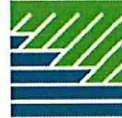


2019 JUL 11 A 8:41

July 10, 2019

Mr. Daniel E. Orodener, Executive Officer  
Land Use Commission  
Department of Business, Economic Development and Tourism  
State of Hawai'i  
P.O. Box 2359  
Honolulu, Hawai'i 96804



Dear Mr. Orodener:

**Keālia Mauka Homesites  
Draft Environmental Impact Statement (DEIS)  
Kawaihau District, Kaua'i; TMK: (4) 4-7-004: por 001**

Thank you for your comment letter dated June 20, 2018 on the Draft Environmental Impact Statement (DEIS) for the Proposed Project. We have reviewed your comments and offer the following responses.

**Comment 1:** *In accordance with Hawai'i Administrative Rules (HAR) 11-200-17(b), the DEIS shall contain a summary sheet that concisely discusses among other things, significant beneficial and adverse impacts, proposed mitigation measures, alternatives considered, unresolved issues, and compatibility with land use plans and policies.*

**Response:** Chapter 1 (Introduction) of the Final EIS (FEIS) will include a summary sheet with the items listed above.

**Comment 2:** *Project description shall be included. Based on our review of Appendix G, Preliminary Engineering Report, we are unable to locate where the specific costs are identified. Citation should be provided as to how the Petitioner intends to finance these improvements and whether any public funds will be requested.*

*There are slight differences between the DEIS and the report in the number and size of the lots and the number/acreage of the parks...these differences should be rectified as they may affect the analysis and conclusions regarding the project's impact on infrastructure. Information on the proposed lot prices should be included as part of general description...actual lot prices proposed by the Petitioner should be identified.*

**Response:** The estimated development cost cited in the DEIS and prepared by Kodani and Associates is not from their 2017 Preliminary Engineering Report (Appendix G), but was from a separate internal document. The citation for the cost estimate will be clarified to avoid confusion. Section 2.3.2.5 (Estimated Development Costs) of the FEIS will include the following statement (text added since DEIS is shown in FEIS with double underline):

All on and off-site project-related costs will be funded by the Petitioner. No public funds will be requested for the project improvements.

We acknowledge that there are some slight discrepancies in unit counts, for example, the CBRE Market and Econometric Studies assumed 236 lots, not 235. According to CBRE, the difference from a single lot is insignificant in their analysis, and does not change the projected project absorption, economic impact, or public fiscal assessment. The difference would be within the rounding/margin of error. It does not affect conclusions regarding infrastructure impact.

A discussion of lot prices has been added to Chapter 2 (Project Description), Chapter 4 (Housing) and Chapter 5 (discussion of County Housing Policy). The following was added to the project description in Section 2.3.1.1:

The project will meet the workforce housing requirements of Kaua'i County Ordinance No. 860, which established a new chapter in the Kaua'i County Code (1987, as amended) relating to the housing policy for the County of Kaua'i. The County's Housing Policy requires a portion of residential and resort developments to include housing "that may be rented or sold at price levels that are affordable to households that earn from eighty percent (80%) and below of the Kaua'i median household income to one-hundred forty percent (140%) of the Kaua'i median household income."

The County's Housing Policy, as it applies to the Keālia Mauka Homesites, is discussed in more detail in Section 5.2.5 of this FEIS. The workforce housing requirement for Keālia Mauka, adjusted for applicable developer incentives, is estimated at 36 units (i.e., lots).

Table 2-1 below shows the distribution of 36 workforce housing lots by income level and price. Based on 2017 "for sale limits," median income, and mortgage rates, lot-only sales prices would range from \$81,000 (80% of median income) to \$110,900 (140% of median income). Actual sales prices will depend on conditions at the time of sale.

**Table 2-1: Compliance with the Housing Policy for the County of Kaua'i**

Assumes Mortgage Rate: 4.25%

<u>HUD Income Limit (family of 4)</u>	<u>Annual Household Income</u>	<u>For Sale Price</u>	<u>Estimated* Lot- Only Sales Price</u>	<u>Percent of total workforce housing (and number of lots)</u>
<u>80% Median</u>	<u>\$68,250</u>	<u>\$310,800</u>	<u>\$81,000</u>	<u>20% (7 lots)</u>
<u>100% Median</u>	<u>\$79,200</u>	<u>\$369,300</u>	<u>\$92,000</u>	<u>30% (11 lots)</u>
<u>120% Median</u>	<u>\$95,050</u>	<u>\$453,800</u>	<u>\$95,050</u>	<u>30% (11 lots)</u>
<u>140% Median</u>	<u>\$110,900</u>	<u>\$538,400</u>	<u>\$110,900</u>	<u>20% (7 lots)</u>
<u>TOTAL</u>				<u>100% (36 lots)</u>

Source: Kaua'i County Housing Agency, effective 4/14/2017, URL=<http://www.kauai.gov>



\*Assumes lot-only price will represent approximately 26% of the For Sale Price established by County. Actual lot-only prices to be determined by County of Kaua'i Housing Agency

The remaining Keālia Mauka lots will be sold at prevailing market prices. As of April 2019, market prices for the lots would range from approximately \$190,000 to \$235,000. The market study estimates that full absorption/sell out of the finished lots will be completed within seven years (CBRE, 2017).

