

State Land Use System Review Draft Report
Public Comments

#	Name	Comments
1	American Planning Association (APA) – Hawaii Chapter	<p>Thank you for the opportunity to provide comments on the State Land Use System Review Draft Report. We appreciate the Office of Planning’s attention to this important topic and for the opportunity to be a part of the State Land Use System Review task force.</p> <p>We are hopeful that this effort will lead to a comprehensive review of the State’s land use system. We note that our proposal for State land use reform (County Plan-Based Planning Framework) was based on the understanding that the task force was focused on amending Chapter 205, Hawaii Revised Statutes (HRS). As you are aware, however, the State land use system encompasses much more than Chapter 205. A comprehensive review of the land use system should also consider the Hawaii State Planning Act (Chapter 226, HRS), General Provisions for the Counties (Chapter 46, HRS), and the Environmental Impact Statement law (Chapter 343, HRS). In this respect, we find the “State Growth Management” proposal in the Draft Report to also be appealing as it appears to call for a review of the Hawaii State Plan and Functional Plans, in addition to amendments to Chapter 205.</p> <p>We have the following comments on specific sections of the report:</p> <p><u>5.1.2.3 Unbiased Environmental Documents.</u> This “fix” would change the EIS law by making agencies responsible for document content and preparation, and consultant selection, to promote unbiased environmental documents. We strongly object to this proposal because it is based on the unfounded assumption that environmental review documents are biased towards supporting development. We also question whether the federal EIS process allows federal agencies to select the EIS preparer for an Applicant action, as stated in the report. Preparers of Environmental Impact Statements (EIS’) and Environmental Assessments (EAs) go to great lengths to ensure that the EA and EIS documents are factual and objective. The process of having environmental documents undergo public review, review and acceptance by an “accepting authority”, and being subject to legal challenge ensures the integrity of the environmental review process. It also cannot be understated that it is in the best interest of EA/EIS preparers to prepare unbiased documents to maintain professional credibility. Finally, we note that many EA/EIS preparers are planning professionals and members of the American Institute of Certified Planners which has a code of ethics and sets standards for professional conduct.</p> <p><u>5.1.3.1 Broaden LUC Representation.</u> We support the intent that persons appointed to the Land Use Commission should represent a broad range of interests, however, we have concerns about the language that states “appointees should not have direct ties to development”. This could be interpreted to mean that Planners, Engineers, and Architects, who have specialized knowledge that may be helpful when considering proposals, should not serve on the Commission. In addition given the fact that we are reliant on the private sector to implement development projects, and that knowledge of development practices would be beneficial when reviewing proposals, the development community should have some representation on the Commission, so long as the appointees recuse themselves from matters that pose a direct conflict of interest. In closing, we feel it should be stated that the State presently has the framework for a sound planning system in place. The problem is that the planning system has fallen into disrepair. The current system, with the Hawaii State Plan establishing broad goals and policies, the Functional Plans providing more detailed guidance and ties to the State’s budget, and the guidance these plans provide for decision-making by bodies such as the LUC, is well-designed and comprehensive. However, this system also requires maintenance to ensure that the goals and policies of the state plan and functional plans are relevant, as well as political discipline to adhere to the objectives, policies and recommendations of the plans. We are hopeful that the Office of Planning will persevere in its efforts to improve the</p>

Public Comments

#	Name	Comments
		<p>State's planning process and land use system so that Hawaii will once again be a leader in statewide planning.</p>
2	Antoinette Freitas	<p>Thank you for the opportunity to provide comments on the State Land Use System Review Draft Report (May 2015). The comments provided below are organized based on the proposed improvements offered in the review document.</p> <p>1. Improving Public Participation</p> <p>Basic citizen participation in land use begins with a general understanding of how the system is put together. What is needed first and foremost is better education around the system itself. While the suggestions outlined in the document are helpful, they are only helpful to the degree that people are familiar with the overall land use system. Currently, it seems to me the land use system favors those with the financial wherewithal to hire the expertise or, who have the expertise to begin with, to sustain their presence in a convoluted system of law, jurisdictions, rules, regulations, processes and decision making. If you live on land, you should have an interest in land use but if you have little understanding of the system itself, you cannot exercise that interest. I support the idea of having a public advocate as suggested in item 5.1.1.4.</p> <p>2. Land Use Districts and IAL Designations</p> <p>I support item 5.1.5.2, that suggests the state take the lead on proposing IAL designations and updating soil rating systems.</p> <p>I support item 5.1.5.3, that suggests OP resume the Five-Year boundary review. The boundary review can provide a larger evaluative/assessment function under a broader state planning rubric. If cost is an issue for a five year interval, then maybe reviews can required to be conducted every five to eight years thus allowing for periods of fiscal constraints to perhaps be overcome. Further, it can hopefully provide the impetus to update the now defunct state planning documents (e.g. state functional plans).</p> <p>Finally, given the list of system redesign suggestions, I support item 5.2.1. I support this option because it seems to me that a higher level of state planning guidance is needed in order to position Hawai'i to face a future that boosts ecological viability, agricultural self-sufficiency and provides guidance, through land use, on economic policies that are scaled for island living.</p>
3	City and County of Honolulu Department of Planning and Permitting (DPP)	<p>Thank you for your thoughtful and broad analysis of the current State Land Use System. Your process demonstrated a respect for all points of view as you sought input from all counties and all perspectives. Although not a surprise, it is disappointing that there remain steadfast differences on how to improve the System, hampering any significant changes in the near term.</p> <p>Yet, we remain hopeful that continued dialogue on ideas both large and small, will eventually yield to more common ground and more significant improvements to the System. You have our commitment to be part of the continuing conversation.</p>
4	County of Maui Planning Department	<p>The Maui County Planning Department has reviewed the report and found it to be well written, well-researched, and an accurate representation of the discussion that occurred throughout the review process. The report provides an excellent overview of the existing State Land Use System, and offers meaningful options to improve and strengthen the system. Thank you for providing the Maui County Planning Department with an opportunity to participate in the process.</p>
5	Dennis Callan	<p>Thank you for the excellent interactive pdf document -- very well done. The meeting I attended at Washington Inter was also a great model of open interaction, as led by Miki. I'm pleased that one of</p>

Public Comments

#	Name	Comments
		<p>my recommendations is your first proposed Fix: use of technologies to enhance public awareness and interaction.</p> <p>However my larger concern seems to have been ignored: our government should develop specific plans for desired urban growth and rural protection, right down to general 3-D models of what neighborhoods should look like, then enforce those idealized plans.</p> <p>Instead, the existing "planning" process involves govt. mapping out broad swatches of colors on flat maps, and then waiting for the private sector to propose specifics. It is a weak, reactive process that is not working. Our government is being run by big money interests, corruption, campaign finance, union pressures, media complicity, fostered by public apathy and distracted residents who are preoccupied working multiple jobs and wasting time in traffic.</p> <p>This passive role of government has led to the mess we find ourselves in today. Yes, we should admit the current situation is not good, especially on Oahu where I have resided 50 years: e.g. endless suburban sprawl which has only produced the ridiculous over-priced housing market we have left to our kids; under-developed central urban core (Kapaehulu Ave to Middle St, not just Kakaako), lacking infrastructure and real plans; obsession with building deluxe condos; destruction of lands that should be feeding us into the distant future; pathetic traffic with false rail solutions driven by corruption, not the public interest, with hopeless goals of TOD.</p> <p>A glaring example of this mess is our lack of functioning urban neighborhoods, enabling live, work and play, a walkable community with corner markets, friendly bars and cafes for gathering, public spaces for gathering and interacting -- the lip-service ideals that are tossed around but never realized.</p> <p>In short, we have some serious crises but no-one seems to acknowledge it. Your proposed Fixes are just putting lipstick on the pig. Nothing will change until the severity of our disaster is recognized. Then we could begin to actively plan our future instead of leaving it in the hands of the big banks, landowners, billionaires and selfish unions.</p>
6	Elizabeth Cole	<p>It is a horrible idea to increase minimum agricultural lot size to 25 acres. In Hawaii a viable family business can be established on five to 10 acres of land and even that amount of land purchase is beyond the means of most farming families because of the astronomical land values in Hawaii. If we want to produce food for local consumption we have to encourage as many forms and sizes of farms as possible.</p>
7	Erway Marjorie	<p>The LUC needs to be kept in its present quasi-judicial form instead of only advisory, as is written in the new draft rules. That means that ag land would be preserved for farming since we need all the ag land we have to feed ourselves.</p> <p>Please insure, by your actions, that the LUC continues to support our State's land use.</p>
8	Hawaii's Thousand Friends	<p>While the Draft Report is comprehensive there is no real explanation as to why the Office of Planning undertook this review. This is perplexing considering that a Five-Year Boundary Review, which as pointed out in this report, is mandated every five-years and has not been done since the early 1990s. Under these circumstances we would have thought that conducting a five-year boundary review would have been a priority.</p> <p>Hawaii's Thousand Friends has always believed in Hawaii's Land Use System and believe that the failure of the system to work as designed is due to the lack of will to make it work by decision-makers. Such as not codifying the Functional Plans and regularly updating them, not conducting five-year boundary reviews, not working in a coordinated effort with the counties and not appointing</p>

Public Comments

#	Name	Comments
		<p>people to the Land Use Commission from a broad segment of the community including a member with “substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices” as mandated.</p> <p>The lack-of-political-will to make the Land Use System work has led to resident’s desperate cries to make the system work and the call for streamlining by development interests.</p> <p>Hopefully this report spurs renewed interest for a coordinated effort to make the Land Use System work in order to prevent the current wholesale conversion of agricultural land to urban uses and protect of our state’s finite and fragile natural and cultural resources.</p> <p>As articulated in the report the State has a public trust responsibility to “conserve and protect...all natural resources...and shall promote the development and utilization of these resources in a manner consistent with their conservation...” (State Constitution Article XI, section I)</p> <p>Thus, a coordinated effort to ensure that the Land Use Commission (LUC) becomes stronger and fairer and followings its mandate to protect the public interest and not be eliminated or reduced to a quasi-legislative body should be a top priority.</p> <p>Hawaii’s Thousand Friends opposes reducing the LUC to a quasi-legislative process either at the State or county level. The current quasi-judicial process levels the playing field for residents who now have the ability to present their case through the cross-examination of witnesses and presenting expert witnesses instead of the usual three minutes allowed for testimony.</p> <p>Hawaii’s Thousand Friends disagrees with the assessment that State and County processes are duplicative. While both have public trust responsibilities the State’s responsibilities are much broader while the counties planning is not resource protection driven but development driven since taxes from urbanization provide the counties' primary financial base.</p> <p>Hawaii’s Thousand Friends agrees with the need for predictability but disagrees that changing the current statewide land system to a county driven system will accomplish that goal. Instead, we foresee greater disagreement since the counties are zoning and revenue driven and not resource protection driven.</p> <p>Hawaii’s Thousand Friends believes that Hawaii’s Land Use System is good but can be made better through county and State coordination in capital improvement and land use planning. This can be achieved through State and county agencies and decision-makers coming together to work in the public’s interest. This can be accomplished through a coordinated effort to:</p> <ul style="list-style-type: none"> • Update and codify the Functional Plans. • Update the State Plan to include a coordinated and comprehensive vision that includes ensuring that all available urban designated land is developed first and that adequate infrastructure is in place before the LUC considers petitions to designate agricultural or rural lands to urban. • Nominate residents with varying backgrounds and interests to the LUC to ensure that all points of view are considered in decision-making. • Ensure that LUC members know and understand their responsibilities as identified in part 4.4.9 of this report.

Public Comments

#	Name	Comments
		<ul style="list-style-type: none"> • Coordinate efforts to ensure that the county General Plans meet the objectives of the State Plan. • Ensure that LUC conditions are reasonable and enforceable such as the power to issue fines, enforce cease and desist orders and modify conditions of approval. • Work together to ensure that LUC conditions are enforced. • Coordinate efforts to set use-it-or-loose-it deadlines for construction to begin before land reverts to a former classification. <p>Have the State take the lead in identifying IAL lands on each island to ensure that the State's constitutional mandate to "...conserve and protect agricultural land, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands" is upheld and fulfilled.</p>
9	Ivan Kaisan	<p>The 5 major improvement proposals described in the report address state vs county roles and the boundary amendment process. I suggest the following proposal, which relates to both roles and process.</p> <ol style="list-style-type: none"> 1. The state's role should focus on preserving open land, whether in conservation, in active or near-term agricultural use, or open space. Those lands deemed appropriate for conversion from open land to more intensive use can then be designated by a state boundary amendment process. The nature of the use would be determined by the counties. Thus the county role should focus on the nature of development: its timing and intensity. 2. The process used at the state and county levels would follow this differentiation by role. The state's preservation role is better served by a quasi- judicial process because the decision to convert open land to development is usually irreversible. The county's development role is better served by a legislative process, where decisions would be made regarding the nature and timing of development and stakeholder representation is key. 3. The state boundary amendment process needs to affirmatively balance affordable housing with preservation values. The state needs to actively monitor the price of housing generally in each county, the availability of residential land, the time needed to convert open land into housing, and therefore the acreage of developable open land under county jurisdiction. If housing prices rise quickly in a county that could be evidence that the amount of open land needed to be converted into developable land should be increased by the state. However, if housing prices rise while the acreage of developable land in a county is high and not decreasing, that would be grounds for the state to review the county's development process. The state should have the authority to require that the county report on why such results are occurring and its plan to address those results. Counties should have the authority to petition the state to provide more land for development to further housing affordability, economic development, or other objectives. 4. There should be no waiver of state development from the state preservation boundaries. The existing waivers for DHHH and HHFDC projects should end. If state and county roles are to be given equal respect and consideration, then all developments should comply with county plans, and limitations of state policy on which land is appropriate to develop at any point in time should have meaning. Expedited permitting for policy favored projects can continue for the county process. 5. The existing nomenclature for state land use districts, development boundaries, etc. may need to change to conform to this proposal. State agricultural districts would no longer be a catch-all for open land; only land used for current active agriculture or committed to near-term development as

Public Comments

#	Name	Comments
		<p>agriculture would be under state jurisdiction. It may not be necessary to have an agricultural district per se; it may only be necessary to have a conservation district for environmentally significant land and an open space district for lands not appropriate for county development on which agriculture and other lower intensity use may be appropriate. Similarly the urban growth boundary label of current county plans may not be quite appropriate; designation by counties of land for active recreational use is not necessarily urban in nature.</p>
10	Joylin Felix	<p>My 'Ohana and I come from Ka'a'awa, 'Oahu. We humbly ask that you carefully, and thoughtfully think about the negative impacts Ho'opili will have on Hawai'i, today and tomorrow. Ho'opau Ho'opili!!! Three and a half years ago my husband and I purchased a home in Kapolei due to affordability and to be physically closer to my recently widowed mother-in-law. Over the past 3 1/2 years, we have witnessed Kapolei develop before our eyes. The intent of Kapolei being 'Oahu's second city has definitely been achieved. My 'Ohana and I wholeheartedly feel that it is enough! We ask you to respect the 'aina and not build 11,000 plus homes on prime agricultural lands! Pau...enough already! That is going too far! The commute in and out of Kapolei has become unbearable! A family's quality of life is lessened while making a 2 -3 hour daily commute. The traffic has also inhibited our families after work and school activities. We dream of returning to east 'Oahu, and will be there one day... In the meantime, we are doing our part to protect the 'aina and community that we currently call home. Mahalo for your time and careful consideration. Ho'opau Ho'opili!</p>
11	Kanehili Cultural Hui	<p>Kanehili Cultural Hui opposes reducing the LUC to a quasi-legislative process either at the State or county level. The current quasi-judicial process levels the playing field for residents who now have the ability to present their case through the cross-examination of witnesses and presenting expert witnesses instead of the usual three minutes allowed for testimony.</p> <p>Have the State take the lead in identifying IAL lands on each island to ensure that the State's constitutional mandate to "...conserve and protect agricultural land, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable lands" is upheld and fulfilled.</p> <p>Kanehili Cultural Hui disagrees with the assessment that State and County processes are duplicative. While both have public trust responsibilities the State's responsibilities are much broader while the counties planning is not resource protection driven but development driven since taxes from urbanization provide the counties' primary financial base.</p>
12	Ken Church	<p>I participated in the public hearings. I am a land owner of conservation zoned lands. I represented at a hearing in Hilo that the process of requesting boundary amendments by landowners be made more user friendly, i.e., the present system treats all petitioners the same whether they are a simple individual landowner requesting a change or a huge developer with lots of \$ behind him. I see no conclusions or recommendations in your report in this regard. Instead your report goes further suggesting the role of a public advocate in certain instances. This obviously assumes that all petitioners have professional representation and lots of \$. This makes it very obvious that you have only proposed to make the system more cumbersome and expensive and view every petitioner as rich and having professional advisers. Why can't the system be made friendlier to petitioners without professional advisers?</p>
13	Kona Kai Ea Chapter of the Surfrider Foundation	<p>Our members feel that both the process for developing the state land use report and the report itself appear to be flawed. From the history and mandate as we understand it, there is meant to be a five year boundary review. This has not been done since 1990. We, therefore, can't understand why this process is starting where it is rather than with that review.</p>

