
| <u>Amber K.S. Kepono</u> | <u>12/10/19</u> |
| Notary Signature | Date |

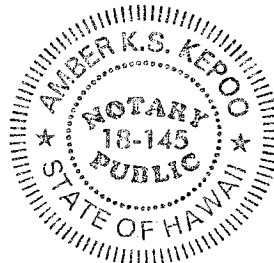


EXHIBIT A
Legal Description

-ITEM I:-

All of that certain parcel of land (being all of Royal Patent Grant Number 994, Apana 1 to Haleloa; all of Royal Patent Grant Number 3161 to to S. K. Kawaiponia and Hao; all of Royal Patent Grant Number 2159 to Moeawa; all of Royal Patent Grant Number 1897 to Kahula; a portion of Royal Patent Grant Number 2771 to S. Laanui; the remainder of Royal Patent Grant Number 994, Apana 2 to Heleloa; all of Land Commission Award Number 7553-B, Apanas 1 and 2 to Pa; all of Royal Patent Number 4996, Land Commission Award Number 7315, Apanas 1 and 2 to Keawahano; all of Royal Patent Number 3296, Land Commission Award Number 9963, Apanas 1, 2 and 3 to Leanui; all of Royal Patent Number 5001, Land Commission Award Number 7542, Apana 2 to Kahaliukua; all of Royal Patent Number 6821, Land Commission Award Number 7535, Apanas 1 and 2 to Kokai; all of Royal Patent Number 2957, Land Commission Award Number 10445, Apana 2 to Naluahi; all of Royal Patent Number 3211, Land Commission Award 10591, Apanas 2 and 3 to Pihe; a portion of Royal Patent Number 6882, Land Commission Award Number 9971, Apana 10 to W. P. Leleiohoku; Exclusion 1 and Exclusion 2 at Kahilipali Nui and Iki, Kau, Hawaii) situate, lying and being at Kahilipali Nui and Iki, roughly at the south end of the Naalehu Spur Road, District of Ka'u, Island and County of Hawaii, State of Hawaii, being PARCEL 16, as shown on survey map prepared by Wayne A. Subica, Jr., Land Surveyor, with John D. Weeks Inc., dated November 30, 2016, updated on December 16, 2016 and February 26, 2017, and revised on May 7, 2019, and thus bounded and described; to-wit:

Beginning at a pipe at the northeast corner of this parcel of land, the coordinates of which referred to Government Survey Triangulation Station "STINE 2" being 994.46 feet south and 3404.98 feet west and running by azimuths measured clockwise from true South:

- | | | | |
|----|----------|--------|---|
| 1. | 341° 42' | 239.88 | feet along Grant 820:2 to Laweliilii to a spike, found; |
| 2. | 326° 42' | 118.91 | feet along Grant 820:2 to Laweliilii to a pipe set; |
| 3. | 332° 42' | 289.63 | feet along Grant 820:2 to Laweliilii to a spike, set; |

| | | | |
|-----|--------------|---------|---|
| 4. | 330° 42' | 512.16 | feet along Grant 820:2 to Laweliilii to a spike, set; |
| 5. | 322° 42' | 162.36 | feet along Grant 820:2 to Laweliilii to a spike, set; |
| 6. | 297° 57' | 203.28 | feet along Grant 820:2 to Laweliilii to a spike, set; |
| 7. | 319° 12' | 843.48 | feet along Grant 820:2 to Laweliilii, along Grant 2724:1 to Kalike to a pipe, set; |
| 8. | 337° 57' | 1974.22 | feet along Grant 2724:1 to Kalike to a nail, found; |
| 9. | 346° 34' | 1611.60 | feet along Grant 2599 to Kahakauwila to a pipe, set; |
| 10. | 335° 27' | 1869.12 | feet along Grant 2599 to Kahakauwila to a pipe, set; |
| 11. | 333° 12' | 1328.36 | feet along Grant 2599 to Kahakauwila to a pipe, set; |
| 12. | 353° 54' | 1955.38 | feet along Grant 2114 to Keanu to a pipe, set; |
| 13. | 340° 47' 30" | 1738.93 | feet along Grant 2114 to Keanu, along the land of Kawala to a pipe, set; |
| | | | Thence, along the shoreline for the next nineteen (19) courses, the direct azimuths and distance being: |
| 14. | 53° 07' | 126.11 | feet to a "+" cut in pahoehoe, set; |
| 15. | 61° 36' | 176.82 | feet to a "+" cut in pahoehoe, set; |
| 16. | 47° 46' | 287.44 | feet to a rebar, set; |
| 17. | 27° 03' | 205.71 | feet to a pipe, set; |
| 18. | 55° 02' 20" | 592.74 | feet to a pipe, set; |

| | | | |
|-----|--------------|---------|--|
| 19. | 58° 17' 30" | 269.46 | feet to a pipe, set; |
| 20. | 50° 35' 20" | 254.92 | feet to a pipe, set; |
| 21. | 45° 09' 30" | 435.14 | feet to a "+" cut in pahoehoe, set; |
| 22. | 51° 01' 50" | 1040.70 | feet to a "+" cut in pahoehoe, set; |
| 23. | 357° 32' 30" | 703.29 | feet to a "+" cut in pahoehoe, set; |
| 24. | 17° 08' 20" | 776.45 | feet to a "+" cut in pahoehoe, set; |
| 25. | 21° 49' 10" | 1396.80 | feet to a "+" cut in pahoehoe, set; |
| 26. | 17° 17' 40" | 1633.15 | feet to a "+" cut in pahoehoe, set; |
| 27. | 22° 02' 10" | 1228.39 | feet to a "+" cut in pahoehoe, set; |
| 28. | 39° 32' 20" | 1110.77 | feet to a "+" cut in pahoehoe, set; |
| 29. | 36° 12' 50" | 754.21 | feet to a "+" cut in pahoehoe, set; |
| 30. | 52° 04' 10" | 621.40 | feet to a spike in concrete, found; |
| 31. | 61° 00' | 297.21 | feet to a "+" cut top of large boulder, set; |
| 32. | 25° 06' 50" | 498.19 | feet to a "+" cut in pahoehoe, set, thence; |

Along the Government Land of Waiohinu for the following eight (8) courses:

| | | | |
|-----|----------|--------|-------------------------------------|
| 33. | 132° 30' | 282.67 | feet to a "+" cut in pahoehoe, set; |
|-----|----------|--------|-------------------------------------|