**Comment 3:** *A separate and distinct section on alternatives which could obtain objectives is required. A discussion on the alternative of postponing action pending further study and on alternative locations for project should be included to fully address this requirement.*

**Response:** Section 2.4 (Alternatives Considered) of the FEIS include a discussion of the alternative of postponing action pending further study and alternative locations that are owned by the project proponent. The following has been added to the document:

**2.4.6 Postponing Action Pending Further Study**

In accordance with HAR §11-200-17(f), a discussion on the alternative of postponing action pending further study is required. There are, in fact, further studies that may be completed prior to the start of project construction. However, they do not require postponement of the Proposed Action.

For example, soil testing for contaminants associated with past agriculture use is a mitigation recommended by the State Department of Health (DOH), and will be completed prior to earthwork. This study involves preparation of a soil sampling plan to be approved by the DOH Hazard Evaluation and Emergency Response (HEER) office, and approval of the test results and recommendations. Any contaminated soils and materials will be remediated to the satisfaction of DOH HEER prior to construction. This issue is discussed in Section 4.8, Hazardous and Regulated Materials and Waste.

It is always possible that the Proposed Action could be postponed due to changes in economic or market conditions or as the result of a natural disaster (e.g., hurricane). These are unpredictable and beyond the control of the Petitioner. The project site is located away from the coastline and not within an area vulnerable to natural hazards, which minimizes these risks. However, there is little benefit to postponing the Proposed Action to conduct further studies. The market study indicated an immediate demand for the proposed housing product. While some further studies may be conducted prior to construction, the Petitioner does not intend to postpone the Proposed Action.

**2.4.7 Alternative Locations for the Proposed Project**

HAR §11-200-17(f) also requires a discussion on alternative locations for the proposed project. The Petitioner owns some 2,000 acres of land within the Keālia area that are currently used for grazing and agricultural activity. These areas, comprising TMK (4) 4-7-004-001 and (4) 4-7-003:002, are shown in Figure 1-3.

Within these 2,000 acres, the Petition Area is the most appropriate for a residential subdivision. The site is adjacent to an existing residential subdivision, minimizing sprawl and spot

development. The future subdivision can utilize an existing road (Keālia Road) for access to Kūhiō Highway, and does not require creation of a new access point onto the highway, something the State Department of Transportation has prohibited.

The County has determined that residential development of the Petition Area is consistent with the General Plan land use plan, and the project has the expressed support of the County Planning Department. It is uncertain whether this would be the case for an alternative location. If another location were proposed, a formal determination from the County would be needed. There are no other locations under the Petitioner's control that offer the characteristics necessary for a residential development: i.e., adequate acreage, developable topography, proximity to utility and roadway infrastructure, and consistency with County land use plans. While there may be other undeveloped lands closer to downtown Kapa'a, they are not under the control of the Petitioner and therefore are not considered feasible alternatives.

***Comment 4:** A description of the environmental setting, including description of the environment in the vicinity, should be provided. Reference is made to the potential impact on a natural spring feeding a taro lo'i...clarification should be provided as to the reason the cultural researcher was unable to access the property and whether not viewing the lo'i and water source compromised in any way the accuracy of the conclusions reached in regard to the potential impact on groundwater resources.*

**Response:** In response to your comment as well as concerns raised by a community member regarding potential project impacts on a "natural spring" feeding a taro lo'i, hydrogeologist Tom Nance of Tom Nance Water Resources Engineering (TNWRE) conducted a site visit in April 2018 to investigate the water source. As reported in the DEIS, Mr. Nance was unable to access the site with the water seep, as it was on private property.

On September 19, 2018, Mr. Nance went back to investigate the source of the irrigation supply, was able to access the site, and make conclusions about the water source. The following text has been added to Section 3.4.2.3 of the FEIS:

**Updated Hydrogeological Letter Report, September 2018**

Subsequent to publication of the DEIS, hydrogeologist Tom Nance of TNWRE was asked to return to investigate the source of irrigation supply for the lo'i. During this second visit on September 19, 2018, he was able to access the site and walk the length of the small stream from its culvert crossing beneath a private dirt road up to its headwater at about 160 to 200-foot elevation. He reported the following observations in traversing the approximately 2,200 foot length of the stream and summarized his conclusions below:

- The headwater consists of two locations where shallow groundwater emerges. At mid-morning on September 19, 2018, virtually no water was emerging from either "spring" location.
- About 25 feet downstream, a flow of two to three gallons per minute (GPM) was observed (visual estimate).



- The flow in the stream progressively increased moving downstream. At about mid-length where there is a culvert crossing for a foot path, the flow had increased to about 40 to 50 GPM.
- At the makai side of the road culvert discharging into the lo'i, the flow rate was on the order of 75 to 100 GPM.

In other words, the source of irrigation for the lo'i is not a spring in the classical sense. Rather, it is a small but perennial stream, the flow rate of which progressively increases as it moves downstream. There are many such streams on Kaua'i which traverse the relatively poorly permeable, later-stage Koloa volcanics. In fact, there is another such stream located about 1,500 feet to the west which is delineated on the USGS Kapa'a Quadrangle map. Due to the stream's location, its elevation, and manner of its source of supply, there is no possibility that increased use of Keālia Well Nos. 0618-009 and 0618-010 will impact the flow in the stream.

