

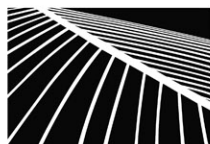
LĀ‘AU POINT

PROPOSED
FINAL ENVIRONMENTAL IMPACT STATEMENT
WEST MOLOKA‘I, MOLOKA‘I, HAWAI‘I

VOLUME I OF 3

Prepared for:

Accepting Authority
State of Hawai‘i Land Use Commission
&
Applicant
Molokai Properties Limited



PBR HAWAII
& ASSOCIATES, INC.

November 2007

NOTICE OF NAME CHANGE

Name Change of BIL International Limited (BIL) the parent company of Molokai Properties Limited (MPL).

On October 29, 2007, BIL International Limited announced to Stock Exchanges in New Zealand, the United Kingdom and Singapore, that the Board of Directors had changed the company's name with immediate effect to GuocoLeisure Limited.

Please note that all references in this document to BIL should in effect be to the new legal name of MPL's parent company, GuocoLeisure Limited.

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LIST OF ACRONYMS

ALDC	Alternative to Lā‘au Development Committee
ALISH	Agricultural Lands of Importance to the State of Hawai‘i
<u>ARINC</u>	<u>Aeronautical Radio, Inc.</u>
BIL	Brierley Investments Limited
CC&Rs	Covenants, Conditions, and Restrictions
CDC	Moloka‘i Community Development Corporation
CWRM	State Commission on Water Resource Management
CZM	Hawai‘i Coastal Zone Management Program
DHHL	Department of Hawaiian Homelands
DOA	State Department of Agriculture
DOE	State Department of Education
DWS	County of Maui Department of Water Supply
EC	Moloka‘i Enterprise Community
EIS	Environmental Impact Statement
EISPN	Environmental Impact Statement Preparation Notice
EZ	Empowerment Zone
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
<u>GPS</u>	<u>Global Positioning System</u>
HAR	Hawai‘i Administrative Rules
HRS	Hawai‘i Revised Statutes
IRS	Internal Revenue Service
KAL	Ke ‘Aupuni Lōkāhi
<u>KWLLC</u>	<u>Kaluako‘i Water, LLC</u>
LOS	Level of Service
LUC	State Land Use Commission
MCC	Maui County Code
MECO	Maui Electric Company
MIS	Moloka‘i Irrigation System
MPL	Molokai Properties Limited, also known as Molokai Ranch
<u>NOAA</u>	<u>National Oceanic & Atmospheric Administration</u>
NPDES	National Pollutant Discharge Elimination System

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NRCS	Natural Resource Conservation Service
PUC	Moloka'i Public Utilities Commission
<u>SAMP</u>	<u>Shoreline Access Management Plan</u>
SHPD	State Historic Preservation Division
SLUDBA	State Land Use District Boundary Amendment
SMA	Special Management Area
TIAR	Traffic Impact Assessment Report
TMK	Tax Map Key
USGS	United States Geological Survey

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BACKGROUND

Since pineapple plantations began phasing out operations on Moloka‘i, beginning in the 1970s, and finally ceasing all cultivation by the mid-1980s, the Moloka‘i community has grappled with the issue of revitalizing the island’s economy and providing jobs for residents. During this time and throughout the 1990s until 2003, Molokai Ranch (also known as Molokai Properties Limited), the largest private landowner on Moloka‘i, isolated itself from the Moloka‘i community through a lack of consultation on its development plans. As a result, Molokai Ranch’s plans generally met with strong community opposition.

In 2003, Molokai Properties Limited (MPL), which had acquired the abandoned Kaluako‘i Hotel, and the Moloka‘i Enterprise Community (EC), a 501(c)(3) non-profit organization, whose mission is to help Moloka‘i residents empower themselves to implement their community strategic plan and, thereby, control their own destiny, began meeting together to discuss a mutual interest in re-opening the Kaluako‘i Hotel. Out of those discussions grew a partnership of the Enterprise Community and MPL to create a visionary plan for Molokai Ranch’s 60,000+ acres that would reflect the kind of community the residents desired.

The resultant *Community-Based Master Land Use Plan for Molokai Ranch* (the Plan) (initially launched as EC Project #47: Community-Based Compatible Development) is the product of more than 150 community and special interest group meetings, the majority of which members of the community were invited to take part in. More than 1,000 Moloka‘i residents participated in the planning process, which involved long hours of impassioned debate, critical thinking, and soul-searching. This comprehensive land-planning process, certainly the most unique ever to have taken place in Hawai‘i, will hopefully lead to a reconciliation of families that have been separated by controversy for more than a decade.

The Plan created a partnership between a company and its island neighbors that had been acrimonious and adversarial; and it contributed to personal growth for those involved in the process. Importantly, the *Community-Based Master Land Use Plan for Molokai Ranch* process set the stage for Moloka‘i’s future—a future in which self-determination by the island’s residents is assured.

The prospect of Molokai Ranch lands being split up and sold, or parent company Brierly Investments Limited (BIL) selling MPL because it would never be economically viable, and the community facing the resultant prospect of never again being able to have the opportunity of planning its future, made the urgency of reaching consensus on the Plan of critical importance to both the Moloka‘i EC and MPL.

This Environmental Impact Statement (EIS) is one component of the implementation of an integrated *Community-Based Master Land Use Plan for Molokai Ranch*. Because this Lā‘au Point EIS cannot be viewed in isolation, the entire Plan has been included as Appendix A. The EC and MPL are proud of its unique precedents, its achievements, and its vision.

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1.0 INTRODUCTION AND SUMMARY

This ~~Draft~~ Final Environmental Impact Statement (EIS) is prepared in accordance with Chapter 343, Hawai'i Revised Statutes (HRS), and Title 11, Chapter 200, Administrative Rules, Department of Health, State of Hawai'i. Proposed is an applicant action by Molokai Properties Limited (also known as Molokai Ranch) for the Lā'au Point project in the West Moloka'i region of the island of Moloka'i (portions of TMK (2)5-1-02:30).

1.1 PROJECT PROFILE

Project Name: Lā'au Point

Location: West Moloka'i

Judicial District: Moloka'i

Landowner: Molokai Properties Limited

Applicant: Molokai Properties Limited

Tax Map Key: (2) 5-1-02:30; 5-1-06:157; 5-1-08:04, 03, 06, 07, 13, 14, 15, 21, and 25

Project Area: 1,432 acres

SLUDBA Petition Area: 1,113 acres

Existing Use: Vacant

Proposed Use: Single-family rural-residential lots, required infrastructure, access road, cultural preserves, parks, and shoreline access.

Current

Land Use Designations: State Land Use: Agricultural and Conservation
Conservation District Subzones: General and Limited
Community Plan: Agricultural and Conservation
County Zoning: Agricultural
Special Management Area (SMA): portion of the parcel within the SMA

Proposed

Land Use Designations: State Land Use: Agricultural to Rural; Agricultural to Conservation; Conservation to Agricultural
Community Plan: Agricultural to Rural and Park
County Zoning: Agricultural to Rural and Open Space

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Permits/Approvals

Required: Compliance with Chapter 343, HRS
State Land Use District Boundary Amendment
Compliance with Chapter 6E, HRS (SHPD)
Community Plan Amendment
Change in Zoning
Special Management Area Use Permit
County Special Use Permit
Subdivision Approval
Conservation District Administrative Rule Amendment
Grading/Building Permit
NPDES permit
Water Use Permit
Approval for Distribution System for a Public Water System
Recycled Water System Approval

Accepting Authority: State Land Use Commission

1.2 APPLICANT

The applicant is Molokai Properties Limited.

Contacts: Peter Nicholas, President and CEO
Dan Orodenker, General Manager for Land/General Counsel
John Sabas, General Manager of Community Affairs
Molokai Properties Limited
745 Fort Street Mall, Suite 600
Honolulu, Hawai'i 96813
Telephone: (808) 534-9509
Fax: (808) 521-2279

1.3 PLANNING CONSULTANT

Molokai Properties Limited's planning, environmental, and entitlement consultant is PBR HAWAII.

Contact: Thomas S. Witten, ASLA
President
PBR HAWAII
1001 Bishop Street
ASB Tower, Suite 650
Honolulu, Hawai'i 96813
Telephone: (808) 521-5631
Fax: (808) 523-1402

1.4 ACCEPTING AUTHORITY

In accordance with Chapter 343, HRS, privately initiated EIS documents must be accepted by the government agency empowered to approve permits for a project: "The authority to accept a final statement shall rest with the agency initially receiving and agreeing to process the request for approval." A State Land Use District Boundary Amendment is required for this project. As such, the State Land Use Commission is the accepting authority.

Contact: Anthony Ching, Executive Officer
 State Land Use Commission
 P.O. Box 2359
 Honolulu, Hawai'i 96804
 Telephone: (808) 587-3822
 Fax: (808) 587-3827

1.5 COMPLIANCE WITH STATE OF HAWAI'I AND MAUI COUNTY ENVIRONMENTAL LAWS

This document has been prepared in accordance with the provisions of Hawai'i Revised Statutes (HRS) Chapter 343 (Environmental Impact Statement Law) and Hawai'i Administrative Rules Title 11, Department of Health, Chapter 200, Environmental Impact Rules. Section 343-5, HRS, establishes nine "triggers" that require compliance with these regulations. Three triggers are applicable to the Lā'au Point project; these include:

- Community Plan Amendment
- Use of Conservation District land
- Proposed wastewater treatment facility

Molokai Properties Limited (MPL) has initiated the preparation of this Environmental Impact Statement (EIS) to address potential impacts related to Lā'au Point.

In addition, construction of Lā'au Point may involve or impact State and/or County lands relating to infrastructure improvements for roadways, water, sewer, utility, drainage, or other facilities. While the specific nature of each improvement is not known at this time, the EIS is intended to address all current and future instances involving the use of State and/or County lands relating to Lā'au Point.

This Final EIS was preceded by the:

1. Lā'au Point Environmental Impact Statement Preparation Notice (EISPN). The EISPN was submitted to the Office of Environmental Quality Control (OEQC) on May 25, 2006. Notice of the availability of the EISPN was published in the June 8, 2006 edition of OEQC's *The Environmental Notice*. Copies of the EISPN were provided to appropriate government agencies and other organizations (See Chapter 11). The public comment period for the EISPN ended July 10, 2006. Comments on the EISPN have been incorporated in the Draft EIS.

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2. Lā‘au Point Draft Environmental Impact Statement (Draft EIS). The Draft EIS was submitted to OEQC on December 13, 2006. Notice of the availability of the Draft EIS was published in the December 23, 2006 edition of OEQC’s *The Environmental Notice*. Copies of the Draft EIS were provided to appropriate government agencies and other organizations (See Chapter 12). The original 45-day public comment period on the Draft EIS was from December 23, 2006 to February 6, 2007. Based on community requests, MPL extended the comment deadline period to end on February 23, 2007, allowing a 63-day comment period. Comments on the Draft EIS have been incorporated in this Final EIS.

1.6 STUDIES CONTRIBUTING TO THIS ENVIRONMENTAL IMPACT STATEMENT

This EIS provides a description of the environment, alternatives considered, preliminary impacts, and proposed mitigation measures. The information contained in this report has been developed from site visits, general available information regarding the characteristics of the site and surrounding areas, and technical consultant reports. Technical studies to assess the existing natural and physical conditions of the site and potential impacts to the property and the surrounding area were prepared and are included as appendices in this EIS. These studies include:

- Air Quality Study
- Archaeological Inventory Survey
- Cultural Impact Assessment
- Economic & Fiscal Impacts Report
- Fauna Survey
- Flora Survey
- Geotechnical Engineering Reconnaissance
- Noise Assessment Study
- Marine Environment Assessment
- Market Support for Real Estate Development Report
- Preliminary Drainage Report
- Preliminary Engineering Report
- Social Impact Assessment
- Traffic Impact Analysis Report
- Wastewater Study
- Water Plan Analysis

1.7 EXECUTIVE SUMMARY

1.7.1 Lā‘au Point Summary Project Description

This Environmental Impact Statement (EIS), which has been prepared for the proposed Lā‘au Point project located along the shoreline bluffs on the southwest coastline of Moloka‘i, is but one part of the comprehensive *Community-Based Master Land Use Plan for Molokai Ranch* (Plan) for all of Molokai Properties Limited (MPL)’s 60,000+ acres, which would be viable only as an integrated whole. The Plan was the result of a two-year community-based planning process involving everyone from the Moloka‘i community who wished to participate. The goal of the

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Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The objectives of the Lā'au Point project are rooted in MPL's desire to create a sustainable future through the Plan's implementation. The objectives of the Plan and the Lā'au Point project are to:

- Develop sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community.
- Secure the role of the community in the management of MPL's 60,000+ acres.
- Re-open the Kaluako'i Hotel and create in excess of 100 jobs.
- Protect cultural complexes and sites of historic significance on MPL lands.
- Protect environmentally valuable natural resources and agricultural land, pasture, and open space.
- Create a Land Trust with donated lands from MPL (see Section 2.1.8).
- Provide an endowment that serves as a continuous revenue stream for ~~the~~ a Community Development Corporation (CDC) (see Section 2.1.9).

The Lā'au Point project is crucial to the economic viability of the Plan (discussed in Section 2.1.7). Proceeds from the sale of Lā'au Point lots will fund the renovations and upgrading of the now-closed Kaluako'i Hotel and Golf Course. Proceeds will also, as outlined above and in Section 2.1.9, fund an endowment to assist the Community Development Corporation (CDC) in carrying out its mission of developing affordable homes for Moloka'i residents, expanding educational opportunities for Moloka'i's youth, and assisting the Moloka'i Land Trust with project funding.

The Lā'au Point project proposes 200 two-acre rural-residential lots surrounded by an open-space buffer, roads and infrastructure, an expansion of the State Conservation District, cultural protection zones for archaeological sites, easements to protect subsistence gathering, and two public shoreline parks in the area of Lā'au Point on Moloka'i's southwest coastline (see Figure 1). The total Lā'au Point project area covered in the EIS is 1,432 acres comprising three main types of areas: rural-designated residential lots, open space buffer, and coastal conservation land.

The coastal conservation land encompasses 451 acres of the existing and proposed expanded Conservation District boundary, which includes the coastline, gulches, parks, and several cultural protection zones. Cultural protection zones include approximately 1,000 acres of land that were identified within the project and larger area of the Lā'au Point parcel to denote areas where groupings of archaeological and historic sites exist. Access roads and the rural-residential lots have been planned to respect these cultural protection zones and archaeological sites. In addition, an archaeological preserve (approximately 128 acres) will be created at Kamāka'ipō Gulch. Natural resource areas, such as streams, gulches, and floodways will be maintained as open space. The project will also include two public shoreline parks, one by Kamāka'ipō Gulch on the west end of the Lā'au Point site, and the other near Hale O Lono Harbor at the southeast end.

Approximately 400 acres of rural-designated area within Lā'au Point will consist of 200 rural-residential lots, each approximately 1.5 to 2+ acres in size. An access road corridor will run north-south from Pōhakuloa Road to Kaupoa Beach Camp Road, connecting with Kaluako'i Road and Kulawai Loop. ~~The mauka boundary of the rural-residential subdivision will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage. The fence will also protect the open space and coastal conservation areas from~~

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~~degradation caused by livestock and deer.~~ An open space buffer area totaling approximately 382 acres will surround the residential lots. This open space buffer will be maintained by the Lā'au Point homeowners' association. The mauka boundary of the open space buffer will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the Lā'au parcel. The fence will protect the open space and coastal conservation areas from degradation by livestock and deer.

Lā'au Point aims to attract people who respect the unique character of the site and Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Residents of Lā'au Point will be educated and informed about the environment and culture, and taught to "mālama 'āina," take care of the land and sea, through strict Conditions, Covenants, & Restrictions (CC&Rs) attached to the subdivision. Perpetual right to subsistence gathering will be noted on the land titles of the areas to be preserved. The CC&Rs will establish policies that permit subsistence gathering and cultural practices, as well as provide for the hiring of resource managers to protect the subsistence lifestyle.

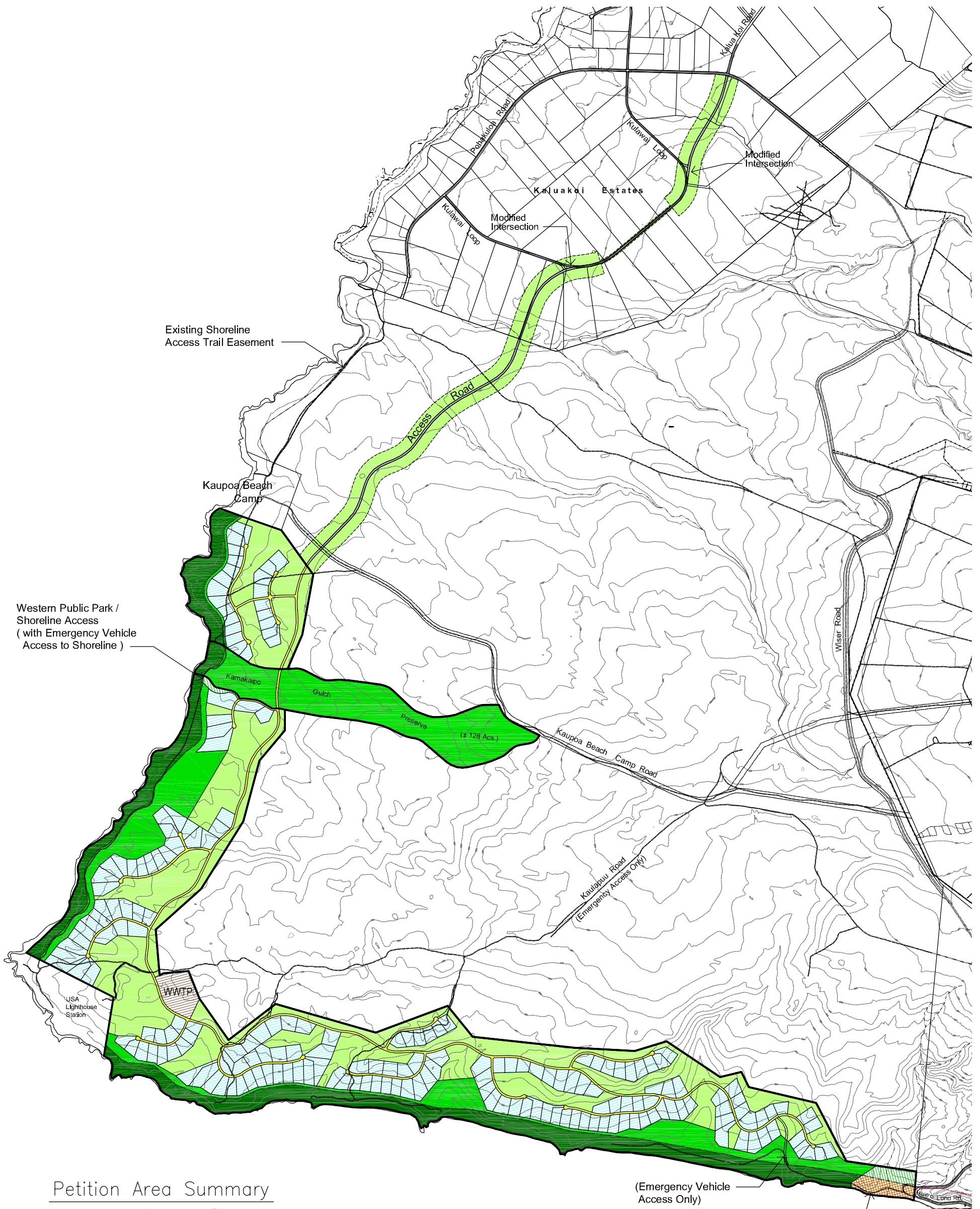
1.7.2 Summary of Potential Impacts and Proposed Mitigation Measures

The Lā'au Point project will transform the vacant land of the site into a rural-residential community. For areas of environmental concern, the following summarizes the associated mitigation measures that are either recommended or planned to ensure that potential adverse impacts are minimized or mitigated.