- | | | | |
|-----|--------------|---------|---|
| 34. | 177° 30' | 3486.01 | feet to a "A" cut on pahoehoe, found; |
| 35. | 177° 45' 05" | 7727.94 | feet to a nail, set; |
| 36. | 177° 00' | 2203.64 | feet to a pipe, set; |
| 37. | 165° 50' 30" | 1110.91 | feet to a pipe, set; |
| 38. | 99° 00' | 1079.97 | feet to a pipe, set; |
| 39. | 156° 30' 10" | 1449.71 | feet to a pipe, set; |
| 40. | 164° 15' | 1313.07 | feet to a pipe, set; |
| 41. | 250° 00' | 2586.31 | feet along stonewall, along the remainder of Grant 2771 to S. Laanui to a pipe, set; |
| 42. | 162° 09' 10" | 882.06 | feet along stonewall, along Grant 2771 to S. Laanui to a pipe; set; |
| 43. | 179° 48' 40" | 1198.69 | feet along stonewall, along Grant 2771 to S. Laanui to a "SL" cut in pahoehoe, found; |
| 44. | 167° 22' | 1298.83 | feet along stonewall, along Grant 996 to Laanui to a pipe, set, thence; |

Along a portion of Parcel 1 of Tax Map Key: 9-5-22, along the remainder of RP 6882, LCAw 9971 Apana 10 to WP Leleiohoku on a curve to the left with a radius of 7960.00 feet, the chord azimuths and distance being:

- | | | | |
|-----|----------------|--------|------------------------------|
| 45. | 269° 22' 53.9" | 537.56 | feet to a pipe, set, thence; |
|-----|----------------|--------|------------------------------|

Along a portion of Parcel 1 to Tax Map Key: 9-5-22, along the remainder of RP 6882, LCAw 9971 Apana 10 to WP Leleiohoku on a curve to the

- | | |
|---------------------------|---|
| | left with a radius of 7690.00 feet, the chord azimuths and distance being: |
| 46. 266° 55' 17.2" 146.18 | feet to a pipe, set; |
| 47. 266° 23' 40" 1734.28 | feet along the remainder of Parcel 1 of Tax Map Key: 9-5-22, along a portion of Parcel 15 of Tax Map Key: 9-5-021, along the remainder of RP 6882, LCAw 9771 Apana 10 to WP Leleiohoku to a pipe, set; |
| 48. 176° 23' 40" 5.00 | feet along a portion of Parcel 15, of Tax Map Key: 9-5-21, along the remainder of RP 6882, LCAw 9771 Apana 10 to WP Leleiohoku to a pipe, set; |
| 49. 266° 23' 40" 513.50 | feet along a portion of Parcel 15 of Tax Map Key: 9-5-021, along the remainder of RP 6882, LCAw 9771 Apana 10 to WP Leleiohoku to the point of beginning and containing a GROSS AREA of 2333.644 acres, more or less. |

EXCEPTING AND EXCLUDING therefrom Exclusion 1 having an area of 8.0 acres and Exclusion 2 having an area of 7.8 acres, leaving a NET AREA of 2317.844 acres, more or less.

-ITEM II:-

- (A) A nonexclusive easement for roadway access and utility purposes over, across, and under, Road Easement A, Road Easement B, Road Easement C, Road Easement E, Road Easement F, Road Easement G (Revised) and Proposed Naalehu Spur Road, as more particularly described and set forth in DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES, dated August 5, 2004, recorded as Document No. 2004-173077; subject to the terms and provisions contained

therein.

Said DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES was amended by instrument dated October 26, 2004, recorded as Document No. 2004-228021.

- (B) A nonexclusive easement for roadway access and utility purposes, through, over, under and across Road Easement "D", as more particularly described and granted in GRANT OF EASEMENT FOR ROADWAY ACCESS AND UTILITIES PURPOSES, dated August 5, 2004, recorded as Document No. 2004-173078; subject to the terms and provisions contained therein.

-ITEM III:-

A non-exclusive easement for pedestrian and vehicular ingress and egress and utility purposes over and across TMK: (3) 9-5-022:001, as more particularly described and granted in DECLARATION OF ACCESS AND UTILITY EASEMENT dated June 23, 2017, recorded as Document No. A-63970460; subject to the terms and provisions contained therein.

- Note:-
- (a) The metes and bounds description shown in Item I above is from survey dated November 30, 2016 (updated December 16, 2016 and February 26, 2017, and revised May 7, 2019), by Wayne A. Subica, Jr., with John D. Weeks, Inc.
 - (b) The property described under Item I above is referred to by Tax Map Key (3) 9-5-007-016.

EXHIBIT B
Survey of Excluded Area

Being a Portion of R.P. 6882, L.C. Award 9971, Apana 10 to Lota

Kamehameha Situated at Kahilipali Nui, Kau, Island of Hawaii, Hawaii

Beginning at the northeast corner of this parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "STEIN 2" being 1,044.33 feet South and 4,116.75 West and running by azimuths measured clockwise from True South:

1. 300° 27' 40" 653.00 feet;
2. 268° 16' 40" 274.70 feet;
3. 328° 17' 40" 149.96 feet;
4. 28° 17' 40" 1000.00 feet;
5. 118° 17' 40" 765.00 feet;
6. 148° 17' 40" 1079.00 feet;
7. 266° 23' 40" 800.00 feet along Lot 2 (TMK:9-5-022:01) and Lot (TMK:9-5-021:015)
to the point of beginning and containing an area of 28.739
acres.

EXHIBIT C
Funding Sources

Funding for the purchase of the Property by Grantor and this Easement granted by Grantor to Grantee comes from the following public and private sources:

The Public Access, Open Space, and Natural Resources Preservation Commission ("PONC").

The County of Hawai'i Public Access, Open Space and Natural Resources Preservation Commission (PONC) encourages the public to propose properties that can be acquired for open space.

PONC commissioners represent each of the nine County Council districts on Hawai'i Island. Commissioners review the suggestion forms submitted by the public, and consider the significant factors of each property such as historic and culturally important features; opportunities for outdoor recreation and education; public access to beaches or mountains; preservation of forests, beaches, coastal areas, and natural beauty; protection of natural resources and watershed lands; potential partners for management; and the general benefits to the public. Potential acquisitions are then prioritized and listed in a report that is sent to the Mayor at the end of each year.

PONC funds are derived from 2% of Hawai'i County's annual real property tax revenues. The County may also seek matching funds and donations from other sources to help acquire open space properties.

A Maintenance Fund has also been established to maintain properties that are acquired with PONC funds.

A. *The Legacy Land Conservation Program ("LLCP").* The Division of Forestry and Wildlife, State of Hawaii Department of Land and Natural Resources, administers the LLCP. Governed by Chapter 173A, Hawai'i Revised Statutes, and Chapter 13-140, Hawai'i Administrative Rules, the LLCP provides grants to community organizations and government agencies that strive to purchase and protect land that shelters exceptional, unique, threatened, and endangered resources.

B. *Private Funding Through the Trust for Public Land and Ala Kahakai Trail Association.* The Trust for Public Land, and Ala Kahakai Trail Association, both contributed privately-raised funding for some of the costs associated with the purchase and conservation easement. These funds came as grants or donations to The Trust for Public Land, and Ala Kahakai Trail Association, both 501(c)(3) nonprofit corporations.