The findings are reported in a September 20, 2018 memorandum which is also in Appendix I. The September 2018 report reaffirms the earlier conclusion that the project's water use will not impact the water source of the taro lo'i in question.

**Comment 5a:** *Include discussion of how the proposed action may confirm or conflict with objectives and terms of approved/proposed land use plans, policies and controls. Identify any incentives proposed to ensure lot buyers carry out conservation/sustainability measures.*

**Response:** Chapter 5 of the FEIS discusses the conformance of the Proposed Action to approved and proposed land use plans, policies and controls, including State Land Use law, Hawai'i State Plan and Functional Plans, Coastal Zone Management Program, County General Plan and East Kaua'i Development Plan.

Section 5.1.7 of the FEIS addresses Sustainability. In response to your comment regarding incentives or mechanisms to ensure lot buyers carry out conservation/sustainability measures, the following statement is included:

The individual lot buyers will be responsible for constructing their own homes, and will be required to comply with County building codes, which incorporate principles for conservation of water and electricity. Kaua'i County building codes have been updated to reflect the International Building Code (IBC) standards, which have built-in mechanisms for conservation of water and electricity. Today's codes provide for energy efficiency including low flush toilets, low flow showers, and use of energy saving appliances. These standards will be enforced at the time building permits are obtained by individual lot buyers.

**Comment 5b:** *List of necessary governmental approvals...Project Summary...fails to describe the status of each identified approval as required. It also neglects to include the required district boundary amendment from the Land Use Commission as a required approval.*

**Response:** The Project Summary table in Section 1.1 includes a list of governmental approvals required. This table will be updated as follows (revised text double underlined):

## 1.1 PROJCT SUMMARY

Permits/Approvals Required:	Permit/Approval	Status
	<b>Federal Government</b>	
	<u>U.S. Coast Guard</u> <ul style="list-style-type: none"> <li><u>Section 9 Bridge Permit (for sewer main crossing on Kapa'a Stream Bridge)</u></li> </ul>	<u>Sewer main to be installed as part of HDOT-proposed Kapa'a Stream bridge. Permit requirements to be confirmed/satisfied as part of that project.</u>
	<b>State of Hawaii</b>	
	State of Hawai'i Land Use Commission <ul style="list-style-type: none"> <li>Land Use District Boundary Amendment</li> </ul> Department of Health <ul style="list-style-type: none"> <li>National Pollutant Discharge Elimination System (NPDES) Permit</li> <li>Construction Noise Permit</li> </ul> Department of Land and Natural Resources, State Historic Preservation Division <ul style="list-style-type: none"> <li>Historic Preservation Review, Chapter 6E, HRS</li> </ul> Department of Transportation <ul style="list-style-type: none"> <li>Permit to Perform Work Upon State Highway</li> <li>Private Storm Drain Connection and/or State Highways Division Storm Drain System</li> </ul>	<u>In process.</u>  <u>NPDES and noise permit to be obtained prior to start of construction.</u>  <u>During Chapter 6E review, SHPD requested supplemental archaeological inventory survey (AIS), which was completed in 2019. SHPD review of the AIS is pending.</u>  <u>Permits to be obtained prior to start of construction.</u>
	<b>County of Kauai</b>	
	Kaua'i County Council <ul style="list-style-type: none"> <li>Zoning Amendment</li> <li>Planning Commission</li> <li>Subdivision Approval</li> </ul>	<u>To be obtained following Land Use District Boundary Amendment.</u>  <u>To be obtained following Zoning amendment</u>
	Department of Public Works <ul style="list-style-type: none"> <li>Grading, grubbing, and stockpiling permits, building permit</li> </ul>	<u>To be obtained prior to start of construction.</u>

**Comment 6a:** Probable impact of the proposed action on the environment shall be addressed, including the interrelationships and cumulative environmental impacts of the proposed action and other related developments. Discussion on cumulative and secondary impacts (Section 6.2) should identify other developments with their specific impacts quantified by subject area to better assess overall cumulative impacts.

**Response:** Other proposed developments in the East Kaua'i area will have cumulative impacts for the areas of traffic, schools, housing, economic and fiscal impacts, water resources, and



utilities. The cumulative impact on traffic has been quantified by the Traffic Impact Analysis Report (TIAR). Cumulative impacts on other resource areas may occur, but are less directly quantifiable. Section 6.2 (Cumulative and Secondary Impacts) of the FEIS has added the following text:

The Proposed Action will bring more cars to the Keālia area, and will have a cumulative impact on traffic and intersection level of service (LOS). The impact of the Proposed Action, as well as other residential developments proposed over the next twenty years were evaluated in the Traffic Impact Analysis Report (TIAR) (Appendix H). Other known residential developments that the TIAR projected to be completed by 2027 (the TIAR analysis base year) include: Piilani Mai Ke Kai, a Department of Hawaiian Home Lands project in Anahola; Kulana Subdivision, a 172-unit agricultural subdivision north of Olohena Road; and Hokua Place located near Kapa'a Middle School, which will include 100 single family units and 700 multi-family units as well as neighborhood retail. The TIAR also considered the cumulative traffic impacts of several resort residential projects including Coconut Plantation (192 units); Coconut Beach Resort (330 units); and Coco Palms (350-room resort). These projects will contribute to a significant growth in traffic, independent of the Proposed Action.

