Maui Tomorrow Foundation
55 N. Church St Ste A-4
Wailuku, HI 96793

November 17, 2015

To: Hawaii State Land Use Commission Members
Re: A10-786 Olowalu Town FEIS

Maui Tomorrow Foundation (MTF) has followed the proposed Olowalu Town project for many years. We submitted extensive comments (sixteen pages) to the proposed Olowalu Town Draft EIS in 2012. We recently received responses to our comments.

While we are gratified that our comments, and those of State and County agencies and departments, have resulted in a considerable amount of information being added to the FEIS, we are disappointed that the FEIS still denies impacts or omits any discussion of impacts in a number of major areas.

We ask that the Land Use Commission not accept the FEIS until this information is provided as required by HAR 11-200.

We are particularly concerned that many of our comments about the project's potential impacts on public trust water resources have been ignored or dismissed. Without accurate and prudent evaluation of impacts to the stream, aquifer and ocean waters of Olowalu, the true impacts of this project on cultural practices, stream health and the nearshore fisheries can not truly be known. What follows is an overview of project impacts mentioned in our comments, that are omitted or not dealt with in the FEIS responses:

Comment 9:
Maui Tomorrow pointed out that many expensive and non-traditional design options are being proposed to "prove" that there will be no impacts to natural and cultural resources. We pointed out that failure to implement these design options would almost guarantee that serious impacts would occur. These potential impacts were not analyzed. Since the FEIS becomes the defining authority on any impacts, and it says there are "none", future review will not be likely to scrutinize the outcomes.

OT's response to our comment states that detailed, systematic review at the State and County levels will ensure that impacts to natural and cultural resources are mitigated. This is echoed throughout the FEIS. Unfortunately, the State and County have a serious enforcement problem; two examples are right here in West Maui. Here is a photo of a failed BMP on the shoreline, likely caused by the high winds that are common in Olowalu:

Obviously, this is not going to stop a lot of dust from blowing onto the reef.

And here is a photo of a recent brown water event caused by construction runoff at Mahana Ridge:

Egregious violations of grading permit conditions were reported for months before Maui County took action. However, it's too late to prevent impacts to the marine environment.

Clearly, State and County review processes cannot be relied on to prevent impacts. The FEIS should discuss the impacts on natural and cultural resources if State and County review and subsequent enforcement are ineffective, as they currently are.

OT did not commit to any professional monitoring protocols for ocean resources - only a vague mention of a community management group-likely to be unfunded as is Olowalu Cultural Reserve.

Past residents tried to bring violations of a 2001 SMA permit to the attention of the Maui Planning Commission and County Council, but their concerns were unresolved.

The current SMA for the property requires a dust and erosion control plan (condition 16 attached) but there is no monitoring of how effective it has been, and residents observe lots of dust and run-off sediment travelling to the ocean. Current owners, who are partners in OT, fail to acknowledge or remedy this situation.

Likely this pattern of denying any problems will continue through the OT entitlement process. Our comments and the environmental impacts they describe are being ignored in the FEIS, and this needs to be corrected.

Comment 18:

- FEIS does not acknowledge that since the general rainfall on Maui is decreasing, this could have an effect on its future water supply and how to mitigate that effect.
- FEIS does not include long term pump test data at greater volumes for its existing potable well, yet concludes that its output can increase 10 fold with no impacts to its water quality, and any such tests can be done later.
- The existing well is located near to Olowalu stream, and in spite of no test data provided for the well at the proposed increased pumping rates, the FEIS concludes there will no be no impacts to the stream.
- The FEIS offers the same conclusion for two proposed future wells that will also be located further down hill near the stream.

In short, the FEIS changed the subject to discuss other studies that they interpret as showing there is plenty of aquifer capacity available, but did not answer the concerns and request for data in our comments.

- **COMMENT 19**: asks the FEIS to discuss a drought plan for this very hot windy location that currently only has a population of 40 residences with 80 people on its private water system.
- FEIS assumes that since stream and ground water was used in greater quantities during plantation days, there is no need to discuss drought planning for the new sustainable community.
- The FEIS does not disclose that plantation records showed a chronic shortage of water in Olowalu and resulting in over exploitation of the stream and the basal aquifer wells.
- FEIS does not discuss specific stream water needs of the Olowalu Cultural Reserve.
- FEIS does not acknowledge that stream water supply was cut off to the mandated plant buffer of the nearby Ka'iwaloa heiau, as reported in the project's Cultural impact statement.
- In short, the FEIS draws conclusions about its water supply being adequate to accommodate agriculture, stream restoration, irrigation of common spaces and fireflow, without providing complete data on expected demands or acknowledging that there may be competing priorities under the state water code.