Waikapuna
Resources Management Plan

Appendix B

Warranty Deed

41b



STATE OF HAWAII
BUREAU OF CONVEYANCES
RECORDED

December 16, 2019 8:01 AM

Doc No(s) A-72890591



/s/ LESLIE T. KOBATA
REGISTRAR

1 2/3 ICL
B-33434133

Conveyance Tax: \$54,000.00

LAND COURT SYSTEM

REGULAR SYSTEM

Return by: Mail (X) Pickup () To:

The Trust for Public Land
101 Montgomery Street, Suite 900
San Francisco, CA 94104
Attn: Legal Department

Area: Ka'u District
Tract: Waikapuna
Acres: 2,317.844

RS/2

TG: 201824304-3

TGE: 18112042
Jeremy Trueblood

Total Number of Pages: (17)

Tax Map Key No. (3) 9-5-007:016

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

THAT, effective as of the 16 day of December, 2019, **KA'U MAHI LLC**, a Colorado limited liability company (hereinafter referred to as the "Grantor"), for and in consideration of the sum of Six Million Dollars (\$6,000,000.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, does hereby grant, bargain, sell and convey unto the **ALA KAHAKAI TRAIL ASSOCIATION**, a nonprofit corporation under the laws of the State of Hawai'i (hereinafter referred to as the "Grantee"), those certain parcels of land situated in the County of Hawai'i, State of Hawai'i, more particularly described in **Exhibit "A"** attached hereto and made a part hereof (hereinafter referred to as "The Property", "the property", and "this property").

AND the reversions, remainders, rents, income, and profits thereof, and all of the estate, right, title, and interest of the Grantor, both at law and in equity, therein and thereto.

TO HAVE AND TO HOLD the same, together with all improvements, rights, easements, privileges, and appurtenances thereunto belonging or in any ways appertaining or held and enjoyed therewith in fee simple unto said Grantee, the Grantee's successors and assigns, forever, free and clear of all liens and encumbrances except those as listed in Exhibit "A".

The GRANTOR further remises, releases, and forever quitclaims to the Grantee and its assigns, all right, title, and interest which the Grantor may have in and to water rights, banks, beds, and waters of any stream or river bordering or traversing, or in any appropriate water rights appurtenant to, the said land hereby conveyed, and also all interest which Grantor may have in and to any alleys, roads, streets, ways, strips, gores, or railroad rights-of-way abutting, adjoining, or appurtenant to said land, and in any means of ingress or egress appurtenant thereto.

The Grantor, for itself, its successors and assigns, does hereby covenant with the Grantee, its successors and assigns, that the Grantor is lawfully seized in fee simple and possessed of the above-described land and premises, that it has a good and lawful right to convey the same as aforesaid, that the same is free and clear of all liens and encumbrances, and that it will, and its successors and assigns shall, WARRANT AND DEFEND the same unto the Grantee, its successors and assigns, forever, against the claims and demands of all persons whomsoever.

The Property (1) has been acquired with funds from a grant by the State of Hawaii, Department of Land and Natural Resources, Legacy Land Conservation Program ("LLCP") through grant agreement number 66886, dated May 10, 2018, as amended; (2) is subject to all of the terms and conditions of the grant agreement; and (3) shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawaii Revised Statutes. Title of the Property conveyed by this deed shall vest in the Ala Kahakai Trail Association, subject to disposition instructions from the State of Hawaii, Department of Land and Natural Resources ("DLNR"), or its successor agencies.

The Ala Kahakai Trail Association, for itself, its successors and assigns, and in consideration of the LLCP grant, does hereby covenant that it shall not dispose of, encumber its title or other interests in, or convert the use of the Property without the written approval of the DLNR or its successor agencies. For purposes of this conveyance, the meaning of "disposition," "dispose[d] of," "encumber," and "convert" includes (1) acquisition of the Property for a public purpose by the County of Hawaii through the exercise of County eminent domain authority and (2) amendment, extension, reissuance, or renewal of a pre-existing license agreement that encumbers the Property, under terms and conditions that differ, substantively, from the terms and conditions of the existing license agreement.

Upon notice from the Ala Kahakai Trail Association, that it intends to dispose of, encumber the title or other interests in, or convert the use of the Property, the DLNR may:

1. Require the Ala Kahakai Trail Association, to place on the Property, a deed restriction or covenant to protect the resource values for which the Ala Kahakai Trail Association was awarded a LLCP grant, to an appropriate land conservation organization or county, state, or federal resource conservation agency. The deed restriction or covenant shall run with the land and be recorded with the appropriate state agency.

2. Require to be placed on the Property, a conservation easement or agricultural easement under Chapter 198, Hawaii Revised Statutes, to an appropriate land conservation organization or county, state, or federal resource conservation agency, that shall run with the land and be recorded with the appropriate state agency.

3. Require subsequent landowners to enter into a contract with the DLNR for the protection of the resource values consistent with the purposes for which the LLCP grant was awarded.

The Ala Kahakai Trail Association further covenants that (a) whenever the Property is sold by the Ala Kahakai Trail Association, that portion of the net proceeds (sale price less actual expenses of sale) of such sale, equal to the proportion that the state grant bears to the original cost of the Property, shall be paid to the State of Hawaii, and (b) if the Property is leased, rented, or otherwise disposed of by the Ala Kahakai Trail Association, other than by sale, that portion of the gross proceeds of such disposition, equal to the proportion that the state grant bears to the original cost of the Property, shall be paid to the State of Hawaii.

This WARRANTY DEED may be signed in counterparts, each of which will be considered an original and which together will constitute one and the same document.

REMAINDER OF THE PAGE LEFT BLANK

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the Grantor and Grantee herein have caused these presents to be executed as of the day, month, and year first above written.

Grantor:


KA'U MAHI LLC, a Colorado limited liability company,

By: RESOURCE LAND FUND V, LP, its Manager,

By: RESOURCE LAND HOLDINGS V, LP, its General Partner and Attorney in Fact,

By: RESOURCE LAND HOLDINGS V, LLC,
Its General Partner,

By:


A handwritten signature in black ink, appearing to read 'AARON PATSCH', is written over a horizontal line. The signature is stylized with a large loop at the top.

AARON PATSCH
Its Manager

IN WITNESS WHEREOF, the Grantor and Grantee herein, have caused these presents to be executed as of the day, month, and year first above written.

Grantee:

ALA KAHAKAI TRAIL ASSOCIATION,
a nonprofit corporation under the laws
of the State of Hawai'i

By: 

Name: LINDA KALEO PAIK

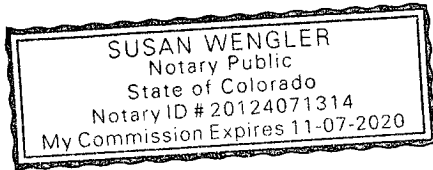
Title: SECRETARY

STATE OF COLORADO)
COUNTY OF Denver) ss.