Public Comments

#	Name	Comments
		<p>From our direct experience with the State Land Use Commission related to a proposed designation change of conservation land at `O`oma li in North Kona, we feel it is imperative to maintain mechanisms of the land use process which include the public to the greatest extent possible. This includes allowing Contested Case hearings. The wealth of information which comes to light in those cases as well as the transparency provided should be supported even by developers as being beneficial to protecting critical lands in our state.</p> <p>We are concerned that this report unnecessarily and negatively attacks the LUC, making it a scapegoat for many of the ills suffered in our state due to a lack of better land use planning which come, actually, from so many other levels. Many of those problems stem from a paradigm of land use planning decisions being made from a developer-driven, top-down process. As far as duplicating the County process, the state review of boundary amendments provides a critical component of democratic process and protection for the public. As we know from being involved in the O`oma II amendment battle, the public would've been further cut out of the land use decision-making process if it hadn't been for the LUC review. In that case, the public and the land — would've fallen victim to the will of the Hawai'i County administration which was at odds with residents and what they saw as being in their best interest.</p> <p>Again, we feel that it would be more proper to begin the boundary review as mandated by law, leaving intact those protections which allow public input into a process which affects the lives of everyone who resides in and visits Hawai'i.</p> <p>Mahalo for your consideration of our views on this most important matter.</p>
14	Land Use Commission (LUC)	<p>Thank you for the opportunity to comment on the "State Land Use System Review" Report dated May 2015. The Land Use Commission (LUC) staff has participated in the OP Task Force work since its earliest phases. As we have stated at several of the task force meetings, we have concerns with the way in which the process was undertaken and now have concerns with the resulting substance of the Report. On behalf of the LUC, we offer the following comments on the process and substance.</p> <p>Report development process. We recognize that considerable effort was made by the Office of Planning and its staff in undertaking this review effort. In general, we are supportive of, applaud, and encourage outreach to stakeholders and education of the public regarding our important land use laws, policies, processes, and issues. However, we believe that this process was incorrectly focused and implemented problematically.</p> <p>In terms of focus, at the beginning of this effort OP represented that its work would be in lieu of the statutorily-required State Land Use District Boundary Review; instead it would be focused on using the State's GIS resources to look at changes over time in the districts and related policy issues. We stated then and continue to believe that these were not the most important and pressing issues to be considered. Rather, we wished that this effort had been focused on some of the pressing planning issues faced by the LUC and counties: the identification of Important Agricultural Lands (JAL), affordable housing policy, enforcement of LUC conditions, Special Permits, and infrastructure timing and funding. In addition,</p>

Public Comments

#	Name	Comments
		<p>there are other critical concerns that need attention with regard to land use such as the tensions between the need for affordable housing and urban sprawl. Moreover, the need to protect important agricultural, cultural and public resources remains pressing and unaddressed.</p> <p>The implementation of the chosen focus by OP has also been problematic. As is now reflected in the draft report, many of the identified issues and concerns expressed were based on underlying misconceptions not supported by facts, and these were never corrected or clarified. As a result, many of the perceived issues or problems with the system are based on faulty information or were derived from false or inaccurate assertions, repeated over the course of time. Seeking to resolve issues or concerns that are not true or based on false data can result in unanticipated and harmful "solutions" that lack credibility.</p> <p>To expand on this point: during meetings it was apparent that Task Force participants had differing understandings about what land use system component they were commenting on, what it was comprised of, and they held misconceptions about its operation and legal requirements.</p> <p>The involvement by a diverse group of professionals and public advocates over a number of Task Force meetings provided OP with an opportunity to address this lack of a common understanding regarding the components of the State land use system.</p> <p>These focus and process concerns significantly limit the usefulness of the report as a policy or planning document.</p> <p>Substance of the Report We have reviewed the draft report in light of our concerns and have a number of general comments and suggestions.</p> <p>PREFACE</p> <p>The Preface states that this report is just a first step and suggestions from participants require further research and analysis. This being the case, OP should identify specific areas where further research and analysis is needed while stating the key facts surrounding those issues and concerns. Given the preliminary nature of the findings, conclusory statements should be avoided pending further research and analysis.</p> <p>We suggest strengthening the Preface by moving the last paragraph in the Executive Summary (Section 1, page i) up front to the Preface. Let readers know this is OP's work product and that the Task Force was involved but does not necessarily endorse the report or OP's plans for the report. The first and second sentences contained in the second paragraph of the Executive Summary (Section 4, page iii) should also be moved to the Preface so readers have proper context for the report.</p>

Public Comments

#	Name	Comments
		<p>EXECUTIVE SUMMARY</p> <p>The Executive Summary is in many instances inconsistent with the body of the report and sets forth conclusions that were not supported by the detailed sections of the report or the participants in the Task Force.</p> <p>The Executive Summary gives the impression that due to concerns expressed, that the LUC process and/or land use system are deficient and need to be "fixed" or "redesigned". However, many participants in fact felt the system was working well, only needing minor improvements. The body of the report pulls together information that indicates the LUC process has significant value to different groups and in many areas is working as intended or desired, although improvements could be made. This discordance should be identified and reconciled in the Executive Summary.</p> <p>The Preface mentions that there are other components to the State's land use system, the land use boundary amendment process simply being the first approval needed for development. The Executive Summary (Section 2, pages i-ii) provides a very limited discussion on these other components. We believe it is necessary in both the Executive Summary and report to make clear what the different components of the State land use system are and how they relate to one another. Many of the comments collected during Task Force, and public and stakeholder meetings are not always clear, and show significant confusion as to whether they are talking about the LUC process or other components of the State land use system.</p> <p>The 10 "frequently" raised issues and problems discussed in the Executive Summary do not exactly track with those in the issue analysis in the body of the report (Section 4). An example: Executive Summary item 5 (page iv) reads "LUC should go back to quasi- legislative process." The body of the report (Section 4, page13) however, does not come to a conclusion that a quasi-legislative process is warranted or preferred, but the language in the Executive Summary does (though without explanation). This inconsistency should be corrected.</p> <p>OP did not analyze and come to any conclusions as to whether any of the issues and problems "frequently" raised were valid and supported by facts and evidence. It would be important to mention this within the Executive Summary as well as the body of the report.</p> <p>BODY OF THE REPORT</p> <p>The following are specific observations regarding some of the ten issues and problems OP included in its Executive Summary (Section 4, Analysis of Land Use System Issues, pages iii-vi) and then detailed in the body of the report (Section 4, pages 4-1 to 4-28).</p> <p>The land use process takes too long -The Executive Summary reiterates the contention of development interests that it takes seven to ten years or more to get land use permits. There is no evidence as to whether this contention is valid, frequently encountered, or unusual. OP's own analysis of the LUC time-frame for decision-making shows it takes approximately one year or less. The body of the report (Section 4-4.2) presents some of OP's collected data and</p>

Public Comments

#	Name	Comments
		<p>analysis of the time frame for LUC decisions. Some of the data and graphics still appear to be erroneous. The information in this section would be strengthened if OP provided statements on the validity, relevance or import of each paragraph in this section. The first three paragraphs on page 4-8, below Figure 6, should be placed up front to lead this section. They provide a succinct discussion of the issue. OP should consider putting some or all of these paragraphs in the Executive Summary.</p> <p>The LUC process duplicates county zoning –The Executive Summary repeats a criticism regarding redundancy and duplication without noting the participation of the County in the process, the influence of state and federal regulations on the process, the public trust issues facing the LUC, or differentiating between those the LUC places on the petitioner and those which are voluntarily agreed to or offered by the petitioner and whether or not there is, in fact, much of a redundancy. However, the body of the report (Section 4-4.4) discusses the issue of redundancy and OP appears to provide sufficient evidence that the apparent redundancy/duplication is primarily a perception issue based on legal and procedural requirements of the LUC, limited "threshold" reviews of county areas of concern, an obligation to protect and manage public trust resources, lack of effective mechanism in county land use process to address State concerns, and that redundancy provides system reliability.</p> <p>Certainty and predictability –The Executive Summary says that the land use process has little certainty or predictability with no clear standards or rules to follow. The body of the report (Section 4-4.6) presents unsubstantiated viewpoints that confuse the LUC process with the development approval/permitting process. The discussion that follows fails to validate these viewpoints. The characterization of intervenors, appeals, or orders to show cause as "disruptions" to the decision-making and development process does not recognize that these are based on constitutional and statutorily protected rights. The statement that there are unclear or uncertain standards in the approval/development process should be supported by specific examples or noted as unsubstantiated perceptions.</p> <p>CONCLUSION</p> <p>OP has indicated that the Task Force Review findings will lead to further work and recommendations for consideration by the LUC. At this time, the LUC does not endorse the findings in this report, but does agree that further work should be done to analyze and generate factual findings that could be actionable.</p> <p>The OP-developed collective vision of an ideal land use system has value and should be utilized. Although we would take issue with the assumption that the "vision" was commonly held by all the participants, as the terms were never clearly defined, the "outcomes" (found on page ii of the Executive Summary and 3-3 in the report) can be used as a starting point for analysis and development of practical and policy-based changes to improve the State land use system, including the LUC process. We believe that such an analysis by the State and subsequent discussions based on it would generate valuable follow up discussions to those of the Task Force and public/stakeholder meetings.</p>

#	Name	Comments
		<p>We will continue to support and be involved in efforts to look at making our State land use system, including the district boundary amendment process more efficient, effective, equitable and accessible for all possible participants. We appreciate the opportunity to review and comment on the State Land Use System Review report.</p>
15	Land Use Research Foundation of Hawaii (LURF)	<p>The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF's mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.</p> <p>LURF supports the intent of the State Land Use System Review Draft Report, dated May 2015, prepared by the Office of Planning, State of Hawaii, Business, Economic Development & Tourism. However, LURF has the following comments and respectfully requests revisions to the Draft Report, as described below.</p> <p>Overall Comments Regarding a Preferred State Land Use System Model</p> <p>The report provides a good description of land use system models that are in use by other states across the nation. Areas of common focus include State "macro level" planning, guidance, incentives and general oversight and input on issues of State concern, and respecting the specific County authority, responsibilities, requirements and enforcement of the various county and municipal level plans, zoning and subdivision approvals. This is the direction that Hawaii should be moving toward, based on the following comments:</p> <ul style="list-style-type: none"> • Lack of long-term State land use policy guidelines. In comparison to other state land use system models described in the report, the Hawaii system includes a State land use decision-making body (Hawaii State Land Use Commission-SLUC) that makes project-specific land use decisions without the benefit of appropriate State land use policy guidelines. The incongruence of having a State land use regulatory body, without the requisite policy guidance, is a much larger issue to be resolved, as compared to many of the issues and concerns associated with the SLUC and which are cited in the report. <p>While the Hawaii State Plan and State Functional Plans exist as broad policy documents, they are ineffective in providing State land use policy guidance at the project-specific level regulated by the SLUC.</p> <ul style="list-style-type: none"> • State interests in land use are based on the broad policies in the Hawaii State Plan and State Functional Plans and "comment letters" by state agencies and departments, which are duplicative, because they are already considered by the counties in connection with county general plans, community development plans, sustainable community plans, zoning and subdivision processes. Unlike the Counties who have general plans and community/development plans to guide their actions and decisions at a parcel-specific level, the State's interests has defaulted into being the sum of various state agency comments on each individual project/petition (comment letters by State agencies and departments of Agriculture, Business Economic Development & Tourism, Education, Hawaii Housing Finance and Development Corporation, Health, Hawaii Public Housing Authority, Health, Land & Natural Resources, Hawaii Transportation, etc.). These agency comments are sometimes reactionary, ad-hoc, inconsistent and not based on long term planning guidelines. Without appropriate State land use policy guidance, it is not surprising

#	Name	Comments
		<p>that contested SLUC decisions have been subject to greater legal challenge, and that many of the issues and concerns described in the report have arisen over the years.</p> <ul style="list-style-type: none"> • Instead of maintaining a duplicative SLUC process, the State should participate in County planning policy and process. Addressing the comments by the various state agencies does not support the need for a State level land use decision-making body; rather, if this is the extent of the State's interest, then that interest could just as well be served through participation before County level planning commissions or County Councils on specific land use matters. A State level land use regulatory body is not justifiable under these circumstances. • The better model is for a State level system that reflects a more "macro view" of land use, acknowledges the planning and expertise of the Counties and whose focus is away from individual land use applications to a much broader regional perspective. With such a land use system, many of the concerns expressed in the report regarding the SLUC (as well as proposed fixes to the system) would no longer be relevant and this should be clearly pointed out in the report. Among other things, these concerns include matters relating to the duplicity of State versus County review; the cumbersome and litigious State land use process of individual quasi-judicial petitions; the detail of project review (which will be later reviewed and refined in County zoning and subdivision processes); the questions concerning the SLUC establishing time limits for individual development projects, which involve issues where the counties have more expertise and control; and other related issues. The Office of Planning should evaluate and recommend such a preferred State land use system to address and resolve the issues and concerns cited in this Draft Report. <p>Specific Comments to Proposed Fixes to the System</p> <ul style="list-style-type: none"> • Use of "Thresholds" which may be subject to change or unavailable (5.1.2.1). The Draft Report discusses the suggestion to use "thresholds" to guide land use decisions relative to the adequacy of public resources, such as "levels of service" for transportation and water resources. In addition to the difficulties and problems in using such an approach, which are discussed in the Draft Report, many times the use of thresholds may not be a reliable, because they are subject to change, based on factors including, but not limited to, planned government and private infrastructure projects, technology or public policy. For example, transportation levels of service will change with the new Honolulu Rail project, new bikeways, improved bus systems, or freeway and roadway modifications; and information regarding water resources could change based on increased water supply based on new resource developments, the capture of more water that flows to the ocean and technology relating to the sustainable reuse of water; reduced water use in the region, including a decrease in water uses due to better water management practices and other reductions in agricultural water uses; sustainable water conservation polices and technology that reduce the consumption of water. Furthermore, such threshold information may not be available, as unfortunately, not all resources are easily quantifiable in terms of defined and recognized thresholds. Additionally, this assumes that the data to make such assessments is readily available from governmental agencies and other sources (e.g., sewer and water issues are primarily issues of county concern and the amount of available sewer or water capacity are sometimes in a state of constant change, or otherwise not readily available). It is that it the responsibility of government agencies to address such capacity and infrastructure to accommodate planned growth, and are projects will not receive county

Public Comments

#	Name	Comments
		<p>building approvals unless such capacity and infrastructure concerns are adequately.</p> <ul style="list-style-type: none"> Government Selection of Consultants to Prepare Environmental Documents (5.1.2.3). The primary purpose of the environmental review process, including the preparation of environmental assessments and environmental impact statements (collectively “environmental documents”) is to provide adequate disclosure concerning a proposed action/project. The environmental documents include comments from State and county agencies and members of the public, and the applicant is required to address the comments and concerns in that document. Preparation and acceptability of such environmental documents are based on the adequacy of the document to fulfill its disclosure requirements; are the responsibility of, and enforced by the Office of Environmental Quality Control (“OEQC”), and are separate and distinct from the SLUC jurisdiction and decision making process. <p>The suggestion to have a governmental agency select an environmental consultant to prepare and process such documents for the applicant at the applicants’ expense poses several major concerns. First, the “title” of this section (“Unbiased Environmental Documents”) incorrectly assumes that all environmental consultants are “biased”, without any supporting facts, and based merely on a “public perception.” Instead, the title of this section should be revised to “Government Selection of Consultants to Prepare Environmental Documents.” The suggestion and title of this section is an insult to the many consultants who prepare environmental documents, who are licensed professionals, subject to ethical standards, codes of conduct and disciplinary action within their professions. Furthermore, there is no factual evidence or examples to support the claim of public perception of bias. There is also no evidence suggesting that environmental documents will have “more objectivity” if a consultant chosen by a head of a government agency, who is appointed by an elected official. In fact, oftentimes the government agencies use the same consultants as the private applicants. The suggestion is also unnecessary, as the draft and final environmental documents are reviewed by the OEQC, and State and county agencies who are experienced with, and responsible for, the environmental issues covered in the environmental documents. If the OEQC finds an environmental document is lacking, the OEQC can disapprove it. In addition, if the experienced and responsible commenting agencies detect an error in the environmental documents, they have several opportunities to provide further written comment and provide testimony on the environmental documents as part of the permit review processes and hearings for SLUC boundary amendments, county plans, county zoning and county subdivisions. Without any supporting evidence, the suggestion usurps the applicant’s right to choose their own consultants relating to their private properties. The suggestion also negatively affects the primary concerns of the applicant – that the environmental consultant has the experience and expertise in certain specific projects and sometimes experience with prior projects of the applicant. If the head of a government agency selects inexperienced consultants, it will detrimentally affect the timeliness and cost of producing and processing such documents, which is another major concern of the applicants. Conversely, the legal responsibility for the preparation and processing of the environmental documents would be placed upon the governmental agency, whom is also likely the decision making body for the land use application under consideration. Can a government agency be accused of bias if they select a consultant whom that agency has also used? Would the applicant be prohibited from future hiring the environmental consultant for additional environmental or planning work on the project? These legal ramifications must</p>

#	Name	Comments
		<p>be fully evaluated. Finally, another matter of concern is the lack of experience and the ability of various governmental agencies to take on the additional work required by such a suggestion to select qualified and experienced consultants for private parties. Could a government agency with no experience in developing a master-planned residential-resort-commercial-conservation project, establish criteria, evaluate and choose the best consultant?</p> <ul style="list-style-type: none"> • Limit Review to State Interests (5.1.3.3). This recommendation recognizes the need for better State land use system model. This reflects a more macro view of land use, acknowledges the planning and expertise of the Counties, and a focus away from individual land use applications to a much broader regional perspective. • LUC Ability to Amend Conditions (5.1.4.2). This issue is directly related to the role of the SLUC. Specifics relating to the type and timing of urban development should not be the focus of a State level planning body. This issue begs the question of where the State's interest lies and what its focus should be. More detailed intervention by the SLUC in project specifics does not address this issue, nor is it indicative of the State's interest. <p>The SLUC does not have the expertise, experience nor staffing to equitably enforce land use conditions. Enforcement is not an area that should be expanded, and with an appropriate State land use model in place, this issue would become less relevant. Deference should be given to the recent Hawaii Supreme Court decision in the Bridge Aina Lea case, wherein guidance for SLUC enforcement was provided. Also, page vi of the report indicates that: "Counties can enforce LUC conditions but this power has not been exercised." This statement is not true. There are clear examples where the Counties require demonstration of compliance with SLUC conditions as part of their review and approval processes (e.g. requirements for final subdivision approval). The Counties already possess the staffing and expertise to enforce land use conditions, which are superior to the SLUC staff.</p> <ul style="list-style-type: none"> • Set Time Limit for Development (5.1.4.3). The proposal to set a deadline for the construction of individual projects at 7 to 10 years is inappropriate. The State's role when considering lands for Urban development should focus on matters such as the appropriateness of Urban growth at the location proposed and the availability of State infrastructure and services, and should not delve into the specifics of the use nor the timing of development – issues where the counties have responsibility, expertise and control. These are matters to be determined by the Counties through their general plan, community/development plans, zoning ordinances and subdivision approvals. Further, Figure 1 of the report illustrates that the approval process alone can take up to 7 years or more. Setting strict time limits will be unfair and impossible to enforce, as delays in construction could be based on justifiable reasons, which prevent the applicant from fulfilling their obligations, including, lawsuits, appeals, force majeure, which is an extraordinary event or circumstance beyond the control of the parties, such as a war, strike, riot, crime, severe economic downturn, or an act of God (such as hurricane, flooding, earthquake, volcanic eruption, etc.). As previously noted, with a more appropriate State level land use system in place, which focuses on State-related issues and planning and guidelines for such State issues (instead of county issues), then time limits would be less of a concern for SLUC.