The project will contribute to a cumulative demand on utilities in the region, including demand on the Wailua Wastewater Treatment Plant (WWTP). Cumulative impacts have been considered in the FEIS analysis. The Preliminary Engineering Analysis (Kodani, 2017) considered the cumulative impact of other permitted developments in its analysis of wastewater generation. Data and analysis from the County Department of Public Work's 2008 Wailua Facility Plan used, and this data included projected wastewater demand from proposed developments, including the Coco Palms, Coconut Plantation, Coconut Village coastal resorts. The County is currently updating and reevaluating the 2008 Wailua Facility Plan flow projections to incorporate the proposed Keālia Mauka Homesites. The County is also proceeding with planned capital improvement projects at the WWTP to improve the treatment process.

Given the 20-year projected population growth in the region, additional demands on fire, police, and schools are inevitable with or without the project. Because the project is targeted at local residents, the majority of future Keālia Mauka residents are already living on Kaua'i. As such, the net increase in demand for public services islandwide will not be significant. However, demand for police and fire personnel in the immediate Keālia area will increase. The anticipated fiscal benefits to the County from the project will more than off-set the cost of additional public services.

**Comment 6b, Marine biota:** *One area to be more fully addressed is the potential impact to the nearshore environment, particularly the marine biota, both individually from the project and cumulatively.*

**Response:** The FEIS includes a new Section 3.8, Marine Biological Resources, addressing existing conditions and potential project impacts to the nearshore environment. The project is not expected to have an impact on marine water quality or marine biota.

### 3.8 Marine Biological Resources

#### 3.8.1 Existing Conditions

The Petition Area is located about one-quarter mile upland or mauka of the ocean at its nearest point. A recent baseline survey of the marine biological environment in the vicinity of Keālia was completed in 2016 by SWCA Environmental Consultants for the proposed Kapa'a Bridge and Mailihuna Intersection Project, Kūhiō Highway (SWCA Environmental Consultants, 2016). The information in this section is drawn primarily from this study.

##### 3.8.1.1 Protected Species

Three federally protected marine species may occur in the nearshore waters in the Keālia vicinity. The endangered Hawaiian monk seal (*Neomonachus schauinslandi*) is endemic to the Hawaiian archipelago and is found mostly in the Northwestern Hawaiian Islands. Increasing sightings have been reported from the Main Hawaiian Islands. Hawaiian monk seals spend most of their time in the ocean but rest on sandy beaches, and sometimes use beach vegetation as shelter from wind and rain. They are known to occur along Kaua'i's eastern shore.

The threatened green sea turtle (*Chelonia mydas*) and endangered Hawksbill sea turtle (*Eretmochelys imbricata*) are also known to occur in the shallow protected waters off the Keālia coast. Keālia Beach contains beach habitat that could support Hawaiian monk seal pupping, nursing, and haul out. The shallow water areas could also support foraging for the two turtle species.

##### 3.8.1.2 Critical Habitat

Critical habitat for the Hawaiian monk seal occurs in the offshore areas. Critical habitat was first designated for the Hawaiian monk seal in 1986 and expanded in 1988. In September 2015, a revised critical habitat area was designated for the Main Hawaiian Islands and the Northwestern Hawaiian Islands.

The Island of Kaua'i provides approximately 28 miles of coastline that support preferred pupping and nursing areas and significant haul out areas, as well as 215 square miles of marine foraging habitat essential to Hawaiian monk seal conservation. The critical habitat include the entirety of Keālia Beach (SWCA, 2016), which is south east of the upland Petition Area.

### 3.8.2 Potential Impacts and Mitigation

#### 3.8.2.1 Impacts

**Hawaiian Monk Seal.** Between 2005 and 2014, there were 184 reported sightings of monk seals at Keālia Beach (SWCA, 2016). Of these sightings, 112 reports consisted of 26 uniquely identifiable seals. The nearshore marine waters of and around Keālia Beach provide suitable foraging habitat, as does the riverine habitat of the Kapa'a Stream, which crosses Kūhiō Highway about 1,800 feet (0.3 mile) south of Keālia Road.



No construction activity is proposed in the vicinity of Keālia Beach or other marine or riverine waters. The closest project-related construction activity would be improvements to the Kūhiō Highway-Keālia Road intersection. The construction would be limited to the highway right-of-way, a distance of about 350 feet from the shoreline. It is highly unlikely that construction-related noise, traffic, or human activity would impact any monk seals who may be foraging in the water or hauled out on the beach.

There is the potential for indirect harm to monk seals through the inadvertent introduction of contaminants or construction related debris into nearshore waters. Construction period runoff will be avoided through the use of construction best management practices. In the long term, there will be no net runoff offsite from the Keālia Mauka subdivision. In conclusion, the project will have no adverse impact on Hawaiian monk seals.