Soils – Impacts to the soils of the site include the potential for soil erosion and the generation of dust during construction. Clearing and grubbing activities will temporarily disturb the soil retention values of the existing vegetation and expose soils to erosion. All construction activities will comply with all applicable Federal, State, and County regulations and rules for erosion control. All construction activities will also comply with the provisions of Chapter 11-60.1, Hawai'i Administrative Rules, and Section 11-60.1-33 on fugitive dust. After construction, the establishment of permanent landscaping will provide long-term erosion control. Section 3.3 contains a full discussion.

Agricultural Impact – Lā'au Point soils are poorly suited for soil-based agriculture. Other agricultural activities in the project area, such as cattle grazing, ceased in ~~1999~~ 2000. The Lā'au Point project will not displace any active agricultural land out of production and will not impact Molokai Ranch's agricultural operations. Section 3.4 contains a full discussion.

Flora – Although dominated by non-natives, healthy native plant communities can still be found in sandy beach, rocky shoreline shrub land/grassland, and seasonal wetland habitats. Three species considered rare in Hawai'i include: Alkali Weed (*Cressa truxillensis*), Hawaiian cotton or ma'ō (*Gossypium tomentosum*), and 'ihi'ihilauakea (*Marsilea villosa*). 'Ihi'ihilauakea, a native fern, is the only federally listed endangered plant occurring in the Lā'au Point area. Only the 'ihi'ihilauakea (*Marsilea villosa*) population is located within the proposed development area. Buyers of lots where 'ihi'ihilauakea is present will be notified, and a management plan will be developed for the conservation of the rare species. The 'ihi'ihilauakea population is located within Kamāka'ipō Gulch. Kamāka'ipō Gulch will be part of the expanded Conservation District area, designated a Cultural Protection Zone, and managed by the Land Trust. No development will occur in the expanded Conservation District area, including Kamāka'ipō Gulch. The



Petition Area Summary

Agricultural to Rural		
	House Lots (200)	± 400 Ac.
	Roadways	± 46 Ac.
	Infrastructure (Wastewater Treatment Plant)	± 14 Ac.
	Parks	± 8 Ac.
	Open Space	± 382 Ac.
Total Agricultural to Rural		± 850 Ac.
	Conservation to Rural (for Park Use)	± 9 Ac.
	Agricultural to Conservation	± 254 Ac.
Total Petition Area		± 1,113 Ac.

Project Area Summary

Petition Area		
	Existing Conservation District (along Shoreline)	± 180 Ac.
	Offsite Road Corridor	± 139 Ac.
Total Project Area		± 1,432 Ac.

(Emergency Vehicle Access Only)

Southern Public Park / Shoreline Access (with Emergency Vehicle Access to Shoreline)

Figure 1
Project Area & LUC Petition Area
Lā'au Point

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'ihī'ihīlauakea population is not within the proposed residential houselot area. The Lā'au Point project site will retain existing landscaping appropriate to the coastal preserve setting. New landscaping will include drought-tolerant native plants to minimize the use of water for irrigation. Section 3.6 contains the full discussion.

Fauna – The Lā'au Point project will be sensitive to natural systems and define areas for environmental protection. A State Land Use District Boundary Amendment is proposed to protect and expand the existing Conservation District (shoreline area) by 254 acres, thereby increasing the amount of shoreline and habitats, such as for Hawaiian monk seals, put into permanent protection. This request is reflective of the community's desire to preserve shoreline resources. In addition, a Shoreline Access Management Plan (SAMP)(further discussed in Sections 3.6, 3.7 and 4.3 and provided as Appendix B) provides guidelines, rules, monitoring programs, and general principals for the protection and utilization of the cultural, biological, and social resources of the area, including Hawaiian monk seals. The expanded shoreline protection area will also reduce impacts to water and shorebirds. Land birds and mammals may be displaced by the residential development. It is noted, however, that the vast majority of the parcel will be left in its natural condition. These species could readily relocate and re-populate the adjacent open spaces. Section 3.7 contains the full discussion.

Marine Environment – A marine assessment report concludes that it is likely that sediment discharge from runoff to the ocean will be significantly less with the Lā'au Point project compared with existing conditions. This conclusion is based on the several measures planned for Lā'au Point that will protect nearshore waters from increased degradation of water quality, such as drainage control systems, CC&Rs to regulate the use of fertilizers and pesticides, re-vegetation as a means of permanent erosion control measures throughout the developed areas, and livestock fencing to keep deer and livestock from disturbing the soil near the project area. Therefore, it is likely that the long-term water quality in adjacent coastal waters may be improved by these measures. Section 3.8 contains the full discussion.

Archaeological and Historic Resources – MPL is committed to preserving known archaeological sites in the project area. As a result of the archaeological surveys, approximately 1,000 acres of cultural protection zones were identified to denote areas where groupings of archaeological and historic sites exist, such as the archaeological preserve (approximately 128 acres) to be created at Kamāka'ipō Gulch. Access roads and the rural-residential lots will not affect cultural resources since subdivision plans will be designed to avoid cultural protection zones and archaeological sites. Depending on the nature of the archaeological sites, mitigation measures such as buffers, permanent and easement boundaries, and interpretive signs will be established to protect and preserve the sites as is in accordance with mitigation plans approved by the State Historic Preservation Division. MPL and its contractors will comply with all State and County laws and rules regarding the preservation of archaeological and historic sites. Section 4.1 contains the full discussion.

Cultural Resources – To mitigate the overall cultural impacts of the Lā'au Point project, the *Community-Based Master Land Use Plan for Molokai Ranch* provides measures that set unique precedents. These precedents are related to community planning, the creation of a land trust for the community, the donation of legacy lands to the land trust, the granting of easements to the land trust, and the protection of subsistence fishing, gathering, and hunting. The Plan also provides for covenants, conditions and restrictions that Lā'au Point homeowners will need to

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accept and agree to uphold in order to purchase a lot. The Cultural Impact Assessment recommends several measures to offset concerns over locating development near culturally sensitive areas and managing public access to cultural resources. Section 4.2 contains the full discussion.

Trails and Access – Increased public access to the shoreline and other coastal resources has the potential to damage the natural environment and diminish the uniqueness of the coast. Therefore, to protect the natural resources of the shoreline, manage subsistence activities, and protect cultural resources a ~~shoreline access management plan~~ Shoreline Access Management Plan (SAMP) for the area will be implemented which addresses maintenance and resource management for the area has been developed with, and adopted by, the Moloka'i Land Trust to regulate the use of the land and cultural and ocean resources to ensure the continuance of the resources for future generations. The SAMP includes protocols, rules, and permitted activities for persons engaging in cultural activities and subsistence shoreline fishing and gathering in the shoreline area. It also contains provisions to protect endangered species in the area. The ~~proposed shoreline access management plan for Lā'au Point~~ SAMP consolidates public shoreline access to two locations at the proposed shoreline parks at each end of the project area. In addition, a ~~caretaker~~ Resource Manager or Land Trust steward will supervise access to ensure that damage to the environment does not take place, and that those who access the area have taken the appropriate education classes in traditional subsistence gathering and access responsibilities, safety and protocol. Section 4.3 contains the full discussion.

Roadways and Traffic – Primary access to the Lā'au Point site will be from a new access road connecting from Kaluako'i Road. Based on the trip generation data for single-family dwelling units, the project will generate 40 inbound trips and 95 outbound trips during the morning peak hour and 95 inbound trips and 60 outbound trips during the afternoon peak hour. Based on findings of the Level-of-Service (LOS) analysis, the main intersection of Maunaloa Highway at Kaluako'i Road will operate at an acceptable LOS; ~~and therefore, no improvements are recommended.~~ Section 4.4 contains the full discussion However, as recommended by the State Department of Transportation (DOT), MPL will plan, design, and construct, at no cost to the State: 1) a left-turn deceleration lane and right-turn deceleration lane at the intersection of the proposed project access road (Kaluako'i Road) with Maunaloa Highway; and 2) highway improvements recommended as mitigation measures as required by the Highways Division.

Noise – Potential impacts to the acoustic environment of the site will primarily relate to short-term construction activity noise. Although there are no residential properties adjacent to the Lā'au Point project site, all construction activities will comply with Chapter 11-46, HAR (Community Noise Control). Section 4.5 contains the full discussion.

Air Quality – Construction of Lā'au Point may result in short-term impacts on air quality either directly or indirectly as a consequence of construction (i.e., clearing and grading). Therefore, an effective dust control plan will be prepared for the project construction phase. All activities will comply with the provisions of Hawai'i Administrative Rules, §11-60.1-33 on Fugitive Dust. Long-term air quality impacts generally come from motor vehicle exhausts. Because traffic associated with the project is estimated to be less than 200 vehicles per hour at full build-out and all intersections in the vicinity will have very good level-of-service conditions, traffic-related long-term air quality impacts are not expected to be significant. Section 4.6 contains the full discussion.

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Scenic Resources – The existing landscape and views around Lā'au Point will change with the creation of the rural residential community. Because the Lā'au Point project will be on only eight percent of the entire parcel, potential impacts to scenic open space resources are not expected to be significant. To further mitigate visual impacts, lot lines and buildings will be set back at least 250 feet from the shoreline, creating a coastal conservation zone to act as a visual buffer. To minimize visual impacts caused by the Lā'au Point project, all homes will be subject to stringent CC&Rs (see Section 2.3.6), which will place restrictions on building setbacks, building height, materials, colors, and style to blend homes into the environment. Section 4.7 contains the full discussion.

Housing – The Lā'au Point project will address affordable housing in the implementation of *Community-Based Master Land Use Plan for Molokai Ranch* (see Section 2.1.7). Throughout the community-planning process, the vesting of land back into community hands and ensuring the development returns (Lā'au Point income) be shared by the community was part of a larger vision by the Moloka'i community to plan and finance housing for themselves. MPL ~~has reserved~~ will put title restrictions on 100 acres around each of the towns of Kualapu'u and Maunaloa ~~for community expansion to limit the use of these lands for affordable housing.~~ Approximately 1,100 acres will also be gifted to the Community Development Corporation (CDC), a large portion of which can be used for ~~community homes~~ affordable housing. Section 4.8.2 contains the full discussion.

Community Character – An important objective of the Lā'au Point project is to retain Moloka'i's rural island lifestyle. A key design element of Lā'au Point was to keep the project area on only eight percent of the Lā'au parcel. This keeps the remainder of Lā'au's 6,348-acre TMK parcel in open space. Also, in designing Lā'au Point, there were many conscious decisions regarding the strict CC&Rs to be attached to the project that would help to perpetuate Moloka'i's rural lifestyle. Section 4.8.3 contains the full discussion.

Economy – Proceeds from the sale of the Lā'au Point lots will fund the renovations and upgrading of the Kaluako'i Hotel and Golf Course. These facilities are crucial to revitalizing the Moloka'i tourism economy and are projected to provide over 100 jobs for Moloka'i residents. The Lā'au Point project is the catalyst for the Plan to enhance the economic environment and stimulate economic diversification relative to the present unprofitable ranch operations. Tax revenues from construction costs, property sales, and increased spending by new residents will outweigh costs to the County and State governments and result in net economic benefit. Section 4.8.4 contains the full discussion.

Drainage – ~~The Lā'au Point project is not expected to have significant adverse effects on existing downstream properties. Although peak post development runoff from the developed lots and roadways is projected at 111 cubic feet per second (cfs) more than current conditions, mitigation measures will utilize natural drainageways with adequate drainage corridors. Surface and/or subsurface retention facilities will be sized to retain the difference in peak runoff in each lot and for roadways.~~ Lā'au Point will be in compliance with all laws and regulations regarding runoff and non-point source pollution, ensuring that storm water runoff and siltation will not adversely affect the downstream marine environment and nearshore and offshore water quality. The current runoff from the area of the proposed lots of the project area is 512 cubic feet per second (cfs) for a 50-year 1-hour storm. This is expected to increase by 111 cfs to 623 cfs with development. The present flow patterns in the existing drainageways will be maintained.

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Culverts will be sized to convey flows across roadways that generally run perpendicular to these natural drainageways. Surface and/or subsurface retention facilities will be sized to retain the difference in peak runoff in each lot and for roadways. Section 4.9.1 contains the full discussion.

Water – Potable water for Lā'au Point will be supplied from Well 17 in Kualapu'u within currently permitted allocations. MPL does not require any more drinking water than what is currently proposed for allocation in the *Community-Based Master Land Use Plan for Molokai Ranch (Plan)*. To supplement existing non-potable water sources currently used by MPL, MPL proposes to activate the existing but unused Kākahale brackish water well to supply Lā'au Point and other Plan areas with irrigation water. MPL has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water. According to the Water Plan Analysis, MPL's plans are reasonable and realistic, from a regulatory standpoint, because the Water Plan calls for: 1) significantly decreasing the current use of safe drinking (potable) water for irrigation; 2) increasing efficiencies within existing systems; and 3) aggressive water conservation strategies. Section 4.9.2 contains the full discussion, including an extensive "Additional Analysis and Information" section added in response to several questions and comments on the Draft EIS received during the public comment period.

Wastewater – Lā'au Point will include its own private wastewater treatment system to be maintained through the homeowners' association. MPL will build the onsite sewer collection system within Lā'au Point at a 14-acre centrally located site. A central package treatment plant will connect to individual homes via a low-pressure sewer force main system such as e-one or equivalent. The package plant will treat to tertiary quality levels allowing this water to be reused for common area landscape irrigation. Section 4.9.3 contains the full discussion.

Solid Waste – Solid waste will be generated during construction and after development of Lā'au Point. A solid waste management plan will be prepared to address waste generated by construction. During construction, material derived from clearing and grubbing will be chipped and spread over adjoining Ranch lands to decompose as organic matter. Lā'au Point will incorporate recycling during construction and in the new community to help reduce the amounts of solid waste going to the landfill. Section 4.9.4 contains the full discussion.

Electrical and Communication Systems – Electrical, telephone, and cable distribution systems will be extended underground from Kaluako'i. Underground utilities will be as close to the road center as possible to avoid multiple impact corridors. At its eastern terminus, this underground distribution system will be connected to the existing overhead system servicing Hale O Lono Harbor to provide an alternative means of serving the project. CC&Rs and design standards for Lā'au Point will encourage energy-efficient building design and site development practices to reduce electrical demand. Section 4.9.5 contains the full discussion.

Public Services – As Moloka'i's population grows, there will be need for the County to allocate resources necessary to adequately fund public services. Since Lā'au Point will increase the tax base for the County, Lā'au Point will provide additional funds for expanding public services on Moloka'i. Emergency vehicles will be able to access the community from the new paved access road from Kaluako'i and the existing emergency access dirt road from Hale O Lono Harbor. Section 4.10 contains the full discussion.

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1.7.3 Relationship to Land Use Policies

State Land Use Law Chapter 205, Hawai'i Revised Statutes – The Lā'au Point site is currently in the State Agricultural and Conservation Districts. Molokai Properties Limited has filed a petition with the State Land Use Commission to reclassify areas of the property from Agricultural to Rural, Agricultural to Conservation, and Conservation to Rural. The project's conformance with the State Land Use Law is discussed in Section 5.1.2 of this EIS.

Conservation District Law, Chapter 183C, Hawai'i Revised Statutes – Within the Conservation District, the project site falls within the General and Limited Subzones. The project's conformance with the Conservation District Law is discussed in Section 5.1.3 of this EIS.

Hawai'i Coastal Zone Management Program, Chapter 205A, Hawai'i Revised Statutes – The Coastal Zone Management Area as defined in Chapter 205A, HRS, includes all the lands of the State. As such, Lā'au Point is within the Coastal Zone Management Area. The project's conformance with the Coastal Zone Management Program is discussed in Section 5.1.4 of this EIS.

Hawai'i State Plan, Chapter 226, Hawai'i Revised Statutes – The Hawai'i State Plan (Chapter 226, HRS), establishes a set of goals, objectives, and policies that serve as long-range guidelines for the growth and development of the State. The Lā'au Point project is relevant to many of the goals, objectives, and policies set forth by the Hawai'i State Plan. The project's conformance with specific elements of the Hawai'i State Plan is discussed in Section 5.1.5 of this EIS.

State of Hawai'i Functional Plans – The Hawai'i State Plan directs State agencies to prepare functional plans for their respective program areas. There are 14 state functional plans that serve as the primary implementing vehicle for the goals, objectives, and policies of the Hawai'i State Plan. The functional plans applicable to the Lā'au Point project are discussed in Section 5.1.6 of this EIS.

Maui County General Plan – The Maui County General Plan sets forth the desired sequence, patterns, and characteristics of future development. This is accomplished through long-range objectives focusing on the social, economic, and environmental effects of development coupled with specific policies designed to implement the objectives. The project's conformance with specific elements of the General Plan is discussed in Section 5.2.1 of this EIS.