On this 9th day of December, 2019, before me personally appeared AARON PATSCH in his capacity as Manager for RESOURCE LAND HOLDINGS V, LLC in its capacity as General Partner for RESOURCE LAND HOLDINGS V, LP, the General Partner and Attorney in Fact for RESOURCE LAND FUND V, LP, the Manager for KA`U MAHI, LLC, a Colorado limited liability company, to me known or who has proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to and who executed the foregoing instrument, and who acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

Said instrument, entitled "WARRANTY DEED", consists of 17 pages and is (not dated)(dated December 9, 2019) at the time of this notarization.

In witness whereof, I have hereunto set my hand and affixed my official seal on the day and year above written.



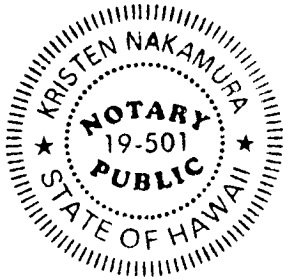
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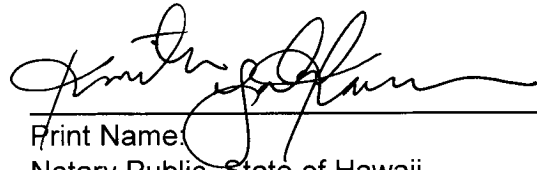
(Notary signature) Susan Wengler
(Print notary name) Susan Wengler
Notary Public
State of Colorado

My commission expires: Nov. 7, 2020

STATE OF HAWAII)
) SS:
CITY & COUNTY OF HONOLULU)

On this 10TH day of DECEMBER, 2019, in the First Circuit of the State of Hawaii, before me personally appeared LINDA KALEO PAIK, to me known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing 17-page instrument entitled WARRANTY DEED dated UNDATED, 2019, as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity. This acknowledgment is deemed to include my Notary Certification.





Print Name:
Notary Public, State of Hawaii

My commission expires: KRISTEN NAKAMURA
EXPIRATION: November 24, 2023

10. 335° 27' 1869.12 feet along Grant 2599 to Kahakauwila to a pipe, set;
11. 333° 12' 1328.36 feet along Grant 2599 to Kahakauwila to a pipe, set;
12. 353° 54' 1955.38 feet along Grant 2114 to Keanu to a pipe, set;
13. 340° 47' 30" 1738.93 feet along Grant 2114 to Keanu, along the land of Kawala to a pipe, set;

Thence, along the shoreline for the next nineteen (19) courses, the direct azimuths and distance being:

14. 53° 07' 126.11 feet to a "+" cut in pahoehoe, set;
15. 61° 36' 176.82 feet to a "+" cut in pahoehoe, set;
16. 47° 46' 287.44 feet to a rebar, set;
17. 27° 03' 205.71 feet to a pipe, set;
18. 55° 02' 20" 592.74 feet to a pipe, set;
19. 58° 17' 30" 269.46 feet to a pipe, set;
20. 50° 35' 20" 254.92 feet to a pipe, set;
21. 45° 09' 30" 435.14 feet to a "+" cut in pahoehoe, set;
22. 51° 01' 50" 1040.70 feet to a "+" cut in pahoehoe, set;
23. 357° 32' 30" 703.29 feet to a "+" cut in pahoehoe, set;
24. 17° 08' 20" 776.45 feet to a "+" cut in pahoehoe, set;
25. 21° 49' 10" 1396.80 feet to a "+" cut in pahoehoe, set;
26. 17° 17' 40" 1633.15 feet to a "+" cut in pahoehoe, set;
27. 22° 02' 10" 1228.39 feet to a "+" cut in pahoehoe, set;
28. 39° 32' 20" 1110.77 feet to a "+" cut in pahoehoe, set;
29. 36° 12' 50" 754.21 feet to a "+" cut in pahoehoe, set;
30. 52° 04' 10" 621.40 feet to a spike in concrete, found;
31. 61° 00' 297.21 feet to a "+" cut top of large boulder, set;
32. 25° 06' 50" 498.19 feet to a "+" cut in pahoehoe, set, thence;

Along the Government Land of Waiohinu for the following eight (8) courses:

33. 132° 30' 282.67 feet to a "+" cut in pahoehoe, set;
34. 177° 30' 3486.01 feet to a "A" cut on pahoehoe, found;
35. 177° 45' 05" 7727.94 feet to a nail, set;
36. 177° 00' 2203.64 feet to a pipe, set;
37. 165° 50' 30" 1110.91 feet to a pipe, set;
38. 99° 00' 1079.97 feet to a pipe, set;
39. 156° 30' 10" 1449.71 feet to a pipe, set;
40. 164° 15' 1313.07 feet to a pipe, set;
41. 250° 00' 2586.31 feet along stonewall, along the remainder of Grant 2771 to S. Laanui to a pipe, set;
42. 162° 09' 10" 882.06 feet along stonewall, along Grant 2771 to S. Laanui to a pipe; set;
43. 179° 48' 40" 1198.69 feet along stonewall, along Grant 2771 to S. Laanui to a "SL" cut in pahoehoe, found;
44. 167° 22' 1298.83 feet along stonewall, along Grant 996 to Laanui to a pipe, set, thence;

Along a portion of Parcel 1 of Tax Map Key: 9-5-22, along the remainder of RP 6882, LCAw 9971 Apana 10 to WP Leleiohoku on a curve to the left with a radius of 7960.00 feet, the chord azimuths and distance being:

45. 269° 22' 53.9" 537.56 feet to a pipe, set, thence;

Along a portion of Parcel 1 to Tax Map Key: 9-5-22, along the remainder of RP 6882, LCAw 9971 Apana 10 to WP Leleiohoku on a curve to the left with a radius of 7690.00 feet, the chord azimuths and distance being:

46. 266° 55' 17.2" 146.18 feet to a pipe, set;
47. 266° 23' 40" 1734.28 feet along the remainder of Parcel 1 of Tax Map Key: 9-5-22, along a portion of Parcel 15 of Tax Map Key: 9-5-

021, along the remainder of RP 6882, LCAw 9771 Apana 10 to WP Leleiohoku to a pipe, set;

48. 176° 23' 40" 5.00 feet along a portion of Parcel 15, of Tax Map Key: 9-5-21, along the remainder of RP 6882, LCAw 9771 Apana 10 to WP Leleiohoku to a pipe, set;

49. 266° 23' 40" 513.50 feet along a portion of Parcel 15 of Tax Map Key: 9-5-021, along the remainder of RP 6882, LCAw 9771 Apana 10 to WP Leleiohoku to the point of beginning and containing a GROSS AREA of 2333.644 acres, more or less.

EXCEPTING AND EXCLUDING therefrom Exclusion 1 having an area of 8.0 acres and Exclusion 2 having an area of 7.8 acres, leaving a NET AREA of 2317.844 acres, more or less.