**Sea Turtles.** No critical habitat has been designated for either the green or hawksbill sea turtles. The green turtle is federally listed as endangered and also listed as threatened by the State of Hawai'i. The hawksbill sea turtle is listed as endangered by both the federal government and the State of Hawai'i. In Hawai'i, disease and habitat loss (i.e., coral reef communities) are the primary threats to the green and hawksbill sea turtles, respectively. Other threats include ingestion or entanglement of marine debris, boat strikes, water contamination (e.g., runoff, dredging and noise), harvesting, loss or degradation of nesting habitat, and nest and hatchling predation (SWCA, 2016). The 2016 SWCA field survey did not observe any sea turtles in its study area, but it was noted that Keālia Beach provides suitable habitat for turtle basking, nesting, foraging, and predator avoidance.

There is no potential for impact to sea turtles. There will be no construction activity or noise in the vicinity. There will be no release of debris or pollutants into the nearshore waters during either construction or operation of the subdivision. Although the project will increase the human population in the Keālia area, it is unlikely to increase human-related disturbance (e.g., harassment) or human activity that could increase turtle mortality (e.g., boat propellers, fishing net entanglement, etc.). The Proposed Action is not expected to have an adverse impact on sea turtles or the marine environment.

**Comment 6c, School Facilities:** *We also note the absence of thorough discussion of impacts on school facilities. No evidence presented to support statement that most local students already attending Kaua'i public schools. To the extent that such student may be coming from outside Kapa'a, we believe a discussion to address their potential impact on the future capacities of existing school facilities is warranted.*

**Response:** The statement in the DEIS that the majority of future subdivision residents are currently living on Kaua'i was based on the market and econometric studies conducted by CBRE (2017). Second home/non-resident purchasers represent some 18.9% of all housing units on Kaua'i, and range from 8.3% to 32.8% in the greater Kapa'a area (Wailua to Anahola), a proportion that has been increasing over time. CBRE has conservatively assumed the percentage would be similar at Keālia Mauka and used a stabilized figure of 20% of all inventory. This percentage is supported to numerous studies CBRE has completed on Maui, Hawai'i Island, and elsewhere on Kaua'i.

We and CBRE stand by the statement in the DEIS that that there will be a minimal net increase in school enrollment islandwide on Kaua'i. However, we acknowledge that there will be an increase in students within the Kapa'a complex, and therefore Section 4.12.5.2 (Potential Impacts and Mitigation) of the FEIS will include the following text:

**4.12.4.2 Potential Impacts and Mitigation**

Public school enrollment generated by the Proposed Action was estimated using student generation rates provided by the DOE Office of School Facilities and Support Services. The student generation rates (SGR) for elementary, middle, and high school students were calculated by the DOE using the Kealahou Subdivision in Ele'ele as a comparable. This subdivision targets a similar sales demographic and has lot sizes similar to the Proposed Action.

<b>Student Generation</b>			
<b>Level</b>	<b>Rate (SGR)</b>	<b>Hsg Units</b>	<b># Students</b>
Elementary	0.2241	235	53
Middle	0.0345	235	11
High School	0.1552	235	37
<b>Total</b>			<b>101</b>

The SGR are subject to the following disclaimers:

1. That the SGR is based on student addresses currently in the HDOE system and may not be accurate due to inaccurate student addresses (i.e. data entry errors);
2. That Pre-K and Charter school students are excluded from the SGR calculations;
3. That it is assumed that the information regarding street names, addresses, and number of built units are accurate; and
4. That the project is not at mature build out as the subdivision has 61 lots with 58 housing units built.

Utilizing these SGR, the proposed 235 residential lots may generate a total of 101 school-aged children. This includes 53 elementary school age children ( $235 \times 0.2241 = 53$  students); 11 middle school age students ( $235 \times 0.0345 = 11$  students); and 37 high school age students ( $235 \times 0.1552 = 37$  students). The student estimates based on the SGR are long term projections covering a time frame that goes beyond project build out. When the project is mature and unit turnover is stabilized, approximately 101 Hawai'i DOE students will reside there.

There will be restrictive covenants prohibiting Additional Dwelling Units (ADU) for this development, so no more than one single-family home would be built on each lot.

Because the Keālia Mauka residential lots are targeted to local residents, most of these 101 students are already attending Kaua'i public schools, although not necessarily in the Kapa'a schools complex. The economic and market study estimates that over 80 percent of the prospective buyers will be existing Kaua'i residents, and the remaining 20 percent expected to be non-resident second/vacation home buyers (CBRE, 2017). Many, if not most of the non-resident second/vacation home buyers will be empty nesters without school aged children. Those with



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school-aged children may also choose to send their children to Kaua'i's private, rather than public schools. A nominal to negligible number of public school students will be generated by these households (CBRE, 2019).

The proposed off-site improvements are roadway and utility infrastructure, and will have no impact on school enrollment or facilities.

### **Educational Contribution Agreement**

Educational Contribution Agreements (ECA's) are legal agreements between the DOE and a developer detailing how a developer will mitigate impacts to public school capacity via cash, land, or combination of both. They are executed for developments with a residential component 1) located in a designated School Impact Fee District, or 2) to implement a fair share contribution to the DOE condition on a discretionary approval. When a development is not located within a designated School Impact Fee District, and subject to a discretionary approval, the DOE determines on a case by case basis the impacts to school facilities and whether a fair share contribution is required.