Moloka'i Community Plan – The Moloka'i Community Plan Land Use Map designates specific areas of the Lā'au Point site as AG (Agricultural) and C (Conservation). MPL is seeking a Community Plan Amendment to change appropriate portions of the project area the area from Agricultural (AG) to Rural (R) and Park (P). The relevant objectives and policies of the Moloka'i Community Plan pertaining to Lā'au Point, along with a discussion of how the community conforms to these objectives and policies, are discussed in Section 5.2.2 of this EIS.

County of Maui Zoning – The Lā'au Point site is in the County of Maui Agricultural zone. MPL is seeking a Change in Zoning to change the County zoning of appropriate portions of the

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project area the area from County Agricultural zoning to the County Rural and Open Space zoning. Section 5.2.3 contains further discussion.

Special Management Area – Portions of the Lā‘au Point site are within the County’s Special Management Area (SMA), pursuant to Chapter 205A, HRS and Chapter 202, Special Management Area Rules for the Moloka‘i Planning Commission. MPL is seeking an approval of a Special Management Area Use Permit concurrently with the processing of the other required County permits and approvals. Section 5.2.4 contains further discussion.

County Special Use Permit – Lā‘au Point’s private wastewater treatment facility will require a County Special Use Permit on lands proposed for Rural zoning. The proposed sewage system will be designed to County of Maui standards. In addition, all wastewater plans will conform to applicable provisions of HAR, Chapter 11-62, “Wastewater Systems.” Section 5.2.5 contains further discussion.

1.7.4 Required Permits and Approvals

A preliminary list of permits and approvals required for Lā‘au Point is presented below.

Permit/Approval	Responsible Agency
Chapter 343, HRS Compliance	State Land Use Commission Office of Environmental Quality Control
State Land Use District Boundary Amendment	State Land Use Commission
Community Plan Amendment	County of Maui Planning Department Moloka‘i Planning Commission Maui County Council
Change in Zoning	County of Maui Planning Department Moloka‘i Planning Commission Maui County Council
Special Management Area	County of Maui Planning Department Moloka‘i Planning Commission
County Special Use Permit	County of Maui Planning Department Moloka‘i Planning Commission
Chapter 6E, HRS Compliance	State Historic Preservation Division
<u>Conservation District Use Permit</u>	<u>State Department/Board of Land & Natural Resources</u>
<u>Conservation District Administrative Rule Amendment</u>	<u>State Department/Board of Land & Natural Resources</u>
Subdivision Approval	County of Maui Department of Public Works & Environmental Management
Grading/Building Permits	County of Maui Department of Public Works & Environmental Management
National Pollutant Discharge Elimination System (NPDES) Permit	State Department of Health
<u>Water Use Permit</u>	<u>State Commission on Water Resource Management</u>

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Permit/Approval	Responsible Agency
<u>Approval for Distribution System for a Public Water System</u>	<u>State Department of Health</u>
<u>Recycled Water System Approval</u>	<u>State Department of Health</u>

1.7.5 Alternatives

Alternatives are discussed in detail in Section 6.0 of this EIS. The alternatives that have been considered are:

- No Action
- Bulk or “Piece-Meal” Sale of Other Land Inventory
- Agricultural Subdivision
- Other MPL Land Development Alternatives Considered
- ALDC Proposed Alternatives
- Other Proposed Uses for MPL Lands (Non-residential and Non-agricultural)
- Relocating the Development Mauka of the Current Location at Lā‘au
- Kaluako‘i Resort Condo Alternative
- Alternative Access to the Lā‘au Area
- Alternative Water Sources Raised in Letters
- Postponing Action Pending Further Study

1.7.6 Cumulative and Secondary Impacts

Cumulative impacts are restricted to those future actions that are reasonably foreseeable. To assess the cumulative and secondary impacts of the Lā‘au Point project in context with other projects, MPL has openly discussed its plans for Lā‘au Point with Moloka‘i community members and organizations through the *Community-Based Master Land Use Plan for Molokai Ranch* process and this EIS.

Cumulative and secondary impacts from the re-opening of the Kaluako‘i Hotel, and the potential future development of existing DHHL lands and vacant residential and agricultural lots in Kaluako‘i, Maunaloa, and Pāpōhaku are likely to include greater demand on public infrastructure systems and services, such as water, energy, and solid waste. Over the long term, the Project’s infrastructure improvements and the Plan’s community benefits should help to balance the impacts related to increased users and activities.

It is also expected that community character of the region may change, as this is an inevitable consequence of growth. The project’s population at full build-out will account for only two percent of the forecasted population for Moloka‘i in 2025. The expected low occupancy rates of vacation/second homes should also serve to minimize the need for services to residents and lessen any impacts of residential build-out on the rural character of the island. Section 7.2 discusses cumulative and secondary impacts in further detail.

1.7.7 Irreversible and Irretrievable Commitments of Resources

The Lā‘au Point project would result in the irreversible and irretrievable commitment of certain natural and fiscal resources. Major resource commitments include the project site and the money, construction materials, non-renewable resources, labor, and energy required for the project’s completion.

To help minimize community concerns and impacts of the Lā‘au Point project, the *Community-Based Master Land Use Plan for Molokai Ranch* provides measures which set unique precedents. These precedents are related to community planning, the creation of a land trust for the community, the donation of legacy lands to the land trust, the donation of easements to the land trust, and the protection of subsistence fishing, gathering, and hunting.

The Plan will provide the community with tools to protect more than 50,000 acres of land from development. These lands, which are being managed by the Moloka‘i Land Trust, can never be sold and through careful planning and proper land management practices, these valuable lands will be able to sustain the spiritual and physical health of the community for many years. The Plan also provides for strict CC&Rs that Lā‘au Point homeowners will need to accept and agree to uphold to purchase a lot. Section 7.3 discusses irreversible and irretrievable commitments of resources in detail.

1.7.8 Probable Adverse Environmental Effects that Cannot Be Avoided

Probable adverse environmental effects that cannot be avoided include changes to the land use character and visual appearance of the site, unquantifiable impacts to the overall spiritual quality of the area, changes to the experience of fishing in an isolated area, differences in values and lifestyle of new residents, increased wastewater and solid waste generated, increased water and electrical power consumed, increased demand for police and fire protection services, and short-term impacts to air quality and noise levels during construction. These probable adverse effects are more fully discussed in Section 7.4 and in individual sections throughout this EIS.

An important objective of the Lā‘au Point project is to retain Moloka‘i’s rural island character. MPL has limited development to only eight percent of the 6,348-acre Lā‘au parcel and 200 house lots proposed for a low density, rural residential development. While this would ensure that the project is in character with Moloka‘i’s rural landscape and lifestyle, the implementation of the Plan will result in the transfer and control of over 55,000 acres of MPL’s current land holdings to the Land Trust which will protect the West End of the island from further development.

1.7.9 Rationale for Proceeding with Lā‘au Point Notwithstanding Unavoidable Effects

In light of the above-mentioned unavoidable effects, the Lā‘au Point project should proceed because the negative impacts of the project will be offset by substantial positive impacts, including:

- Land Donation of 26,200 acres to the Moloka‘i Land Trust.
- 24,950 acres put into permanent Agricultural and Open Space Easements.
- 434 acres of Conservation District around Lā‘au Point.
- Two new public shoreline access parks.

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- 1,100 acres of land and other assets donated to the Moloka'i Community Development Corporation.
- Renovation and re-opening of the Kaluako'i Resort.
- Increased access for subsistence hunting and gathering in West Moloka'i.
- Wages, taxes, and overall positive economic impacts of the community.

The findings of the cultural and social impact assessments provide further rationale for proceeding with the project based on community input. People who were active in the formation of the Plan as well as non-participants felt that the Plan is a rare and unique opportunity which offers many benefits to the Moloka'i community. Given over three decades of conflicts between the community and Molokai Ranch, the Plan provides mutually beneficial results. Section 7.4.1 provides full discussion.

1.7.10 Unresolved Issues

Unresolved issues are invariably associated with projects in the planning and preliminary design stages, or due to negotiation of complicated agreements for such a unique project, primarily because there is so much reliance on the Moloka'i Land Trust for such things as monitoring access to the shoreline, and the enforcement of the project's CC&Rs.

Notwithstanding MPL's efforts, some aspects of the water issue remains remain unresolved between stakeholders at this stage of the planning process, as well as the final completion of several agreements between the Land Trust and MPL. MPL is actively working to complete the agreements.

There is also an unresolved issue relating to whether the continued use of the Moloka'i Irrigation System (MIS) by Kaluako'i Water, LLC (KWLLC) is subject to the preparation of an environmental disclosure document pursuant to Chapter 343, HRS.

Regarding water, MPL is actively working with the DHHL, the County of Maui Department of Water Supply and the US Geological Survey to comprehensively evaluate and seek solutions to Moloka'i's water demands and resources. The goal is to appropriately locate wells and manage pumping such that all of the parties will be able, to the greatest extent possible, withdraw sufficient water to meet their needs. See Section 7.5 for discussion.

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2.0 PROJECT DESCRIPTION

2.1 BACKGROUND INFORMATION

2.1.1 Location

The Lā'au Point site is located at Lā'au Point, along the shoreline bluffs on the southwest coastline of Moloka'i, within the County of Maui (see Figure 2). The site encompasses a band of land ranging from 1,500 to 2,000 feet inland of the existing Conservation District boundary. The land along the western shoreline extends approximately 10,400 feet north of Lā'au Point toward Kaupoa Beach Camp. The land along the southern coastline extends approximately 15,400 feet east of Lā'au Point toward Hale O Lono Harbor.

2.1.2 Land Ownership

Molokai Properties Limited owns the lands identified as TMK (2) 5-1-02:30; (2) 5-1-06: 157; (2) 5-1-08: 04, 03, 06, 07, 13, 14, 15, 21, and 25 (see Figure 3).

2.1.3 Surrounding Uses

Molokai Ranch, owned by Molokai Properties Limited (MPL), encompasses 60,000+ acres, comprising about 35 percent of the island of Moloka'i. The majority of Molokai Ranch is located on Moloka'i's west end, extending eastward from the west coast, from 'Ilio Point to the Mo'omomi Preserve in the north, and from Lā'au Point to the Pālā'au Homesteads in the south.

Important resources in the west end of Moloka'i include subsistence food sources and cultural sites. Many residents hunt and fish in various places within this region. They also come to important cultural sites for traditional and spiritual practices. The Mo'omomi Preserve, along the north coast, is owned and managed by The Nature Conservancy and supports a native-dominated lowland dry forest and shrub landscape and a carefully managed subsistence fishing zone. On the west coast lies Pāpōhaku beach and dunes, one of the longest mostly intact coastal dune systems in the state. To the south, Lā'au Point's coastal environment is used for subsistence fishing and hunting.

Maunaloa Town is the main population center in West Moloka'i, and headquarters for Molokai Ranch. Maunaloa's population at the 2000 census was 230 people. Since that time, seven new houses have been built in Maunaloa. In Maunaloa, Molokai Ranch operates the Lodge, which offers activities that introduce visitors to ranch life. Activities include mountain biking, horseback riding, hiking, and rodeo skills. Molokai Ranch employs approximately 140 people and is for many years has been the largest private employer on the island.

A portion of the Pāpōhaku Ranchland subdivision, located north of the project area, has been identified as a Formerly Used Defense Site (FUDS). The FUDS was a rocket and bombing target range used by the U.S. Navy and Marine Corps from 1944 to 1965. The 1,500 acres of FUDS is in the vicinity of Kaluako'i Road that provides access to the project.

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Along the shores south of Maunaloa is Hale O Lono Harbor and the abandoned Kolo Wharf. Maunaloa Highway connects the west end to the Moloka'i Airport, Kaunakakai, and the rest of the island.

An un-manned USA Lighthouse Station, Lā'au Light, is located at the tip of Lā'au Point, on property owned by the US government encompassing a total of 21 acres. The US Coast Guard regulates this federal aid to navigation. The light structure is twenty feet high on a white mono pole with three white/black non-lateral daymarks. The light can be seen 360 degrees with a seven nautical mile nominal range. In their comment letter on the Draft EIS dated March 19, 2007, the US Coast Guard noted that they will soon be changing the Lā'au Light's 250mm lantern to a 300mm lantern.

2.1.4 Description of the Property

The Lā'au Point site is located mainly within a 6,348-acre vacant parcel identified as TMK (2)5-1-02:30; the residential lots and related infrastructure will encompass only eight percent of this parcel and will be subdivided out from the larger parcel. The land is relatively dry, supporting mostly dryland kiawe forest and shrub vegetative zones with many non-native species.

In the past, the land has been used for agricultural and ranch operations. Some of the estimated 15,000 deer contained on Molokai Ranch's property roam throughout the Lā'au Point parcel.

Comments on the Draft EIS asked why MPL had reduced its cattle operations and whether MPL was exiting the cattle business. Although still the largest single cattle raising operation on the island, MPL is barely breaking even on its cattle operations, which now total 500-head. The cost of getting meat to market is still a major disincentive to furthering meat operations on the island.

MPL built its herd size from 3,000 to 5,000 during 1996 through 2000 in hopes of making a profit or breaking even in the cattle business. Unfortunately, operating losses averaged about \$300,000 per year during those years. In more recent years, annual losses with the smaller herd averaged \$10,000. Major factors which affect the cattle operation are lack of a: 1) proper local feedlot to produce weight gains needed before slaughter; and 2) large enough local slaughterhouse to handle the number of head.

The above deficiencies lead to having cattle shipped to the mainland. However, shipping cattle to the mainland resulted in the following issues: 1) high freight cost of up to \$0.32 per pound; and 2) cost of pasture and feedlot costs prior to having finished cattle.

Although MPL's cattle is considered to be of good to excellent grade, the addition of shipping, pasturing, and feedlot costs did not make up the premium prices. This, along with having to deal with feed cost during cycling drought conditions on the island, made having other than a small cattle operation not viable.

The cattle operation also forms part of MPL's visitor attractions where visitors and residents alike are able to take part in Paniolo-type ranching activities that are fast becoming a lost tradition in Hawai'i.



Source: U.S. Geological Survey

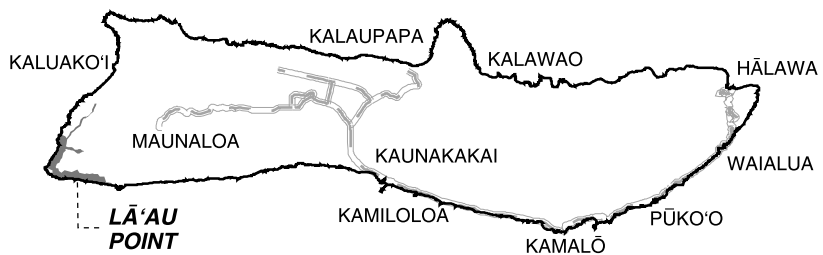
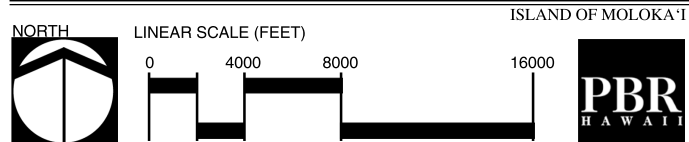
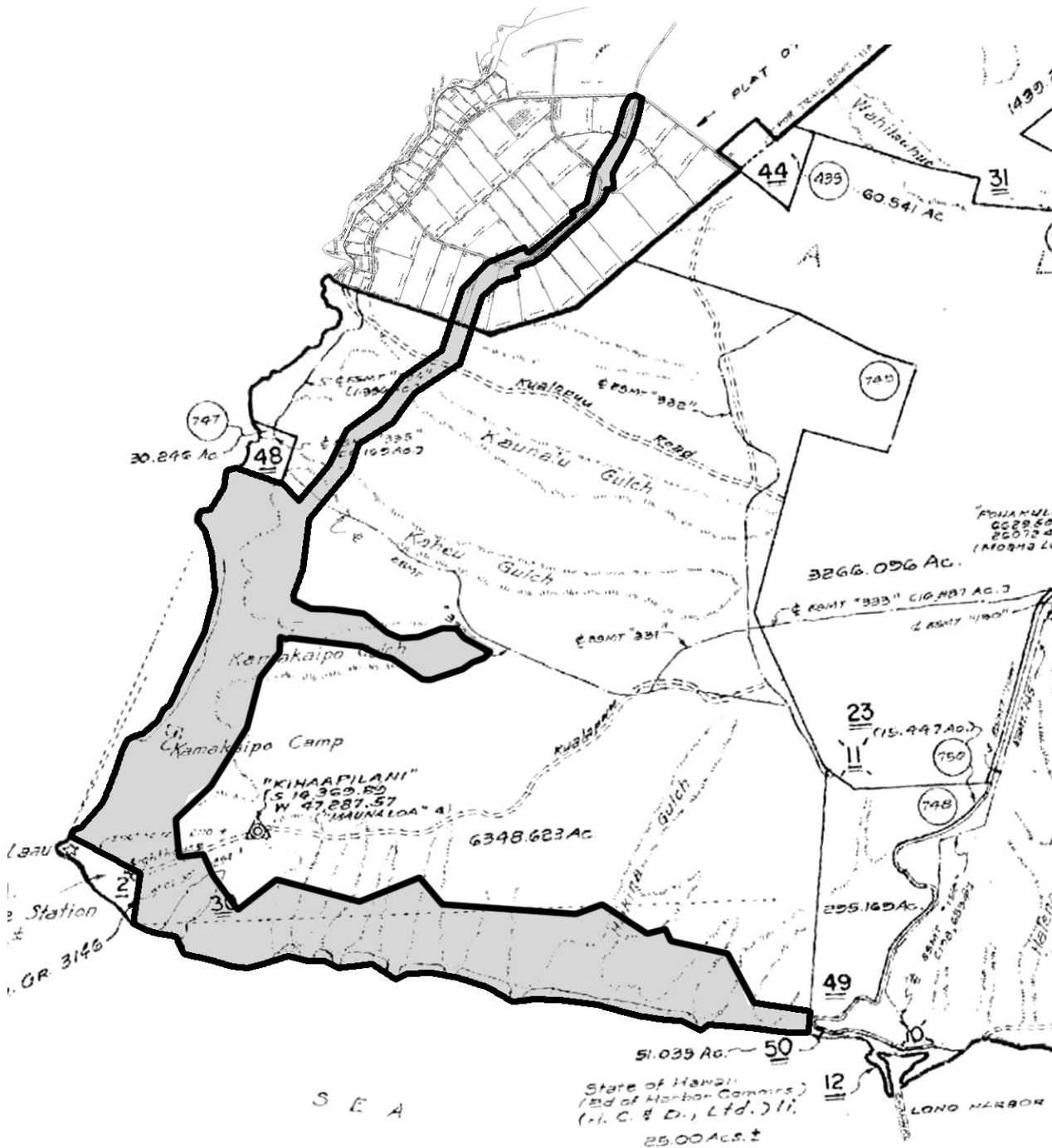


Figure 2

Regional Location Map

Lā'au Point





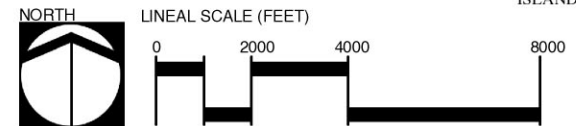
LEGEND

Project Area

Source:
County of Maui Tax Map Key

Figure 3
Tax Map Key

Lā'au Point



ISLAND OF MOLOKAI



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The current land use designations of the Lā‘au Point site, TMK (2)5-1-02:30, are as follows:

- State Land Use: Agricultural and Conservation (Figure 4)
- Conservation District Subzones: General and Limited (Figure 5)
- Moloka‘i Community Plan: Agricultural and Conservation (Figure 6)
- Maui County Zoning: Agricultural (Figure 7)
- Special Management Area (SMA): portion within the SMA (Figure 8)

The Southwest Moloka‘i coast is very diverse and offers approximately 5.2 miles of shoreline from Hale O Lono Harbor to Kaupoa Beach. Stretches of white sand beach are broken by large, rocky outcroppings. The lava rock bluffs are generally steep and difficult to negotiate, but just inside the breaking waves are ‘opihi, limu, and reef fishes. Figure 9 contains photographs of the site.