-ITEM II:-

(A) A nonexclusive easement for roadway access and utility purposes over, across, and under, Road Easement A, Road Easement B, Road Easement C, Road Easement E, Road Easement F, Road Easement G (Revised) and Proposed Naalehu Spur Road, as more particularly described and set forth in DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES, dated August 5, 2004, recorded as Document No. 2004-173077; subject to the terms and provisions contained therein.

Said DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES was amended by instrument dated October 26, 2004, recorded as Document No. 2004-228021.

(B) A nonexclusive easement for roadway access and utility purposes, through, over, under and across Road Easement "D", as more particularly described and granted in GRANT OF EASEMENT FOR ROADWAY ACCESS AND UTILITIES PURPOSES, dated August 5, 2004, recorded as Document No. 2004-173078; subject to the terms and provisions contained therein.

-ITEM III:-

A non-exclusive easement for pedestrian and vehicular ingress and egress and utility purposes over and across TMK: (3) 9-5-022:001, as more particularly described and granted in DECLARATION OF ACCESS AND UTILITY EASEMENT dated June 23, 2017, recorded as Document No. A-63970460; subject to the terms and provisions contained therein.

BEING THE PREMISES ACQUIRED BY QUITCLAIM DEED

GRANTOR : HI BIV LAND LLC, a Delaware limited liability company

GRANTEE : KA'U MAHI, LLC, a Colorado limited liability company

DATED : December 22, 2015

FILED : Land Court Document No. T-9486031

RECORDED : Document No. A-58340236

- Note:- (a) The metes and bounds description shown in Item I above is from survey dated November 30, 2016 (updated December 16, 2016 and February 26, 2017, and revised May 7, 2019), by Wayne A. Subica, Jr., with John D. Weeks, Inc.
- (b) The property described in said above Deed is described by Tax Map Key (3) 9-5-007-016.

The above described premises being SUBJECT, HOWEVER, to the following:

1. Mineral and water rights of any nature.
2. Location of the seaward boundary in accordance with the laws of the State of Hawaii and shoreline setback line in accordance with County regulation and/or ordinance.
3. Rights of native tenants as reserved in Royal Patent Grants 994, 2159, 2771 and 3161 and Land Commission Award Number 9971.
4. Matters arising out of the failure of a patent to have issued on Land Commission Award 7553-B to Pa, and any matters that may be set forth in any such patent. The Company assumes no obligation to procure any patent or to pay commutation, if any, which may be owed thereon.
5. Matters arising out of, including any access and utility rights with respect to, Royal Patent Number 5409, Land Commission Award Number 7553, Apana 1, Tax Map Key designation (3) 9-5-007-008.
6. Matters arising out of, including any access and utility rights with respect to, Royal Patent Number 5409, Land Commission Award Number 7553, Apana 2, Tax Map Key designation (3) 9-5-007-005.
7. Matters arising out of, including any access and utility rights with respect to Government Remnant, Tax Map Key designation (3) 9-5-007-014.

8. LEASE

LESSOR : SEAMOUNTAIN-HAWAII RANCH COMPANY, LIMITED, a Hawaii corporation

LESSEE : HAWAII ELECTRIC LIGHT COMPANY, INC., a Hawaii corporation

DATED : October 23, 1979
RECORDED : Liber 14353 Page 576

TERM : Thirty (30) years from June 1, 1979 to and including May 31, 2009, and thereafter from year to year until terminated, leasing and demising Power Line Easements 2 and 3, being more particularly described therein

9. GRANT

TO : HAWAII ELECTRIC LIGHT COMPANY, INC.

DATED : October 9, 1981
RECORDED : Liber 15983 Page 449
GRANTING : Easement "E-6" for powerline purposes, being more particularly described therein

10. Unrecorded PUBLIC UTILITY EASEMENT AGREEMENT dated March 1, 1999, by and between KA'U AGRIBUSINESS CO., INC., as Grantor, and USCOC OF HAWAII 3 INC., as Grantee, granting for a term of ten (10) years, from June 1, 1999, and terminating May 30, 2009, with option to extend for two (2) additional periods of five (5) years each, (a) Easement "US-2" for road access purposes affecting a portion of R. P. 6882, L. C. Aw. 9971, Apana 10 to Wm. Pitt Leleiohoku and containing an area of 6,584 square feet, more or less, as shown on map attached thereto; (b) a portion of Easement "G" (Revised) being a portion of Grant 2152, Apana 2 to Kalimapahana, Grant 2724, Apana 1 to Kalike, Grant 2525 to Ilama, Grant 2599 to Kahakauwila and R. P. 6882, L. C. Aw. 9971, Apana 10 to Wm. Pitt Leleiohoku; and (c) EASEMENT "US-1", more particularly described as follows:

EASEMENT "US-1"
For United States Cellular Naalehu Site
Being a portion of R. P. 6882, L. C. Aw. 9971, Apana 10 to Wm. Pitt
Leleiohoku
Situated at Kahilipali Nui, Kau, Island of Hawaii, Hawaii

Beginning at the westerly corner of this easement parcel of land, the coordinates of said point of beginning referred to Government Survey Triangulation Station "STEIN 2" being 5,902.36 feet south and 1,351.44 feet west and running by azimuths measured clockwise from true South:

- | | | | | |
|----|------|-----|-------|---|
| 1. | 240° | 10' | 60.00 | feet along Easement "US-2"; |
| 2. | 330° | 10' | 60.00 | feet; |
| 3. | 60° | 10' | 60.00 | feet; |
| 4. | 150° | 10' | 60.00 | feet to the point of beginning and containing an area of 3,600 square feet, more or less. |

Said Easement Agreement was assigned by unrecorded Assignment dated August 1, 2000, to AT & T WIRELESS SERVICES OF HAWAII, INC., a Wisconsin corporation, doing business as AT & T WIRELESS SERVICES.

Said Easement Agreement was amended by unrecorded Amendment of Public Utility Easement Agreement dated August 7, 2003, wherein also, KA'U AGRIBUSINESS CO., INC., a Hawaii corporation, consents to AT & T WIRELESS SERVICES OF HAWAII, INC., a Wisconsin corporation, doing business as AT & T WIRELESS SERVICES, entering into an agreement with NEXTEL WIP LEASE CORP., a Delaware corporation, doing business as NEXTEL PARTNERS, to collocate upon, access and utilize a portion of the Easement Agreement premises as shown on the site plans attached thereto.

Acknowledged and agreed July 29, 2003, by NEXTEL WIP LEASE CORP., a Delaware corporation, doing business as NEXTEL PARTNERS.

11. The terms and provisions contained in the following:
- INSTRUMENT : DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES
DATED : August 5, 2004
RECORDED : Document No. 2004-173077
PARTIES : C. BREWER AND COMPANY, LIMITED, a Hawaii
corporation (successor by merger to KA'U AGRIBUSINESS CO., INC.,
a Hawaii corporation)

RE : a perpetual nonexclusive appurtenant easement for roadway access and utility purposes over, across, and under Road Easement G (Revised), in favor of the owner from time to time of Tax Map Key (3) 9- 5-007-016, being more particularly described therein.