In an email dated August 1, 2018, the DOE indicated that it would not be requesting a fair share contribution for the Keālia Mauka project (see Appendix M).

**Comment 6d:** *Address potential impact to agricultural production in vicinity, in County, and in State. Not clear where additional 86 acres has been added and what it will be used for. No information is provided on referenced ag land available in East Kaua'i due to closure of Līhu'e Plantation. Location, size, soil classification, and whether there is available water. Discuss how 36,000 acres on Kaua'i that are designated IAL will achieve goal of food self-sufficiency.*

**Response:** The 86 acres in question have been added to the agricultural license which RKL Ranch has with Keālia Properties, LLC to offset RKL's loss of the 55 acres associated with the Petition Area currently under license to RKL. This additional acreage is located at the mauka limit of the Petitioner's property bordering Hauaala Road (TMK 4-7-004:001 portion).

ALISH values for this parcel are Prime (70%) and Other (30%). LSB values for this parcel are B (80%) and C (20%). This acreage will be utilized for cattle grazing only, and will not be irrigated.

With respect to your comment regarding IAL and agricultural self-sufficiency for the island of Kaua'i, the State Land Use Commission has approved five landowner requests to designated IAL on Kaua'i for a total of about 37,430 acres. The County of Kaua'i Planning Department completed a study on IAL in July 2015. Included as part of this study, the Planning Department concluded that approximately 21,158 acres of land in food production would be required to feed a population of 70,000. Given that lands designated IAL in the County now exceed this recommendation by about 77%, the County has decided not to pursue additional IAL designations.

**Comment 6e:** *No discussion of emergency management facilities and impact (State DOD, HI EMA, County EMA).*

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**Response:** The FEIS will include a new Section 4.12.3 (Emergency Management Facilities), with a discussion of the County's emergency management system and Multi-Hazard Mitigation and Resilience Plan, with the following discussion:

Existing Conditions. The Kaua'i Emergency Management Agency (formerly Civil Defense) is responsible for coordinating and integrating efforts among all levels of government and the private sector to mitigate against, prepare for, respond to, and recover from natural disasters, acts of terrorism, and other threats and hazards. Natural hazards including flood, tsunami, seismic activity and dam-related flooding were discussed in Section 3.5 of this EIS.

The County of Kaua'i's Multi-Hazard Mitigation and Resilience Plan (County of Kaua'i, 2015) identifies emergency services infrastructure in the County. These include the emergency operations center in Līhu'e; police and fire stations; hospitals, clinics and dispensaries; civil defense sirens; tsunami signs and warnings; and community shelters. The Multi-Hazard Mitigation and Resilience Plan is discussed in Section 5.2.6.3 of this EIS.

Outdoor warning sirens are maintained throughout the island to alert the public to emergencies. The nearest emergency siren for the Keālia area is located on Kamole Road, on the makai side of Kūhiō Highway, approximately 1,200 feet from the center of the Petition Area. Monthly tests of the Statewide Outdoor Warning Siren System are conducted by the State. The County has also implemented Connect 5, a mass notification system allowing the County to disseminate voice and text messages regarding civil defense emergencies in minutes.

Emergency shelters have also been identified by the Hawai'i State Civil Defense and Kauai Emergency Management Agency. The nearest official emergency shelters, according to the Multi-Hazard Mitigation and Resilience Plan, are at Kapa'a Elementary School and Kapa'a High School, both located about one mile south of the project area. The elementary school has a shelter capacity of 1,209 occupants and the high school has a capacity of 3,569 occupants (County of Kaua'i, 2015). The schools are approved as shelters for tsunami, flooding, and hurricane.

Potential Impacts and Mitigation. As stated previously, it is expected that the majority of the future Keālia Mauka residents are already living on island, many in East Kaua'i, and the new subdivision would not generate a significant net increase in population. There is not expected to be a significant impact to emergency management facilities. Existing warning sirens and emergency shelters will be adequate to accommodate the new subdivision residents.

**Comment 6f:** *Please include a statement in the appropriate section of the document addressing customary and traditional rights under Article XII, Section 7 of Hawaii State Constitution.*

**Response:** A statement addressing Hawaiian customary and traditional rights under Article XII, section 7 of the Hawai'i State Constitution has been added to the Cultural Impact Assessment (CIA) (Management Summary, p. x, and Section 8.5 Analysis, p. 181). The following statement will be also be included in Section 4.5, Cultural Resources, Section 4.5.2.4, Analysis:

...As noted above, no culturally significant resources were identified within the current project area. At present, there is no documentation nor testimony indicating that traditional or customary native Hawaiian rights are currently being exercised "for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778" (Hawai'i State Constitution, Article XII, Section



7) within the current project area. Additionally, no traditional cultural practices are known to currently occur within the project area...