#	Name	Comments
		<ul style="list-style-type: none"> <li data-bbox="500 275 1523 604">• Increase Agricultural District Minimum Lot Size (5.1.5.1). The Counties already have the ability to increase the minimum lot size within the Agricultural District beyond the State minimum of one acre, and they have already done so in the context of their comprehensive agricultural planning and zoning processes. Bills to increase agricultural district minimum lot sizes, or to prohibit subdivisions of agricultural lands that result in minimum lot sizes of no less than 25 acres, and in some cases 100 acres, have repeatedly died at the Legislature. This proposal is another example of a “public perception” or reaction to an issue based on the lack of facts and the lack of consultation with agricultural stakeholders and the Department of Agriculture, and without the proper State and county level planning context <li data-bbox="500 642 1523 842">• State Designation of State Agricultural Lands as Important Agricultural Lands (“IAL”); State Funding for County to Study, Map and Petition to Designate Private IAL and the Unnecessary Update of State Soil Rating Systems (5.1.5.2). The suggestion that the State be responsible for county IAL designations and the update of State soil rating systems, may be well-meaning, but lacks an understanding of the purpose, intent, and requirements of the IAL law. First, the State should execute its own legal responsibilities as required by the IAL law – Section 205-44.5, Hawaii Revised Statutes (“HRS”), provides that, “...before December 31, 2009, the department of agriculture and the department of land and natural resources shall collaborate to identify public lands as defined under section 171-2 that should be designation important agricultural lands as defined in sections 205-42 and shall cause to be prepared maps delineating those lands. In making the designations, the departments shall use the standards and criteria of section 205-44.” The State has been derelict in its legal duty to map and designate its own Agricultural lands as IAL, so it should do that as soon as possible. The State designation of its own IAL, would allow the counties and SLUC to evaluate the IAL make findings regarding the following IAL criteria in Section 205-44 (7), “Land that contributes to maintaining a critical land mass important to agricultural operating productivity.” Secondly, the State should comply with the IAL law and provide funding for the City and County of Honolulu, County of Hawaii and County of Maui for their IAL studies, so that the counties can complete their “unfunded mandate” of preparing a study, maps and petition for designation of private lands as IAL, which is required by the IAL law. A bill was introduced this session to fund the counties; however, it died in Conference Committee. Lastly, the update of the State soil quality rating systems are not a priority, as the focus of IAL is not soil quality, but agricultural diversity and viability. The IAL definitions and objectives in section 205-42, HRS, stress agricultural viability and diversity – and do not refer to soil quality. Also, Section 205-44, HRS, standards and criteria for the designation of IAL; lists the eight criteria for designation of IAL, and only one of the criteria mentions consideration of an agricultural productivity rating system that takes soil into account. <li data-bbox="500 1749 1523 1877">• Implement Five-Year Boundary Review (5.1.5.3). If the current State model is to remain unchanged, and no other state models are to be pursued, then reinstating the five-year boundary reviews could serve to facilitate some State level planning as part of this review process. Inasmuch as many of the individual projects coming before the SLUC are already

Public Comments

#	Name	Comments
		<p>designated on the County general and community/development plans, this review could address many of these individual petitions.</p> <ul style="list-style-type: none"> • Increase Acreage Threshold for County District Boundary Amendments (5.1.5.4). This recommendation seeks to address the issue of defining the interests of the Counties versus that of the State. If the current State model is to remain unchanged, and no other state models are to be pursued, then increasing this threshold as proposed to 100 acres or more, is an attempt toward defining the respective interests of the State and the Counties. <p>General Comments</p> <p>The following are general comments, observations and recommendations for revisions to the Draft Report:</p> <ul style="list-style-type: none"> • The significance of total acreages and percentages of State Land Use Districts. The present Draft Report includes facts and tables relating to the land use districts, however, it should be emphasized that most of the criticism of the current land use system is related to petitions to change lands in the Agricultural district to the Urban district. It is also significant that when the total acreages and percentages of those land use districts are compared to the increase in population, such petitions actually reflect justified and minimal percentages of changes to the total percentages of State land use districts, are as follows: <ul style="list-style-type: none"> ○ Urban: only 4.9% of lands in the State; ○ Rural: 0.3% ○ Agricultural: 45.7% ○ Conservation: 49% • The Counties have more land use-related staff and expertise than the SLUC. The OP Report should provide more information and data regarding the superior County land use expertise; including a comparison of the employee counts and number of respective professional and other staff that work on land use matters in the SLUC versus the counties' planning departments. • The Counties have a more detailed and robust Land Use Review Process than the SLUC, including more County departmental technical review, more County public hearings, and more County opportunities for public input. The Draft Report should be revised to include more factual information and data regarding the robust County land use process, which includes the fact that the County departments have more expertise in land use planning, review, implementation and enforcement, especially for Urban land use districts; multiple public hearings, which allow many opportunities for public comment and input; as well opportunities for opponents to bring legal challenges and appeals. • The Counties land use processes (quasi-legislative) provide more public notice and participation than SLUC. The OP Report should also include factual information and data confirming that the County land use process (General Plan, development plans, sustainable community plans, zoning subdivision) provides more opportunities for public notice and participation than the SLUC process.

Public Comments

#	Name	Comments
		<ul style="list-style-type: none"> ● In the interests of full disclosure, the groups proposing recommendations should be identified: <ul style="list-style-type: none"> ○ Government agency ○ Land use planning consultant (planners, engineers, architects, attorneys, etc.) ○ By name, or “organization or individual who has supported development” ○ By name, or “organization or individual who has opposed development” ● Characterization of viewpoints expressed in the Draft Report. Perhaps unintended, but in several instances in the report, where viewpoints are being described, one perspective is characterized as “proponents of the State’s role in land use” (page iii, Section 4.2.2). Given the context, it is probably more appropriate to refer to this perspective as “proponents of the current system.” A relevant distinction is whether such “proponents” have an articulated vision for the State’s role in land use. Similarly, the report describes and labels proponents for change to the current system as “developers” or “critics.” Likewise, this perspective may more appropriately be labeled as “proponents for change to the current system.” <p>Specific Comments regarding the Glossary of Terms</p> <p>The Glossary of Terms (“Glossary”) does a good job of describing the various terms, concepts and proposals in the Draft Report, however, the following should be included in the Glossary:</p> <ul style="list-style-type: none"> ● Important Agricultural Lands description. ● County planning process description, including, county development plans, sustainably community plans, zoning, subdivision. The amount of public hearings required and decisions made by County boards, commissions and elected Councils. ● American Planning Association’s “State Planning Commission” proposal (Sierra Club’s Public Advocate proposal and TPL and OHA’s Greenprint project are included in the Glossary). ● Definitions of ALISH and LSB should be revised to indicate that they have not been updated since the 1970’s; the IAL law is the new tool to determine “important agricultural lands;” and that soil quality rating system is only one of the eight criteria to be considered in proposing an IAL designation. ● The definition of Public Advocate should include the fact that the current proposal for a Public Advocate would increase costs, cause delays, and will not represent the interests of all members of the public, but will provide free legal representation only for opponents of a proposed project. If the idea of a Public Advocate is accepted, fairness dictates that there should also be a Public Advocate to represent members of the public who support a proposed project. In addition, the current definition does not explain what happens if some of the public agrees and some disagree with certain aspects of the proposed project. What will happen if members of the public do not approve of how a Public Advocate <p>As stated above, LURF supports the intent, OP’s efforts and the public involvement relating to the Draft Report. However, based on the reasons stated above, LURF respectfully recommends that the current version of the Draft Report be revised.</p> <p>Thank you for the opportunity to present LURF’s comments regarding the current Draft Report.</p>

Public Comments

#	Name	Comments
16	Mark Hoenig	<p>Thank you for soliciting comments regarding the current land use and planning systems. Unfortunately, over the past year I have witnessed first-hand an example of the land use system gone horribly wrong.</p> <p>My wife and I live on Maui, in a subdivision of the Maui Lani development. The land immediately behind three of the subdivisions, including ours, has been unused agricultural land for at least as long as the housing developments have existed – about 10 years. The Maui Island Plan (MIP) that was developed over years, with input from an extensive cross-section of the community, designated the land behind the subdivisions for a “community park.” The MIP is supposed to be the overall governing plan for Maui development.</p> <p>In the last couple of years, Lt. Governor Shan Tsutsui initiated a project to turn the community park into an extensive, lighted sports complex (the Central Maui Sports Complex). The land use in his project violated numerous State and County codes and guidelines, as well as conditions put on the land parcel from the Land Use Commission. The County of Maui Planning Department “rubber stamped” this project, despite the fact that it clearly violated the Maui Island Plan and other County plans. As a last resort, the residents of our community had to band together, hire an attorney, and file a lawsuit to try to stop the illegal project.</p> <p>Early in the lawsuit proceedings, the judge directed our lawyer to bring this case to the LUC, since it was their conditions that he was alleging had been violated. When this case came before the LUC, the LUC refused to rule on it. The conditions were clearly and unequivocally violated – this is a matter of fact, not opinion. However, the commissioners refused to acknowledge this because they were “afraid of hurting a sister agency” (referring to the DLNR, who was overseeing the Lt. Governor’s project). This statement was actually made by one of the commissioners! How are the people of Hawaii served by a government agency that is more concerned with watching out for other government agencies than by performing their duty?</p> <p>Unfortunately, the judge presiding over this lawsuit has apparently caved in to political pressure and refused to even hear the case presented by the homeowners – after requiring our attorney to jump through various legal hoops for months. The case provides indisputable evidence that the sports complex project violates numerous State and County regulations.</p> <p>This is an example of land use being allowed that is grossly inappropriate. Any land use planner in the country could look at this project and see that it is wrong to put 12 lighted sports fields 50 feet behind an established residential community. And yet, that is what is happening on Maui, because a political agenda was put ahead of the good of the community – and the officials at the County level turned a blind eye.</p> <p>I give you this current example for you to consider in your review of the land use and planning system. Showing you where the system can fail (and has failed) hopefully helps you to better evaluate where safeguards and checkpoints need to be built into the system. As far as some of your current proposed changes are concerned, I believe some of them would provide significant improvements to the current process:</p> <ul style="list-style-type: none"> 5.1.1.1 - Live web streaming of hearings and testimony via teleconference or video conference. This is especially important for involved parties who are not able to attend hearings in person, especially from Outer Islands.

Public Comments

#	Name	Comments
		<ul style="list-style-type: none"> • 5.1.1.2 – Hearing public testimony after petitioner presentations. Give the public the opportunity to be heard directly. • 5.1.1.4 – Public Advocate. An excellent idea, since the subject of land use is very complex and daunting for the lay person. Parties that have a legitimate issue may not have the resources to hire legal counsel. • 5.1.2.1 – Use of thresholds for decision making. This might have made a difference in the case above, since there is inadequate roadway access and emergency exits for a complex the size of the one being built. It also will have negative effects on a nearby school (traffic, safety, noise, etc.). • 5.1.3 – All. I believe all 3 proposals under this section are very important for improving the functionality and objectivity of the LUC. Any changes that can be made to make the LUC less tied to political agendas and more objective would be huge improvements. <p>Thank you for the opportunity to provide input to your review of the system. I only wish the improvements could have been made in time to address the unlawful land use project underway on Maui (Central Maui Sports Complex).</p> <p>By the way, if you would like to review any of the documents related to the case I discussed, which detail the violations involved, I would be happy to send them to you.</p>
17	Mark Hyde	<p>First, this is an extremely impressive piece of work!</p> <p>Second, I remain deeply concerned that to the extent land use work currently conducted by an apolitical LUC will become politicized at the county level where cronyism and insider dealing influence decision-making and outcomes negatively. The LUC got a good look at this with the Kaonoulu Ranch case where the proposed Mega Mall bore absolutely no resemblance to the light industrial park that was approved, yet it took citizen action, \$100,000 in attorney's fees, and state office of planning involvement to overcome the machinations of the developer in league with the mayor and county of Maui who were trying to foist an unpermitted monstrosity on Kihei, a beach community already suffering from sprawl of the like proposed.</p>
18	Mary McClung Law	<p>As a farmer, I soberly recognize that there is limited arable land in Hawaii. If we are concerned at all with the Hawaii State Civil Defense food shortage potentials- if and when the boats cannot make it here, then we must protect all arable ag land, as well as do everything we can to encourage farming on that land. Our government has been giving lip service to the need for Hawaii to be self-sustaining. We cannot afford to do that any longer. We must act and stand behind the words we have chosen.</p> <p>The LUC should be kept in its present quasi-judicial form and all ag land is important and should be preserved for farming.</p>
19	Maui County Council – Don Couch, Chair, Planning Committee	<p>I support the testimony and comments submitted by Mike White, Chair, Maui County Council, relating to the State Land Use System Review report.</p> <p>The Maui County Council has not had the opportunity to take a formal position on this subject. Therefore, I am providing this testimony in my capacity as an individual member of the council.</p>
20	Maui County Council – Robert Carroll, Chair, Land Use Committee	<p>I support the testimony and comments submitted by Mike White, Chair, Maui County Council, relating to the State Land Use System Review report.</p>

Public Comments

#	Name	Comments
21	Maui County Council – Mike White, Chair	<p>The Maui County Council has not had the opportunity to take a formal position on this subject. Therefore, I am providing this testimony in my capacity as an individual member of the council.</p> <p>Thank you for your office's hard work in convening a task force to examine the State land use system with the goal of identifying what is working well with the current system and what changes might be made to improve the process going forward. From the many suggestions received from stakeholders, it seems clear that the time has come to eliminate redundancies in the land use process with a shift in responsibilities from centralized State control to local control by the Counties. Since the passage of the State Land Use Law in 1961, Maui County has grown and is now well-equipped to make district boundary amendment ("DBA") decisions and to exercise land use controls not only within the Urban district, but within the Agricultural and Rural districts as well.</p> <p>The Maui County Council has not had the opportunity to take a formal position on this subject. Therefore, I am providing this testimony in my capacity as an individual member of the Council.</p> <p>My preference is that in large part the responsibilities of the State Land Use Commission ("LUC") be turned over to the Counties. Of the alternatives for redesign of the Hawaii land use system presented in the draft report, the preferred option is the County plan-based planning framework. Maui County is best suited to designate important agricultural lands ("IALs") on the islands of Maui, Molokai and Lanai, but would benefit from the State's financial assistance with this important project.</p> <p>I support implementing both short-term proposals for improvements to the land use system as well as long-term system redesign. While short-term fixes will help improve various aspects of the current process, long-term system reform that shifts responsibility to the Counties is key to the future success of land use planning and control in Hawaii. The draft report includes many good suggestions for improvements not all of which directly involve the Counties. My comments below are limited to those sections of Chapter 5 which specifically impact the role of the Counties.</p> <p>Fixes to the Current Hawaii Land Use System</p> <p>Section: 5. 1.2.1 Suggestion: Use of Thresholds to Guide Decision Making Comment: I am opposed to applying thresholds to make land use decisions relative to the adequacy of public resources such as transportation and water due to the high costs of mitigation to the individual landowner or project developer. Infrastructure inadequacies in areas of planned growth should be identified and addressed broadly and cooperatively between the State and the Counties with improvements made regionally.</p> <p>5.1.2.2 Move Environmental Review to Post-LUC Decision Making Environmental review for large projects typically occurs at the LUC district boundary stage when only conceptual plans are available. I support moving environmental review (Environmental Assessments and Environmental Impact Statements) to the County zoning approval stage of the development process for the reason that the adverse impacts are better known when detailed plans are available. Specific mitigation measures are appropriate conditions of zoning.</p> <p>5.1.2.3 Unbiased Environmental Documents I am not opposed to the proposal to have the lead agency be responsible for environmental document preparation in order to promote objectivity of the reports. However, as a legislator, I have</p>

