

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 23, 2013

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:13MD-133

MAUI

Approval in Principle for Acquisition of Private Lands situate at Honokohau and
Honolua, Lahaina, Maui, identified as Tax Map Key No.: (2) 4-1-001:010.

APPLICANT AGENCY:

To be determined.

PRIVATE LANDOWNER:

MAUI LAND & PINEAPPLE COMPANY, INC., as Fee Owner, whose business and
mailing address is Lahaina, Hawaii 96761.

LEGAL REFERENCE:

Sections 107-10, 171-11 and 171-30, Hawaii Revised Statutes, as amended.

LOCATION:

Privately-owned lands situated at Honolua, Lahaina, Maui, identified by Tax Map Key:
(2) 4-1-001:010, as shown on the attached map labeled Exhibit A.

AREA:

269.95 acres, more or less.

ZONING:

State Land Use District: Conservation
County of Maui CZO:

CURRENT USE:

Vacant and unencumbered.

CONSIDERATION:

The purchase price will be the lower of either the available funds or the fair market value (fmv) as established by an appraisal conducted by an independent appraiser contracted by the State/DLNR.

PURPOSE

Preservation and public recreational uses.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

Pursuant to Section 343-5(a)(1), HRS, an environmental assessment (EA) is not required where State or county funds are being used for the acquisition of unimproved real property. Although the subject lands are unimproved, an EA may be required since this acquisition is for a conservation easement, not the real property itself. A determination will be required on whether the acquisition of an interest such as a conservation easement is equivalent to the acquisition of real property. Inasmuch as the Chapter 343 environmental requirements apply to Applicant's use of the lands, the Applicant shall be responsible for compliance with Chapter 343, HRS, as amended.

APPLICANT REQUIREMENTS:

Seller or Applicant shall be required to:

- 1) Pay for the appraisal cost to determine the value of the properties to be acquired;
- 2) Provide survey maps and descriptions for the privately-owned property according to State DAGS standards and at Applicant's own cost;
- 3) Obtain a title report for the privately-owned property at Applicant's own cost and subject to review and approval by the Department;
- 4) Pay for and conduct a Phase I environmental site assessment and, if this Phase I identifies the potential for hazardous materials release or the presence of hazardous materials, conduct a Phase II environmental sampling and analysis plan and perform any and all remediation, abatement and disposal as may be warranted and as satisfactory to the standards required by the Federal Environmental Protection Agency and/or the State Department of Health, all at no cost to the State and to the satisfaction of the Department.

REMARKS:

BACKGROUND. On June 28, 2013, the Governor approved Act 241, Sessions Laws of

Hawaii 2013. The Act requires the Department to engage to acquire the parcel of land described above, popularly referred to as Lipoa Point. A copy of the Act is included as Exhibit B. The property is currently owned by the Maui and Land Pineapple Company, Inc. (“MLP”). This potential acquisition will serve two purposes: 1) to preserve the natural, cultural, and recreational resources of the property, and 2) to dedicate the proceeds from the purchase to ensure adequate capitalization of MLP’s retiree pension fund. Although the Department has not yet determined which division shall be responsible for ongoing management authority of the property if acquired, the Board is respectfully requested to grant approval in principle for this acquisition. Upon approval, the Department will have the authority to begin to utilize the funds appropriated for this acquisition to conduct necessary due diligence such as procuring an appraisal, title report, and all necessary Environmental Site Assessments.

NEED FOR ACQUISITION. As noted in the Act, “the legislature finds, however, that recent contemplation of zoning changes to this area has jeopardized the pension benefits for numerous retirees, as the parcel was pledged against a pension fund established by the retirees’ former employer in order to make sure that kupuna would continue to receive the benefits that they worked for. If this pension fund should fail, many of the pensioners would have to turn to state services and programs, thereby straining the social safety net, especially in an area where resources are already scarce.” In addition to these “cradle to grave” entitlement issues, the acquisition presents the opportunity to preserve the natural, cultural and recreational resources of the property. The area is rich in marine resources and historical sites, and is one of the most popular recreational areas for locals and tourists alike. This acquisition has received strong support from the local community and the Hawaiian Islands Land Trust (“HILT”). The Department will continue to coordinate with HILT on the acquisition as required in the Act.

FUNDING SOURCE. The Legislature provided an appropriation in the amount of twenty million dollars for this acquisition. The funds have been appropriated for this purpose, are currently awaiting release through approval of the Governor.