2.1.5 Detailed Land Use History

Lands that eventually became part of Molokai Ranch were assigned in 1848 as part of the Great Mahele. In 1859, Kamehameha IV established a sheep ranch on the west end at Kaluako‘i. His brother, High Chief Kapuāiwa gained title to the land that is now Molokai Ranch when he became King Kamehameha V in 1863, and he expanded this holding through acquisition of more land and addition of other types of livestock.

Princess Ruth Keliokalani inherited the land on Moloka‘i from King Kamehameha V upon his death. When she died in 1883, the property passed on to Princess Bernice Pauahi Bishop, the last descendant of the Kamehameha dynasty. Princess Pauahi’s inheritance excluded the land of Kaluako‘i in West Moloka‘i, as these were granted to her husband Charles Bishop in 1875.

In 1897, a group of Honolulu businessmen, which included Judge Alfred S. Hartwell, Alfred W. Carter, and A.D. McClellan, purchased 70,000 acres of land in fee simple from the trustees of Princess Pauahi’s estate and leased another 30,000 from the Hawaiian government.

In 1898, the American Sugar Company Limited was incorporated by Judge Alfred S. Hartwell and Alfred Carter (who were partners in the Molokai Ranch), and Charles M. Cooke, George H. Robertson and George R. Carter. Early in 1898, the American Sugar Company Limited took over the land and leaseholds of large tracts of government land lying between the ranch lands; thus starting a venture with sugar cane production. Unfortunately, American Sugar Company was unsuccessful in cane sugar cultivation due to saline well water. The company and its interests were ~~was purchased~~ bought out in 1908 by Charles M. Cooke, son of the early missionary teacher, Amos Starr Cooke. He established Molokai Ranch, which his son George P. Cooke subsequently managed. Under George P. Cooke, Molokai Ranch progressed through cattle grazing, sweet potato, and wheat crops. When the Ranch began producing honey, Moloka‘i became the world’s largest producer of honey from 1910 to 1937.

The Cooke family owned Molokai Ranch for almost 80 years until the late 1980s. It was operated as a family corporation separate, from Castle and Cooke. George Cooke served as manager of the Ranch for 35 years, from 1908 through 1943. Under his tenure it became the second largest cattle ranch in Hawai‘i and a major producer of beef.

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In the early 1920's, pineapple came to the island and Maunaloa was developed as a plantation village to house the immigrant pineapple workers. By 1923, the Libby, McNeill & Libby Company had begun raising pineapple in the Maunaloa area on lands leased from Molokai Ranch. They continued operations until selling to the Dole Corporation in 1972. Del Monte, then known as California Packing Corporation, arrived in 1927 and made their headquarters at Kualapu'u. They soon commenced large-scale pineapple cultivation, mostly on land leased from Molokai Ranch. Dole ceased its Moloka'i operations on January 1, 1976. Del Monte phased out its operations in the mid-1980s.

In the early 1970s 1968, Molokai Ranch, then owned by the Cooke family, entered into a partnership with Louisiana Land and Exploration Company for the development of the Kaluako'i Hotel and Resort. Louisiana Land and Exploration Company was provided a contingency for the Ranch's West End lands. The Kaluako'i Resort opened in 1977 and included a hotel, a golf course, and condominiums. In 1978, the Moloka'i Ranch Wildlife Park opened for safari-like tours on the ranch lands.

In 1980, Louisiana Land and Exploration Company separated its interests from Molokai Ranch and exercised its option over the West End lands from Kaluako'i to Kawakiu. These lands were sold to Tokyo Kosan in 1987. Operating as Kukui (Moloka'i), Inc., the company subdivided its property and developed the Papohaku Ranchland Subdivision.

‡ Molokai Ranch subsequently sold its interest in the undertaking and later tried to diversify into mainland commercial property. It also sold the lands from Hale O Lono to Kaupoa to an individual investor. This investor sold the lands to Alpha U.S.A. Alpha U.S.A. hired Henry Ayau as its representative, Walter Ritte as a consultant, and Group 70 as its planner. They developed a plan to develop the Lā'au parcel that involved Hawaiian villages.

After initial success, the cash requirements of these investments led to the eventual sale of Molokai Ranch stock to Brierly Investments Limited (later to become BIL International Limited), who became its sole stockholder in 1987. At that time, Molokai Ranch consisted of approximately 52,000 acres.

In 1991, Tokyo Kosan went bankrupt, it sold Kukui (Moloka'i), Inc., which owned the Kaluako'i Resort and Golf Course and the adjacent lands over to Kawakiu, back to the Ranch, or its parent company, Brierly Investments, Limited. The Kaluako'i Hotel, ~~under separate ownership,~~ closed in 2000 January 2001.

In October 2001, BIL International, on behalf of Molokai Ranch, re-acquired 6,300 acres on the southwest corner of Moloka'i previously known as the Alpha parcel. In December 2001, Molokai Ranch acquired the land holdings of Kukui (Moloka'i), Inc., that included the abandoned Kaluako'i Hotel, the Kaluako'i Golf Course, and the undeveloped lands of the resort area. In December 2002, seeing that Molokai Ranch had operations that went beyond ranching, the corporation's name was changed to Molokai Properties Limited (MPL). The golf course was renovated and re-opened in 2004. The hotel and most of the common facilities have yet to be re-opened.

Comments on the Draft EIS asked questions related to the activities of prior owners of the Lā'au parcel. MPL has stated that it has no knowledge of the prior financial or other activities of the



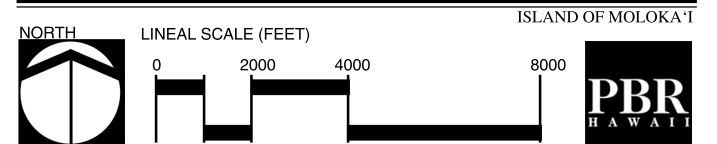
LEGEND

- Land Use Districts
 AG: Agricultural
 C: Conservation
 Project Area

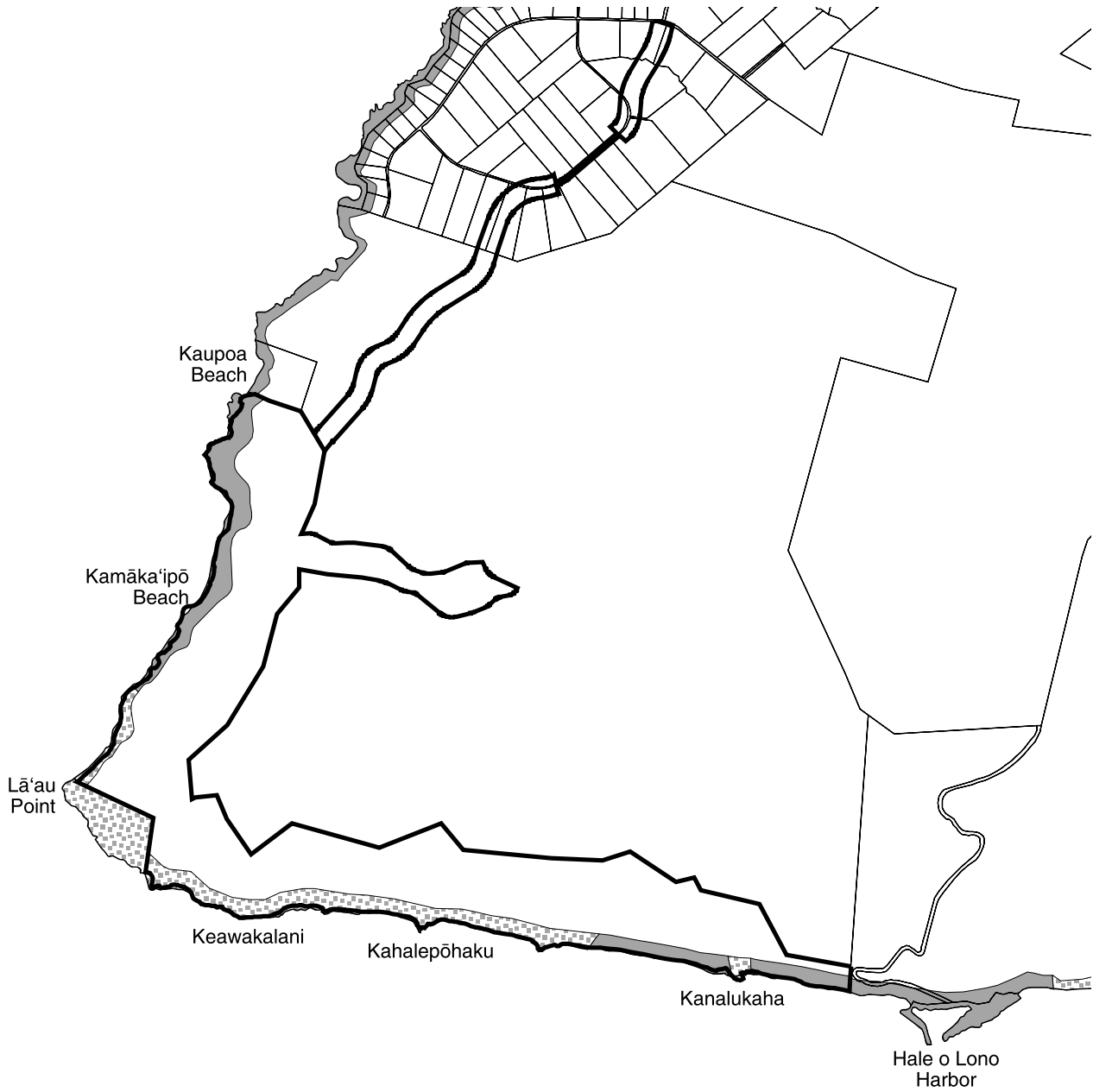
Source:
 Warren S. Unemori Engineering

Figure 4
 State Land Use District Boundary Map

Lā'au Point



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 purposes only.



LEGEND

- Conservation Subzones
 - General
 - Limited
- Project Area

Source:
 State Department of Land and Natural Resources
 (1995)
 Warren S Unemori Engineering

Figure 5
 Conservation District Subzones Map

Lā'au Point

ISLAND OF MOLOKAI

NORTH

LINEAR SCALE (FEET)




0 2000 4000 8000

PBR
HAWAII

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LEGEND

- Land Uses
-  AG: Agricultural
 -  C: Conservation
 -  Project Area

Source:
County of Maui (2006)

Figure 6
Molokai Community Land Use Map

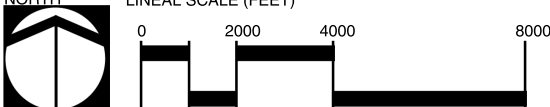
Lā'au Point

ISLAND OF MOLOKAI

NORTH

LINEAL SCALE (FEET)

0 2000 4000 8000



PBR
HAWAII

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LEGEND

Zoning Districts
 [Grey Box] Agricultural

[Thick Black Line] Project Area

Source:
 County of Maui (2006)

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Figure 7
 County Zoning Map

Lā'au Point

ISLAND OF MOLOKAI

NORTH

LINEAL SCALE (FEET)

0 2000 4000 8000

PBR
HAWAII



LEGEND

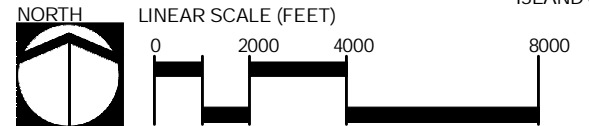
- Special Management Area
- Project Area

Source: \County of Maui (1998)

Figure 8
Special Management Area Map

Lāyau Point

ISLAND OF MOLOKĀʻI



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1. View from ridge above Kahalepohaku looking toward Lanai.



2. Looking west toward Keawakalani Point.



3. View mauka from Kahalepohaku.



4. Conservation District Land at Kanalukaha looking toward Hala O Lono Harbor.



5. View east from Kahalepohaku Point.



Source: U.S. Geological Survey

Figure 9a
Site Photographs
Lā'au Point

Island of Molokai





1. View from Kahaiawa Point towards La'au Point.



2. View from approx. mauka edge of Conservation District.



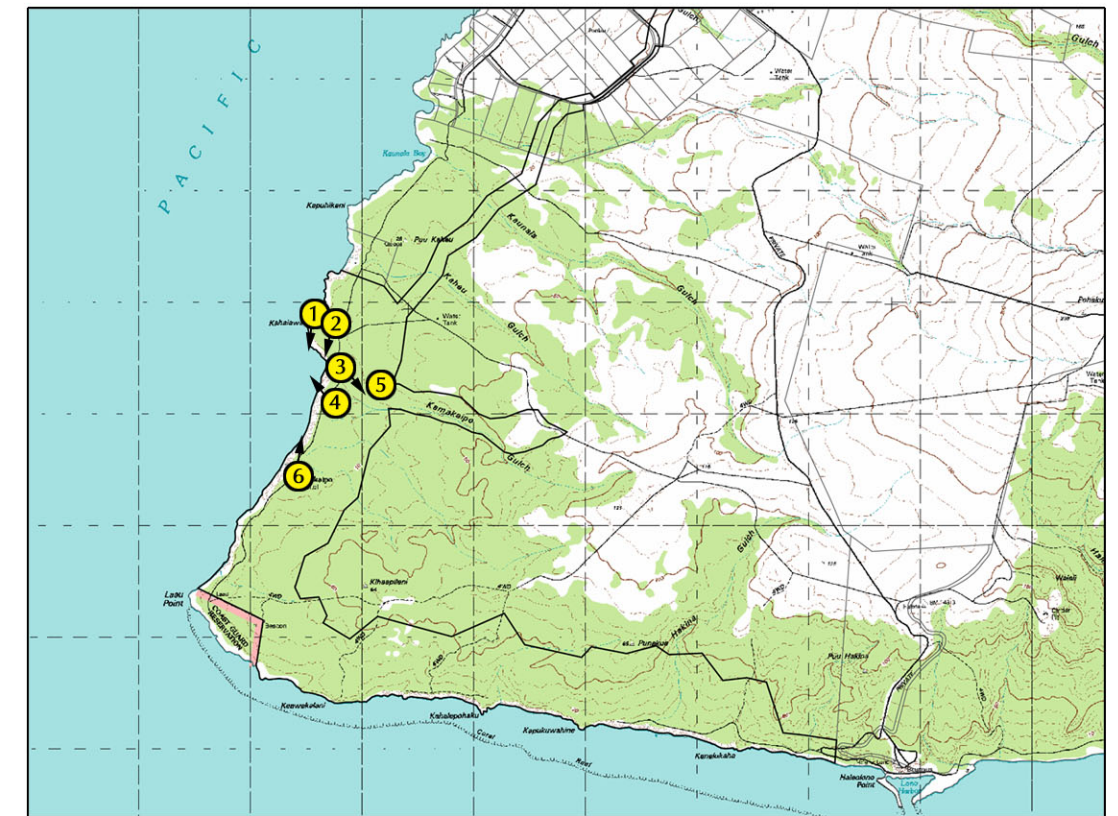
3. Stream outlet at beach of Kamaka'ipo.



4. Limestone outcrop along beach.



5. Heiau site near Kamakaipo Gulch.



Source: U.S. Geological Survey



6. View of "Shipwreck Beach"- looking north.

Figure 9b
Site Photographs
Lā'au Point

Island of Molokai



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previous owners, with the exception of some development plans proposed in the early 1990s; these previous development plans were on a far larger scale than this proposed Lā'au Point project.

2.1.6 The Planning Process for the *Community-Based Master Land Use Plan for Molokai Ranch*

What began in 2003 as discussions on the re-opening of the Kaluako'i Hotel led to a desire by Molokai Properties Limited (MPL) and The Moloka'i Enterprise Community (EC), a federally-designated 501(c)(3) public charity organization, to create a visionary plan for Molokai Ranch's 60,000+ acres that would reflect the wishes of the Moloka'i community. The EC, also known as Ke 'Aupuni Lōkāhi (KAL), began in 1998 with Moloka'i residents providing hundreds of volunteer hours in community visioning and planning meetings. As a result of the community-based planning, a 10-year strategic plan for Moloka'i was developed. The community's shared vision and united effort was recognized and honored as a U.S. Department of Agriculture rural Enterprise Community as part of the federal U.S. Department of Agriculture Enterprise Community (EC)/Empowerment Zone (EZ) Program. The U.S. EC/EZ program is designed to afford communities, with high rates of poverty, real opportunities for growth and revitalization. The Moloka'i EC received a federal grant of \$40 million to implement its 10-year strategic plan, and to date, the EC has included and supported over 40 projects in this plan.