Public Comments

#	Name	Comments
		<p>concerns regarding the cost of this approach to the Counties and its impact on County personnel and services as well as the possibility of delay in the approval process.</p> <p>5.1.3.3 Limit Review to State Interests I support the proposal to reduce duplication of review between State land use and County zoning. The LUC should avoid issues under County jurisdiction such as police, fire, County utilities, and roadways.</p> <p>5.1.4.2 LUC Ability to Amend Conditions I support granting the LUC the authority to amend the conditions of a land use DBA decision and order to help with enforcement. The current remedy for violations - reversion to original land classification - is too limited. The Counties will be better protected if the LUC has greater flexibility. In general, conditions of approval should be left to the Counties and the imposition of conditions at the DBA approval stage should be limited and not overused as they are now. Where the LUC attaches conditions, the LUC should be able to amend them.</p> <p>5.1.4.3 Set Time Limit for Development I support deadlines for commencing construction on projects approved for reclassification to avoid land speculation except for land located within the urban and rural growth boundaries as defined by the Maui Island Plan. These lands should remain classified as urban or rural regardless of whether the original project approved at the time of reclassification by the LUC moves forward. It does not make sense to revert land back to agricultural classification when the County has determined the land should be in the urban or rural district.</p> <p>5.1.5.1 Increase Agricultural District Minimum Lot Size I support increasing the one-acre minimum lot size for agricultural parcels to a larger size, however, the proposed 25-acre minimum is too large. The use by Maui County of a sliding scale method for agricultural subdivisions is a better alternative. On Maui, the minimum lot size is 2 acres and the number of agricultural lots is limited based upon the size of the parcel to be subdivided. This system, codified in 1998, has worked well to curb the proliferation of small- lot agricultural subdivisions (commonly referred to as "gentlemen's estates").</p> <p>5.1.5.2 State to Propose IAL Designations and Update Soil Rating System I oppose the proposal to assign to the State the responsibility for designating the IALs in the County of Maui. Instead, the State should help fund the Counties' efforts and assist in other ways.</p> <p>5.1.5.4 Increase Acreage Threshold for County District Boundary Amendments I support amending HRS §205-3.1 to give the Counties greater authority to determine DBAs by increasing the threshold acreage from 15 to 100 acres or even a higher threshold. The process would be expedited, and the Maui County Department of Planning has a demonstrated track record of successfully handling DBA applications over many years.</p>

#	Name	Comments
		<p>Redesign of the Hawaii Land Use System - Five Options</p> <p>5.2.1 State Growth Management I am opposed to this option because the present role of the LUC in terms of project-specific decision making and quasi-judicial processing would continue. Further, with this option no revisions to the LUC process will be made to give the Counties greater authority and control over DBA decisions. The success of this option relies upon State-level strategic plans and, as mentioned in the report, the State has not updated the Hawaii State Plan since 1985 or the detailed functional plans since 1991. Without a guarantee of adequate and continued funding from the State, this option has little chance of success. Maui's Countywide Policy Plan and the Maui Island Plan are in place and updates of the community plans are in process. The County is available to work with the State on key areas of statewide concern including infrastructure and public facilities. The County is better-suited than the State to plan for and manage future growth.</p> <p>5.2.2 County Plan-Based Boundary Amendments I give support to this option with reservations for the reason that it is an improvement over the current State-focused system and because County general and community plans would be the basis for land use planning and decision making at the State level. Unfortunately, DBA authority would remain centralized with the LUC responsible for regional boundary amendments. I do not support the ability of the LUC to approve individual boundary amendment petitions that are not consistent with the County plan as is allowed under this option. While giving some deference in the land use planning process to the Counties, this option does not go far enough to recognize the capabilities of the Counties to make land use decisions for themselves.</p> <p>5.2.3 County Plan-Based Planning Framework As stated above, this is the preferred option. Maui County has completed its Countywide Policy Plan and the Maui Island Plan. In addition, updated community plans are in the process. I support this option because it represents true, comprehensive reform that would allow the Counties to administer land use within their jurisdictions while clearly defining the State's role in the planning process including oversight and certification of the County plans. As stated in the report, County home rule concerns regarding approval of County plans and the crafting of an appeals mechanism for County Council legislative decisions would need to be addressed.</p> <p>5.2.4 Regional Five-Year Boundary Amendments I do not support this option for the reasons that it eliminates project-specific decision making in favor of regional boundary amendments once every five years on each island. Multiple petitions would be considered concurrently which would result in some efficiencies. However, the complexity of the application and regional assessment of proposed projects would likely result in delays and curtail the ability of landowners to respond to market conditions and demand. The LUC would retain its superior authority over the DBA approval process instead of greater involvement by the counties.</p> <p>5.2.5 Contested Case Hearing at the County Permit Level In general, I support moving the detailed examination of individual projects to a point where project plans are developed and the impacts can be better evaluated. However, it is unclear in the report</p>

Public Comments

#	Name	Comments
22	Michael Krijnen	<p>how if the LUC forgoes detailed review, the planning commissions will be responsible for holding contested case hearings.</p> <p>Until the people that are doing the work come out in public to shine some light on reality the best way we can solve the issues of regenerative or resilient development we will be to make an island wide physical model like they do in intelligent communities.</p> <p>There is nothing like a physical model to bring everybody's thinking into line, as anybody who has been through architecture school or a military commander fighting a war. They even had a full size model of Kaneohe Bay once when they were serious about making decisions We wait until Hawaii planning becomes of age to join the real world dealing with world issues using old technology that works.</p> 
23	Michele Lincoln	<p>"We choose to go to the Moon in this decade and do the other things, not because they are easy, but because they are hard, because that goal will serve to organize and measure the best of our energies and skills, because that challenge is one that we are willing to accept, one we are unwilling to postpone, and one which we intend to win, and the others, too." – John F. Kennedy</p> <p>Remember that before Armstrong first stepped onto the Moon, there was a common belief among the population that 'they will never land a man on the Moon'. It was only by focusing on the positive attitudes within their organization that NASA was able to unflinchingly press ahead and prove these naysayers wrong. The naysayers helped the process by presenting the challenges to overcome.</p> <p>Hawaii is ushering in the next era and with the LUC's direction can move us to healthy growth despite the many obstacles in the way. Attitude reflects leadership. Fostering the creativity and innovation that was at the heart of the Apollo space program, we can apply those principles to reinforce the importance of communication and listening, where everyone in the process feels they have something significant to contribute to shared goals.</p> <p>"The Life of the Land is perpetuated in Righteousness" is our state motto, found in the Hawaii State Constitution and a Hawaii Revised Statute. It is about doing what is right rather than exercising our rights. Righteousness matters!</p>

Public Comments

#	Name	Comments
		<p>Our country was founded on Judeo-Christian principles, which are based upon God's righteousness. The separation of church and state has gone beyond its intent and leaves God out of the process. This is a fatal flaw and needs to be remedied.</p> <p>Those Hawaiians practicing the culture malama the ocean, malama the land, pule (pray) before you proceed, take only what you need, and give thanks to Ke Akua. What you do up mauka directly impacts makai. In essence, it is to take care of what God has entrusted to us. We live in the Hawaiian Islands and our decisions should mirror these principles. Start with prayer, asking for wisdom and discernment, while seeking God's will to be done.</p> <p>They are simple concepts but are mighty in practice. Aloha means to receive the breath of God. God is love. We have to do what we can to protect the culture and perpetuate the essence of Aloha. It is important that we protect the culture and history while providing a beautiful vacation destination, homes for residents and economic growth. We can achieve it and I hope you will consider some of my thoughts.</p> <p>ENFORCEMENT-----</p> <p>The State LUC should remain as an agent for land management and institute an enforcement agency to oversee that Projects are living up to their expectations with consequences that fit the violations. The violation of laws must have serious consequences to discourage blatant disobedience but not so hard as to cripple the entire operation.</p> <p>When a contested case is pending, the Project should not get sanctioned by way of permits that would destroy the contested matter. In a current case, an ancient Tamarind tree, with a debated heiau, was destroyed with the installation of a dust fence and grading and grubbing. The heiau can be rebuilt with other rocks and trees can be planted as geological coordinates do not change for sacred sites. (If one is to argue that sacred land does not exist, then please submit that testimony with evidence to the Israelis and Palestinians and receive a Nobel Peace Prize.) Future cases need protection to ensure that we don't lose valuable historical and cultural places and artifacts.</p> <p>Also, development should not proceed until the final court or appealed decisions are made on contested cases. It is the only means to protect the land in the event there was an error and it would revert back to the Agriculture designation. If development is allowed to proceed, it would be problematic to revert back to the original condition with houses or shopping malls on the land. Perhaps the courts could expedite LUC cases so as not to unduly delay the process or provide other means of appeal.</p> <p>The naysayers and county restrictions should be included early in the development process. They are to some extent, but developers tend to ignore the community, environmentalist or Hawaiian activist. Instead, they proceed and address the issues with conditions and resolutions that resolve their problems but not the problems.</p> <p>There needs to be consequences for misinformation when presented to the various committees and commissions. In my case, the input of the community was not accurately portrayed to the County Council, which led me to believe that perhaps there were other issues with which the developer was not forthcoming.</p> <p>This is only one example in a pending case: the soil rating, the topography, and the climate are perfect for agriculture use. The developer testified that the land could not be used for agriculture</p>

Public Comments

#	Name	Comments
		<p>because it has no water and it is too rocky. What they failed to included is the developer has equipment to mitigate the rock issue. They installed water lines to fill the water trucks and provide irrigation for the ground cover on the Project site. Clearly, they have the means to resolve the issues that they argued made the land unsuitable for farming. In essence, they gave misleading information to the Council and Commission that rendered a decision based on false testimony.</p> <p>When testimony is presented at the State LUC it is under oath. If there is no recourse for not telling the truth, then the process loses credibility and corruption is sanctioned by way of approval. If there is no accountability, then the State LUC has no authority and is a waste of time and tax payer's money. Committing perjury must have serious consequences. Proverbs 12:22 says "The Lord detests lying lips, but He delights in those who tell the truth."</p> <p>The state and county agencies, including SHPD, need to be informed of the regulations and requirements of the Projects and report any infraction to the enforcement agency. Things like archeological monitoring need to be enforced and an appropriate consequence if there is a violation. It should not require a citizen to monitor and control the conditions. Righteousness and integrity matters!</p> <p>I experienced the developer's violation of a condition, imposed by the State LUC, by starting the Project without the required archeological monitor. Finally, when the archeologist was on the project site, he requested the SHPD to minimize the monitoring within a matter of weeks. I looked to the HRS for remedy. I found the HRS's consequences for the violation to be extreme for the infraction. Instead, I wrote a letter addressed to no-one and meant for everyone. It is called "Integrity". (It is attached, if you are interested.) My hope is that everyone will do what is right.</p> <p>The amount of paper work generated by the process is daunting and in the end may be one of the reasons that the conditions imposed are not enforced. Perhaps a concise list of the conditions from all the agencies could be put in a 'non-lawyerese' format. It would be part of the final D&O, and copies could be made of this succinct information to ensure the project managers, contractors, and consultants of the Projects are aware of the conditions and resolutions that would directly impact their decision making.</p> <p>ANNUAL EVALUTION AND REVISION-----</p> <p>Perhaps an on-line suggestion forum can be instituted, so the public and experts can provide input that may be beneficial for future revisions, modifications or eliminations of existing laws and statutes.</p> <p>The enforcement agency would gain knowledge throughout the process to evaluate what does and does not work in the regulations, application, and enforcement. Rather than a 5 year policy of review, every year the LUC could fill out a simple evaluation form to recommend changes or modifications to the existing rules to meet our rapidly changing economy, environment and relevant issues related to current events or discoveries.</p> <p>It is like a diet that you maintain rather than wait until it is an issue and harder to remedy. It would ensure ineffectual and cumbersome laws would be revised or eliminated as needed or consider laws that need to be included to ensure healthy development. It would be a deterrent for misuse and manipulation of laws as they could be changed or modified as needed, if they are abused.</p>

Public Comments

#	Name	Comments
		<p>COUNTY PLANNING-----</p> <p>Our system of government is meant to be lengthy and cumbersome to ensure that we have considered all the ramifications and move forward with as little regrets as possible. However, I think to expedite the process it would be beneficial to eliminate the County Planning Commissions in circumstances where the Project requires State LUC approval.</p> <p>The County Planning Commissions are appointed positions that reflect the leadership of the County and generally mimic what the County has approved. The influence and decisions they make can easily be decided within the existing system of the County departments. If a commission needs to be eliminated, this would be the one to consider.</p> <p>The County Planning Commissions should freely allow interveners with strict adhering to the procedures to ensure that the Project petitions meet the requirements but does not unduly delay the process. A State review board that allows intervention could serve the same purpose.</p> <p>The County Commissions could be replaced with the County Department of Planning to include input from the community with intervention measures to ensure that all the contingencies have been fully examined.</p> <p>The current County Planning Commission seems to support whatever the County has approved. It is redundant. The members lack the expertise needed to comprehend every issue. Intervention or input would be beneficial when the decisions are in the various county departments so experts can address and rectify the issues related to the individual projects.</p> <p>I will site a few examples of some of the inadequacies of the county commission:</p> <p>1) When faced with an educator informing the County commissioners that the schools are exceeding the limits and ask for better communication from the County to the State so they can plan accordingly... the commission attitude of 'that sounds like a State problem' is unacceptable. That attitude is not beneficial to the County children that attend the State operated schools.</p> <p>The County needs to communicate what the projected growth is so that the State school system can budget and plan accordingly. The County and State should work together to ensure that our children and educational staff and facilities are prepared for growth. 5</p> <p>2) When planning commissioners state things like, they don't see merit in signed petitions. That does not reflect well on the community's voice being heard and considered in the process. The person that signed the petition believes that their signature does matter...and it does.</p> <p>3) When planning commissioners do not know what a "karst" is and how it relates to Hawaiian cultural issues or environmental constraints in relationship to the near-shore impact and do not want to get educated on the issue, that is an area for concern where coastal zone SMA permits are concerned.</p> <p>4) When planning commissioners say things like, 'if we waited for infrastructure to precede development we would never get anything built'. Infrastructure must precede development is a law. When a citizen breaks a law, they pay a fine or are incarcerated. When the County or State breaks a</p>

Public Comments

#	Name	Comments
		<p>law, they issue themselves an after the fact permit, make conditions or resolutions to circumvent following the law or the tax payers suffer the consequences.</p> <p>5) When planning commissions do not want to hear about the historical and cultural significance of a property, they leave one to wonder why. In reality, it comes down to the owner of the property making the right choice with the property they were entrusted with, but the commission can include conditions that would help protect and preserve the project sites. It may be that the land owner does not know all the history or cultural significance and would change their plans accordingly. Intervention would allow for more information or viewpoints that were not considered.</p> <p>The County is led by the Mayor and/or County Council and the various planning departments comply with the direction of leadership. It would be beneficial if the leadership deferred to the expertise and knowledge of the various County departments. It would be beneficial if they listened to what the experts in the County and State Departments have to say rather than have them testify to what they want to hear.</p> <p>POOR PRECEDENTS-----</p> <p>It was noted that some of the pre-approved Projects have not come to fruition because they lack the financial capability. The developer proving their financial capability is one of the requirements of County and State decision making policies. If the developer does not have the financial means, it indicates that the process failed by not enforcing them to prove they have the financial capability. It appears that the LUC and/or County have set a precedent to approve projects without this fundamental element, which is the financial capability of the developer to perform.</p> <p>Another reason stated for the delay of the Projects was attributed to lack of water supply. Water is the source of life. Water availability is required under almost every plan and statute, so laws are not being enforced in the approval process. If the project cannot show the water in and sewage out, then they should not proceed until that is remedied.</p> <p>One more reason to retain the State LUC is to ensure accountability for the County. Policing is necessary in any governing body that has been given power. The process helps keep people honest. Power unchecked leads to corruption. Decision makers may have an agenda that is legal but does not represent their constituents and violates the spirit of the law.</p> <p>INTERVENTION AND MEDIATION-----</p> <p>The court appeal process on the County level often favors the government agency rulings so the higher courts are appealed to in an effort to attain justice. It is a lengthy and expensive process and is unpleasant for all parties involved. It would be beneficial to try and work out differences outside of court rather than through legal proceedings. If that means delaying a State LUC decision past the 365 day requirement and allow for mediation, it could save time and thousands of dollars. The Commissions could employ the mediation process, which could help to expedite the proceedings. The process for intervention is difficult for a lay person to achieve and most citizens will not persevere or have the financial resources to intervene. It may be helpful to provide a service to help citizens fill out the forms and instruct them in the process with a public advocate to help and represent them. The citizen or group could formulate there concerns, conditions, or alternatives to denial and have a service provided to 'lawyer them up'. In some cases, it may deter them from</p>

Public Comments

#	Name	Comments
		<p>intervening when they realize the time, expense, and unlikelihood of a result that would be to their satisfaction.</p> <p>However, to only provide public advocacy for 20 or more people in a group is discriminatory. It does not allow for a person's individual rights to be protected, which is entitled under the Constitution of the State of Hawaii. If you look at Hawaii for the voter turnout, getting people willing to be involved could be problematic to intervene. It does not make the issues any less important for consideration and cross-examination.</p> <p>PROPERTY TITLE ISSUES-----</p> <p>Hawaiians have a valid concern that needs to be addressed regarding the land. To my understanding, when the plantation era began in the late1800's many of the Hawaiian families leased their property and worked for the companies. Throughout time the land was "absorbed" into the plantation operations. Whether it was intentional or not, it is a form of theft. Recognizing the history, how does it affect us today? Is it still happening to a certain extent?</p> <p>When the mills and plantations closed in recent history, the land was made available for purchase with many parcels requiring a quiet title and quit claim to achieve ownership. The protocol for this is antiquated and in essence uses the courts to take the land. In many cases, the heirs lack finances to appeal in court or the families do not find out until it is too late and have no recourse to reclaim their land. It could be considered a form of legal plunder.</p> <p>Just because something is legal does not make it right. The life of the land is perpetuated in righteousness. "The fruit of righteousness will be peace; the effect of righteousness will be quietness and confidence forever. My people will live in peaceful dwelling places, in secure homes, in undisturbed places of rest." Isaiah 32:17-18</p> <p>Wisdom and discernment must be exercised and a remedy to protect the Hawaiian's land. We also must be mindful of the current owner's financial investment and situation. No one is going to be completely satisfied with the resolution to this issue, but it must be addressed, because it is happening in our time of history. We all have to set aside our differences, lay down our pride and come together to find a resolution.</p> <p>Perhaps applying principles and ideas from the past would help to formulate an acceptable solution. In the Bible, Leviticus 25 addresses property issues and reverting ownership. The best directive is in verse 17 "Do not take advantage of each other, but fear your God. I am the Lord your God."</p> <p>CULTURAL AND ENVIRONMENTAL IMPACT-----</p> <p>I like the idea of a third party to do the environmental and cultural impact to help provide unbiased information. Of course, they can be swayed to view things through eyes that do not reflect the goals and objectives of those protecting the culture or natural resources. An example would be a flora and fauna expert's view from the Western mentality would evaluate a field of various "weeds" to be inconsequential but to a Hawaiian cultural practitioner it could represent a virtual pharmacy of plants used for medicinal purposes.</p> <p>It is important that reports are checked for accuracy. It is imperative that a reliable expert opinion reflects the goals of protecting Hawaiian cultural values and natural resources be included. In many</p>