**Comment 6g:** *The economic analysis analyzed public fiscal impacts of only the non-resident component of the project in terms of the cost to the State and County of Kaua'i... We request that the additional costs to the State and County to support the non-resident, second-homeowner demographic within the project be broken down by the type of service and facility.*

**Response:** See CBRE response to this comment in their letter dated April 9, 2019 (FEIS, Appendix F). They indicate no such specific analysis was conducted within their scope of study. As noted in their report **(emphasis added)**:

"We have analyzed the public fiscal impacts considering only the non-resident component of KMH, relative to tax benefits flowing to the State and County of Kauai and the cost of providing government services to them on a per capita basis."

CBRE has indicated that based on that per capita cost (of providing government services) within a county-wide perspective, the service and facilities required by these non-resident homeowners would be identical to the existing budget and planning allowances for the County as-a-whole. Determination of the need for additional, specific facilities and services (e.g., police, fire, EMS, schools) would be best estimated by those departments/providers.

**Comment 7:** *Address all probable adverse effects which can't be avoided, include other interests and consideration of governmental policies thought to offset adverse effects. Discuss extent to which these counter veiling benefits could be realized. Section 6.4 does not address in sufficient detail.*

**Response:** Section 6.4, Probable Adverse Effects that Cannot be Avoided, will discuss other interests and considerations of governmental policies that offset the adverse effects of proposed action. These unavoidable adverse effects include construction period noise, dust and traffic congestion, the loss of grazing acreage, impacts on schools and public facilities, visual impacts, and increased traffic volumes. The mitigation proposed for these impacts discussed in Chapters 3 and 4 of the FEIS will be summarized in Section 6.4. The countervailing benefit to these impacts is the provision of housing opportunities for Kaua'i residents, an urgent and high priority need supported by the County administration and public policy. The discussion in Section 6.4 will address the extent to which these countervailing benefits could be realized by alternatives to the proposed action that would avoid some or all of the adverse environmental effects, and conclude with the following paragraph:

In summary, the Proposed Action will result in unavoidable environmental impacts. These impacts represent short and long-term trade-offs in order to meet the project's primary objective, to provide housing opportunities for Kaua'i residents, including workforce housing. This "countervailing benefit" responds to an urgent need which is a high priority of the County of Kaua'i, and supported by public policy (e.g., Housing Policy for the County of Kaua'i (Ordinance 860)). While the goal of additional housing could also be realized by the alternatives discussed in Section 2.4 of this FEIS, no alternative (other than "No Action") is without environmental impact. Of the alternatives discussed, the Proposed Action was determined to be the most consistent

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with the County General Plan, compatible with County workforce housing policies, and consistent with the County's goal to provide housing opportunities for Kaua'i residents.

**Comment 8:** *Description of proposed mitigation should be provided including discussion of any performance bonds...timing of each step in mitigation process and responsibilities and commitments of Petitioner to ensure implementation.*

**Response:** The timing and implementation of, and the responsibility for the proposed mitigation measures will be discussed in the FEIS.

**Comment 9:** *A separate and distinct section that summarizes unresolved issues and contains either a discussion of how issues will be resolved prior to commencement of action or what overriding reasons there are for proceeding without resolving the problems should be provided. Wastewater service should be identified as unresolved issue, as County will issue a "will serve" letter only after zoning approval, which is not assured.*

**Response:** Section 6.5, Unresolved Issues, has been expanded, and includes the following new text, including discussion of wastewater service:

**Noise mitigation at Kūhiō Highway boundary.** According to the Noise Measurement and Evaluation Report for the project, noise mitigation is recommended for lots along the Kūhiō Highway frontage. Adequate mitigation could be accomplished through construction of a 4-foot high noise wall or berm(s), or combination of the two. The proposed mitigation will consider the preferences of the County and State Department of Transportation, as well as the results of further engineering and feasibility studies. The issue will be resolved during the project's subdivision approval phase, and specified in the subdivision approval conditions.

**Keālia Road-Kūhiō Highway intersection improvements.** Both a roundabout and a traffic signal have been identified by the TIAR as feasible alternatives for mitigation of traffic impacts at the Keālia Road-Kūhiō Highway intersection. The County has expressed its preference for the construction of a roundabout. Final plans for the roundabout still need to be developed. Since Kūhiō Highway is a State owned highway, the formal concurrence and participation of the Department of Transportation (HDOT) is also required prior to finalizing plans for the intersection.

**County Provision of Sewer Service.** The County Department of Public Works, Wastewater Management Division has indicated that it will issue a "will serve" letter for wastewater service after the project has received zoning approval. The project civil engineers have been in contact with the Department of Public Works and connection to the County's system is not expected to be a problem. However, confirmation of sewer service remains a pending issue.

**Off-site wastewater improvements.** The exact location of the proposed wastewater pump station near Kūhiō Highway is yet to be determined, but will be identified with the approval of the County of Kaua'i Department of Public Works, Wastewater Management Division. It is anticipated that the pump station will be on land owned by the Petitioner and will be dedicated to the County at the completion of the project.



The extension of a sewer main in the Kūhiō Highway right-of-way is proposed. The sewer main will need to cross Kapa'a Stream before connecting to an existing sewer manhole near the Kaiakea Fire Station. The Hawai'i Department of Transportation Kaua'i District Engineer has confirmed that the sewer main can be attached to the new Kapa'a Stream Bridge project on Kūhiō Highway near Mailihuna Road (letter dated February 25, 2019). The sewer main's stream crossing may require a separate Section 9 bridge permit from the Coast Guard, if the Coast Guard determines it is not already covered in the Kapa'a Stream Bridge approvals. Follow up coordination with the HDOT and the Coast Guard will be needed.