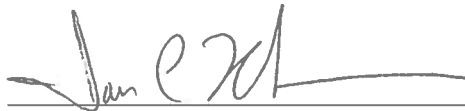
APPLICANT REQUIREMENTS. The appropriation in Act 241 provides funding to conduct due diligence. An appraisal report will be contracted for by the Department, pursuant to section 171-30, HRS. The Department will also contract for an updated title report and a Phase I Environmental Site Assessment, as well as a Phase II if necessary. The Department continues to have discussions with MLP regarding which party will provide a survey map and description that will be reviewed by DAGS Survey Division.

AGENCY COMMENTS. Because this is a request for approval in principle, no agency comments were sought. Agency comments will be sought if staff proceeds with obtaining final approval from the Board of Land and Natural Resources for this acquisition.

RECOMMENDATION: That the Board:

1. Approve in principle the above described acquisition of the subject property under the terms and conditions cited above which are by this reference incorporated herein, provided that the details of the proposed acquisition shall be submitted to the Board for final approval prior to documentation.
2. Authorize the Department to contract for the required due diligence items as described in the Applicant Requirements section of the submittal.
3. Authorize the Chairperson to prescribe other terms and conditions as may be necessary to carry out the intent of the Board and best serve the interests of the State.

Respectfully Submitted,



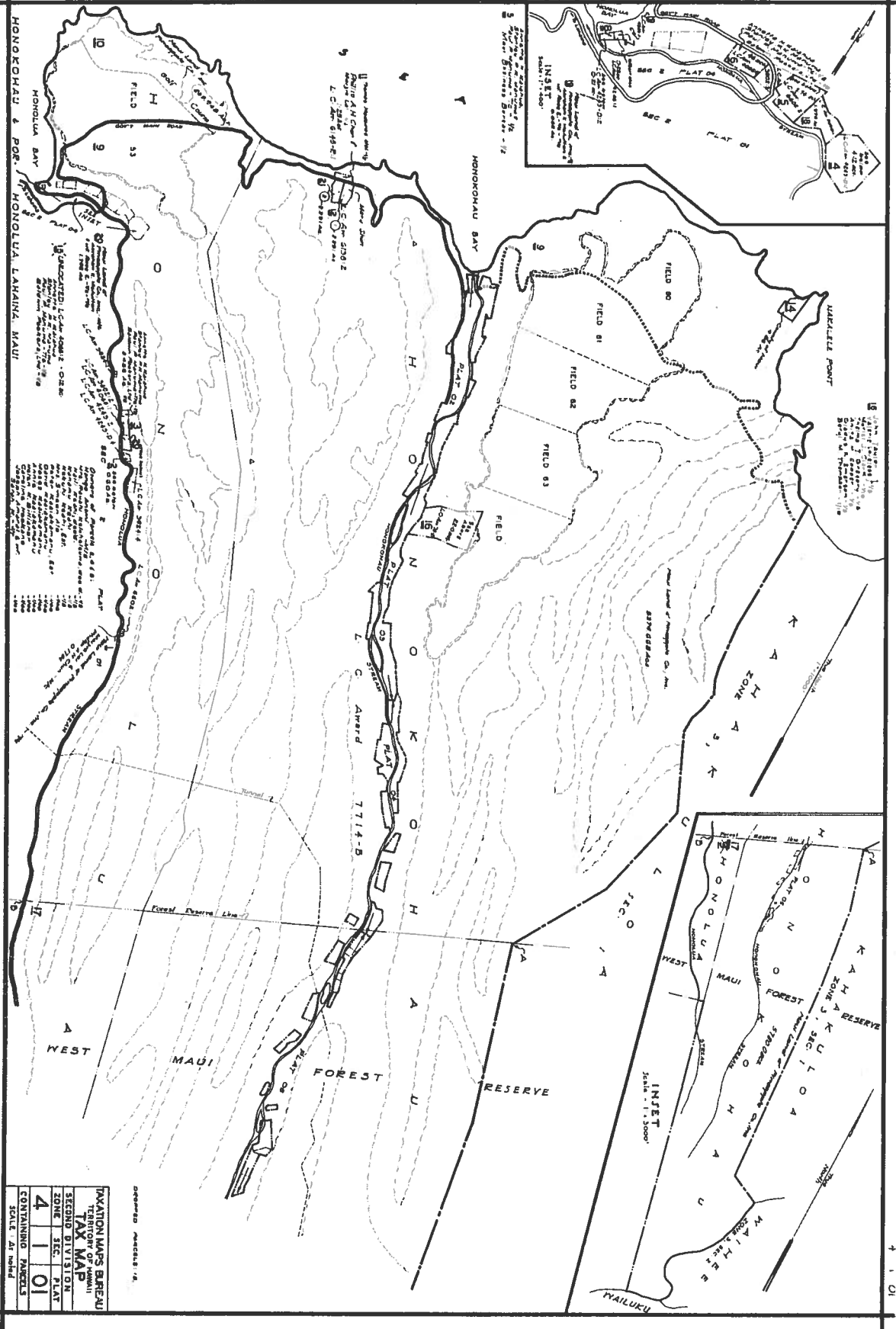
Ian C. Hirokawa
Project Development Specialist