Said above DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES was amended by instrument dated October 26, 2004, recorded as Document No. 2004-228021.

12. The terms and provisions as contained in letter entitled "Re: Archaeological Assessment for Three Na`alehu Project Areas, Island of Hawaii", dated June 2, 2006, by Paul L. Cleghorn, Ph.D., Principal, Senior Archaeologist, Pacific Legacy, Incorporated, including the failure to comply with any recommendations made in said above letter, or made pursuant to any federal, state or county laws and regulations regarding any sites and discoveries.

13. -AS TO ITEM II:-

(A) The terms and provisions contained in the following:

INSTRUMENT : GRANT OF EASEMENT FOR ROADWAY ACCESS AND UTILITIES

PURPOSES

DATED : August 5, 2004

RECORDED : Document No. 2004-173078

(B) Any claim or boundary dispute which may exist or arise by reason of the failure of the DECLARATION OF EASEMENTS FOR ROADWAY AND UTILITIES dated August 5, 2004, recorded as Document No. 2004-173077 referred to in Schedule C to locate with certainty the boundaries of the Proposed Naalehu Spur Road described in said instrument.

14. AS TO ITEM III:-

The terms and provisions contained in the following:

INSTRUMENT : DECLARATION OF ACCESS AND UTILITY EASEMENT

DATED : June 23, 2017

RECORDED : Document No. A-63970460

15. Easement "A" (Revised) for microwave station site purposes, Road Easement "G" (Revised) and Easement "A-1" for microwave tower purposes, said Easements being more particularly described in instrument dated February 4, 2005, recorded as Document No. 2005- 027944.

16. GROUND LEASE AGREEMENT

LESSOR : WWK HAWAII-WAIKAPUNA LLC, a Delaware limited liability company

LESSEE : CROWN CASTLE GT COMPANY LLC, a Delaware limited liability company

DATED : March 31, 2010

TERM : Five (5) years, automatically renewing for three terms of five (5) years each, commencing upon the execution of the Agreement

A Short Form of Ground Lease Agreement is dated March 31, 2010, recorded as Document No. A-50721157.

17. Existing Ranch Roads and stonewalls as shown on survey map prepared by Wayne A. Subica, Jr., Land Surveyor, with John D. Weeks, Inc., dated November 30, 2016, updated on December 16, 2016 and February 26, 2017, and revised on May 7, 2019.

18. LICENSE AGREEMENT (UNRECORDED)

TO : HAWAII ELECTRIC LIGHT COMPANY, INC., a Hawaii corporation

DATED : November 15, 2017

GRANTING : non-exclusive right for utility purposes, subject to the terms and conditions set forth therein

TERM : for a period of 10 years commencing on June 1, 2017 and expiring on May 30, 2027

Said above unrecorded License Agreement was assigned to KA'U MAHI OPERATING LLC, a Colorado limited liability company, by instrument dated February 15, 2019, recorded as Document No. A- 69960281.

19. LICENSE AGREEMENT

TO : HAWAII PUBLIC TELEVISION FOUNDATION, a Hawaii non-profit corporation

DATED : January 11, 2018 RECORDED :
Document No. A-65981133

GRANTING : a non-exclusive right for utility purposes, subject to the terms and conditions set forth therein

TERM : initial term shall be 5 years commencing on June 1, 2017 and expiring on May 31, 2022, with option to extend the term for up to 3 additional term of 5 years each

Said above License Agreement was assigned to KA'U MAHI OPERATING LLC, a Colorado limited liability company, by instrument dated February 15, 2019, recorded as Document No. A-69960281.

20. Unrecorded REVOCABLE LICENSE AGREEMENT dated October 24, 2018, by and between KA'U MAHI, LLC, a Colorado limited liability company, "Licensor", and KUAHIWI CONTRACTORS, INC., as "Licensee"; re: use of approximately 695.06 acres, being a portion of Tax Key (3) 9-5-007-016, for a term of eighteen (18) months, commencing on October 1, 2017, and terminating on March 31, 2019, for the sole purpose of pasturing of cattle livestock.

21. Unrecorded REVOCABLE LICENSE AGREEMENT dated October 24, 2018, by and between KA'U MAHI, LLC, a Colorado limited liability company, "Licensor", and WALTER ANDRADE, "Licensee"; re: use of approximately 781.95 acres within Tax Key (3) 9-5-7-16, for a total term of two (2) years, commencing on April 1, 2017, and terminating on March 31, 2019, for the sole purpose of pasturing of cattle livestock.

22. GRANT

TO : KA'U MAHI OPERATING LLC, a Colorado limited liability company

DATED : February 15, 2019 Document
RECORDED : No. A-69960281
GRANTING : an exclusive easement for communications purposes over existing Easement "A" (revised) and Easement "A-1" (Easement Areas), such easement areas are more particularly shown in the Site Plan attached thereto and made a part thereof; subject to the terms and provisions contained therein

23. LICENSE AGREEMENT

LICENSOR : KA'U MAHI OPERATING, LLC, a Hawaii limited liability company

LICENSEE : COUNTY OF HAWAII, a Hawaii municipal corporation

DATED : July 30, 2019
RECORDED : Document No. A-71570869

GRANTING : non-exclusive right to maintain, repair, operate, test, access or inspect the Tower and Building, and any related broadcasting equipment, including, without limitation, antennae, masts, translators, connectors, cables, and related transmission and reception equipment and other personal property (collectively the "Equipment") on the Site (consisting of Easement "A" and Easement "A-1" as described in Exhibit B attached thereto and made a part thereof), together with, in common with others using the Site for similar purposes, the non-exclusive right of access to the Site over and across the Roadway Easements, subject to the terms and conditions set forth therein

TERM : initial term shall be 5 years commencing on June 1, 2017 and expiring on May 31, 2022, with option to extend the term for up to 3 additional term of 5 years each

24. Claims arising out of customary and traditional rights and practices, including without limitation those exercised for subsistence, cultural, religious, access or gathering purposes, as provided for in the Hawaii Constitution or the Hawaii Revised Statutes.

25. Discrepancies, conflicts in boundary lines, shortage in area, encroachments or any other matters which a correct survey or archaeological study would disclose.

Waikapuna
Resources Management Plan

Appendix C

Summary of comments received on Draft Plan



Waikapuna Resources Management Plan (RMP)

Date: May 16, 2023
To: Project Files
From: Townscape, Inc.
Re: Summary of comments received on the Draft Waikapuna RMP

Below is a summary of the general key themes of the comments received on the Draft Waikapuna Resources Management Plan. Responses and/or further clarification on the key themes/comments are provided in *italics*.