**Compliance with Housing Policy for the County of Kaua'i.** The project will comply with Ordinance 860, Housing Policy for the County of Kaua'i requiring a portion of the development to include workforce housing. The workforce housing requirement is developed in cooperation with the County Housing Agency prior to final subdivision or zoning approval, whichever occurs first. The final requirement will identify the number of lots and the price levels for the workforce housing requirement, and will be included in the final subdivision or zoning conditions.

Other unresolved issues addressed in Section 6.5 include soil testing, noise mitigation at Kūhiō Highway, Keālia Road-Kūhiō Highway intersection improvements, location of the wastewater pump station, and compliance with the County's housing policy.

**Comment 10:** *A list of persons or agencies who were consulted during the consultation process and had no comment shall be included; the LUC should be listed as a consulted agency under the heading of State of Hawai'i.*

**Response:** Chapter 9 of the FEIS will include a list of all consulted parties and agencies, and note what their comments were (or if they had no comment). The LUC will be added to the list of consulted agencies.

**Comment 11:** *The statement that the DEIS and all ancillary documents were prepared under signatory's direction and supervision should be signed by the Applicant, Keālia Properties LLC, not the consultant.*

**Response:** The FEIS will include the signature of the Applicant, Keālia Properties, LLC.

**Comment 12:** *Replace the terms potable water and non-potable water with "drinking water" and "non-drinking water." The State Department of Health (DOH) uses the latter term specifically to indicate water for human consumption that is derived from surface water and/or groundwater and is regulated by DOH pursuant to HAR Chapter 11-20.*

**Response:** References will be changed throughout the document.

**Comment 13:** *We request that the Phase I Environmental Site Assessment, which was prepared for the previous landowners and included the Petition Area as part of its study area, be included as an appendix to the document to fully disclose the potential impacts of encountering hazardous substances, including contaminants and pesticides, as well as heavy metals (i.e., arsenic) from previous agricultural activities on the Petition Area during development of the proposed homesites.*

**Response:** A Phase I ESA specific to the Petition Area was completed by EnviroServices & Training Center subsequent to the publication of the DEIS. The findings are summarized in Section 4.8 of the FEIS. The Phase I report will be included as Appendix K. Section 4.8 will include this paragraph:

In response to a comment received during the DEIS comment period, a new Phase I ESA was completed for the Petition Area by EnviroServices & Training Center, LLC (ETC). Unlike the 2005 study that focused on a larger 2,000 acre study area (including the Keālia Mauka site), the 2018 study focused specifically on the 53.4 acre Petition Area. The study is included as Appendix K. As with the 2005 study, the purpose and goal of this Phase I ESA was to conduct an inquiry to identify recognized environmental conditions (REC). The scope of work included a review of property information, regulatory data base, a visual site reconnaissance of the site and adjacent properties, and interviews with owner(s), site manager(s), occupant(s), local government officials, and others with past and prior use history.

Section 4.8.2 (Potential Impacts and Mitigation) was revised to incorporate the findings of the 2018 Phase I ESA:

The findings of the 2018 Phase I ESA support the conclusions and recommendations presented in the DEIS. Document review and visual inspection of the property showed no evidence of the generation, storage, or disposal of hazardous or regulated wastes.

At the same time, historical real property tax records, aerial photographs, document review, and user provided documentation indicate past use of the subject property for sugarcane cultivation and plantation housing. Historical sugarcane production in Hawai'i (i.e., pre-World War II) included the application of arsenic-containing pesticides/herbicides, even though no pesticide mixing areas were found in connection with the subject property and surrounding areas. This finding is considered a historical REC. The Phase I ESA states that "Based on the past and prior use of the subject property coupled with the DOH HEER Office's comment letter, [we] cannot dismiss the potential presence of contamination from this historical REC and as such this past use is considered a REC for the subject property. No other significant findings to indicate suspect RECs, historical RECs, controlled RECs or *de minimis* conditions were identified." (ETC, 2018)

As recommended by the DOH HEER office, and in accordance with current State policies, soil testing will be conducted in the Petition Areas proposed for residential or recreational use. A soil sampling plan identifying chemicals of potential concern and the proposed testing methodology will be developed based on guidance in the DOH HEER Office's Technical Guidance Manual. The sampling plan will be submitted to the DOH HEER office for review and approval. Test results and recommendations will be submitted to the DOH HEER office for review and approval prior to construction.



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Thank you for your participation in this process. Your letter and this response will be reproduced in the FEIS. If you have any questions, please contact me at [sezer@hhf.com](mailto:sezer@hhf.com) or by phone at 808-457-3158.

Sincerely,

HHF Planners

A handwritten signature in black ink, appearing to read "Scott Ezer", with a stylized flourish at the end.

Scott Ezer, Principal

cc: Moana Palama, Hawai'i Management Services LLC  
Daniel Orodener, State of Hawai'i Land Use Commission

