

February 6, 2018

Ronald A. Sato, AICP, Senior Associate  
HHF Planners  
733 Bishop Street, Suite 2590  
Honolulu, Hawai'i 96813  
rsato@hhf.com

Ms. Marigold Zoll, O'ahu Forestry and Wildlife Manager  
State of Hawai'i  
Division of Forestry and Wildlife  
P.O. Box 6212  
Honolulu, Hawai'i 96809  
Marigold.S.Zoll@Hawaii.gov

Re: Kawainui-Hāmākua Master Plan Project Draft Environmental Impact Statement

Dear Mr. Sato and Ms. Zoll:

As you know, the State of Hawai'i ("State"), Department of Land and Natural Resources ("DLNR"), Division of Forestry and Wildlife ("DOFAW"), in partnership with the Division of State Parks ("DSP"), has proposed developing the Kawainui-Hāmākua marsh and surrounding area<sup>1</sup> on the windward side of O'ahu pursuant to a Master Plan Project ("Project") Draft Environmental Statement ("DEIS") dated November 8, 2017. Please accept these written comments to the DEIS prepared by the Windward Coalition ("WC") Executive Board on behalf of the entire WC membership.

The WC strongly opposes the Master Plan in its current form. This plan does not appear to advance the DLNR's stated mission to "enhance, protect, conserve and manage Hawai'i's unique and limited natural, cultural and historic resources." Instead, the project, estimated by the DLNR to increase visitors by 300%, adds five access points along the Kapa'a Quarry Road, as well as additional access points along heavily trafficked Kailua Road. These and other proposed changes will further degrade Hawai'i's largest fresh-water wetland, home to thousands of plant and animal species, including several that are endangered.

According to the World Wildlife Fund, wetlands "are some of the most productive habitats on the planet... they provide a range of ecosystem services that benefit humanity, including water filtration, storm protection, flood control and recreation...Without wetlands, cities have to spend more money to treat water for their citizens, floods are more devastating to nearby communities, storm surges from hurricanes can penetrate farther inland, animals are displaced or die out, and

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<sup>1</sup> The area in question encompasses 986 acres of Kawainui wetland and upland, Hāmākua Marsh Wildlife Sanctuary, and Pu'uoehu hillside (collectively, the "Project Area").

food supplies are disrupted, along with livelihoods.” Rather than taking a protective and preserving approach to the wetlands, the Project emphasizes development and increasing the human footprint on this ecologically sensitive and vulnerable area.

### **KAWAINUI MARSH SHOULD BE RESTORED TO ITS ORIGINAL CONDITION**

The original Master Plan for the Project Area, developed in 1994 in conjunction with Ho'olaulima Ia Kawainui, a network of conservation organizations that included the Hawaii Audubon Society, was undertaken with the goal of *preserving* Kawainui Marsh. The proposed Master Plan no longer includes one of the primary goals of its original: the removal of the peat layer that is choking the marsh, reducing its flood storage capacity and hastening its demise from open wetlands to swamp. This Project will rim Kawainui Marsh with thousands of square feet of maintenance buildings, “comfort stations” i.e. restrooms, other purpose buildings, pavilions, kiosks, viewing decks, storage facilities, parking lots, and roads.

The Resource Management Alternative (pp. 206-207), favored by the Windward Coalition, was rejected by the DLNR as not satisfying the requirements of Section 6(f) of the Land and Water Conservation Fund (“LWCF”) Act or the core missions of the DOFAW and DSP to support cultural practices and educational programming. However, Section 6(f) of the LWCF Act does not require the State to do anything other than preserve Section 6(f) lands for outdoor recreational use. According to the Congressional Research Service, LCWF “grants are provided for outdoor recreation purposes *only*, rather than for indoor facilities such as community centers.” <https://fas.org/sgp/crs/misc/RL33531.pdf> (emphasis added). The required Section 6(f) outdoor recreational purpose is already being largely accomplished via the popular running/hiking trail along the top of the flood control levee that traverses the north side of the marsh. Hence, using Section 6(f) as an argument in favor of expanding closed door, man-made facilities around Kawainui Marsh is specious.

The DEIS minimizes the importance of community opposition. See, DEIS §7.6, p. 628. Given the DLNR, DOFAW, and DSP mandate to serve the *residents of this State*, public opposition from the surrounding community would seem to present not merely an unresolved obstacle, but an insurmountable one.