Between September 2003 and September 2005, in an EC-sponsored process (EC Project #47), MPL joined with over 1,000 community participants to discuss a community-based master land use plan for Molokai Ranch's lands. The goals of this plan and the planning process were to create new employment opportunities and affordable housing options for Moloka'i residents, as well as provide them with more control of their future.

The *Community-Based Master Land Use Plan for Molokai Ranch* resulted from two years of community meetings, long hours of impassioned debate, critical thinking, and soul searching by Moloka'i residents. Between February 2004 and May 2004, five committees: Environment, Cultural, Economics, Tourism, and Recreation, met for 100 days to develop aspects of the Plan. The Conservation Fund, a nationally-recognized environmental non-profit group dedicated to protecting natural resources, was retained by the EC, and assisted with the community planning process by producing maps and guiding the process of thinking that was needed to establish a Land Trust to manage lands that MPL would gift to the Moloka'i community; 85 percent of MPL's lands, one-third of the island.

During the process, draft plans were presented to various community organizations and the general public to receive their input. During this time, a Land Use Committee (formed from representatives of the five committees) finalized the guidelines for policies and principles for land management, except for the segments on development at Lā'au Point and Water Use.

In October 2004, the Alternative to Lā'au Development Committee (ALDC), supported through EC funding by a grant of \$18,600, was formed to look at different ways for MPL to reach its bottom line without having to develop at Lā'au Point. Alternatives to the proposed Lā'au Point project are discussed in Section 6.0 of this EIS.

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On August 1, 2005, the Lā'au Point and Water Use segments of this Plan were adopted by the Land Use Committee, and the Plan in its entirety was later adopted by the EC Board.

The result of this process was an integrated plan that addresses all the uses of Molokai Ranch's property, including the Lā'au Point site. MPL is now moving forward with the Moloka'i community to implement the *Community-Based Master Land Use Plan for Molokai Ranch*.

Pending State and County approvals for the Lā'au Point project, MPL will sign a legal agreement ensuring the implementation of the overall *Community-Based Master Land Use Plan for Molokai Ranch*.

Appendix A contains the *Community-Based Master Land Use Plan for Molokai Ranch* in its entirety.

2.1.7 Key Points of the *Community-Based Master Land Use Plan for Molokai Ranch*

The *Community-Based Master Land Use Plan for Molokai Ranch* is an agreement between the Moloka'i Enterprise Community (EC) and MPL. Key points include:

- Creating the Lā'au Point community, which will consist of no more than 200 rural-residential lots, each approximately 1.5 to 2+ acres in size. An open space buffer area will surround the residential lots, and cultural and environmental preservation zones will protect significant cultural and natural resources. Sales of the lots are crucial to funding the Kaluako'i Hotel renovations and golf course upgrades (see below). In addition, a portion of the sales revenues will fund an endowment for both the Moloka'i Land Trust and a yet-to-be formed Community Development Corporation (see Section 2.1.9).
- Meeting the community's desire to renovate and re-open the 152-room Kaluako'i Hotel (which was closed in 2001) and upgrade the Kaluako'i Golf Course, which is estimated to cost in excess of \$30 million. These facilities are crucial for revitalizing the Moloka'i economy and will provide more than 100 jobs for Moloka'i residents. The re-opening of the hotel was a primary focus of the Plan. Funding for the Kaluako'i Hotel and Golf Course renovations will come from sales of the Lā'au Point rural-residential lots. An application for a Special Management Area permit to renovate and re-open the Kaluako'i Hotel has been filed with the Maui County.
- Having the funds for its current tourism and agricultural operations, ensuring the continued employment of its current staff. MPL is currently cash negative from its operations by approximately \$3.8 million annually and is supported by its parent company BIL International Limited.
- Actively promoting the protection and enhancement of subsistence, an important element of life on Moloka'i, that includes ensuring access to the shoreline across the property for subsistence gathering. Access to areas that have been closed to the community for generations will be opened for walking access, and the perpetual right to subsistence gathering will be noted on the titles of all access areas. Further, in support of wishes by participants of the process, commercial hunting would cease and subsistence hunting

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would be allowed on the lands that are currently used for commercial hunting; lands that will be donated to the Land Trust as part of the 26,200-acre donation.

- Gifting land and other income streams or revenue sources, with an appraised value of more than \$50 million, to Moloka‘i Land Trust and to Moloka‘i Community Development Corporation (see Sections 2.1.8 and 2.1.9). The lands to be gifted contain a vast array of cultural and archaeological, subsistence, environmental, agricultural, recreational, and economic-based resources.
- Preventing development on more than 55,000 acres (85 percent) of its property in perpetuity, thereby protecting the rural agricultural and open space nature of the island through: Land Trust donations (26,200 acres); protective Agricultural/Rural Landscape Reserve easements (24,950 acres); existing easements to other entities, i.e. Moloka‘i Forest Reserve and Kamakou Reserve (4,040 acres); and Lā‘au Point Cultural Protection Zones and Conservation lands (434 acres). The Moloka‘i Land Trust (see Section 2.1.8) will assume ownership and management of the donated land that is to be preserved. The easement lands will remain in MPL ownership; however, they will be covenanted with restrictive easements enforceable by the Moloka‘i Land Trust (see Proposed Ownership Map in Appendix A, p. 11). These restrictive easements designated as either Open Space Conservation, Rural Landscape Reserve, or Agriculture District easements will effectively remove development opportunities from these lands and result in “lost revenue opportunity cost” of more than \$25 million to MPL.
- Protecting subsistence through a future application to the State to establish a subsistence fishing zone from the coast to the outer edge of the reef or where there is no reef, out to a quarter-mile from the shoreline along the 40-mile perimeter of the property. MPL will end commercial hunting, thereby allowing only the community to hunt on the property. MPL will ensure access to the shoreline will only be available by foot as desired by the community (see Sections 2.3.7, 4.2, and 4.3 for further discussion).

2.1.8 Moloka‘i Land Trust

A land trust is a private, non-profit conservation organization set up for the purpose of acquiring lands or easements on land. Land trusts can manage the lands they acquire. A local land trust would be a community-based organization—in this instance, one dedicated to maintaining and protecting cultural and natural resources of Moloka‘i.

The Moloka‘i Land Trust, a community-based land steward organization, will be entrusted with ownership and management of the 26,200 acres (40 percent of Ranch lands) that MPL will donate to the Moloka‘i community under the conditions of the *Community-Based Master Land Use Plan for Molokai Ranch*. In addition, the Land Trust will also administer land use policies that permanently protect 24,950 acres of easement lands and 434 acres of Lā‘au Point’s cultural preservation zones and Conservation District lands. The Land Trust will ensure perpetual care of these lands and any other future donated lands. Figure 10 shows potential future ownership and management for Molokai Ranch property, including the lands the Moloka‘i Land Trust will own, manage, and administer.

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The Moloka'i Land Trust will provide for the community's self-determination and protection of the island's resources with a mission "to protect and restore the land, natural and cultural resources of Molokai, and to perpetuate the unique Native Hawaiian traditions and character of the island, for the benefit of the future generations of all Molokai, particularly Native Hawaiians" (EC 2006). The Land Trust's unique goals are:

- Protecting historic cultural archeological sites.
- Preserving the precious natural and environmental resources.
- Enhancing indigenous rights through the protection of subsistence gathering.

The Moloka'i Land Trust will own in fee simple a total of 26,200 acres. Going from east to west, the Trust lands include:

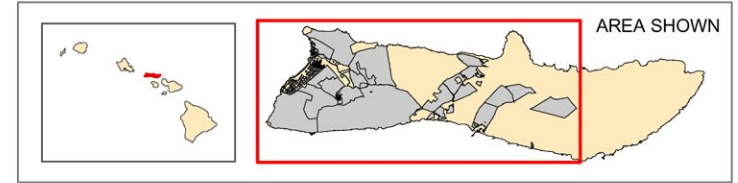
- Cultural sites at the base of the Kawela Plantation (34.895 acres).
- Lands mauka of Kaunakakai for community expansion (1,160 acres).
- The Makahiki Grounds mauka of Kualapu'u and up through and including the cliffs of Nā'iwa.
- A large strip of land from Kawakanui beach, north to 'Īlio Point, stretching around to the MPL boundary with Department of Hawaiian Homes Lands in Ho'olehua and down to Pālā'au and over to Hale O Lono Harbor and including the Kā'ana Area.
- The fishing village 15-acre site adjacent to the north boundary of Kaupoa Camp.
- Pu'u O Kaiaka.
- Other sites as shown on ~~the Land Trust map (See Appendix A, p. 9)~~ Figure 10.

As a sign of good faith and to enable the Moloka'i Land Trust to begin its important work, MPL will donate a 1,600-acre parcel of land (referred to as the "Mokio parcel") ~~of~~ on the coastline between Mo'omomi and 'Īlio Point to Moloka'i Land Trust, as soon as the Moloka'i Land Trust obtains its tax exempt status. Figure 11 shows the location of the Mokio parcel. The transfer of this land parcel also includes a partial assignment of rents that will provide \$50,000 of annual income to the Land Trust. This land donation is regardless of the outcome of the Lā'au Point LUC petition and County applications. The Moloka'i Land Trust obtained its tax-exempt status in early 2007. As of August 2007, an agreement to transfer the 1,600-acre Mokio parcel to the Land Trust was in the final stages of attorney review, and it is anticipated the donation in fee will take place early in 2008 following an extensive due diligence process conducted by the Trust and its advisors.

The Land Trust will permanently hold protective easements over a total of 24,950 acres of MPL-owned land: 14,390 acres will be dedicated as agricultural easement land and 10,560 acres will be dedicated as rural landscape reserve easement (see Appendix A, p. 9). The agricultural easement lands (depicted with diagonally-striped lines on p. 11 of Appendix A) will be dedicated for agriculture and only farm-related structures (i.e., barns, sheds, or farm dwellings) can be built there. The Community-Based Master Land Use Plan process designated proposed easement land areas based on the agricultural suitability of the area, without regard to specific TMK parcels; however, the area includes 20 TMK parcels. Under State law (Section 205-4.5) one farm dwelling could be built on each of the TMK parcels for a total of 20 potential farm dwellings.

The rural landscape reserve easement will protect open space and views on five large parcels of which no buildings or development will be permitted. The Land Trust will administer agreed upon land use policies for these areas, and enforce the dedicated use of the easement lands. The

MOLOKA'I RANCH MASTER USE PLAN PROPOSED LAND OWNERSHIP / MANAGEMENT



POTENTIAL FUTURE OWNERSHIP AND MANAGEMENT FOR MOLOKAI RANCH PROPERTY

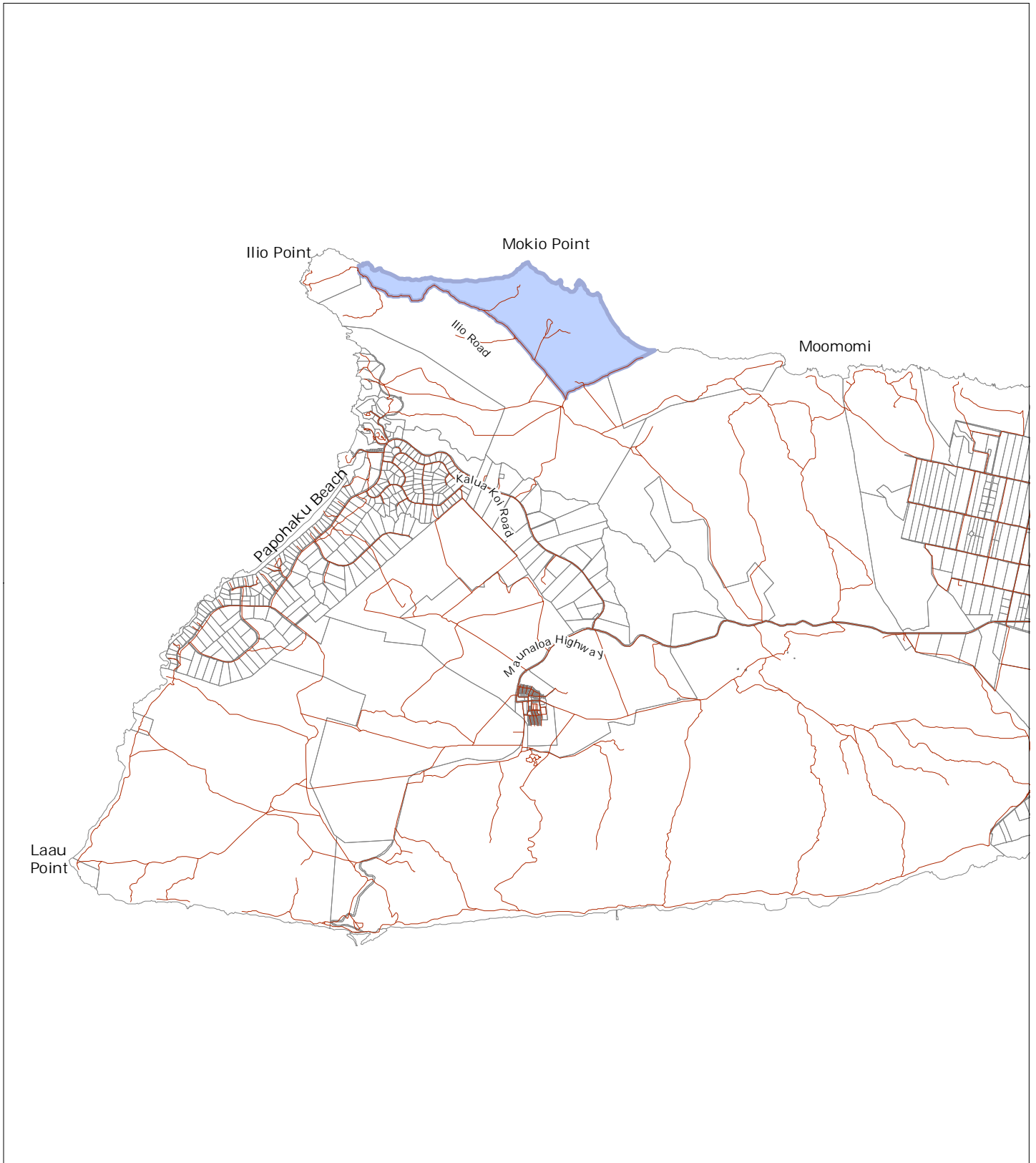
- Proposed Transfer of Ownership to Community Land Trust (26,200 acres)
- Proposed Conservation / Open Space / Agricultural Easement Area (Ownership Retained by Molokai Ranch, 24,950 acres)
- Ownership and Management Retained by Molokai Ranch
- Agricultural Lands (14,390 acres)
- Protected by Existing Conservation Easement (4,040 acres)

Figure 10
Proposed Land Trust Donations and Easements

Lā'au Point



Map Prepared By: The Conservation Fund
August 11, 2004



Legend

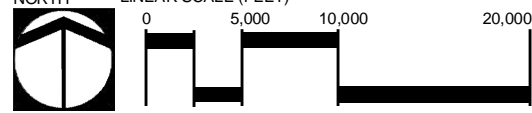

-  Roads
-  First Land Trust Donation Land

Figure 11
 First Land Trust Donation - Mokio Parcel
Lāyau Point

Molokai Properties Limited ISLAND OF MOLOKAI

NORTH LINEAR SCALE (FEET)

0 5,000 10,000 20,000

Disclaimer: This graphic has been prepared for general planning purposes only.

LĀ 'AU POINT

Draft-Final Environmental Impact Statement

easements would carry with the land and future landowners would be bound to the easements. Therefore, these easement lands could be re-sold, but would be subject to the easement restrictions. The Moloka'i Land Trust will act as a long-term steward of the lands to assure the retention of the island's rural and open space character. To ensure the Moloka'i Land Trust is adequately funded for its administration costs, revenue for the Land Trust will come from a share of the Lā'au Point lot sales and existing communications rentals on the MPL land to be donated. Communications tower rents currently total \$250,000 a year with a capitalized value of more than \$2.5 million.

Table 1 below lists the assets and sources of income for the Land Trust as set forth in the Plan.

Table 1. Moloka'i Land Trust Revenue Stream

<u>Proposed Donation</u>	<u>Revenue Stream</u>
<u>An initial parcel of 1,600 acres of land on the western shoreline of Moloka'i, known as the Mokia parcel. This donation is irrelevant to the outcome of the Lā'au Point entitlement process.</u>	<u>Land donation only. Included is rental income from the property for Aeronautical Radio, Inc. (ARINC) of \$50,000 per annum.</u>
<u>Approximately 23,400 remaining acres of land (total donation with Mokia parcel 26,200 acres or 40% of the current MPL property).</u>	<u>Land donation. Also income from telecommunications and remaining ARINC rentals of approx \$200,000 per annum.</u>
<u>Will hold the easement over a further 24,000 acres of land that will be protected for agriculture (15,000 acres) and open space (14,000 acres).</u>	<u>No income from conservation easements.</u>

The Moloka'i Land Trust has been registered with the State of Hawai'i and has an application before the Internal Revenue Service (IRS) for approval of its tax exempt 509(a)(3) status. The Moloka'i Land Trust received its 509(a)(3) tax exempt designation in early 2007 and is now operating under that designation.

The Land Trust meets monthly and has set up a number of committees (finance, lands and stewardship, and governance) to review:

- The detailed work necessary to be completed before accepting the first gift of 1,600 acres of land.
- Planning the future fund-raising necessary to enable the Land Trust to manage the lands to be donated.
- Future staffing, governance, and operational issues.

Trustees have undergone extensive training in the duties and obligations of a Land Trust with consultants approved by the Land Trust Alliance, the organization that sets standards and practices for the hundreds of land trusts throughout the United States.

In comments on the Draft EIS, a wide range of questions were asked about the Moloka'i Land Trust's activities since incorporation. It should be noted that the Moloka'i Land Trust is a private

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entity, separate from MPL. Therefore, specific questions about the Land Trust's activities and decisions have been referred directly to the Land Trust.

Land Trust directors as of June 30, 2007 are: Colette Machado, Davianna McGregor, Richard Cooke III, David Lunney, Stacy Crivello, Ed Misaki, Halona Kaopuiki, Cheryl Corbiell, and William Akutagawa. All current directors are Moloka'i community members.