GENERAL

- **What is the purpose of the management plan and what level of detail is provided on management actions?**
 - *The purpose of the management plan is to guide stewardship actions and strategies that will protect, preserve, and conserve Waikapuna resources – as outlined in the State grant agreement and County Conservation Easement. The contents of the management plan follow the components outlined in the Conservation Easement agreement (which is included in the Appendix).*
 - *The management plan is intended to provide guidance on how the resource values identified in the grant agreement and Conservation Easement will be protected. This approach was meant to allow the Stewardship Committee to develop practical, implementable steps while supporting the vision and remaining consistent with the guidance articulated in the management plan. Therefore, more detailed, implementation actions will need to be further identified by the Stewardship Committee as next steps once the management plan is finalized.*
 - *The management plan is also written to provide the Stewardship Committee the flexibility to adapt its management practices as lessons are learned, conditions change, and progress is made.*

- **The Values and Resources identified in the State Legacy Land Conservation Program section may not be found specifically at Waikapuna.**
 - *This section is based on information submitted in the ATA's grant application to the State Legacy Land Conservation Program which, in turn, was based on information available at that time. Subsequent observations and studies may find different or changing conditions that can be used to update the management plan. The general approach to management of the resources will still apply and the Stewardship Committee will have the ability to adjust specific actions to accommodate any new or changing information.*

- **Why are wahi pana of other areas discussed in the plan?**
 - *This management plan discusses the wahi pana of the area, including adjacent areas, to provide an overview of the landscape and to better understand Waikapuna's relationship with the broader region, as plants, animals, ecosystems, and cultural practices extend beyond property boundaries. Place Names of Hawaii was used as the primary source for the Wahi Pana section.*

- **How many people were engaged as part of the planning process?**
 - *Page 4 provides a summary of the planning process, along with the number of participants involved.*

- **How are the conditions in the Conservation Easement enforced?**
 - *ATA is required to submit an annual report to the County describing its compliance with the Conservation Easement. Enforcement of the Easement's conditions is outlined on page 15 of the Conservation Easement agreement (see Appendix).*

- **Will adequate Mālama 'Āina opportunities be available to accommodate varying schedules, abilities, and skill sets?**
 - *ATA must protect, preserve, and conserve the resources outlined in the grant agreement and Conservation Easement. The volunteer activities will therefore be focused on meeting this requirement.*
 - *ATA may initially offer only a few volunteer activities as it grows its capacity, but it eventually hopes to be able to increase the number and types of opportunities that it leads.*
 - *Community members and organizations may propose additional volunteer activities that support the management priorities outlined in the management plan (over and above those that ATA organizes). These proposals will be considered on a case-by-case basis to ensure that all of the management priorities are being addressed and to accommodate ATA's and/or the Stewardship Committee's ability to provide support.*
 - *ATA will begin posting scheduled volunteer activities on its website after the management plan is finalized.*

ACCESS

- **There should be unrestricted vehicular access to Waikapuna.**
 - *The management plan actions must be aligned with the values stated in the County's Conservation Easement agreement and State grant agreement. Unrestricted vehicular access for Waikapuna would result in detrimental impacts on resources similar to those that have been observed at other places on the island with unrestricted vehicular access, such as erosion, illegal harvesting of resources, wildfires, damage to cultural sites and natural habitats, and introduction of invasive species. Pedestrian access is available at any time from the south side of Waikapuna.*

- **Use of cattle guards may impact access to Waikapuna.**
 - *The management plan recommends fencing and gates for pasture areas to prevent cattle from traversing to areas where sensitive cultural sites are located. Access to Waikapuna will still be made available. Please see page 49 that described the community managed access.*

- **Will kūpuna still have access to fishing grounds?**
 - *The plan identifies kūpuna days and 'ohana days, in addition to weekend overnight access. The kūpuna days are intended to provide kūpuna with opportunities to access Waikapuna over and above overnight opportunities.*

- **How does the community request vehicular access for Waikapuna?**
 - *The management plan proposes weekend overnight access, which is similar to the existing overnight access that has been in place. Reservations are required, where individuals can only make one reservation at any given time. Reservations are made available on a quarterly basis to avoid reservations being filled far out in advance. Participation in mālama 'āina activities will be encouraged. Access to the reservation system for weekend overnight access will be prioritized for individuals who participated in mālama 'āina activities. Therefore, no one is denied access to the weekend overnight opportunities, but those who engage in mālama 'āina activities will be able to make their reservations first.*
 - *One weekend a month will be dedicated to mālama 'āina work, where no weekend overnight access will be available.*
 - *Access during the week is also permitted through the kūpuna days and 'ohana days. This would allow residents to be able to seek one-day access without having to reserve far out in advance. One-day access would be based on availability since only one group would be allowed at a time. There is no restriction on who can request one-day access, but because time spent would be only a few hours, it is anticipated that most, if not all, of those requesting this type of access would be Ka'ū residents.*
 - *The proposed access protocols are intended as a starting point and will be reassessed to see if they are working the way they were intended. The management plan will also suggest that ATA conduct a baseline documentation*

and record the number of Ka'ū residents requesting access/obtaining access in order to ensure that unintended consequences can be avoided or addressed.

- **Can overnight access be provided to more than one group at a time?**
 - *One of the important values expressed by many individuals consulted during the planning process is the ability to connect to the place as a family and being able to maintain the sense of place that is unique to Waikapuna; therefore, providing several groups access at the same time will not be allowed, as it would compromise those values.*

- **Will our access to fishing grounds along this coastline be impacted given that ATA is now stewarding several coastal properties in Ka'ū?**
 - *Access to Waikapuna along with other properties stewarded by ATA will still be maintained. However, vehicular access to some areas that traverses sensitive sites may be impacted in order to protect the resources.*

IMPLEMENTATION

- **What is the role of the Stewardship Committee?**
 - *The Stewardship Committee is a “working” committee that will organize and lead activities that support the management plan priorities. Over time, as ATA increases capacity, staff such as the Administrative Coordinator, may take on some of those responsibilities, but the committee will still oversee and lead some of the activities to continue with ATA's efforts for community-led management.*
 - *Resource Specialists and the Administrative Coordinator will support the Stewardship Committee, but report to ATA. Figure 10 will be revised.*

- **Who will cover the costs to implement the management plan?**
 - *ATA will need to seek funding through various grants to assist with plan implementation. Actions specific to the areas leased for ranching will be coordinated between ATA and lessees.*

Waikapuna
Resources Management Plan

Appendix D

Comment Letter from the State Legacy Land Conservation Program
on the Draft Plan



May 10, 2023

Townscape, Inc.
900 Fort Street Mall, Suite 1160
Honolulu, HI 96813
VIA EMAIL TO: gabrielle@townscapeinc.com

SUBJECT: Waikapuna Resources Management Plan, Public Review Draft, February 2023

The Legacy Land Conservation Program partners with State agencies, counties, and nonprofit land conservation organizations to ensure, through acquisition, the protection of valuable resources found on private land. At Waikapuna—in partnership with a willing seller (Ka'u Mahi, LLC), the County of Hawai'i, The Trust for Public Land, and private donors—a competitive grant award from the Legacy Land Conservation Program ("LLCP") provided Ala Kahakai Trail Association with 27% of its total costs for acquiring over 2,300 acres that harbor valuable natural, cultural, and agricultural resources. After subsequent acquisitions at Kaunāmano and Kiolaka'a—also supported with County of Hawai'i ("County") and LLCP funds—Ala Kahakai Trail Association ("ATA") is now responsible for resource protection on over 5,500 acres, embraced within a regional conservation landscape of federal, state, county, and private properties that stretches along the Ka'ū coast from Hawai'i Volcanoes National Park to the State's Manuka Natural Area Reserve.