Public Comments

#	Name	Comments
		<p>cases, developers meet the Project's objectives rather than being objective. They often use experts that are qualified but not quantified as having a Hawaiian cultural perception or accessing the cumulative impacts to the environment.</p> <p>In view of the projected growth and being mindful of cultural importance of ancestral iwi (bones), puanui (burial hale/heiau) should be built and made accessible in the various districts. It would resolve many of the issues of the Hawaiians concerning their cultural heritage and provide a sacred resting place for their kupuna with a pleasant place to visit and pass on the knowledge to the following generations. This could be an appropriate use for Agriculture designated land.</p> <p>Rocks and trees and the land itself may be sacred in the Hawaiian culture. They are significant and many have a spiritual application that cannot be communicated by a scientific archeological report. The Western mindset does not allow for the supernatural and dismisses the testimony as unsubstantiated thus inadmissible. It could be compared to having faith in God. Either you do or don't believe in God but will have no tangible proof as required by our Western quasi-judicial systems. To protect the Hawaiian culture, we must include the possibility that "To gain the kingdom of heaven is to hear what is not said, to see what cannot be seen, and to know the unknowable—that is Aloha. All things in this world are two; in heaven there is but One." Queen Lili'uokalani.</p> <p>Cumulative projects are not fully evaluated in terms of traffic impacts, storm water runoff from impervious surfaces, and other State related concerns, like school enrollment. Storm water run-off from a single Project may not in itself cause damage to an already impaired reef but pre-approved and uncompleted Projects have not been factored into the equation of environmental impact. It also does not address the cumulative traffic impact for evacuation of Tsunami and emergency situations that will be impacted to the roadways and access to safe havens.</p> <p>WATER QUALITY CONTROL-----</p> <p>The general plans of the county may include footnotes that address the environmental constraints or lack of adequate infrastructure as a means to deny a project, but in many cases, these are completely ignored by the governing agencies. Water quality experts should be included in the process to ensure that we are not in violation of polluting federally protected waters, killing the coral reefs, or in violation of the Clean Water Act.</p> <p>The State LUC should be the overseer to ensure the compliance on the County level of regulatory and statutory requirements. An example of the disregard for laws on the County level would be that the Lahaina Waste-water Reclamation Facility is in violation of the Clean Water Act.</p> <p>RESOLUTION FOR RECLAIMED WATER-----</p> <p>A solution that would resolve the LWRF violation and could be a model for other districts to implement is the use of reclaimed water for agriculture use, as R1 rated water meets the requirements for leafy and root edible plants. The issue of the sewage capacity could be obsolete as developments make more Agriculture water available, which would provide employment and generate taxes for the needed infrastructure. It also would provide food security for our growing population. It would replenish water into the land and the ground cover would stabilize soil erosion that can lead to pollution.</p>

Public Comments

#	Name	Comments
		<p>AGRICULTURE-----</p> <p>Historically, famines have occurred and no amount of technology can mitigate droughts and all the diseases and pests associated with crop failures. Nor can it prepare for natural disasters that attribute to food shortages. Hawaii is vulnerable, in that we are 2500 miles from the nearest continent and depend on shipping in 90% of our food. We have less than a week supply of food with our current population, so it will be more devastating with the projected future growth. Agriculture economic revolutions have been successful. As we achieve the goal of an Agrarian Economic Society, it will enhance our tourist industry while providing food security. There will be growing pains but prosperity will be achieved in all demographics. In addition to our own consumption, we could be the food basket of the Pacific Rim.</p> <p>It is important that the 15 acre parameter not be raised to 100 acres to ensure righteous decision making. Our agriculture land is precious and needs the highest level of scrutiny. Landowners may be tempted with the idea that higher and better use means more profitable for them and not in the best interest of the growth of the Hawaiian Islands.</p> <p>Agriculture would boost our economy in professions of science, technology and engineering as well as workforce labor. It will enlarge our cottage industry and revitalize the economy in large operations related to agriculture. The tax dollars will provide the revenues necessary for residential and commercial growth and the required infrastructure, which would provide jobs for the Unions.</p> <p>If land is designated Agriculture and not suitable for intensive food crops perhaps luxury homes could provide reforestation of exotic hardwoods, such as Sandalwood, that would be a cultural and historical resource. These types of "crops" would not be suitable for most companies and individuals making a living, as it takes many years to grow hardwood trees, but the return on the investment would be beneficial to those that afford luxury homes.</p> <p>It is important to maintain the smaller parcels of Ag land, or have it available in Ag Parks, for boutique and specialty farming, provide for additional income to supplement social security, and/or a source of income for stay at home parents. The actual acreage could be determined by current research that is calculating how much acreage of land is necessary to provide an income of \$25/hour working a 40 hours a week. (Check out SEE Farms) It may need to be evaluated based on how much of the acreage is farmable Also, incentives need to be implemented to encourage large farm operations to employ those interested in manual labor but not interested in entrepreneurial pursuits.</p> <p>AFFORDABLE HOUSING-----</p> <p>The definition of "affordable housing" should be revised. It would be beneficial to be transparent with the actual prices of the affordable housing and put the cost in terms the general public would understand. HUD guidelines and affordable housing are not the same in terms of what the workforce can pay monthly. Ultimately, the homeowner wants to know what it will cost monthly and is it affordable for them.</p> <p>If people wanting to buy an affordable home pay \$1600 to \$2200 a month for rent, the mortgage payment and associated expenses need to reflect that. The developer should work his way backward from land value, to infrastructure costs, to vertical construction, and all the expenses related to the Project, and if they cannot achieve that goal, then affordable housing would not be</p>

Public Comments

#	Name	Comments
		<p>viable in that area. We could call that the Beverly Hills syndrome...you may want to live there but you have to be able to afford it.</p> <p>As Agriculture transitions perhaps other growth options could be considered. Let's say that to supplement the expenses related to Agriculture development the developer would be able to build luxury homes to compensate for costs related to the overall development and startup costs for farming or ranching.</p> <p>In addition to this, the developer could be offered higher density on agriculture land on projects less than 15 acres to provide workforce housing for the laborers and the support community that is necessary. The single story homes in a clustered community would help to alleviate the infrastructural costs. Surrounded by active farm land, the homes would provide a desirable habitation while making for a less visual impact to agriculture areas. Those that work the farm land or have a job related to the enterprise could live on the property. The lots would be small with minimal yards. An adjacent community park could provide a recreational area as those working all week as manual labor would appreciate not having to do the upkeep on a large property. Cluster affordable housing communities surrounded by productive Ag land would cut costs to the developers and prevent rural sprawl.</p> <p>The visual separation from the high-end real-estate to the affordable housing could be the productive farm land or gullies that would provide the acceptable distance in such diverse demographics.</p> <p>Perhaps the developer could provide smaller houses and lots with fee simple or leasehold options to be able to accommodate the ability of the homeowner to make monthly payments. Look into Na Hale O Maui (CLT) for the concept of affordable housing in perpetuity. The County could consider less stringent requirements for sidewalks curbs and gutters and other expenses that would not be necessary in a farm employee housing situation. Establishing Agricultural communities will offer housing, employment and food security. It would stimulate and grow the Islands economically.</p> <p>It is an attitude that the home owner would be grateful to have a beautiful home in a healthy environment that may lack some amenities that an urban home would offer. It would be an attitude of the developer to be content to make less money on the development of the affordable housing but be compensated in the luxury homes and farm operation. It would have to be agreeable to the County to offer conditions that would ensure the necessities are provided for but the non-essentials not be made mandatory.</p> <p>FARMER FRIENDLY LAWS-----</p> <p>The State Land Use needs to update and introduce farmer friendly laws to allow for diversified farming. Agriculture land needs to be put into Agriculture Conservation as investors will find a way to circumvent statues and laws to meet their financial goals of higher and better use. It is a matter of property rights versus doing what is right. It will be a never ending battle and many boundary amendments will be curtailed if important Agriculture land is protected for posterity.</p> <p>These and other options need to be looked into for future growth. The closing of the Sugar and Pineapple Plantations lead us into the next generation of farming that will provide food security and sustainable employment. The current agriculture laws need to be revised to reflect the change in our agriculture production. It should be farmer friendly laws making the industry viable and our state prosper with diversified farming, food industries, and farming practices.</p>

Public Comments

#	Name	Comments
		<p>Regardless of personal feelings about Genetically Modified Organisms, we can learn from a major Agricultural economical empire. Hawaii was chosen by Monsanto as a testing ground since the 1960's for agriculture production. The idea itself is to be emulated as big business has already established the agriculture economic viability in Hawaii with its ideal growing conditions.</p> <p>TAX ACCESSMENT ON UNUSED AG LAND-----</p> <p>Our system of government protects the freedom of property and with that goes the responsibility to make use of what we have been entrusted with. If agriculture land is not being put into an appropriate Ag use, then it should be taxed higher to provide incentive for farming and ranching. The taxes of Ag land at urban residential rates, if the land is not in production, would encourage Agriculture use. Can you imagine the amount of money the State and County would generate if the fallow Agriculture land was in productive use?</p> <p>PUBLIC BENEFITS TO AN AGRARIAN SOCIETY-----</p> <p>Consider the viability of prison reform utilizing State Agriculture Land to provide training in agriculture related employment while helping to provide food for their consumption to defray costs related to incarceration. It would include field work, animal husbandry, mechanics, carpentry, economics, science, technology and the delectable delights created in the kitchen. It would provide qualified labor for the Agriculture industry and help that demographic to integrate successfully back into society.</p> <p>Our universities could expand on agriculture programs and utilize State Agriculture land. Science, technology, engineering, and other programs will be fundamental requirements in an agrarian society providing the support community necessary to facilitate it.</p> <p>Agriculture can help to address food concerns for the poverty level and homeless populations and provide incomes. We could provide tent-housing communities surrounded by farm land providing a beautiful, healthy and safe environment for the homeless population.</p> <p>It would create Union and non-union construction related employment for the necessary facilities including farm supply stores, canneries, processing plants, dairies, poultry farms and piggeries, slaughter houses and the workforce housing for the farming industry and support community. Providing healthy and nutritious locally grown food will help to alleviate the heart disease and diabetes, which are statically the two main health issues in Hawaii. Working in nature is therapeutic and can benefit those with anxiety and depression related illnesses.</p> <p>There are many things to consider. The State LUC can be part of something really impactful for all the people of Hawaii.</p> <p>COMMISSION POSITIONS-----</p> <p>I think it is necessary to have farmers and ranchers of small and large operations to be appointed to positions on the County and State Land Use Commissions. In addition to economists, professionals, a union employee, a private contractor, the educator, the historian and cultural practitioners as well as an environmentalist should all be represented to ensure that all areas of concern are addressed and the right questions asked.</p>

Public Comments

#	Name	Comments
		<p>CONCLUSION-----</p> <p>It is important that in the pursuit of righteousness in our state's growth that we are mindful not to become self-righteous. It is so easy to label people the "greedy developer", the "corrupt politicians", the "coral reef hugger environmentalist", the "radical Hawaiian activist", the "classic NIMBY" (Not In My Back Yard) and the list goes on. Often, we have similar dreams and aspirations that are more aligned than we may think. Together, we can achieve wonderful communities and environments that reflect healthy growth and are conceived in righteousness.</p> <p>President Kennedy encouraged the naysayer's to be included in the process as a means to remedy any and all contingencies and as a result successfully put a man on the moon. I think that initiative is inspiring and beneficial to our development of the islands. It provides a foundation to build upon and with many advisors will achieve greatness. We are capable of propagating a legacy that we can all be proud of as Hawaii ushers in the next era that will benefit all people and for every generation to come.</p> <p>INTEGRITY in 'tegrədē/ noun: integrity the quality of being honest and having strong moral principles; moral uprightness. "He is known to be a man of integrity" Synonyms: honesty, honor, good character, principle(s), ethics, morals, righteousness, morality, virtue, decency, fairness, scrupulousness, sincerity, truthfulness, trustworthiness</p> <p>I mentor teenagers and when I teach about the armor of God I compare it to football gear. I call the "breastplate of righteousness"... "pono pads"...guard your hearts...do what is right. I am so disappointed to find that already the conditions of the State Land Use Commission requiring a full time archeologist to be present for any ground breaking piece of equipment is being disregarded. The Kahoma Project is only just begun and agreements made are not being honored.</p> <p>I apologize for my ignorance. I do not know to whom I should address this letter. I am not sure who is responsible for the decision to change the monitoring methodology from full-time to intermittent monitoring for the Kahoma Residential Project in Lahaina, TMK No: (2) 4-5- 10:005, which is currently in the Intermediate Court of Appeals CAAP-14-0000456.</p> <p>I happen to be researching the heiau and the University of Hawaii directed me to SHPD which led to my finding that the work on the Project for West Maui Land Company's Kahoma Residential, prior to November 10, 2014, did not have an archaeologist on site. Now that they do have a state required archeologist, Dr. Michael Dega of Scientific Consultant Services Inc., he is seeking to undo the condition imposed by the State Land Use Commission's Docket A12-795 Final Decision & Order page 58 #7, dated April 5, 2013.</p> <p>The State Land Use Commission states "Archeological Monitoring. Petitioner shall employ archaeological monitors to ensure that all ground disturbances associated with mass grading of the</p>

Public Comments

#	Name	Comments
		<p>Petition Area, and the trenching and excavation related to the installation of utilities; do not impact and subsurface cultural remains within the Petition Area." The following condition states what is required in the event "if any burials or archaeological or historical sites or artifacts...are discovered during the course of construction...all construction activity in the vicinity of the discovery shall stop...until clearance from the SHPD..."</p> <p>One of the reasons the archeologists are not finding any historical artifacts is that the majority of the land they are currently excavating is fill from the Kahoma Stream Flood Control siltation basin that was illegally placed there in November of 2011 and illegally graded and grubbed by 2 the County of Maui in January of 2012. It raised the topography in that area as much as 8 feet and perhaps more.</p> <p>I contacted the County of Maui in November of 2011 to inquire of the tons of dirt and sediment that was put on the lower portion of the property (25,000 cubic yards of sediment). They assured me that it was only temporary and would all be removed. The reason provided was that the Army Corps of Engineers gave the County a deadline to get the excess sediment from the Kahoma siltation basin removed. The bridge being constructed for the Lahaina By-pass had caused extra dirt and fill that would have made flooding an issue and thus the necessity for quick action and resolution to put the dirt on the adjacent open space seemed reasonable.</p> <p>In January of 2012 the County then graded and grubbed much of that dirt raising the topography substantially. When I inquired why the County did this, when it was only supposed to be a short term solution, they assured me it had been removed. When I argued that it was not the case they offered to remove the dirt. I explained how West Maui Land Company was seeking approval from the State LUC for a boundary amendment to put in housing. I thought it would be a waste of the tax payer's money to remove it, if the developer needed to bring in fill later. It would unnecessarily add to WML/Kahoma LLC's expenses as well. If the housing Project was denied then the soil would be great for a community garden. I asked that they document it for historical purposes and investigate how it would affect the storm-water run-off to the Kahoma Stream.</p> <p>I followed up with a phone call some time later, they said they did not know who to cite... I said I do not want anybody to get fined or be in trouble I only wanted it looked into and recorded for two reasons. The area the fill was put on was the low part of the land and in heavy rains the excess water would sit on this portion of the property. It was a natural siltation basin protecting pollution from going into the Kahoma Stream that affects Mala and Baby Beach. The other reason was that if any historical or archaeological activities took place they would know that they had 6-8 feet of fill that would be sterile for artifacts.</p> <p>When I talked to someone later at the County I found that they did nothing and that they insisted nothing was left on the property. I told them the truth would come out at the State Land Use Commission meetings. It did on the first day of testimony and by the time the County testified they were issuing after the fact permits.</p> <p>I never followed up to see what came of it but it seems like Dr. Dega was not privy to these facts when he requested a change in monitoring. He also may not have been made aware of the State LUC condition requiring "all ground disturbances" be monitored. "All" means all. The regulations required for monitoring that include one qualified archeologist for all ground-altering activities for each piece of equipment in use must be honored. The change in monitoring to an archeologist on-site a minimum of one day per week during ground altering activities is in 3 violation of the condition</p>