MPL is an ex-officio member of the Moloka'i Land Trust and acts in an advisory capacity only, not taking part in any decision-making by the Trust. MPL does not have voting rights.

The Moloka'i Land Trust will play a major role in the Lā'au Point project. The Land Trust will:

- Hold and control the easement over the expanded Conservation District lands – the 434 acres in front of the subdivision that is important for subsistence practices. This easement document is in the final stages of preparation.
- Share the management responsibility of the expanded Conservation District lands equally with the Lā'au Point homeowners by having equal representation on a Council of land trustees and homeowners.
- Implement the Shoreline Access Management Plan (SAMP), which is the council's guide to management of the expanded Conservation District lands. The SAMP was approved by the Land Trust on August 10, 2007. A copy of the SAMP is provided as Appendix B of this EIS.
- Be a party and signatory to the Lā'au Point CC&Rs covering restrictions on aspects of the development (see Section 2.3.6).

In all cases, the Moloka'i Land Trust has been working with MPL in the preparation of these documents, and MPL will require the Land Trust, as the EC's successor, to sign-off the documents before they are finalized.

Section 7.1 of Appendix A contains further details of proposed Land Trust activities following the implementation of the *Community-Based Master Land Use Plan for Molokai Ranch*.

2.1.9 Moloka'i Community Development Corporation (CDC)

The *Community-Based Master Land Use Plan for Molokai Ranch* proposes the creation of the Moloka'i Community Development Corporation (CDC), an entity which will continue the efforts of the Enterprise Community (EC) after the EC's official US Department of Agriculture designation expires (The Moloka'i EC is part of the federal USDA EC/EZ Program which in 1999 designated the entire island of Moloka'i as an Enterprise Community and provided \$7 million in grant funds toward implementing a 10-year strategic plan for Moloka'i). The CDC will have the following tasks:

- Develop affordable homes for the Moloka'i community.
- Promote economic development.
- Expand educational opportunities that will build capacity among the island's youth.
- Assist the Land Trust with project funding.

To assist the CDC with providing affordable housing, MPL will convey ownership of 1,100 acres of land mauka of Kaunakakai to the CDC for future housing development. MPL will also

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~~reserve put title restrictions on 200 100 acres around each of the towns of Kualapu'u and Maunaloa to be made available for community housing to limit the use of these lands for affordable housing.~~ Although MPL will retain ownership of the reserved lands, development decisions and timing will be made by the community via the CDC and not by MPL.

The CDC will work with partners such as Lokahi Pacific, the 501c3 organization that is currently completing 10 affordable homes in Maunaloa on land provided at a reduced price by MPL. Funds from the Lā'au development (the initial five percent of lot sales and the subsequent half a percent of subsequent lot or house and lot sales) will be used to fund CDC activities. The CDC will own the Kaunakakai land of 1,100 acres, it being donated by MPL.

Self-determination is a critical component behind the creation of the CDC and this plan for development of ~~community~~ affordable housing. Moreover, placing housing development in the hands of a community organization, rather than a developer, provides the opportunity for appropriate development timing, which is important in a slow-growing community like Moloka'i.

Affordable housing is intended for resident members of the Moloka'i community, within the income bracket and definitions as defined by the County of Maui. Affordable housing will be developed by the CDC. The CDC is tasked with providing affordable homes for Moloka'i residents. Residency requirements for affordable homes will be as specified under Section 2.96.020, Maui County Code (MCC).

In addition to land for housing, MPL will gift the CDC with the following assets that can be used for community development:

- A 5-acre parcel in central Kaunakakai zoned light industrial, which will be available for development in 2011 when the lease to the current lessee, the Junior Roping Club, expires.
- A 3.2-acre parcel adjacent to the Community College, which will be sold to the Maui Community College at market value. The proceeds from this sale would go to the CDC, which would add to the organization's funding for community projects such as construction of affordable housing.
- \$100,000 from the sale by MPL of a 5-acre site to the County for a new Kaunakakai Fire Station (contained within the 1,100 site above Kaunakakai).
- Endowment from the Lā'au Point project as a sustainable form of CDC funding, which will be structured as follows:
 - ~~A~~ An initial funding of the CDC arises from a net 5 percent of the sale revenue of all 200 lots in Lā'au Point. The value of this revenue is estimated to be \$10 million over five years.
 - ~~A percentage, yet to be determined, of subsequent revenue when lot, or lot and house, is re-sold.~~ Future and perpetual income for the CDC comes from second and subsequent sale of lots or lots and houses, as a percentage (half a percent) of all future net sale proceeds from sellers of Lā'au Point properties will be diverted for CDC use. This will provide the CDC with a perpetual income. This provision to allocate income from subsequent lot sales will be provided for in the CC&Rs in the form of a perpetual and unchangeable covenant (Master Plan Covenant). The CC&Rs will require the percentage fee to be paid to the CDC at closing directly out of escrow.

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Table 2 below lists the assets and sources of income for the CDC as set forth in the Plan.

Table 2. Moloka‘i CDC Revenue Stream

<u>Proposed Donations</u>	<u>Revenue Stream</u>
<u>1,100 acres above Kaunakakai town</u>	<u>Land for affordable housing</u>
<u>Land currently occupied on a short-term lease by the Junior Roping Club (4.18 acres) that is County-zoned industrial.</u>	<u>Land to either develop or realize in cash on sale.</u>
<u>The funds (\$100,000) to be received from the County from the purchase of land for the new Kaunakakai Fire Station.</u>	<u>\$100,000 in late 2007 or 2008.</u>
<u>The funds received from the University of Hawai‘i from the future purchase of 3,213 acres designated for community college expansion.</u>	<u>Funds will be at market valuation of the property at the time of sale.</u>
<u>Five percent of the net proceeds from the initial sales of lots in the proposed 200-lot Lā‘au Point subdivision (likely to be in excess of \$10 million).</u>	<u>A total of \$10 million over the period of the sale of the lots, anticipated to be a 5-year period.</u>
<u>A 0.5 percent (a half a percent) of all future lot and house sales in the Lā‘au Point development, (giving the CDC a perpetual income forever).</u>	<u>A continuous income stream as lots, or lots and houses are resold.</u>

A CDC steering committee, a project of the Moloka‘i EC, has been already established and is investigating legal and tax structures to ensure the optimum use is made of its mission.

The CDC mission statement has now been defined by the steering committee as follows: “A community-based non-profit organization working to enhance the quality of life for residents primarily in the area of affordable homes for the community, as well as economic development, education, health care, leadership, culture and the environment, while preserving Moloka‘i’s rural character.”

The CDC steering committee has also been investigating partnerships with other non-profit organizations for the building of affordable homes, and a structure will be in place to accept the land and funding donations prior to the transfer of land and the first sale of Lā‘au Point lots.

There is no relationship between the Moloka‘i Land Trust and the CDC steering committee. Both operate as separate entities with differing but compatible interests.

2.2 STATEMENT OF PURPOSE AND NEED FOR LĀ ‘AU POINT

The Lā‘au Point project is crucial to the economic viability of the *Community-Based Master Land Use Plan for Molokai Ranch* (see Section 2.1.7). Proceeds from the sale of the Lā‘au Point lots will fund the renovations and upgrading of the Kaluako‘i Hotel and Golf Course. The Kaluako‘i Hotel will be re-opened for visitor accommodation creating more than 100 permanent

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jobs for the local community. By outsourcing various hotel functions such as laundry, gift shop, beach shack and spa, and by committing to use local produce, additional small business opportunities will be created for the community.

Proceeds from the sale of Lā'au Point lots will also, as previously outlined in Section 2.1.9, fund an endowment to assist the CDC in carrying out its mission of developing affordable homes for Moloka'i residents, expanding educational opportunities for Moloka'i's youth, and assisting the Moloka'i Land Trust with project funding.

The Lā'au Point project has been the most controversial aspect of the adopted Plan, with residents from all aspects of community life concerned about the threats posed from newcomers, the potential for desecration of cultural sites and the pristine nature of the area, and the potential threat to subsistence gathering that currently takes place in the waters off Lā'au Point. Therefore, for many members of the Plan's Land Use Committee, the decision to support the Lā'au development was an extremely difficult one.

Many Land Use Committee members made at least two site visits to Lā'au Point reviewing MPL's plans and giving their input. The Land Use Committee structured subdivision covenants and reviewed protection zones for archaeological, cultural, and environmental areas, studying how the shoreline can be protected and maintained perpetually for subsistence gathering. The aim was for Lā'au Point homeowners to be educated and required to support conservation, cultural site protection, and subsistence.

For many involved, the difficulty concerning the Lā'au Point project has been lessened by: 1) the fact that 55,000 acres will be placed into some form of open space conservation or agricultural resource protection; 2) the Lā'au Point Covenants, Conditions and Restrictions (CC&Rs) have been strengthened to protect the resources; and 3) MPL's decision to seek a Land Use reclassification from Agricultural to Rural. The Land Use Committee went to extraordinary lengths to ensure that the subdivision at Lā'au Point would be set apart from typical subdivisions in Hawai'i.

2.2.1 Statement of Objectives

The objectives of the Lā'au Point project are rooted in MPL's desire to create a sustainable future for Moloka'i through implementation of the *Community-Based Master Land Use Plan for Molokai Ranch* (Plan).

The goal of the Plan was to create new employment and training opportunities for Moloka'i residents and to provide the community with certainty about its future. The objectives of the Plan and the Lā'au Point project are to:

- Develop sustainable economic activities that are compatible with Moloka'i and the vision of the Moloka'i Enterprise Community.
- Secure the role of the community in the management of MPL's 60,000+ acres.
- Re-open the Kaluako'i Hotel and create in excess of 100 jobs.
- Protect cultural complexes and sites of historic significance on MPL lands.
- Protect environmentally valuable natural resources and agricultural land, pasture, and open space.

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- Create a Land Trust with donated lands from MPL (see Section 2.1.8).
- Provide an endowment that serves as a continuous revenue stream for the CDC (see Section 2.1.9).

With respect to development at Lā‘au Point, the project “must be the most environmentally planned, designed, and implemented large lot community in the State.” This statement precedes the covenant document determined by the Land Use Committee that will place many restrictions on lot owners, thereby attracting only those buyers who are concerned about conservation. Lā‘au Point will be a community of people that demonstrates the value of mālama‘aina (caring for, protecting, and preserving the land and sea).

To ensure the Lā‘au Point project does not undermine the island’s health, environmental sensitivity will be incorporated into all design aspects of Lā‘au Point. Strict CC&Rs, Design Guidelines, and Construction Rules for Lā‘au Point will: 1) establish appropriate semi-arid landscapes that envelop buildings and blend them into the surrounding site; 2) utilize plants, landscapes, structures, and details that draw upon indigenous landscape and building traditions; 3) utilize plant palettes that are sensitive to water conservation; 4) include a resource protection management plan for Lā‘au Point as part of the covenants for each property owner.

2.3 GENERAL PROJECT DESCRIPTION OF LĀ ‘AU POINT

This EIS, which has been prepared for the proposed Lā‘au Point project located along the shoreline bluffs on the southwest coastline of Moloka‘i, is but one part of the comprehensive *Community-Based Master Land Use Plan* for all of MPL’s 60,000+ acres, which would be viable only as an integrated whole.

The only lands that are subject to the provisions of Chapter 343, Hawai‘i Revised Statutes (HRS) (Environmental Impact Statements) and Title 11, Chapter 200, Hawai‘i Administrative Rules (Environmental Impact Statement Rules), are the project area of 1,432 acres at Lā‘au Point.

The Lā‘au Point project is the result of extensive community involvement and sensitive environmental and resource planning. The natural topography and slope of the site provide exceptional coastal and ocean views from many vantage points. The natural drainage ways and gulches will be preserved as open space and the numerous significant archaeological, cultural, and historic sites are placed within cultural preservation zones. Environmentally-sensitive areas will be preserved within conservation zones.

Lā‘au Point will be unlike any other community in Hawai‘i. What is unique about the Lā‘au Point project is the community planning that went into ensuring that exceptional views are preserved and that development would be environmentally and culturally sensitive. Lā‘au Point aims to attract people who respect the unique character of the site and of Moloka‘i, and who support conservation, cultural site protection, and coastal resource management. Brochures, sales material, and other promotional documents will be reviewed by the Land Trust or the EC for accuracy and adherence to their principles. Residents of Lā‘au Point will be educated and informed about the environment and culture, and taught to “mālama‘āina,” take care of the land and sea, through strict Covenants, Conditions, and Restrictions (CC&Rs) attached to the subdivision (see Section 2.3.6).

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2.3.1 Protected Areas

Prior to site planning and design of the Lā'au Point project, an archaeological inventory was conducted for the property. Areas where groupings of archaeological and historic sites exist were denoted (totaling approximately 1,000 acres) and designated for the project as "Cultural Protection Zones" (see Figure 40 12). Access roads and the rural-residential lots have been planned to respect these Cultural Protection Zones and archaeological sites. An archaeological preserve (approximately 128 acres) will be created at Kamāka'ipō Gulch, with the area being donated to the Land Trust.

Natural resource areas at Lā'au Point, such as streams, gulches, and floodways will be protected and maintained as open space. MPL will seek to expand the existing State Conservation District in the project area by approximately 254 acres from 180 acres to 434 acres (See Figure 1). The Moloka'i Land Trust will have an ownership and management role in all Conservation District lands at Lā'au Point. The Land Trust would solely own and manage the Kamāka'ipō Gulch (128 acres). The remaining Conservation District lands along the shoreline will be controlled jointly by Lā'au Point homeowners and the Land Trust as shown in Figure 44 13. All decisions relating to this area: maintenance, subsistence protection, archaeological site protection, and resource management will be the shared responsibility between the Land Trust and the homeowners, who will share equally in the costs to achieve these goals. The expanded Conservation District lands (total 434 acres) within the Lā'au Point project area will be subject to an easement held by the Land Trust, with guidelines for uses reflecting the importance of the area culturally, archaeologically, and for subsistence gathering. Additionally, the Land Trust will hold an open space easement on approximately 4,800 acres of the Lā'au parcel.

Through the planning process for Lā'au Point, it was determined that lot lines should be set back at least 250 feet from the designated shoreline or high water mark to create a coastal conservation zone. Using the current Conservation District boundary, which is approximately 150 to 200 feet inland from the shoreline, as a base, residential lot boundary lines for Lā'au Point were determined to be at least 50 feet beyond the current Conservation District. In addition, boundaries for the makai lots fronting the proposed expanded Conservation District will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet.

The proposed expansion of the State Conservation District will further preserve the shoreline and other natural resource areas. This expansion of the Conservation District will re-designate the Conservation District boundary; however, lot lines and setbacks are based on the current (April 2006) Conservation District boundaries (Figure 4). The open corridors between the clusters of lots and mauka of the main subdivision access road will be designated as Open Space under County zoning regulations. This will serve to provide additional restrictions on development for those areas with State Rural District designation that are not intended for residential lots.

The mauka boundary of the Lā'au Point community will be defined by a deer and livestock fence to minimize conflicts with adjacent subsistence hunting and pasture usage of the remainder of the parcel. The fence will also protect the open space and coastal conservation areas from degradation by livestock and deer. The Homeowners' Association will maintain the fence.

2.3.2 Petition Area

The majority of the Lā‘au Point site is within the Agricultural State Land Use District, but the coastline area is within the Conservation District (see Figure 4). MPL is seeking a SLUDBA to change approximately 850 acres from the Agricultural District to the Rural District, and allow the Lā‘au Point rural-residential subdivision. The following uses are proposed for the 850 acres of Agricultural District land to be re-districted to Rural District:

- 200 house lots (on 400 acres)
- Roadways (on approximately 46 acres)
- Infrastructure (on approximately 14 acres)
- Parks (on approximately 8 acres)
- Open space (on approximately 382 acres)

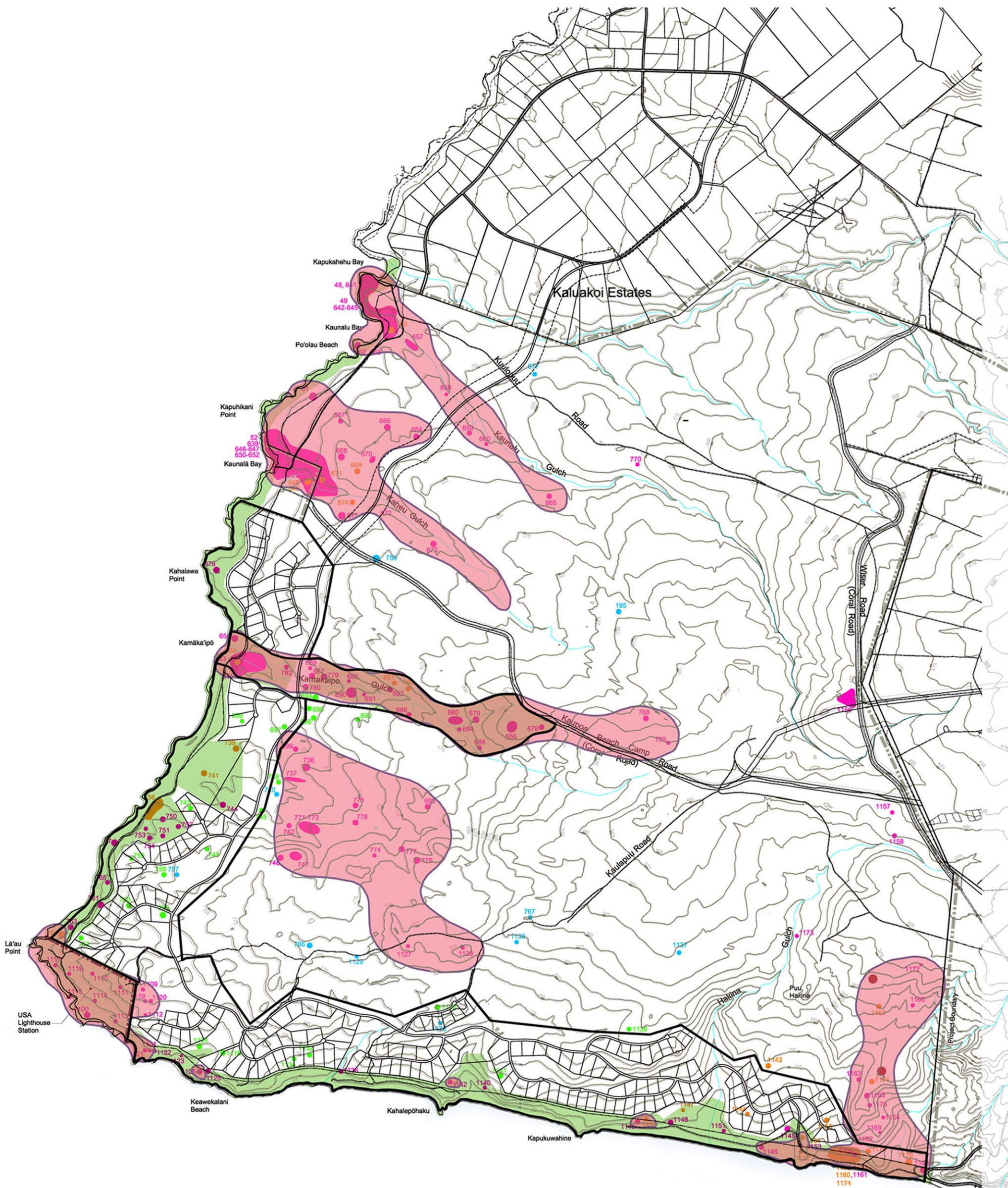
It should be emphasized that 382 acres or 45 percent of the total 850 acres of land being reclassified from Agricultural to Rural District is intended for open space use. In addition, MPL proposes to expand the existing State Conservation District by 254 acres along the shoreline and related resource areas. The two public shoreline parks, a 2-acre West park and 15-acre South park, will total 17 acres. When combined, the areas designated for conservation, open space, and park usage will total 653 acres or 59 percent of the total Petition Area.