Although County and State management requirements are not integrated across the different properties now conserved by ATA, the Waikapuna Resources Management Plan ("Plan"), as it evolves in tune with an organizing concept of "encouraging community stewardship . . . to elevate reciprocity between people and place" (Public Review Draft, February 2023, page 31), can make important contributions for advancing a site-specific approach to resource protection that also recognizes regional interconnections. The people of Ka'ū, the planning team, and all participants in the planning process deserve our gratitude for moving the Plan forward to this point.

LLCP does not require that ATA prepare a Waikapuna management plan. However, the status and adequacy of management planning and the presence and role of a management activity in existing plans can provide competitive advantages for receiving funding from LLCP management grants aimed at (1) protecting, maintaining, or restoring resources at risk, or (2) providing for greater public access and enjoyment (*see* Sections 130-140-12, -13, and -41, Hawai'i Administrative Rules). Therefore, LLCP comments on Management Plan Development and Implementation, below, focus on resource summaries, strategies, and action items that are directly related to these management aims.

The deed that conveyed Waikapuna ownership to ATA, as well as ATA's grant of conservation easement to the County, include a standard LLCP restriction that "the property shall be managed consistently with the purposes for which it was awarded a LLCP grant and Chapter 173A, Hawai'i Revised Statutes." LLCP is responsible for monitoring Waikapuna management accordingly (see Legacy Land Conservation Program Monitoring Framework, below). However, LLCP will not seek to compel ATA to implement a specific action described within the Plan, unless (1) monitoring results lead to a finding that ATA management is inconsistent with the purposes of the LLCP grant award, and (2) further analysis indicates that a specific management action would remove the inconsistency. The State Board of Land and Natural Resources, not LLCP, is authorized to impose sanctions for a breach of this deed restriction and to determine if a breach is cured (*see* Section 130-140-56).

Management Plan Development and Implementation

Identifying the purposes for which a LLCP grant was awarded, and the resources to be protected post-acquisition, relies primarily upon the content of the LLCP grant application submitted and its approval by the Board of Land and Natural Resources ("BLNR"). A key component of the application and its approval is alignment with the nine "public purpose[s] for which public funds may be expended or advanced" as established in Section 173A-5(g), Hawai'i Revised Statutes. For Waikapuna, Section D of the grant application provides specific examples of resource types to be protected for eight of the nine LLCP statutory purposes, which are captured in the Plan on pages 2 and 3. In addition, Section K.1 of the Waikapuna grant application notes that "Ala Kahakai Trail Association is dedicated to protecting and revitalizing use of the trail. Public access on the Ala Kahakai is a priority."

Beginning on page 36, the Plan identifies approximately 16 specific threats to resources (across three of five topic areas) and 84 specific management actions (across all five topic areas) that largely overlap with the content of the LLCP grant application. A map/chart of Stewardship Concepts provided on Plan page 35 adds some visual spatial context, however it appears that additional focus on prioritizing threats and associated management actions would benefit future strategies/phasing for overall plan implementation.

Legacy Land Conservation Program Monitoring Framework

Administrative rules governing the Legacy Land Conservation Program ("LLCP") describe State authority for monitoring a property conserved with LLCP funding (*see* Sections 130-140-32 and 33, Hawai'i Administrative Rules). The general framework for LLCP monitoring includes:

(1) self-reports filed by a landowner or easement holder in response to LLCP requests (note that at Waikapuna, the Grant of Conservation Easement (pages 9-10, Section C.2.d) requires that ATA provide the County "with an annual self-monitoring report that is substantially similar to the State Legacy Land Conservation Program Grant Recipient Self Report Form and provide a

copy of said annual self-monitoring report to the State Legacy Land Conservation Commission");

(2) a verification process, including site visits by LLCP and other DLNR staff, aimed at inspecting the condition and status of protected resources and examining overall compliance with governing statutes, administrative rules, grant agreements, and conveyance documents; and

(3) follow-up for resolving problems, establishing objectives for the next self-report, and communicating about potential enforcement actions, if any.

Additional resources for the monitoring process include the LLCP grant application (Exhibit A of the grant agreement); pre-acquisition due diligence documents as required in Exhibit B of the grant agreement (especially LLCP Resource Value Documentation and conservation easement baseline documentation); and other readily available information gathered for scientific and regulatory purposes (including resource surveys and mapping, aerial/satellite imagery, and government records).

One increasingly important component of the LLCP monitoring framework is assuring that a landowner or easement holder did not dispose of its interests in the property without written approval from the Board of Land and Natural Resources (a requirement that arises from Section 173A-9, Hawai'i Revised Statutes). For example, a recipient of a federal grant award for constructing/improving infrastructure on a property conserved with LLCP funding may not realize that its disposition of property interests in a mortgage document—as required by a federal sponsor—conflicts with State requirements (as properly noticed via LLCP deed restrictions) that the State's financial interest in the property hold first lien position against other creditors. At Waikapuna—a portion of which may be targeted for County use, and where title to the property is encumbered by various licenses for private pasture and telecommunications use—the deed of conveyance to ATA also provides notification that "the meaning of 'disposition,' 'dispose[d] of,' 'encumber,' and 'convert' includes (1) acquisition of the Property for a public purpose by the County of Hawaii through the exercise of County eminent domain authority and (2) amendment, extension, reissuance, or renewal of a pre-existing license agreement that encumbers the Property, under terms and conditions that differ, substantively, from the terms and conditions of the existing license agreement."

LLCP is aware of community interest in participating in the monitoring process, and urges people to share concerns about resource protection and public access with the ATA Waikapuna Stewardship Committee as well as with pertinent County and State programs. Although LLCP will not accommodate direct community participation in compliance-driven monitoring activities, including site visits, we welcome suggestions for arranging related public knowledge exchanges to help plan monitoring activities and assess monitoring results.

The LLCP portfolio of nearly fifty conserved properties provides a powerful array of public benefits and includes nineteen properties in the County of Hawai'i and seven in the District of Ka'u. The Legacy Land Conservation Program greatly appreciates everyone's contributions to acquiring these properties for conservation purposes and to protecting and preserving the resources there that are fundamental elements of environmental quality, cultural integrity, food security, community well-being, and human quality of life.



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