Public Comments

#	Name	Comments
		<p>imposed by the State LUC. Conditions and Resolutions are not to be followed arbitrarily.</p> <p>The Kahoma Project Area is rich in history. It was the source of life for the capitol of the Kingdom of Hawaii and long before that... it sustained life for the ancient Hawaiians. It is the Kahoma Stream and water is the source of life. The rocks on this property have been used for trails and boundaries, structures for use and worship, for burials, for the 'auwai (ditch) system. Throughout history the rocks have been re-arranged on the property but they are still there. The Pioneer Mill pushed some of the rocks to the side and is called "push-piles". The Army Corps of Engineers filled in the original stream bed in the 1980's but the fact remains...those same rocks from the pre-contact era are still there. These rocks tell a story and can preserve history.</p> <p>During the time of the Motion for Reconsideration at the State Land Use Commission I experienced the rocks testifying on the Kahoma Property. It was a cold night in Lahaina. There was no storm or wind...only cold. The only warm place in my house is in bed with lots of blankets so by 7 pm I was in bed watching television. Soon after we heard what sounded like boulders going down the old stream bed behind our homes. A rumbling sound came down the hill and ended behind our houses, when it stopped, a mighty rush of wind came from that direction past our home. Then all was still as it was before. I was expecting to see some serious damage on the land or in the Kahoma Flood Control but all was fine the next morning when I went to check it out. Our neighbors heard the same sounds of the rocks and experienced the same powerful wind.</p> <p>The land was given a voice as the rocks cried out in protest to what was occurring and obviously still is...the life of the land is perpetuated in righteousness. Are we aware that as long as unrighteousness continues it will become the death of the land? If you are reading this, you are accountable to the future of the life of the land. It is time for integrity!</p> <p>History shows us examples where rocks are significant. In Luke 19:40 during the Triumphal entry into Jerusalem the leaders are telling Jesus to make the people stop praising him...Jesus answered "I tell you that if these should keep silent, the stones would immediately cry out." In Numbers 20, the story of Moses states that he hit the rock instead of speaking to the rock as God commanded, to have it yield water. As a result of not doing as God commanded, Moses did not get to go into the Promise Land.</p> <p>Rocks apparently are important and can be used by God to determine ones future, as in the case of Moses. Rocks can "cry out" and testify, as stated by Jesus recorded in the Gospel of Luke. Luke is a reliable source and would have recorded Jesus words verbatim.</p> <p>Sir William Ramsay is a famous archeologist that was skeptical at first but came to this conclusion of Luke, one of Jesus disciples...."Luke is a historian of the first rank; not merely are his statements of fact trustworthy...this author should be placed along with the very greatest historians." (I have included the history if you are interested in learning about it. I would imagine being archeologists or the ones making decisions on historical things you should enjoy it.)</p> <p>Archeology in Hawaii is a sacred profession. Archeologists are not only recording historical findings but the culture of the Hawaiian people is directly connected to the past. It is intertwined in the very essence of the people. Whether we believe in it or not, we are still the beneficiary. The Aloha spirit is</p>

Public Comments

#	Name	Comments
		<p>manifested by God through the Hawaiian culture.</p> <p>The act of protecting the archeological and historical sites and artifacts and iwi is vital to keeping the Hawaiian culture alive. The future of Hawaii depends on it. The "aloha spirit" is a result of the culture...lose the culture...you lose aloha.</p> <p>I am hopeful that righteousness will prevail and that a full time qualified archeological monitor for all ground-disturbances will be provided. If honor and integrity is of less importance then I imagine that being in violation of a State LUC condition is reason enough to do as the law states.</p> <p>Personally, I hope that the decision is made to follow all the laws and conditions because of a desire to do what is right rather than out of compulsion. "The true test of a man's character is what he does when no one is watching" (John Wooden). If integrity has not been a priority, it would be a good resolution for the next year and the rest of our lives.</p> <p>If the Kahoma Project or any West Maui Land Company enterprise is to come to fruition it would be nice to know they are built with principles that have a foundation of righteousness. I hope the experts they employ would be of integrity as well as anyone involved with the process. "The Life of the Land is perpetuated in Righteousness." "From everyone who has been given much, much will be demanded; and from the one who has been entrusted with much, much more will be asked." (Luke 12:48)</p> <p>All a man has is his reputation. It is a reflection of his character. The Developers and Departments and Divisions and Commissions and Consultants that protect and preserve the Hawaiian culture and history is held to a higher level of scrutiny as they are the keepers of the future by preserving the past. It comes down to integrity.</p> <p>The following are taken from the internet, the Bible, and an e-mail showing the written portion concerning the fill on the property, which was evidence in the State LUC Docket A12-795.</p> <p>Archeological Evidence</p> <p>It would be extremely difficult for the honest skeptic to dispute the overwhelming archeological support for the historical accuracy of both the Old and New Testaments. Numerous items discussed in the Bible such as nations, important people, customary practices, etc. have been verified by archeological evidence. Bible critics have often been embarrassed by discoveries that corroborated Bible accounts they had previously deemed to be myth, such as the existence of the Hittites, King David, and Pontius Pilate, just to name a few. The noted Jewish archeologist Nelson Glueck summed it up very well:</p> <p>It may be stated categorically that no archeological discovery has ever controverted a single biblical reference. Scores of archeological findings have been made which confirm in clear outline or in exact detail historical statements in the Bible1.</p> <p>When compared against secular accounts of history, the Bible always demonstrates amazing superiority. The noted biblical scholar R.D. Wilson, who was fluent in 45 ancient languages and</p>

Public Comments

#	Name	Comments
		<p>dialects, meticulously analyzed 29 kings from 10 different nations, each of which had corroborating archeological artifacts. Each king was mentioned in the Bible as well as documented by secular historians, thus offering a means of comparison. Wilson showed that the names as recorded in the Bible matched the artifacts perfectly, down to the last jot and tittle! The Bible was also completely accurate in its chronological order of the kings. On the other hand, Wilson showed that the secular accounts were often inaccurate and unreliable. Famous historians such as the Librarian of Alexandria, Ptolemy, and Herodotus failed to document the names correctly, almost always misspelling their names. In many cases the names were barely recognizable when compared to its respective artifact or monument, and sometimes required other evidence to extrapolate the reference².</p> <p>I believe one of the more overwhelming testimonies regarding the depth of archeological evidence for the New Testament is in the account of the famous historian and archeologist Sir William Ramsay. Ramsay was very skeptical of the accuracy of the New Testament, and he ventured to Asia minor over a century ago to refute its historicity. He especially took interest in Luke's accounts in the Gospel of Luke and the Book of Acts, which contained numerous geographical and historic references. Dig after dig the evidence without fail supported Luke's accounts. Governors mentioned by Luke that many historians never believe existed were confirmed by the evidence excavated by Ramsay's archeological team. Without a single error, Luke was accurate in naming 32 countries, 54 cities, and 9 islands. Ramsay became so overwhelmed with the evidence he eventually converted to Christianity. Ramsay finally had this to say:</p> <p>I began with a mind unfavorable to it...but more recently I found myself brought into contact with the Book of Acts as an authority for the topography, antiquities, and society of Asia Minor. It was gradually borne upon me that in various details the narrative showed marvelous truth³.</p> <p>Luke is a historian of the first rank; not merely are his statements of fact trustworthy...this author should be placed along with the very greatest historians⁴.</p> <p>The classical historian A.N. Sherwin-White collaborates Ramsay's work regarding the Book of Acts:</p> <p>Any attempt to reject its basic historicity even in matters of detail must now appear absurd. Roman historians have long taken it for granted⁵.</p> <p>Discoveries ranging from evidence for the Tower of Babel, to Exodus, to the Walls of Jericho, all the way to the tombs of contemporaries of St. Paul, have greatly enhanced the believability of the Bible. Though this vast archeological evidence does not prove God wrote the Bible, it surely must compel the honest skeptic to at least acknowledge its historical veracity. For the believer it's yet another reassuring testimony to the reliability of the Bible. In the words of the University of Yale archeologist Millar Burrows:</p> <p>...Archeological work has unquestionably strengthened confidence in the reliability of the scriptural record. More than one archeologist has found respect for the Bible increased by the experience of excavation in Palestine⁶.</p> <p>Numbers 20 New International Version (NIV)</p>

Public Comments

#	Name	Comments
		<p>Water From the Rock</p> <p>20 In the first month the whole Israelite community arrived at the Desert of Zin, and they stayed at Kadesh. There Miriam died and was buried.</p> <p>2 Now there was no water for the community, and the people gathered in opposition to Moses and Aaron. 3 They quarreled with Moses and said, "If only we had died when our brothers fell dead before the LORD! 4 Why did you bring the LORD's community into this wilderness, that we and our livestock should die here? 5 Why did you bring us up out of Egypt to this terrible place? It has no grain or figs, grapevines or pomegranates. And there is no water to drink!"</p> <p>6 Moses and Aaron went from the assembly to the entrance to the tent of meeting and fell facedown, and the glory of the LORD appeared to them. 7 The LORD said to Moses, 8 "Take the staff, and you and your brother Aaron gather the assembly together. Speak to that rock before their eyes and it will pour out its water. You will bring water out of the rock for the community so they and their livestock can drink."</p> <p>9 So Moses took the staff from the LORD's presence, just as he commanded him. 10 He and Aaron gathered the assembly together in front of the rock and Moses said to them, "Listen, you rebels, must we bring you water out of this rock?" 11 Then Moses raised his arm and struck the rock twice with his staff. Water gushed out, and the community and their livestock drank.</p> <p>12 But the LORD said to Moses and Aaron, "Because you did not trust in me enough to honor me as holy in the sight of the Israelites, you will not bring this community into the land I give them."</p> <p>13 These were the waters of Meribah where the Israelites quarreled with the LORD and where he was proved holy among them.</p> <p>Jesus Comes to Jerusalem as King found in Luke 19:28-43</p> <p>28 After Jesus had said this, he went on ahead, going up to Jerusalem. 29 As he approached Bethphage and Bethany at the hill called the Mount of Olives, he sent two of his disciples, saying to them, 30 "Go to the village ahead of you, and as you enter it, you will find a colt tied there, which no one has ever ridden. Untie it and bring it here. 31 If anyone asks you, 'Why are you untying it?' say, 'The Lord needs it.'"</p> <p>32 Those who were sent ahead went and found it just as he had told them. 33 As they were untying the colt, its owners asked them, "Why are you untying the colt?"</p> <p>34 They replied, "The Lord needs it."</p> <p>35 They brought it to Jesus, threw their cloaks on the colt and put Jesus on it. 36 As he went along, people spread their cloaks on the road.</p> <p>37 When he came near the place where the road goes down the Mount of Olives, the whole crowd of disciples began joyfully to praise God in loud voices for all the miracles they had seen:</p> <p>38 "Blessed is the king who comes in the name of the Lord!"</p> <p>"Peace in heaven and glory in the highest!"</p> <p>39 Some of the Pharisees in the crowd said to Jesus, "Teacher, rebuke your disciples!"</p> <p>40 "I tell you," he replied, "if they keep quiet, the stones will cry out."</p> <p>41 As he approached Jerusalem and saw the city, he wept over it 42 and said, "If you, even you, had only known on this day what would bring you peace—but now it is hidden from your eyes. 43 The days will come upon you when your enemies will build an embankment against you and encircle you and hem you in on every side. 44 They will dash you to the ground, you and the children within</p>

#	Name	Comments
		<p>your walls. They will not leave one stone on another, because you did not recognize the time of God's coming to you."</p> <div data-bbox="586 352 1390 1346" style="border: 1px solid black; padding: 10px;"> <h2 style="text-align: center;">EXHIBIT 4</h2> <p>Subject: Kahoma Stream</p> <p>From: EarleRay Kukahiko (EarleRay.Kukahiko@co.maui.hi.us)</p> <p>To: lincolnmichele@yahoo.com;</p> <p>Cc: Brian.Hashiro@co.maui.hi.us; Eric.Yamashige@co.maui.hi.us; Eugene.Tihada@co.maui.hi.us; Lance.Nakamura@co.maui.hi.us; Rowena.Dagdag-Andaya@co.maui.hi.us;</p> <p>Date: Wednesday, November 23, 2011 2:43 PM</p> <p>Hi Michele, Thank you for your concern at Kahoma. The material you see being stocked piled are sediments from the silt basin. Per a recent inspection by the US Army Corp. of Engineers, we were instructed to remove approximately 25,000 cubic yards of sediments A.S.A.P. to meet the required basin capacity. Because the rainy season is upon us we needed to remove the material as quickly as possible. West Maui Land has been gracious in allowing us to stock pile the material out side of the basin until we are able to move that material to another location.</p> <p>I tried contacting you at the 667-6652 number, however I did not leave a message. Should you have further concerns, please feel free to contact me at my office at 661-0501, our hours are Mon-Fri 6 am - 2:30 pm.</p> <p>Mahalo, Earle Kukahiko, District Supervisor DPW-Highways, Lahaina</p> <p>From: Kiva@co.maui.hi.us (Kiva@co.maui.hi.us)</p> <p>To: lincolnmichele@yahoo.com;</p> <p>Date: Wednesday, February 1, 2012 7:39 AM</p> <p>Thank you for your service request. It has been reviewed, forwarded for action and assigned a County of Maui RFS tracking number. You can track the progress of your request on the County of Maui website using the following RFS number: 12-0000385</p> <p>----- County of Maui.</p> <p style="text-align: center;">54</p> </div>
24	Nancy Pisticchio	<p>Thank you for providing this opportunity to respond to the draft. I must admit, I felt quite inadequate in attempting to provide comments to cover the scope of this draft. But my primary opinion is that the major plans need to be updated prior to working on details of process implementation.</p> <p>The State needs to continue serving in the role of the major resource manager for public trust resources. I support maintaining operating the LUC as a quasi-judicial process. As expressed, I believe this assists in insulating land-use decisions from political, development, and/or short-term economic pressure. There is definitely a continued need for the level of scrutiny that the State is in the position to provide.</p> <p>Included are a few responses to some of the points covered in the Executive Summary:</p> <p>4. 8 Implementation. There needs to be more long-range comprehensive planning and coordination between state and county planning, including capital improvement planning. Functional Plans need to be updated and coordinated.</p>

Public Comments

#	Name	Comments
		<p>4. 10. Adequacy of Enforcement. I support the need for State agencies to participate in ensuring consistency between state and local plans, based upon updated goals and visions.</p> <p>5. Proposed Improvements to Hawaii's Land Use System.</p> <p>5.1.2. The EIS law should be revised to require that the State receive bids from contractors/consultants interesting in preparing an EIS for as specific project and financed by the developer. This process would remove any vested interest in the outcome on the part of the contractor/consultant.</p> <p>5.1.4. I support the suggestion that a time limit be set on approvals. Ideally this could be implemented on the county level, as well.</p> <p>5.1.5. Land Use District and IAL Designations. While the minimum lot size on one-acre in the agricultural district needs to be eliminated, jumping to setting a 25-acre minimum is too drastic. Ideally, minimum lot sizes should be established regionally within the Ag District. Some areas, due to location, built infrastructure, water, may be appropriate to be set at 5-acres, while other areas could be established at 10 or 25-acres. A one-size fits all minimum lot size is not realistic and encourages landowners to seek out the highest density in order to increase value. Once updated, State and County Ag Plans have been developed; agriculture should remain the "highest and best use". Soil ratings are often completely unrealistic. As types of agriculture innovation continue to be developed, and agriculture continues to diversify, a greater priority needs to be placed on maintaining Agriculture Districts, and less priority on making a distinction between IAL and non-IAL lands. And this leads to the need for an expansion of the Rural District. Some lands currently near urban communities and urban infrastructure may be better-suited to be paced in the Rural District. This could relieve some pressure on making land in the Ag District available for development.</p> <p>5.2 System Redesign</p> <p>5.2.1 State Growth Management.</p> <p>I support this option. An update of State growth management should be taken before any other changes are implemented, including the three bullets included within this text. The comprehensive update of the Hawaii State Plan should be the #1 priority at this point. This process should include a long overdue updated 5-Year Boundary Review.</p> <p>Urban Planning. Previously, priority has been given to what the State wants to protect. Updated priorities now need to also provide direction for "what sort of communities do we want to build for the current and future generations?" How do we want our towns to growth? What sort of housing do we need? What kind of urban recreation do we need? What sort of transportation infrastructure do we need? There is a large void in the State Land Use law in providing direction to the quality of the built environment.</p> <p>I do not support giving the counties increased acreage threshold for County District Boundary Amendments, UNLESS the lands fall within the updated Urban District Boundary. The opportunity for increasing this threshold would only be implemented after an update of State and County Plans.</p> <p>I would welcome the opportunity to continue participating in this important process.</p>
25	Office of Hawaiian Affairs (OHA)	<p>As the constitutionally-established body responsible for protecting and promoting the rights of Native Hawaiians, the Office of Hawaiian Affairs (OHA) has substantive obligations to protect the cultural and natural resources of Hawai'i for its beneficiaries. Accordingly, OHA is required to serve as the</p>

Public Comments

#	Name	Comments
		<p>principal public agency in the State of Hawai'i responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians; assess the policies and practices of other agencies impacting Native Hawaiians; and conduct advocacy efforts for Native Hawaiians. [HRS § 10-3] The following comments reflect OHA's responsibility to better the conditions of Native Hawaiians, and are specifically intended to maximize the benefits of the Report for our beneficiaries.</p> <p>OHA recognizes that the Office of Planning (OP) spent considerable time and effort completing the State Land Use System Review Draft Report (Report), and commends OP for its comprehensive, informative, and valuable Report.</p> <p>By calling attention to the benefits derived from Hawai'i's land use processes, the Report highlights what would be at stake if the State were to significantly alter the current land use system. The Report identifies how the reviews and processes provide protection, checks and balances, and opportunities for public participation. These are significant benefits provided by the current system that must be retained, in some form, if the State considers proposals for change. Specifically, the current process ensures that impacts to Native Hawaiians, cultural resources, and cultural practices are considered in land use decision making, and that mitigation measures are incorporated into certain land use approvals.</p> <p>OHA especially appreciates that the Report emphasizes the value of opportunities for meaningful public participation; explicitly recognizes the duties of the State and counties to manage public trust resources; clearly recites the obligations of the State under <u>Ka Pa'akai O Ka 'Aina v. Land Use Commission</u>, 94 Hawai'i 31, 7 P.3d 1068 (2000); points to some of the problems related to permitting non-agricultural uses in the agricultural district; and calls attention to the challenges associated with the enforcement of Land Use Commission (LUC) conditions of approval. In addition, OHA found the following reported statistics especially instructive:</p> <ul style="list-style-type: none"> • None of the stakeholders who provided comments to OP called for the elimination of the LUC; • Since 1975, the majority of district boundary amendment petitions, 70%, have been approved, 6% have been denied, and 11% have been withdrawn or are pending; • Between 1995 and 2014, the median timeframe for LUC decision making was approximately 14 months; • From 1975 to the present, there were only 78 interventions in contested case hearings, comprising 18% of petitions; • Since 1972, there have been only 42 instances of appeals of LUC decisions and other court cases in which the LUC was a party; • There are significant amounts of undeveloped lands within the Urban District on all islands (preliminary OP analysis indicated 25,700 acres on Oahu, 5,400 acres on Kauai, 9,800 acres on Maui, and 33,900 acres on Hawai'i Island); and • Between 1968 and 2009, total crop cultivation has declined by 75%. <p>Certain inferences can be made based on these findings: district boundary amendments have a higher likelihood of being approved than denied; the LUC decision making process does not add a significant amount of time to the development process; instances of both intervention in contested cases and appeals from LUC orders are the exception, rather than the rule; the LUC process does not appear to be restricting the total land supply for residential development because there are</p>