Comment 21: **asks FEIS to discuss plans for future monitoring well for the aquifer.**

- FEIS concludes that ongoing reporting of conditions in the production wells themselves is all that is needed to monitor the aquifer health (note: the safe yield of the aquifer is 2 mgd) We note that a similar sized proposed subdivision in Waikapu Aquifer (SY= 3 mgd installed a monitor well, as is prudent.
- FEIS represents that future wells will be spaced over the aquifer, although according to the project's Exhibit 7 Map all three potable wells will be concentrated in a line, a short distance apart, in an area of less than 20 acres. The aquifer, conversely spans over 600 acres.
- In conclusion, the FEIS does not clearly represent the project's private water system or offer mitigations to ensure there are not impacts to public trust resources like groundwater quality.

Comment 22: Asks FEIS to include information on how ohana units allowed for up to 900 of the 1500 units could affect water demand?

- FEIS claimed project used “county water use data” that included potential ohana units in its calculations, with no specific reference to the source of the data, or if data was from developments in very hot, dry, windy locales like Olowalu.
- In short, FEIS is unwilling to look at infrastructure demands of future ohana units and their possible impact on amount of water that would need to be eventually pumped.
- Current potable water demand in OT is claimed to be .67 mgd to a peak of 1 mgd. This is based on very low base usage rates per household, not Maui County DWS rates
- If OT used Maui county water usage rates per household their demand would jump to .97 mgd with a peak use of 1.45 mgd. (in other words, peak use would be double the current assumed average use)
- This increased demand could have different impacts on the aquifer and affect existing ground water discharges into the nearshore environment that affect cultural practices and fisheries. No analyses of coastal groundwater impacts is provided in the DEIS for this more feasible rate of water use.
- The FEIS cites ”county figures” as a justification for not needing to include any water demand for ohana units, but insists its project would never use that much water due to LEED design certification
- FEIS does not discuss in the text that it would not qualify for LEED certification based on its non-urban location, so it is possible that its water saving regimes would never be implemented.

Comment 30: **Asks if kuleana use has been included in project’s non-potable water demands and if the conclusion that only .39 mgd of stream is realistic.**

- OT has no idea of how much water is used by kuleanas or how much is needed.
- Topic never discussed in main body of FEIS, even though kuleana users have priority under state water code.
- Users of privately owned kuleanas of Olowalu state that they cannot grow kalo due to lack of agricultural water from the stream. This is not reflected in the OT comments.
- FEIS ignores the comments that the figures given in the FEIS on potential stream water use could add up to more than the purported .39 mgd demand on the stream and asserts that there is plenty of stream water flow or brackish well water.
- The FEIS should present realistic demand forecasts for our public trust resources, especially since it is discussed in other sections of the FEIS that Olowalu stream rarely has enough water volume to have mauka-makai flows and is a very culturally important resource, identified in the project’s Cultural Impact Assessment.

Comment 31: Asks if there is any proof that reductions of groundwater discharges by 6% from Olowalu wells pumping will have no effects on the near shore environment and notes that recent USGS groundwater studies assume that stream lows will be restored to recharge the aquifers. It also asks if plantation wells near reservoirs have been tested to determine if their capacity was influenced by leaking reservoirs? This could have a bearing on the viability of their future use.

- FEIS contends that the OT marine consultant concluded that sediment deposits, not lowered groundwater inputs were the main stressors on the marine environment, therefore the DEIS ignores the cultural importance of freshwater discharge.
- FEIS avoids any discussion of the import of stream restoration on aquifers.
- FEIS fails to consider providing any data on the current state of the plantation wells and changes to subject to the “plenty of water” justification.

- FEIS fails to provide any data on water losses from Olowalu's existing ditches and reservoirs, even though such waste of water is not allowed under the state water code.
- FEIS does not disclose in the body of the text that the stream water being diverted originates on state land and the Olowalu Water Company currently has no license to divert the water it is selling to existing Olowalu residents.

Comment 33: Asks FEIS to include fireflow requirements in its discussion of project demands on stream water

- FEIS fails to provide any specific fireflow figures except the formula of "2000 gallons for 2 hours"' with no explanation of whether this formula applied to each unit, each acre, or other measure.
- The OT comment admitted that some areas of the development would be served by potable water for fire flow, but gave no specifics.
- OT potable water demand calculations in the FEIS have no category for fireflow use and that information is omitted from the document.
- In conclusion, the FEIS does not analyze the impacts of providing a water supply for fire flow in a very fire hazard prone area. (three major fires in the last three years.)

- **Comment 57**: OT notes that an ongoing marine ecosystem monitoring program, long requested by citizens, could be valuable, but does not commit to implement one on the site. Without monitoring, the impacts of OT's land based activities cannot be known. The FEIS failed to explain why such a system is not part of the project's proposed BMPs.

A number of other comments were also avoided or answered without providing any needed data. We sincerely hope the Land Use Commission will find the Olowalu Town FEIS unacceptable, and ask that information omitted from our comments and those of other individuals and organizations, be included in a more complete version of the FEIS.

Mahalo for your attention

Albert Perez
Executive Director, Maui Tomorrow Foundation