The DEIS stresses that a portion of the Project Area is a Ramsar wetland of “international importance,” and argues that “Ramsar supports sustainable tourism, recreational use, and cultural practices, and views sustainable tourism as maintaining a high level of visitor satisfaction, ensuring a meaningful experience, and raising awareness about sustainability issues.” DEIS §7-13, p. 629. The terms “sustainable tourism,” “recreational use” and “cultural practices” appear nowhere in the Ramsar Treaty whose Preamble provides:

CONSIDERING the fundamental ecological functions of wetlands as regulators of water regimes and as habitats supporting a characteristic flora and fauna, especially waterfowl;

BEING CONVINCED that wetlands constitute a resource of great economic, cultural, scientific, and recreational value, the loss of which would be irreparable;

DESIRING to stem the progressive encroachment on and loss of wetlands now and in the future;

RECOGNIZING that waterfowl in their seasonal migrations may transcend frontiers and so should be regarded as an international resource;

BEING CONFIDENT that the conservation of wetlands and their flora and fauna can be ensured by combining far-sighted national policies with coordinated international action;  
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Indeed, the fact that the area is a Ramsar Wetland of International Importance dictates a more conservative approach to the treatment of the area since the mission of the Ramsar Convention is "the conservation and wise use of all wetlands through local and national actions and international cooperation as a contribution towards achieving sustainable development throughout the world." The emphasis in "sustainable development" is on *sustainable* not *development*.

**THE PROPOSED PROJECT WILL AGGRAVATE ALREADY WORSENING KAILUA VEHICULAR TRAFFIC.**

One of the heaviest anticipated uses within the proposed Project Area is the Wai'auia Cultural Center in Subarea D. See, DEIS Table 2.7, p. 188. Subarea D borders Kailua Road over its length from below Kapa'a Quarry Road past Castle Medical Center and on to Hāmākua Drive. Kailua Road along that section is a divided four lane highway separated by an approximately 10-15-foot-wide vegetated median. Accordingly, in-bound traffic from the Pali to Kailua will have to execute a left-hand turn across oncoming traffic to access the Wai'auia Cultural Center and indeed most of Subarea D. Notwithstanding DNLR's claim that traffic will only be minimally impacted, it does not require an engineering study to determine that tour buses executing left hand turns along this section will necessarily obstruct the flow of traffic while waiting for oncoming vehicles to clear since the rear of the bus will project into traffic lanes as the median is not wide enough to accommodate the entire length of a tour bus. The obstruction will be particularly acute during peak traffic. The closer the Cultural Center is to Hāmākua Drive, the more problematic the traffic will be since the Hāmākua Drive/Kailua Road intersection is already heavily congested from all four directions even during non-peak hours.

Adding five access points along the Kapa'a Quarry Road is an invitation to disaster with large industrial sized vehicles and blind curves at many locations.

Subarea B, across from Kalaheo High School, is also heavily trafficked as is Oneawa Road, which is the most direct route connecting the east and west ends of Kawainui Marsh. Adding tour buses to the mix of Oneawa traffic poses an unacceptable hazard to the hundreds of pedestrians along this street, many of whom are destined for the strip's dozen or so bus stops as well as homes, churches and commercial establishments.

**INCREASED PUBLIC ACCESS WILL ADVERSELY IMPACT THIS "PRECIOUS ENVIRONMENTAL JEWEL".**

During the first six months of 2017, 10.92 tons of rubbish was gathered, bagged and air lifted from the Kalalau section of the Napali Coast State Wilderness Park on Kauai. <http://dlnr.Hawaii.gov/blog/category/news/forestry-wildlife/trail/page/2/>. This is an extreme but compelling example of the deleterious impacts humans can have on Hawai'i's public recreational areas. With respect to the Project, the DEIS projects a 300% increase in visitors to the area, an increase of 7,450 over the current level of 2,500 visitors/month. See, Table 2.6, DEIS p. 184. By far the biggest increase is anticipated to occur at the educational center at Pōhakea along the

Kapa'a Quarry Road. *Id.* more specifically, visitor activity there is expected to jump from 250 to 6,000/month! *Id.* The human impacts will undoubtedly increase accordingly. These impacts include not only trash and litter, but the unauthorized feeding of feral cats that prey on waterbirds, human encroachment on endangered waterbirds breeding and nesting habitats, the increased presence of domestic dogs brought in by visitors, unauthorized feeding of waterbirds, human criminal activity and homeless encampments.

A number of State, federal and local government bodies have expressed grave concerns about the increased human footprint resulting from the approval of this DEIS. For example, the US Department of Interior, Fish and Wildlife Service ("FWS"), responding to the DLNR's Environmental Impact Statement Preparation Notice ("EISPN"), noted the potential negative impact on a number of endangered species including the Hawai'ian Hoary Bat, the Hawai'ian Stilt, Hawai'ian Coot, Hawai'ian Gallinule, and the Hawai'ian Duck, especially during the breeding season. The FWS also announced reservations regarding the potential feeding of endangered waterbirds, the increased number of domestic dogs and the expansion of feral cat colonies caused by visitors feeding these predators. *See*, DEIS p. 684.