#	Name	Comments
		<p>significant amounts of undeveloped lands within the Urban District on all islands; and Hawaii's crop cultivation has drastically declined in the past 50 years.</p> <p><u>Traditional and Customary Rights</u></p> <p>With OHA's kuleana in mind, OHA recommends that, among other suggested amendments and additions, explicit reference be made to traditional Native Hawaiian land tenure, the constitutional and statutory protections for Native Hawaiian traditional and cultural practices, and the clear obligations of State and county agencies to reasonably protect Native Hawaiian traditional and customary rights. Specifically, OHA recommends the following amendments and additions, as discussed below.</p> <ol style="list-style-type: none"> 1. In order to provide additional information on Hawaii's legacy of land stewardship and the rights retained by native tenants after land was privatized, OHA recommends that the following paragraph be inserted between the first and second paragraphs on page 2-1: <p><u>"Before the 1800s, land tenure was based not on private ownership rights, but on a communal system of land tenure and subsistence, in which the mo'i (supreme chief of an island) held the land and its natural resources in trust on behalf of the gods. Along with obligations to work, ahupua'a tenants had rights to utilize resources for subsistence, medicinal, cultural, religious, and other purposes. Even with the significant changes to communal land tenure that occurred during the 1800s as western concepts of private property were incorporated into Hawaii's land tenure, native tenants retained certain rights and interests in land. For example, during the Mahele (land division), land was conveyed <i>subject to the rights of native tenants</i>. The traditional and customary rights of Native Hawaiians continue to be constitutionally and statutorily recognized in the constitutional provisions of Article XII, section 7, and in HRS § § 1-1 and 7-1, as well as protected and enforced in various judicial decisions."</u> [Although much more could be included in the report about communal land tenure and the rights retained by native tenants as land was privatized, OHA acknowledges that OP may prefer to keep this section brief. OHA invites OP to communicate with OHA further about additional information that could be included in this section to more fully explain the basis for and affirmation of traditional and customary rights. For additional information, see Section II. Legal Overview and Framework and Section III. Reconciling Traditional and Modern Land Use Systems in <i>Ho'ohana Aku, a Ho'ola Aku: A Legal Primer for Traditional and Customary Rights in Hawaii</i>, by David M. Forman & Susan K. Serrano. <i>Ka Huli Ao Center for Excellence in Native Hawaiian Law, Honolulu, Hawaii</i>, 2012, available at https://www.law.hawaii.edu/sites/www.law.hawaii.edu/files/content/Programs%2CClinics%2CInstitutes/Ho%27ohana%20Aku%20Final.pdf; and Chapter 1, <i>Historical Background</i>, by Melody Kapilialoha MacKenzie in the forthcoming <i>Native Hawaiian Law: A Treatise</i>, edited by Melody Kapilialoha MacKenzie with Susan K. Serrano and D. Kapua'ala Sproat.]</p> 2. In order to include additional important 1978 Constitutional amendments related to the rights and interests in land and resources retained by Native Hawaiians that must also be considered in land use decision making, OHA recommends that the first paragraph on page 2-4 be amended to read as follows: <p>"Two <u>A number of</u> significant amendments to the Hawaii State Constitution were passed in 1978 that seek to preserve and protect Hawaii's natural and cultural resources, as well as the ability of Native</p>

#	Name	Comments
		<p><u>Hawaiians to exercise their traditional and customary practices.</u> First, Article XI, Section 1 of the Constitution Second, <u>Article XI, Section 7 of the Constitution requires the State to protect, control and regulate the use of Hawaii's water resources for the benefit of its people and for the legislature to create a water resources agency which, among other duties, must protect ground and surface water resources, watersheds and natural stream environments and establish water use priorities while assuring appurtenant rights and existing correlative and riparian uses.</u> Third, <u>the Important Agricultural Lands (IAL) law Finally, Article XII, Section 7 of the Constitution affirms that the State has a duty to protect the traditional and customary practices of Native Hawaiians.</u>"</p> <p>3. Use proper Hawaiian spelling and punctuation, including but not limited to macrons and glottal stops that punctuate words, for all Hawaiian terms and place names.</p> <p>4. Amend the first sentence of the second to last bullet item, "Move Environmental Review to Post-LUC Decision Making," on page vii of the Executive Summary to read as follows:</p> <p><u>"It has been suggested that the environmental review process, which includes an assessment of cultural impacts, occurs too early and should be conducted after LUC decision making."</u></p> <p>5. Add a sentence after the third sentence of the second paragraph of page 2-4 to read as follows:</p> <p><u>"Even with the expanded capacity of county planning departments, the State may continue to have greater expertise on issues such as the protection of archaeological, historical, cultural, and natural resources and sites."</u></p> <p>6. In order to be consistent with the statutory language of HRS § 205-1, OHA recommends that the third paragraph on page 2-7 be amended to read as follows:</p> <p><u>"The LUC is currently constituted as a nine-member body appointed by the Governor and confirmed by the Senate, and includes one member from each of the four counties and one member with traditional Hawaiian cultural experience substantial experience or expertise in traditional Hawaiian land usage and knowledge of cultural land practices."</u></p> <p>7. In order to more accurately describe the requirements of the environmental review process, [see HRS § 343-2] amend the second sentence of the first paragraph of page 2-9 and add an additional sentence, to read as follows:</p> <p><u>"It requires the analysis of environmental, cultural, social, and economic impacts of proposed projects prior to discretionary approval and identifies recommended mitigation measures for the project. Specifically, an assessment of the cultural impacts is required."</u></p> <p>8. Amend the third sentence of the second to last paragraph on page 4-11 to read as follows:</p> <p><u>"The counties' land use planning capacity and expertise has matured, and each county has robust programs for comprehensive land use planning and permitting that engages the community in land use policy and decision making; however, the State may continue to have greater expertise on issues relating to the protection of archaeological, historical, cultural, and natural resources."</u></p>

#	Name	Comments
		<p>9. Add a sentence to the end of the first paragraph on page 4-13 to read as follows: <u>"Additionally, the State may continue to have greater expertise on certain issues, such as the protection of archaeological, historical, cultural, and natural resources and sites."</u></p> <p>10. Amend the last sentence of the first paragraph on page 4-25 to read as follows: <u>"Some participants suggested conducting environmental reviews, which includes an assessment of cultural impacts, later in the development process, when project plans have matured."</u></p> <p>11. Amend the first sentence of the second paragraph on page 4-25 to read as follows: <u>"Regarding the LUC's consideration of archaeological or cultural issues, in order to fulfill its obligation to preserve and protect customary and traditional native Hawaiian rights to the extent feasible, as mandated by Article XII, section 7 of the Hawaii Constitution, the LUC must, minimally, is constitutionally required to make specific findings and conclusions as to "</u></p> <p>12. Amend the citation at the end of the second paragraph on page 4-25 as follows: <u>"Ka Pa'akai O Ka'a-`AAina v. Land Use Commission, 94 Hawai'i 371, 46, 7 P.3d 1068, 1083 (2000)."</u></p> <p>13. Amend the second sentence of the third paragraph on page 4-25 as follows: <u>"In addition, at least one of the LUC commissioners must have 'substantial experience of expertise in traditional Hawaiian land usage and knowledge of cultural land practices."</u></p> <p>14. Add a sentence to the end of the third paragraph on page 5-2 to read as follows: <u>"Additionally, the solicitation of input from community members early and often, including community members with generational knowledge, may lead to better planning and implementation related to changes in land use."</u></p> <p>15. Amend the first sentence of the second paragraph under 5.1.2.2 on page 5-3 to read as follows: <u>"On the other hand, the EA/EIS process, which includes an assessment of cultural impacts, is the public's best means of learning early about a proposed development, "</u></p> <p>16. Add a sentence at the end of the second paragraph under 5.1.2.2. on page 5-3 to read as follows: <u>"Further, the LUC may have a more difficult time fulfilling its obligations under Ka Pa 'akai O Ka 'Aina v. Land Use Commission, 94 Hawai'i 31. 7 P.3d 1068 (2000) if the EA/EIS process is moved to later in the development process."</u></p> <p>17. Add a sentence after the third sentence of the second paragraph on page 5-7 to read as follows:</p>

#	Name	Comments
		<p><u>"Still, the State may continue to have greater expertise on certain issues, such as the protection of archaeological, historical, cultural, and natural resources and sites."</u></p> <p>18. Add a sentence after the second sentence of the second paragraph on page 5-9 to read as follows:</p> <p><u>"As such, there must be criteria in place to ensure that county planning is conducted and approved in a manner that satisfies the State's affirmative duty to preserve and protect Native Hawaiian traditional and customary rights."</u></p> <p>19. Add a sentence at the end of the first paragraph under "Background and Need" on page 5-9 to read as follows:</p> <p><u>"Still, the State may continue to have greater expertise on issues such as the protection of archaeological, historical, cultural, and natural resources and sites."</u></p> <p>20. Add the following to the last paragraph on page 5-9, the fourth paragraph on page 5-11, and the second to last paragraph on page 5-12 to read as follows:</p> <p><u>"This option also eliminates contested case hearings, thereby limiting an interested party's ability to participate in decision making, and making it more difficult for the State to fulfill its affirmative duty to protect constitutionally-recognized Native Hawaiian traditional and customary rights. Although county planning processes provide opportunities for public input, such processes currently do not afford the same level of public participation as decision making by the LUC."</u></p> <p>21. Add a sentence to the end of section 5.2.5 on page 5-13 to read as follows:</p> <p><u>"Under this proposal, in order to ensure basic consistency in contested case hearings conducted by each of the county planning commissions, minimum requirements may need to be imposed."</u></p> <p>22. Amend the last sentence under "Environmental Review" on page 7-2 to read as follows:</p> <p><u>"They analyze the environmental, cultural, social, and economic impacts of proposed projects prior to discretionary approval "</u></p> <p><u>Conditions of Approval</u></p> <p>Conditions of approval are a critical means by which the LUC fulfills its obligations to Native Hawaiians. As referenced above, pursuant to Hawai'i's Constitution, various statutes, and judicial decisions, the State and its agencies, including the LUC, have an affirmative duty to preserve and protect Native Hawaiian traditional and customary practices, while reasonably accommodating competing private interests. [see, e.g., Ka Pa 'akai O Ka 'Aina v. Land Use Commission, 94 Hawai'i 31. 7 P.3d 1068 (2000)] The perpetuation of Hawaiian culture depends on access to culturally significant resources, sites, and areas. In order to more explicitly acknowledge the importance of conditions of approval in ensuring that LUC decision making occurs pursuant to the LUC's affirmative duties, OHA recommends the following additions:</p>

#	Name	Comments
		<p>1. Add a new paragraph after the second paragraph on page iv of the Executive Summary to read as follows:</p> <p><u>"Conditions imposed by the Land Use Commission ensure, among other things, that project approvals are made subject to the State's duties to protect the reasonable exercise of customarily and traditionally exercised rights of Hawaiians to the extent feasible. The protection of traditional and customary practices is essential to the perpetuation of Hawaiian culture."</u></p> <p>2. Add a sentence to the end of the second paragraph on page vi of the Executive Summary to read as follows:</p> <p><u>"However, if environmental reviews are moved to later in the development process, the LUC's conditions of approval, which may mitigate impacts to natural and cultural resources, will be more difficult to determine."</u></p> <p>3. Add a sentence at the end of the second to last bullet item, "Move Environmental Review to Post-LUC Decision Making," on page vii of the Executive Summary to read as follows:</p> <p><u>"However, because LUC decisions may incorporate mitigation measures into conditions of approval, protection of natural and cultural resources in state decision making may be more difficult to ensure."</u></p> <p>4. Add a sentence to the last paragraph on page 4-9 to read as follows:</p> <p><u>"Conditions imposed by the Land Use Commission ensure, among other things, that project approvals are made subject to the State's duties to mitigate potential impacts to cultural, natural, and environmental resources. The protection of traditional and customary practices is essential to the perpetuation of Hawaiian culture."</u></p> <p><u>Predictability of Delays due to Conflicting Policy Considerations</u></p> <p>OHA notes that 70% of district boundary amendment petitions have been approved since 1975, and that although the chance of opposition to a petition may make the process less certain and predictable, "historically[,] petitions have generally been approved without a challenge." Page 4-14.</p> <p>OHA appreciates that the Report highlights the fact that "substantial delays," or what OHA would describe as lengthier processes, in final LUC decision making (including the time for judicial appeals from LUC orders) have been <u>infrequent</u>, and that the longer processing 5 See, e.g., <i>Ka Pa 'akai O Ka 'Aina v. Land Use Commission</i>, 94 Hawai'i 31, 7 P.3d 1068 (2000). occurred "where land use <u>policy conflicts</u> exist[ed]." Page 4-7 (emphasis added). Based on this apt assessment, petitioners should expect longer than average processing times for their petitions when there are significant conflicts among members of the public, developers, and state agencies related to appropriate land uses. OHA does note that the characterization (on page 4-7) of intervention as resulting in "delays" and court appeals of LUC decisions resulting in "substantial delays" actually may mischaracterize the purpose and value of intervention and appeals of LUC decisions. In the instances when the development process is lengthy, the "delay", or the amount of time required for the development process, is likely both justified and necessary in order to ensure that decision making is done only after a thorough review of the proposal that contemplates all the issues and incorporates input from interested parties.</p>

#	Name	Comments
		<p>1. In order to more fully reflect the findings of the Report, specifically, what is predictable about the development process (<i>i.e.</i>, that developers should expect a longer process for proposed land use changes that have conflicting policy considerations), OHA recommends that the second to last paragraph on page iv of the Executive Summary be amended to read as follows:</p> <p>"The land use process . . . to follow in the land use process. The <u>timetable for LUC decision making and the development process can be disrupted extended</u> by intervenors, appeals, or orders to show cause. There are multiple decision points in the approval/development process where permit documents are subject to unclear standards, or where the documents/applications can be appealed. <u>Parties should expect that when a development project relies on a district boundary amendment in order to proceed, and there are competing and conflicting policy considerations, LUC decision making and the development process will take longer.</u>"</p> <p>2. Consistent with the discussion above, and with the characterization elsewhere in the Report regarding the lengthy development process, OHA recommends that the last paragraph of page 4-7 be amended as follows:</p> <p>"Intervention has, albeit infrequently, resulted in <u>instances where delays in the LUC process and/or court appeals of LUC decisions that have resulted in substantial delays a justifiably longer approval process for</u> of projects where land use policy conflicts exist."</p> <p>3. Consistent with discussion above, OHA also recommends that the first paragraph on page 4-17 be amended to read as follows:</p> <p>"Uncertainty and lack of predictability in land use system is a function of many factors. In the LUC process, the decision making and development process can be <u>disrupted extended</u> by intervenors, appeals, or orders to show cause. There are multiple decision points in the approval/development process where permit documents are subject to unclear standards, or where the documents/applications can be appealed. <u>In instances where there are competing and conflicting policy considerations regarding the best use of land, parties should expect that the process will be longer.</u>"</p> <p><u>Public Participation</u></p> <p>As OHA previously stated in its December 19, 2014 letter to OP on the Stakeholder Meetings to Discuss Improvements to the State's Land Use System, the contested case hearing process is one of the safeguards in place to ensure that the State, as trustee of much of Hawai'i's unique cultural and environmental resources, upholds its fiduciary obligations to Native Hawaiians and the larger public. [As discussed, for example, in <i>Ka Pa 'akai O Ka 'Aina v. Land Use Commission, 94 Hawai'i 31. 7 P.3d 1068 (2000)</i>] The contested case hearing process provides intervenors with the opportunity to present their own arguments, experts, evidence, and witnesses, as well as the opportunity to cross-examine the witnesses and experts of other parties. This level of participation may not currently be available in county decision making processes. In order to highlight the existence and importance of this opportunity for meaningful public participation, OHA recommends that the Report be amended as follows:</p>