APPROVED FOR SUBMITTAL:



William J. Aila, Jr., Chairperson





NATIONAL BUREAU OF LAND MANAGEMENT
 HONOLULU, HAWAII
 TAX MAP
 SECOND DIVISION
 ZONE SEC. PLAT
 4 1 01
 CONTAINING PARCELS
 SCALE: As Shown

EXHIBIT "A"

A BILL FOR AN ACT

RELATING TO THE ACQUISITION OF RESOURCE VALUE LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Lipoa Point-Honolua
2 is one of the most iconic landmarks in Hawaii. Honolua is rich
3 in marine resources and historical and archaeological sites, and
4 is one of the most popular recreational areas for locals and
5 tourists alike, offering some of the best snorkeling and surfing
6 conditions on the island of Maui. Nationally recognized as a
7 marine preserve, it has attracted federal funding and programs
8 due to having some of the highest fish assemblage
9 characteristics of all the Hawaiian islands. Additionally,
10 Honolua is considered to have one of the most diverse, unique,
11 and abundant reef formations, providing habitat for rare coral
12 species.

13 Historically, not only is Honolua Bay significant for
14 Hawaiian canoe voyaging as being the departure point for the
15 Hōkūle‘a maiden voyage in 1976, it is also the site of several
16 archaeological finds that were identified by Bishop Museum staff
17 in 1974, including two heiau, boulders with grinding surfaces,
18 house platforms, burial mounds, and agricultural terraces.

HB1424 CD1 HMS 2013-3626



EXHIBIT "B"

1 The legislature further finds that, due to its iconic
2 reputation, Honolua Bay has drawn countless visitors to Hawaii,
3 which helps generate revenue by bolstering the State's important
4 tourist industry. Honolua is known worldwide as a premier
5 winter session, big wave surf spot, a sector of the surfing
6 industry that is currently eclipsing the Association of Surfing
7 Professionals World Championship Tour.

8 The legislature finds, however, that recent contemplation
9 of zoning changes to the area has jeopardized the pension
10 benefits for numerous retirees, as the parcel was pledged
11 against a pension fund established by the retirees' former
12 employer in order to make sure that kupuna would continue to
13 receive the benefits that they worked for. If this pension fund
14 should fail, many of the pensioners would have to turn to state
15 services and programs, thereby straining the social safety net,
16 especially in an area where resources are already scarce.

17 The legislature further finds that acquiring this land for
18 preservation would help protect the area's pristine condition
19 while providing funds to ensure the adequate capitalization of
20 the pension fund. The legislature also finds that the owners of
21 the land have pledged that any revenues derived from the sale of
22 this parcel would be pledged completely against the pension



1 fund, thereby alleviating concerns of the social safety net
2 being stretched even further.

3 The purpose of this Act is to require the department of
4 land and natural resources to engage to acquire the parcel of
5 land located at Lipoa Point. It is the legislature's intent
6 that the department explore options to protect and preserve the
7 area's pristine condition, while ensuring the adequate
8 capitalization of the pension fund against which the parcel was
9 pledged.

10 SECTION 2. The department of land and natural resources,
11 in consultation with the Hawaiian Islands Land Trust, shall
12 engage to acquire the parcel of land located at Lipoa Point,
13 identified as TMK 2-4-1-001-010-0000.

14 SECTION 3. To the maximum extent practicable, the
15 department of land and natural resources shall ensure that the
16 seller of the land identified in section 2 of this Act uses the
17 proceeds of the sale to benefit the pension plan of retirees of
18 the Maui Land and Pineapple Company, Inc.

19 This section shall not be construed or interpreted or
20 deemed to obligate the State for the pension plan liabilities of
21 employees and retirees of the Maui Land and Pineapple Company,
22 Inc.



1 SECTION 4. This Act shall take effect on July 1, 2013.



Report Title:

DLNR; Lipoa Point; Land Acquisition

Description:

Requires DLNR, in consultation with the Hawaiian Islands Land Trust, to engage to acquire the parcel of land located at Lipoa Point, identified as TMK 2-4-1-001-010-0000. Requires DLNR to ensure to the maximum extent practicable that the seller of the land uses the proceeds of the sale to benefit the pension plan of retirees of the Maui Land and Pineapple Company, Inc. Effective July 1, 2013. (HB1424 CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