The approximately nine acres proposed to be re-districted from the Conservation District to the Rural District will allow for the proposed park improvements for the proposed public shoreline park (on 15 acres) near Hale O Lono Harbor at the southeast end; another proposed public park (on 2 acres) will be located by Kamāka‘ipō Gulch on the west end of the community, but that is included in the Agricultural to Rural re-districting previously mentioned. Public purpose uses, such as recreational facilities, are permitted in the Conservation District; however, the applicant would first have to obtain a permit from the State Board of Land and Natural Resources in addition to the County permits for any park improvements. Re-districting the park areas to Rural would streamline the permit process requiring just the County to handle the permit processing for subsequent park improvements. After all park improvements are completed and land ownership transferred to either the County or Land Trust, consideration should be given to reverting the Rural designation back to the Conservation District if added management control is deemed necessary.

To summarize, the applicant is requesting 850 acres be changed from Agricultural to Rural, 254 acres from Agricultural to Conservation, and 9 acres from Conservation to Rural. Therefore, the total petition area for the Lā‘au Point project is 1,113 acres.

2.3.3 Community Plan Amendment

The Moloka‘i Community Plan Land Use Map designates specific areas of the Lā‘au Point site as AG (Agricultural) and C (Conservation) (Figure 6). MPL is seeking a Community Plan Amendment to change the area of the proposed houselots from Agricultural (AG) to Rural (R) and the area of the proposed parks from Agricultural (AG) to Park (P).



Legend

- Cultural Protection Zone (with Archaeological site to be preserved) ± 1,000 acres
- Shoreline Conservation Zone ± 451 acres
- Project Area

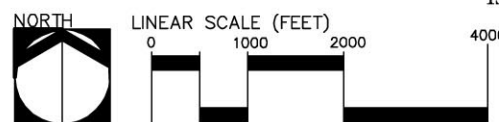
Archaeological Sites

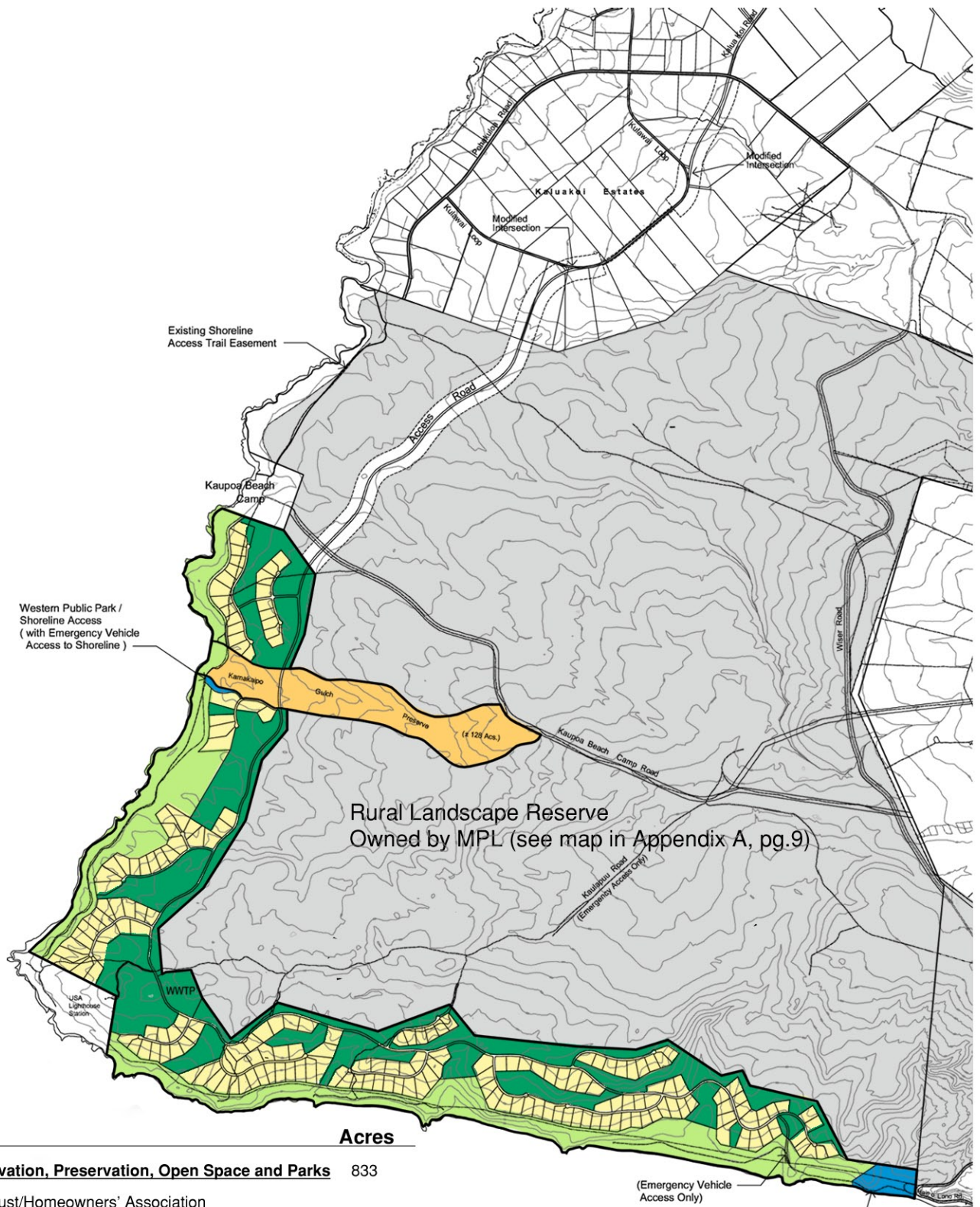
- Preserve
- Burial / Possible Burial
- Additionally Recorded Burial (May 2004)
- Data Recovery
- No Action

Figure 12
Cultural & Historic Resources Map

Lā'au Point

Island of Molokai





Legend

Acres

Conservation, Preservation, Open Space and Parks		833
	Land Trust/Homeowners' Association	
	Land Trust	
	Homeowners' Association	
	Public Park (County or Land Trust)	
House Lots and Infrastructure		
	Private Homeowners (200 Lots)	400
	Homeowner's Association Roads and WWTP	60
	Offsite Road Corridor	139
Total Project Area		1,432
	Project Area (Mauka Fence Line)	
	Rural Landscape Reserve (MPL)	

(Emergency Vehicle Access Only)
Southern Public Park / Shoreline Access (with Emergency Vehicle Access to Shoreline)

Figure 13
Proposed Ownership and Management
Lā'au Point

ISLAND OF MOLOKA'I



Note: For planning purposes only.

2.3.4 County Change in Zoning

The Lā‘au Point site is designated Agricultural by the County of Maui (Figure 7). The applicant will seek a Change in Zoning to change the County zoning of the project site from the County Agricultural zoning to the County Rural and Open Space zoning. The County of Maui does not zone land within the Conservation District.

2.3.5 Project Description

Lā‘au Point will comprise three main types of areas: rural-designated residential lots, open space buffer, and coastal conservation land. The rural-designated residential area within Lā‘au Point will consist of 200 lots, each approximately 1.5 to 2+ acres in size (see Figure 1). It is anticipated, and as outlined in Section 4.8.1 (Population) of this EIS, that only about 30 percent of the Lā‘au Point homeowners will be permanent residents, and the population of Lā‘au Point is expected to be somewhat older than the general population.

The open space buffer area, also designated as rural, will surround the residential lots. The coastal conservation land encompasses the existing and proposed expanded Conservation District boundary, which includes the coastline, gulches, and Cultural Protection Zones. The Lā‘au Point project will include rural-residential lots, an off-site access road corridor, on-site roadways, infrastructure such as a wastewater treatment facility, open space, cultural and environmental preservation zones, and beach park areas, which will total approximately 1,432 acres (Table 4-3).

Table 4-3. Lā‘au Point Community Land Use Summary

Land Use	Acreage
Rural-Residential House Lots	400
On-site Roadways	46
Infrastructure	14
Off-site Road Corridor	139
Coastal Conservation and Preservation (Conservation-zoned State Land Use Conservation District)	434
Open Space (Rural-zoned State Land Use Rural District)	382
Public Parks	17
TOTAL	1,432 acres

Conceptual Landscape Plan – Landscaping will be restricted to appropriate native species that are drought-tolerant and suitable for coastal locations. The use of xeriscaping will reduce water use. The following is a list of possible native plants that would be appropriate for Lā‘au Point landscaping:

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Trees

- Naio, false sandalwood (*Myoporum sandwicense*)
- Alahe'e, 'ohe'e, walahe'e (*Canthium odoratum*)
- Kou (*Cordia subcordata*)
- Milo (*Thespesia populnea*)

Shrubs

- Ma'o, Hawaiian cotton (*Gossypium tomentosum*)
- Naupaka (*Scaevola sericea*)
- 'Akia, beach solanum (*Solanum nelsonii*)
- Pohinahina (*Vitex rotundifolia*)
- 'A'ali'i (*Dodonaea viscosa*)
- Ma'o hau hele, Rock's hibiscus (*Hibiscus calyphyllus*)
- Nehe (*Lipochaeta lavarum*)
- Kolomana (*Senna gaudichaudii*)

Groundcovers

- Pa'u o hi'iaka (*Jacquemontia ovalifolia* ssp. *Sandwicensis*)
- Nehe (*Lipochaeta integrifolia*)
- 'Ilima (*Sifa fallax*)

Operations & Management – As previously discussed in Section 2.3.1, the Moloka'i Land Trust will have ~~an ownership and~~ a management role in all Conservation District land, with the possible exception of the two public parks (total of 17 acres), which could either be conveyed to Maui County Department of Parks and Recreation or held by the Land Trust. The Land Trust would solely own and manage the Kamāka'ipō Gulch (128 acres), and jointly own and manage the remaining 306 acres of Conservation District land with the Lā'au Point homeowners' association on a council. The homeowners' association will own and manage the 382 acres of Agricultural District lands that will be reclassified to Rural and contain the common areas between lot clusters and the mauka buffer zone of the project area (see Figure ~~10~~ 13).

There are no commercial businesses proposed for Lā'au Point. Operations and management are primarily related to tasks associated with the community common areas' maintenance and upkeep, which would be administered through the Lā'au Point homeowners' association. The responsibility of the shoreline park maintenance and upkeep will be provided by the County Department of Parks & Recreation or the Land Trust, depending on ownership of the parks, and may include a live-in caretaker Resource Manager for the South Park. The Resource Manager will be responsible for community access and protection of the subsistence resources within the Lā'au shoreline. MPL and the Land Trust believe that providing on-site accommodation and having a Resource Manager on-site full-time will add additional protection to the marine resources at Lā'au Point. The management (land stewardship) of the coastal Conservation District areas would be administered jointly by the Land Trust and homeowners' association. Beyond this, Lā'au Point does not propose any other uses that require employees.

Fees Charged to Residents and Visitors – The Lā'au Point homeowners' association fees have not been established yet. It is expected that Lā'au Point's fees will be similar to the fees found in

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similar homeowners' associations (plus future escalation). There are no uses envisioned within Lā'au Point that would involve fees charged to visitors. The Land Trust and homeowners will jointly control and manage the expanded coastal Conservation District areas.

Access and Roadways – A new access road corridor will run north-south from Pōhakuloa Road to Kaupoa Beach Camp Road, connecting with Kaluako'i Road and Kulawai Loop. The Lā'au Point community will be accessed via this access road corridor extension from Kaluako'i Road at the western boundary. The community will feature curvilinear roadways designed to fit into the terrain. All roadways within the community will be privately-owned and built to County of Maui standards as specified in Chapter 18.16 of the Maui County Code. Adherence to the standards includes providing the required street width to allow for adequate Fire Department and emergency vehicle access.

To provide public access to the shoreline and to help manage the coastal resources, the community will include two public parks, one by Kamāka'ipō Gulch on the west end of the community, and the other near Hale O Lono Point and Lono Harbor at the southeast end (see Sections 4.3 and 4.10.5).

Parking – Chapter 19.36 (Off Street Parking and Loading) of the Maui County Code states that single-family dwellings require two parking spaces for each dwelling unit. All homes at Lā'au Point will conform ~~with~~ to the County Code. It is expected that the residential lots (1.5 to 2 acres) are sufficient in size to accommodate guest parking on-site within private property.

The shoreline parks will include free public parking. The number of parking stalls will be in compliance with County requirements and based on community input.

2.3.6 Covenants

~~As previously stated,~~ Lā'au Point aims to attract people who respect the unique character of the site and Moloka'i, and who support conservation, cultural site protection, and coastal resource management. Residents of Lā'au Point will be educated and informed about the environment and culture, and taught to “mālama'āina,” take care of the land and sea, through strict Conditions, Covenants, & Restrictions (CC&Rs) attached to the subdivision. The CC&Rs provide that every person whose name is on the property title must commit to undergo a certain amount of education about the Moloka'i community and its desires and aspirations with kupuna and the Maunaloa community. This will be conducted under the guidance of the Moloka'i Land Trust. The CC&Rs have been strengthened to protect the environment and resources at Lā'au Point. Enforcement and substantial penalties will be put in place to ensure that the covenants are respected and upheld. Although the CC&Rs are currently under development, because of the Master Plan process (Section 2.1.6), MPL does have a general idea of what the CC&Rs and some of the key provisions and concepts will be.

The CC&Rs will be monitored and enforced by the Board of the Association of Owners of Lā'au Point (the Board), affected lot owners, and in certain circumstances, the Moloka'i Land Trust as a signatory and Molokai Properties Limited as the Declarant under the CC&Rs. Failure to comply with the terms of the CC&Rs would expose the non complying owner to sanctions which include monetary fines, suspending an owner's right to vote, suspending services provided by the Association, exercising self-help or taking action to abate any violation, removal of the non

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compliant structure or improvement, precluding contractors, agents, or employees of any owner who fails to comply with the terms of the CC&Rs.

The CC&Rs for any development contain the conditions and restrictions that are placed on the property by the developer, which must be adhered to by subsequent owners of the property. In the case of the Lā'au Point development, these conditions and restrictions were developed by the Land Use Committee of EC Project #47. To implement the committee's vision the CC&Rs are designed to accomplish:

- The protection of subsistence gathering in the expanded Conservation District.
- The reduction of potential social conflicts between new homeowners and existing community members.
- The protection of cultural/archeological and environmental resources.

The Land Trust has subsequently taken over the role from the Moloka'i Enterprise Community (EC) of ensuring the implementation of the provisions set forth in the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan). As such, the Land Trust must be a party and additional signatory to the "Lā'au Point Declaration of Covenants" to ensure that the covenant provisions are adhered to. As a party to these CC&Rs, the Land Trust will be able, in the unlikely event that breaches occur, to enforce the covenants.

There has been criticism on Moloka'i that CC&Rs have provisions that either allow for changes to key provisions after a certain period of time has elapsed or that such key provisions expire at a certain future date. This is the case in another West Moloka'i subdivision's covenants. Pāpōhaku's covenants now allow further subdivision of properties (subject to regulatory approvals) because original prohibitions on further subdivision contained in the CC&Rs have expired.

MPL is adamant this will not be the case with the Lā'au Point development. To ensure that at anytime in the future a majority of homeowners cannot attempt to rescind key provisions, covenants relating to the Master Plan will be designated as such (referred to in the CC&Rs as "Master Plan Covenants") and, unlike other provisions, are specifically prohibited from being changed, deleted, or modified by the Homeowners Association or the Board. Future homeowners will sign documents agreeing to adhere to the CC&Rs when they purchase lots at Lā'au Point. Adherence to the CC&Rs is a condition of ownership of the property.

To further protect the Master Plan Covenants, the Moloka'i Land Trust has agreed to be an additional signatory to the documents, giving it enforcement rights. The CC&Rs will provide that if the Homeowners' Association chooses not to prosecute a breach of a Master Plan Covenant, the Land Trust may, after proper notice and after giving the Homeowners' Association the opportunity to act, take legal and direct action against the homeowner and/or the Homeowners' Association to ensure that the Master Plan Covenants are not violated.

Critical provisions of the CC&Rs that will not be changeable include:

- A maximum of 200 lots are allowed in the subdivision.
- Further subdivision of lots, even if allowable in the future by County ordinance or the Moloka'i Planning Commission is prohibited.

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- Design guidelines that specify color, size, height restrictions, landscaping, energy efficiency, and lighting of houses and lots.
- Restrictions on potable and non-potable water use by lot owners.
- Requirements for water catchment systems to contain run-off.
- Adherence to the provisions of the Shoreline Access Management Plan (Appendix B).
- The transfer fee when a lot or house is sold that is directed to the Community Development Corporation.