Responding to the EISPN, Hawai'i District 50 (Kailua-Kaneohe) Representative Cynthia Thielen penned a variety of concerns over an increased public presence in the area. DEIS pp. 773-775. Ms. Thielen noted that Kailua already has been

struggling to manage and plan for the growing influx of visitors which venture into our residential community to tour "the sites." It is no longer true that visitors primarily come to Kailua to visit the beaches as HHF has responded in their comments. Visitors come to visit what is now being marketed as "charming Kailua town", hike our many trails, and are hungry to visit locations "off the beaten path". One only has to look at the issues Maunawili Valley is facing with the degradation of the popular Maunawili Falls Trail to see what the future may hold for Kawainui. Currently DLNR's enforcement capabilities are already stretched beyond the limits and have proven inadequate with respect to increased public presence along Maunawili Falls Trails remove homeless encampments which are established inside the Marsh. How are we going to enforce protections against those venturing into the marshlands as part of a "off the beaten track" recreational tour? Who will fund enforcement, and who will take responsibility for keeping pets/people/ecological tours from disturbing this **precious environmental jewel**?

DEIS p. 774. The DEIS states that DLNR's Division of Conservation and Resources Enforcement ("DOCARE") will handle monitoring and enforcement of the rules and regulations in the Project Area. But Rep. Thielen's letter suggests that DLNR's monitoring and enforcement has been less than adequate, at least insofar as Maunawili Valley is concerned. DEIS p. 775. DLNR press releases appear to support this observation, revealing that DOCARE has also been struggling to keep intruders out of Sacred Falls and restricted areas of Manoa Falls.

Senator Laura Thielen, O'ahu District 25 (Kailua-Waimanalo-Hawai'i Kai) also received a copy of the EISPN and weighed in on the issue noting that public recreational lands all across the State are "severely undermanaged and unmanaged." DEIS p. 758. She also observed that "DLNR would be grossly negligent to fail to address operational and management needs in its Master Plans for new and expanded public recreational areas." *Id.* Even so, *the DLNR only proposes to add one more DOCARE officer* to monitor the Project Area. DEIS, p. 182.

management and which are related to recreation, education and cultural awareness (e.g. miles of roads, length of fencing, number and size of buildings, building footprint acreage etc.). The basis for the claim appears to be the sheer size of Subarea A, which encompasses Kawainui Marsh, and hence is "associated with" the majority of natural resource management activities. However, with respect to actual physical improvements, these appear to cluster along a relatively short linear distance on the rim of the wetlands. See, DEIS pp. 752-761. Accordingly, their visual impact will be greater than otherwise would be expected.

INSUFFICIENT DESIGN DETAILS. The DEIS states, that "accessory support facilities are proposed at various locations along the pedestrian trails. Facilities would include observation decks, shelters (e.g. open pavilion), restrooms, interpretive devices, and directional signage (Exhibit 2.17) . . . The actual location and design of these facilities would be determined during the design phase as improvements are implemented, and may involve refinements to the site location and design characteristic due to terrain and topography of the area." DEIS § 2-45, p. 135. Doesn't the design and location of these facilities impact the environment, especially in ecologically sensitive areas like wetlands? An Environmental Impact Statement is incomplete without these details.

According to the DEIS: "Visitors may come into contact with endangered waterbirds during the construction and operation of these facilities. Development of these facilities would be coordinated with DOFAW to minimize adverse impacts to endangered waterbirds from facility construction and operation. Mitigative measures such as avoiding construction of facilities during waterbird nesting season would occur to minimize adverse impacts." DEIS §2-60, p. 155. Under Hawai'i Administrative Rules §§ 11-200-16 Environmental Impact Statements Content Requirements, "[t]he environmental impact statement *shall* contain an explanation of the environmental consequences of the proposed action. The contents *shall* fully declare the environmental implications of the proposed action and *shall* discuss all relevant and feasible consequences of the action." The content requirements for a DEIS include not only the significant beneficial and adverse impacts (including cumulative impacts and secondary impacts), but also the "proposed mitigation measures." HAR §11-200-17(a)(2) & (3) (emphasis added). The DEIS fails to meet these requirements by failing to describe the mitigation measures to be taken to minimize adverse impacts to endangered waterbirds from human contact during the construction and operation of the proposed Project.

For all the foregoing reasons, and others set forth in comments submitted by citizens, legislators, community groups and the neighborhood board, the Windward Coalition has concerns that this plan does not adequately protect the fragile ecosystem of the wetlands.

Mahalo for considering our concerns,

Windward Coalition Executive Board

A handwritten signature in black ink, appearing to read "Eileen", written in a cursive style.

Eileen Hilton, President

A handwritten signature in blue ink, appearing to read "Kim Tomey", written in a cursive style.

Kim Tomey, Secretary