Public Comments

#	Name	Comments
		<p>1. Add a sentence at the end of the second paragraph in the section titled "LUC should go back to a quasi-legislative process" on page iv of the Executive Summary to read as follows:</p> <p><u>"Importantly, LUC proceedings also permit intervening parties to present their own arguments, experts, evidence, and witnesses, as well as the opportunity to cross-examine witnesses and experts of other parties."</u></p> <p>2. Add a sentence at the end of the second paragraph on page 4-15 to read as follows:</p> <p><u>"For intervening parties, LUC proceedings do offer a level of public participation that may not be available in county decision making processes."</u></p> <p>3. Amend the second sentence of the fourth paragraph on page 5-11 to read as follows:</p> <p><u>"The contested case hearing process employed by the LUC is favored by many for the greater opportunity it provides intervenors to hear and present evidence and witnesses, cross-examine parties, and have decisions based on fact-finding and legal conclusions, which provides a level of opportunities for public participation that may not be available in county decision making processes."</u></p> <p><u>Affordable Housing</u></p> <p>Much of the recent public discourse related to major land use decisions by the State and counties has revolved around the sometimes conflicting needs for housing, and for land for agricultural use. In order to more explicitly recognize the statewide need for affordable housing, how this need factors into land use planning, and opportunities for developers to partner with the Hawai'i Housing Finance and Development Corporation, OHA recommends the following amendments and additions:</p> <p>1. Amend the last full paragraph on page v of the Executive Summary to read as follows:</p> <p><u>"Some task force members expressed that the current system also hinders the development of sufficient affordable or workforce housing through the cost of the actual process, the time for review, and the uncertainty of the result. While some have claimed ... , and 33,900 acres on Hawaii island. Additionally, affordable housing may be developed in partnership with the Hawaii Housing Finance and Development Corporation pursuant to HRS section 201H-38 that may be exempt from statutes, ordinances, and rules relating to planning and zoning, in addition to other regulations, thereby potentially shortening the time for review."</u></p> <p>2. Amend the first sentence on page x of the Executive Summary as follows:</p> <p><u>"The State would develop statewide strategic plans for major land use and development objectives, including agriculture and affordable housing."</u></p> <p>3. Amend the third sentence of the fourth paragraph of page 4-3 to read as follows:</p> <p><u>"However, land use and growth management problems persist; an intractable insufficient supply of affordable housing gap; a lengthy and costly development process;"</u></p>

Public Comments

#	Name	Comments
		<p>4. Add a sentence to the end of the second to last paragraph of page 4-8 to read as follows:</p> <p><u>"Hawaii does currently have in place processes that may permit affordable housing to be developed more quickly than other types of development, such as under HRS § 201H-38. Additionally, Transit-Oriented Development Zoning and Land Use Regulations may also provide additional options for expedited processes."</u></p>
26	Pauline MacNeil	<p>With Hawaii's 2040 population projection of 1,708,900 (DBEDT), the state's yearly effort to increase the number of visitors to our islands, (7.9 million in 2012) and a finite amount of land, water, and scenery to satisfy everyone, an LUC to administer zoning laws (under Chapter 205) is more crucial now than when it was established in 1961.</p> <p>Major challenges of food and energy security, the imminent threat of sea level rise from climate change, the loss of our rain forests and forests in general, the rezoning of prime agricultural lands for urban growth, the shift from food to GMO seed production, and the trend to commercialize cultural resources, all require a strengthening rather than a dissolution of the LUC. This could be achieved in part, by improving:</p> <ol style="list-style-type: none"> 1. Public participation in LUC decision making <ol style="list-style-type: none"> a. extensive and timely public notification b. maintaining the contested case process c. reimbursement of legal fees in contested cases where the public successfully demonstrates a breach of public trust in an LUC decision 2. Power to enforce the conditions the LUC places on a zone change <ol style="list-style-type: none"> a. ability to fine for breach of conditions b. ability to modify or change conditions as needed for protection of state resources c. ability to give cease and desist orders 3. Commission members that include: <ol style="list-style-type: none"> a. a local organic farmer, since food production is essential to sustainability b. a Hawaiian cultural historian knowledgeable in native settlement and land use history c. a conservationist, preferably the head of a non-profit organization <p>In recent years there has been an increasing disconnect between the language of planning for sustainability and the protection of resources that would ensure it. Increasingly, the state looks to business and developers to tack on protective measures when what is needed is better funding of state planning and land agencies responsible for establishing and conserving essential minimums of public resources on all islands. We do not ask the state to manage corporations (socialism), and yet we have somehow drifted into the habit of assuming that for-profit corporations can overcome conflicts of interest to safeguard public resources (corporatism).</p> <p>In the search for greater efficiencies and effectiveness perhaps we could return to a middle ground on which each sector can properly do what it is best at.</p>
27	Peter Hodgson	<p>Progress should not be made at the expense of the residents' future and the sustainability of Hawaii. From ag land to country roads we should be more concerned with saving what makes Hawaii special for future generations to enjoy. Keep Hawaii pono please. There is no way to make Kam Hwy 4 lanes from Haleiwa to Kaneohe so please consider this when creating projects to push more traffic down this permanently 2 lane road. Also save as much ag land as possible as there will certainly be a day when it becomes more valuable that it seems to be today, mahalo.</p>

Public Comments

#	Name	Comments
28	Realtors Association of Maui	<p>The REALTORS® Association of Maui thanks the Office of Planning, State of Hawaii for this thorough, engaging discussion of the role the State Land Use System in 21st Century Hawaii. We appreciate this opportunity to offer the following comments.</p> <p>It is RAM's general belief that the State Land Use System is an anachronism that adds costs and causes unnecessary inefficiencies to the reasonable use of land in Hawaii. When the commission was created, sugar was king and a major LUC responsibility was to protect the lands that plantation agriculture depended on. The lands were protected, but sugar and pineapple are all but gone, nonetheless. That protection came at a price: the price of homes has reached the point that our working population can no longer afford the cost of shelter. Tents line our streets. While the causes of that phenomenon are not limited to the State Land Use System, we do believe the unnecessary redundancy in our land use approval process is partially responsible for the lack of housing our residents can afford.</p> <p>Our association has been active reviewing the reasons for why there is such a limited supply of homes being built, and especially homes our working families can afford. The County's Maui Island Plan states that the Maui community needs to build 30,000 new homes in the next 15 years just to keep pace with our natural birth rate. DBEDT recently issued its housing demand study for the year 2025, which calls for 13,949 new homes built on Maui in ten years to meet demand. That amounts to about 1,400 new homes a year. We are not building a fraction of that amount now. Most of the land needed for that Maui development is in the State Agricultural District and with our current process, it is going to take at least seven to 10 years to entitle these lands for development.</p> <p>Our message is this: we are already in a severe housing shortage that is only going to get worse without significant changes to our land use approval process. RAM acknowledges our collective responsibility to protect Hawaii's exceptional natural resources. But in order to have a healthy community, we also have a responsibility to create opportunities for our children to be able to live here. With six layers of land use control (LUC, County General Plan, Community Plans, Zoning, CZM, Historic District) we believe the process is out of balance, unnecessarily redundant and impedes necessary development.</p> <p>A case in point is the Kahoma Residential Subdivision (KRS) in Lahaina. KRS is a 68-unit, 100 percent affordable, 201-H, single family, in-fill project. It includes the active participation of local affordable housing non-profits Habitat for Humanity and Na Hale O Maui. It will produce homes that working families can afford in a regular market environment that starts well above \$500,000. 201-H status is supposed to assure a fast-track entitlement approval process. Maui County moved KRS through its process expeditiously. But when it arrived at the State Land Use Commission KRS is lost its 201-H status because of an intervention. That intervention was possible because of the state system's quasi-judicial process. KRS prevailed at the LUC and in Circuit Court but is now drifting, waiting for an Intermediate Court of Appeals decision. As it drifts, its financing costs increase, making the homes more expensive to build.</p> <p>KRS is stuck because of a basic, tactical error: it occupies 16 acres. If the project did not have to go through the State Land Use System, those critically needed homes would be going up right now. This case demonstrates that the State Land Use System is weighed to protect the status quo. If we are going to make any headway towards correcting our housing shortage, projects like KRS need to be given every possible advantage. That's what 201-H status is supposed to provide. What about the rights of the neighboring property owner who objects to having additional homes built in the neighborhood? If the neighbor has a legitimate point, she can make that point at the County</p>

Public Comments

#	Name	Comments
		<p>legislative level. If there is a gross miscarriage of justice, she can file suit. Her rights remain. RAM's message is: if we want to meet the housing demand that our planners are telling us to expect, something has to change. The status quo will not support the level of housing development our communities need.</p> <p>That statement notwithstanding, we fully recognize that a State Constitutional case can be made for continuing the State's oversight over Important Agricultural Lands, as a legitimate State interest. Once those IAL properties have been identified, however, the State should limit itself to the regulation of those lands. The legitimacy of its oversight over non-IAL and non-Conservation lands will have ended. Until that change in status is recognized, we offer the following intermediate steps:</p> <ul style="list-style-type: none"> • Discontinue State land use jurisdiction over all 201-H projects that do not impinge on IAL properties. 201-H has been an excellent tool for expediting the development of affordable housing. However, as the above KRS case shows, application of State Land Use authority apparently takes precedence over the State's goal to promote affordable housing. Given our current housing crisis, that application of the law needs to be reconsidered and can be reversed by removing the LUC's jurisdiction over 201-H projects. • Give recognition to the fact that not all agricultural lands are Important Agricultural Lands, and in fact, most agricultural lands are really rural in character and do not have IAL potential. To determine which is truly important, the remaining studies need to be conducted in Maui and Hawaii Counties, by those counties. RAM fully supports the protection of truly Important Agricultural Lands. • The concept of larger minimum agricultural lot sizes should only apply to IAL-classified properties. Maui County has over 1,000 agriculturally classified 2-acre lots that are really rural residences. They are not relevant to the state's agricultural future. In 2007 the Legislature attempted to apply a 5-acre minimum on all agricultural properties, a move that would have made these small lot ag-zoned properties "non-conforming." The resulting outcry defeated that measure (SB 1236-07). Rather than repeating that scenario, RAM respectfully suggests that the State consider working with the Counties to re-classify these properties to reflect their rural character. • Recognition needs to be given to the fact that the Counties' planning capacities have reached a point which renders the State Land Use Planning role truly redundant in cases not related to IAL or Conservation lands. • Encourage the Counties to apply for mass reclassification of lands planned for urban use in their General or Island Plans. Mass re-classification will recognize the primacy of the Counties' General Plans and will aid the cause of developing the homes our communities need. • Increasing the Acreage Threshold for County Authority over District Boundary Amendments: RAM supports the suggested increase in acreage threshold from 15 acres to 100 acres.
29	Rory Frampton	<p>Thank you for the opportunity to comment on the Office of Planning's "State Land Use System Review" Draft Report dated May 2015. The report presents a well written and very thorough analysis of the State's Land Use System with a focus on the Land Use Commission's district boundary amendment process. Office of Planning should be commended for the time and effort put into this the report and overall review process.</p>

Public Comments

#	Name	Comments
		<p>The comments provided below are not intended to be an exhaustive commentary on the report but rather are presented with the “Big Picture” in mind.</p> <p>Project Permitting vs. Comprehensive Statewide Land Use Planning. Since the mid 1970’s, the primary focus of the State Land Use Commission has been to review and process individual requests for District Boundary Amendments. Overtime, the focus of the commission has been much less on the question of what is the appropriate district boundary classification for various land areas. Rather the LUC decisions have evolved into a detailed review of the specific types of proposed urban uses and detailed reviews of development design and associated impacts. In reality, requests before the Commission might be more appropriately referred to as a Development and Use Permit instead of a District Boundary Amendment. This evolution is not necessarily consistent with language and intent of Chapter 205. (However, it can be argued that the practice is dictated by the requirements contained in the Land Use Commission rules.)</p> <p>Many of the comments and issues raised in the report are related to the current nature of the LUC’s case by case project review. Calls for more detailed project review, enforcement of project specific conditions, time limits, specific BMPs, non-transferability of approvals, use of local based impact fees, etc., etc., are based on the premise that the LUC process is supposed to be a specific case by case Development and Use permitting process. It would be helpful for the report to categorize the various issues and concerns into detailed project permitting concerns vs. overall state wide land use planning considerations.</p> <p>There is no other precedent. In reviewing the summary of models or best management practices from other states, there is no example of a State agency issuing what amounts to an individual Development and Use Permit on a case by case basis. As noted in the report on page 4-4, Hawaii is the only state in the nation with land use decision making at the State level. And again, as accurately noted in the draft report, the LUC’s land use decision making process involves very little comprehensive planning considerations but rather detailed review on a project specific basis, in other words, project permitting. I support a major overhaul of the system so that State wide issues and concerns are addressed on a more comprehensive basis, similar to approaches in other states.</p> <p>Unnecessary duplicity. One rationale provided for the LUC’s role in reviewing development requests is that the LUC review is necessary in order to obtain input from State agencies. This is not true. County review processes include obtaining input from a multiplicity of agencies at the County, State and Federal Government. Adhering to this rationale would suggest that a Development and Use Permit issued by the Federal government is required in order to obtain input from Federal agencies. In reality, the agency review processes at the LUC and County levels are duplicative. One alternative is to increase the level of involvement of the State LUC and OP in County decision making processes. A variation of this option would be to have the State LUC serve as the reviewing and accepting agency for Environmental Review documents for large projects requiring district boundary amendments. This would ensure that issues and concerns of statewide importance are given appropriate consideration in environmental disclosure documents.</p> <p>Please avoid polarizing characterizations. As a whole, the draft report is supportive of maintaining the existing system, this position appears to be supported by the various public comments obtained during the public review process. Comments in the report seem to suggest that the system is supported by environmentalists and community representatives while the critics are characterized as having development interests. The report states that supporters of the existing system wish to protect Hawaii’s public trust resources, environmental quality, and community well-being, while those claiming that there is redundancy do not consider the State’s obligation to protect and manage</p>

Public Comments

#	Name	Comments
		<p>public trust resources and Hawaii's fragile ecosystems. (See section 4.4.4.) This is a gross over characterization, especially for the many professionals involved in the current land use, planning and development permitting processes who have a deep concerns for Hawaii's natural resources and communities, while at the same time hoping that the State Land Use development review process can be improved.</p> <p>Thank you once again for the opportunity to provide comments on the draft report. I look forward to further participating in any attempts to improve the existing system for overall the betterment of the people and resources of Hawaii.</p>
30	Sierra Club	<p>I reviewed the April 2015 draft (not the May one). When/if I have a chance to review the May draft, I'll send comments on it. And in any case, I'm going to reserve more substantive comments on the report later. These comments are by page number and not in order of importance.</p> <p>Page 2-4. Technically and mathematically, Table 1 is inaccurate (last column). The percent change in urban land between 1964 and 2014 is over 68%. You have made a common mathematical error in comparing percentages. It looks like you got it right in Table 2.</p> <p>Page 4-9 -- 4-11 and 4-13 include legally inaccurate information regarding investment-backed expectations. A developer's promise to mitigate does not mean that the LUC has to approve a petition.</p> <p>See, for example, the LUC's denial of the O'oma petition (which was upheld on appeal to the circuit court). (1) The LUC does not have to believe a developer's representation that the mitigation measures are effective. (2) The LUC does not have to believe that any measures mitigate a particular impact. A developer's decision to do studies does not and cannot create investment-backed expectations. A landowner which has not received LUC approval (for example) to reclassify land from agriculture to urban has no investment-backed expectations; no entitlement. Until the LUC actually votes to approve, no landowner could successfully argue that it has "urban" rights. Those paragraphs are legally misleading.</p> <p>Page 5-2. I don't believe that 5.1.1.2 is correct. At the O'oma hearing, for example, members of the public had the opportunity to testify at just about every single LUC meeting. Has that practice changed?</p> <p>Page 5-5. Technically, those annual report are publicly available. HRS chapter 92F. What you mean is: they should be more accessible to the public (such as, by posting them on the web; or having an LUC meeting devoted to developers publicly testifying as to what they have done to satisfy the conditions).</p> <p>5.1.4.2 Too bad giving the LUC the authority to levy financial penalties is not mentioned.</p> <p>I'm sorry that my system "redesign" proposal did not make the cut: Developers can only apply to reclassify land once every 5 years per island. That way all developer plans can be considered comprehensively -- and real planning can occur.</p>
31	State of Hawaii Department of Agriculture (DOA)	<p>As a Task Force member representing the Agricultural District and farming activities, I am very pleased with the Report. Many thanks to the Office of Planning for taking the initiative and allocating their very limited resources to undertaking this important project in such a comprehensive manner. The Report's proposals, to varying degrees, promise improved representation and consideration of agricultural resources and activities in planning and land use reclassification processes. The Report</p>

Public Comments

#	Name	Comments
		<p>also proposes tasks to be done in collaboration with the Office of Planning, including the mapping of agricultural productivity potential to replace the Land Study Bureau maps. I am confident that the Department would be in favor of these efforts and look to them as investments that improve the informational basis for protecting agricultural lands. Likewise, the role of a statewide strategic plan for agriculture should be considered to efficiently and effectively cause the bona fide agricultural use of agricultural lands.</p> <p>The Report also shines light on, and will hopefully bring to an end, the haphazard amendments to Chapter 205, Hawaii Revised Statutes that add uses and activities on agricultural land that often compete with the primary permitted agricultural uses and activities.</p> <p>I look forward to continued participation in this most worthwhile effort.</p>
32	Weston Yap	<p>Thank you for the opportunity to comment on possible revisions to the Land Use Commission and development.</p> <p>Please consider the following:</p> <ol style="list-style-type: none"> 1. Broaden community representation on the Land Use Commission to include at least one farmer who has successful commercial experience and current contracts to supply Hawaii's major food wholesalers such as Armstrong Produce, HFM Food Service, Costco or Whole Foods. This should give us at least one commissioners who understands the economics of community food production. 2. Broaden community representation to include a hydrologist or resource manager who can speak to fresh water demand and supply, as well as the impact of development on aquifers and how runoff may affect our coastal resources. 3. Please increase the minimum lot size for agricultural land to 25 acres to prevent subdividing. Please advocate for leases of longer term so that a farmer can consider tree crops. For example both mango and cacao trees need about 4 years to bear marketable crops. 4. Please require developers to begin construction seven to 10 years after receiving land re-classification approval. 5. For major developments please require an environmental impact statement at the outset. If the project is delayed 7 years, or more, please require a 2nd round of environmental impact study and an updated statement. 6. I support the proposal to transform the Land Use Commission into a state planning commission. 7. I support limiting regional boundary amendments to occur only once every five years. 8. I support shifting contested case hearings to the counties.