Other key Master Plan covenants are set out below. There have been additions based on input from the community at Cultural Impact Assessment review meetings, the receipt of the Social Impact Assessment report, and subsequent Draft EIS comment letters from community members and groups, and County, State, and Federal government agencies.

The CC&Rs will specify that the Land Trust will have two ex-officio non-voting seats on the board of directors of the homeowners' association. The Land Trust and the homeowners have at least two opportunities to work together; on the homeowners' association board and in the management of the expanded Conservation District lands.

The by-laws of the homeowners' association will specify a nine-member board of directors, including the two ex-officio Land Trust members. In general, the board will deal with normal association issues such as assessments and maintenance of common property.

Where the Land Trust members will assist the directors is in the interface of homeowners with subsistence gatherers, cultural practitioners, and community members who frequent the expanded 434-acre Conservation District adjacent to Pu'u Hakina and Kamāka'ipō (Lā'au) shoreline.

As well as association board meetings, the homeowners' representatives and Land Trustee share membership of a "Council" that manages and implements the provisions of the Shoreline Access Management Plan (see Section 4.3 and Appendix B for further discussion).

In their February 15, 2007 comment letter, the State Office of Environmental Quality Control (OEQC) recommended that the US Green Building Council's Leadership in Energy and Environmental Design (LEED) silver standard be applied. The LEED Green Building Rating System is a nationally accepted benchmark for the design, construction, and operation of sustainable buildings. LEED promotes a whole-building approach to sustainability by recognizing performance in five key areas of human and environmental health: sustainable site development, water savings, energy efficiency, materials selection, and indoor environmental quality.

While creating the CC&Rs, the LEED certification process was reviewed. Currently, the LEED certification process mainly deals with certifying buildings, not lot subdivisions. The Lā'au Point project will create 200 residential lots for sale; buyers will build their own homes. Therefore, Lā'au Point will not go through a formal LEED certification process. However, the CC&Rs and subsequent design guidelines will strive for the same goals as LEED.

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The following are some of the key design restrictions and other covenants that will be implemented at Lā'au Point:

- **Restriction to prevent a gated community.** Gates will be prohibited across roads and access roads. No street-facing walls or barriers may be higher than four feet.
 - All lots with frontage to the ocean will be required to have one of four or five types of fences (set out in the Design Guidelines) that create a physical separation between the lots and the Open Space and Expanded Conservation District areas that are being protected for subsistence gathering. Homeowners will be allowed gates that access these areas.
- **Subdivision.** No further subdivision of lots will be allowed.
- **Buildable area.** Allow disturbance of no more than 30 percent of the lot. (2-acre Lot = +/-26,000 s.f. or about 1/2 acre). Require ~~some~~ a level of maintenance of lot area to reduce fire hazard (remove dead wood). Building must be set back at least 50 feet inland from oceanfront property lines.
- **Restricted building coverage.** The maximum developable area of a home, or a home and 'ohana housing unit if allowed by the County, will be 5,000 sq ft. Further details are set out on Page 27 of Appendix A (Chapter 5, Land Use Plan).
- **Building code.** Restriction on building height; maximum height of 25 feet and one-story. Restrictions on building envelope and footprint. ~~Restriction~~ The Design Guidelines will outline restrictions on building materials, color, and ~~roof~~ roofs; homes should blend into landscape.
- **Green architecture.** Require “green” architecture that incorporates recycled materials, energy efficient equipment, natural ventilation, solar and photovoltaic systems, etc. Green architecture may be defined in the Lā'au Point Design Guidelines as design standards, which preserve as far as practicable, the characteristics of each lot and the project as a whole, and strive to minimize non-renewable energy requirements, water use, and the impact of the project on the natural environment.
- **Solar power.** Solar panels ~~requirement~~ (or comparable technology) for ~~water heating~~ sized to meet at least 80 percent of the hot water demand of each home and to supplement electric power for appliances will be required.
- **General energy.** All energy systems shall be designed and constructed to meet United States Environmental Protection Agency (EPA) conservation standards. An example of an EPA conservation standard is the ENERGY STAR program, which was established in 1992 for energy-efficient computers. Now a joint program under the EPA and the U.S. Department of Energy, the ENERGY STAR program has grown to encompass more than 35 energy-efficient product categories for homes and workplace. Homes that earn the ENERGY STAR designation must meet guidelines for energy efficiency set by the EPA. ENERGY STAR qualified homes can include a variety of energy-efficient features, such as effective insulation, high performance windows, tight construction and ducts, efficient heating and cooling equipment, and ENERGY STAR qualified lighting and appliances. These EPA standards for the ENERGY STAR program can be found at the following website: <http://www.energystar.gov>. For example, all dwellings will be required to have solar panels (or comparable technology) sized to meet at least 80 percent of the hot water demand of each home. Other energy-efficient measures will be required in the Lā'au Point Design Guidelines.

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- **Pesticide/Fertilizer restriction.** Pesticide use will be prohibited. Only organic fertilizers will be allowed, although this has not been finalized as some concern was raised in comment letters concerning potential damage to fisheries from organic fertilizers as well.
- **Lighting.** Exterior lighting must be shielded from adjacent properties and the ocean.
- **Landscaping and irrigation.** ~~Landscaping Common area irrigation systems will be from~~ will utilize re-use water (treated effluent) from the wastewater treatment plant. or collected in catchments systems; Residential catchment systems may provide landscape irrigation to individual lots and homes. Drinking water will not be used for irrigation of any landscaped areas. only Only drip systems will be permitted for both common area and residential landscaping. Landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations; xeriscaping aims to reduce water use.
- **Storage tank.** All houses will be required to have at least a 5,000-gallon storage tank for water captured from roofs.
- **Water covenants.** Requirement of a dual-water system split into safe drinking and non-drinking water; safe drinking water will be limited to 500-600 gpd, or 96,000 gallons per day for potable water in the entire subdivision. Homes will be required to use double flush toilets and specially-designed showerheads for water conservation.
- **Fire Protection.** Each dwelling will be required to install a fire protection or sprinkler system when a house is constructed, until such time that a fire station is built on the West End of the island.
- **Drainage systems.** Require drainage systems that retain any run-off within the disturbed area of the lot. Maximize recharge into the ground. Restore land areas that have eroded by re-establishing vegetative cover. Minimize impervious (paved) surfaces on the Lot.
- **Soil erosion.** No building allowed on slopes greater than 50 percent. Manage open space common areas to reduce/eliminate soil erosion by restoring the vegetative cover. Deer and livestock fence will be placed at the rear of the subdivision.
- **Water quality monitoring.** Water quality will be continuously monitored at stormwater drains and in the ocean for: temperature, salinity, total suspended solids, total nitrogen, ammonia nitrogen, nitrate and nitrite, total phosphorus, chlorophyll A and silicate.
- **Land Trust easements.** The expanded State Conservation District of 434 acres, flood areas, archaeological sites, etc., are will be subject to easements an easement from the Land Trust.; ~~the~~ The Land Trust will have adequate ex-officio representation on the homeowners' association (HOA) and ~~Both both~~ both the Land Trust and HOA will share the responsibility and cost to care for the easement area by equal representation on a "Council" that will provide day-to-day management of the easement lands. The Council will have representation from qualified subsistence gatherers, those with knowledge of cultural site protection and from Maunaloa. The Council will be guided by a Shoreline Access and Management Plan (Appendix B).
- **Subsistence access.** Perpetual right to subsistence gathering activities at Lā'au Point (see Section 2.3.7 below) will be set forth within the Easement document covering the expanded Conservation District.
- **Subsistence hunting.** Buyers must accept that hunting occurs in the broader surrounding area, mauka of the subdivision behind a deer and livestock fence.
- **Maintenance of deer and livestock fence.** The Homeowners' Association will be responsible for maintaining the deer and livestock fence along the mauka boundary of the project area.

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- ~~Fence to demarcate private property from public access areas.~~ A clear physical demarcation, such as a log fence, running along the individual property lines will distinguish the private near-shoreline lots from the expanded public Conservation District areas.
- **Lā'au Point community education.** Every owner must commit to undergo a certain amount of education about the Moloka'i community and its desires and aspirations.
- **Rentals.** Renting properties to third parties will be prohibited.
- **CC&Rs.** The ~~final~~ Master Plan covenants in the CC&Rs cannot be changed.
- **View plane.** The final subdivision map will designate proposed building sites to ensure the view planes of each lot and that the house to be built will not be unreasonably obtrusive when viewed from the ocean.

The Land Trust is a signatory to the CC&Rs and is given specific enforcement rights under the terms of the document. Certain covenants and restrictions in the CC&Rs are derived from the provisions of the Master Plan that represent the Land Trust and community concerns on protection of subsistence and cultural practices and the protection of cultural/archaeological and environmental resources. These are designated Master Plan Covenants under the terms of the CC&Rs. The CC&Rs provide that the Land Trust may prosecute breaches of the Master Plan Covenants and take legal action to ensure their enforcement.

Some provisions of CC&Rs will be able to be changed by a 75 percent majority vote of homeowners. These are operational in nature or concern and involve the management of the Association common areas. They bear no relationship to the covenants that are designed to implement the vision of the *Community-Based Master Land Use Plan for Molokai Ranch*.

~~The CC&Rs are currently being prepared in draft form. A key element of these will be the incorporation of the Moloka'i Land Trust as a party to the CC&Rs. This is critical because the Land Trust, as a party to the CC&Rs, will be able to enforce compliance.~~

As of November 2007, a draft of the CC&Rs were being developed by MPL in conjunction with the Land Trust. The Land Use Commission and other regulatory agencies may further require changes to the CC&Rs during their review process; therefore, a final version of the CC&Rs is not available as of November 2007, and the issue of the completion of the CC&Rs is included as an unresolved issue in this EIS (see Section 7.5). The CC&Rs will be available for review at the Land Use Commission hearings on the State Land Use District Boundary Amendment petition.

2.3.7 Access for Subsistence Gathering

Subsistence is defined as the customary and traditional uses of wild and cultivated renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, transportation, culture, religion, and medicine; for barter, or sharing, for personal or family consumption and for customary trade.

An agreement between MPL and the Moloka'i EC will ensure that the Lā'au Point project promotes the importance of maintaining subsistence activities in the Conservation District areas and other protected resource areas. The work begun by the Moloka'i EC has now been taken over by the Moloka'i Land Trust, the organization that will enforce aspects of the Master Plan.

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The Land Trust will enforce agreements made between MPL and the EC. Because of the Land Trust role in the Master Plan implementation, public funding or disbandment of the EC will not impact any agreements; the agreements will be completed with the Land Trust. Page 59 and Appendix 7 of the *Community-Based Master Land Use Plan for Molokai Ranch* (included as Appendix A of this EIS) shows designated subsistence fishing zones.

Protection of the shoreline for subsistence gathering is of great importance to the people of Moloka'i. Therefore, perpetual right to subsistence gathering will be noted on the land titles of the areas to be preserved and recorded with the Bureau of Conveyances. Protections to subsistence gathering will be specified in the Lā'au Point CC&Rs. The CC&Rs will also require adherence to the Shoreline Access Management Plan (SAMP) which provides that a Council, made up of an equal number of Land Trust representatives and Homeowners' Association representatives, will govern the expanded conservation zone and establish policies that permit subsistence gathering and cultural practices, as well as allow the hiring of resource managers to protect the subsistence lifestyle (see Appendix B).

As recommended in the *Community-Based Master Land Use Plan for Molokai Ranch*, to preserve inshore fishing/subsistence resources, a subsistence fishing zone in the coastal waters along all of the Ranch's coastline property will be sought. This means that from one quarter-mile out from the shoreline (north and west shore) and from the beach to the reef edge/breaker line (south shore), only Molokai residents will be able to fish for subsistence, effectively banning off-island boats from fishing in these in-shore areas. ~~State legislation will be needed for this to be enforced.~~

Special Legislation will not be required to establish the subsistence fishing zone. The 1994 Hawai'i State Legislature created a process for designating community-based subsistence fishing areas (Act 271/94). The guidelines for a community-based subsistence fishing management area in the Master Plan would need to be developed into a management plan and draft administrative rules for adoption by the Department of Land and Natural Resources (DLNR) Division of Aquatic Resources (DAR) working in coordination with the landowners, the community and the subsistence fishers and gatherers. The administrative rules would need to undergo a public hearing process on Moloka'i, O'ahu and other neighbor islands. Overall, the process would take from 18 months to 2 years. The development of guidelines and policies for such a management area within the Master Plan is the first step toward its establishment.

Once the community-based subsistence fishing management area is established through the DAR rule-making process the rules will be enforced by DOCARE in conjunction with the shoreline resource managers who will be hired jointly by the homeowners and the Moloka'i Land Trust.

To protect the cultural and natural resources at Lā'au Point, access to the area will be carefully managed. Vehicular parking will be provided at both ends of the residential community in the planned public parks. Access to the Lā'au Point shoreline, however, will be restricted to foot only between the two planned shoreline public parks to conserve resources, with an acknowledgement of Native Hawaiian gathering rights as defined by law for subsistence purposes, in a designated subsistence management area. Strict access measures, such as a shoreline access education process, could be put in place to ensure that resources for subsistence gathering are not depleted.

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The proposed access measures detailed above, and the rationale behind seeking a variance to the County ordinance requiring public shoreline access every 1,500 feet within a subdivision, is further discussed in Section 4.3 (Trails and Access). and Section 6.8.1 (Alternative Access to the Lā'au Area) of this EIS.

In addition, approximately 40,000 acres of Ranch land, previously reserved for commercial operations, will be opened up for subsistence hunters. These include all of the lands to be donated to the Moloka'i Land Trust, the current 4,000 acres of preserves, and the land designated under the *Community-Based Master Land Use Plan for Molokai Ranch* for Open Space/Protective Easements.

2.4 COMMUNITY MEETINGS AND INVOLVEMENT

Since the establishment of the EC Project #47 for Compatible Community-Based Development in August 2003, members of the Moloka'i community have gathered to discuss and formulate the *Community-Based Master Land Use Plan for Molokai Ranch* and the Lā'au Point project. Throughout this community planning process, there have been numerous opportunities for public involvement, input, and review. ~~Table 2~~ Table 4 below contains a timeline summary list of meetings and public involvement.

Table 2 Table 4. Community Meetings & Involvement

Date	Community Activity
December 10, 2003 to October 20, 2005	28 total Land Use Committee meetings
March 1 to May 4, 2004	8 total Environment Committee meetings
March 2 to May 10, 2004	11 total Tourism Committee meetings
March 4 to July 19, 2004	25 total Cultural Committee meetings
March 8, 2004 to January 12, 2005	10 total Economics Committee meetings
March 10 to May 10, 2004	9 total Recreation Committee meetings
June 2, 2004	Expert Panel on Hawaiian Rights Issues
June 17, 2004	Land Use Committee site visit to Lā'au Point
June 17, 2004	Facilitated Land Use Committee meeting
July 18, 2004	Presentation to Native Hawaiian Legal Corporation—Board of Directors on Moloka'i
August 18, 2004	Presentation to Ahupua'a O Moloka'i
August 26, 2004	Presentation of draft Master Land Use Plan community meeting at Kulana 'Ōiwi, Kaunakakai
September 1, 2004	Maunaloa Community meeting at Maunaloa Park
September 1, 2004	Presentation at Moloka'i High and Intermediate School—Immersion Program
September 2, 2004	Presentation on access issues at Kulana 'Ōiwi
October 6, 2004	Presentation to Office of Hawaiian Affairs—Board of Trustees on Moloka'i

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Date	Community Activity
October 12, 2004	Presentation to HSTA and Moloka'i Chamber of Commerce
October 15, 2004	Presentation to Moloka'i Veterans Association
October 16, 2004	Presentation to Moloka'i Lions Club
October 27, 2004	Kualapu'u Community meeting at Kualapu'u Recreation Center
November 3, 2004	Kaunakakai Community meeting at Mitchell Pauole Center
November 13, 2004	Presentation to West Moloka'i Community Association
November 16, 2004	Presentation to Moloka'i General Hospital, Alu Like Inc.—Ke Ola Pono O Na Kupuna, and Executive Board of Moloka'i Chamber of Commerce
November 18, 2004	Presentation at Aka'ula School
November 28, 2004	Presentation to Filipino Community Association
November 30, 2004	Mana'e Community meeting at Kilohana Recreation Center
November 30, 2004	Presentation at Aka'ula School
December 22, 2004	Presentation to Kamalama at Keawanui, Moloka'i
January 5, 2005	Presentation to AARP
January 8, 2005	Water Forum meeting at Lanikeha Community Center
January 12, 2005	Presentation to Spiritual Leaders in Maunaloa
January 15, 2005	Presentation to Kaluako'i golfers
January 27, 2005	Maunaloa Community meeting at Maunaloa Park
January 28, 2005	Presentation to Ahupua'a O Moloka'i
January 29, 2005	Public meeting—Mana'o Sharing on Water at Kulana 'Ōiwi
February 3, 2005	Ho'olehua Community meeting at Lanikeha Community Center
February 12, 2005	Public Meeting on Lā'au Point development at Kulana 'Ōiwi
March 5, 2005	Public Meeting on Master Land Use Plan at Kulana 'Ōiwi
June 15, 2005	Land Trust seminar conducted by the Conservation Fund
July 2005	Land Use Committee site visit to Lā'au Point
August 1, 2005	Land Use Committee vote to approve Master Land Use Plan
November 1, 2005	Enterprise Community Governance Board vote to approve Master Land Use Plan
May 26, 2006	EISPN distributed to agencies/organizations/individuals for public comment and made available at Moloka'i library
May 31, 2006	Cultural impacts assessment community meeting at Maunaloa Elementary School
June 1, 2006	Cultural impacts assessment community meeting at Kulana 'Ōiwi
June 5, 2006	Cultural impacts assessment community meeting focusing on fishing at OHA/DHHL Conference Room
June 6, 2006	Cultural impacts and subsistence community meeting at Kualapu'u Elementary School
June 7, 2006	Cultural impacts assessment community meeting at Kilohana Recreational Center
June 8, 2006	Focus on hunting & gathering cultural impacts assessment community meeting at Mitchell Pauole Conference Room
July 10, 2006	Water Plan public input meeting at Maunaloa
July 11, 2006	Water Plan public input meeting at Ho'olehua
July 12, 2006	Water Plan public input meeting at Kilohana

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Date	Community Activity
July 25, 2006	Social Impact Assessment Focus group meeting with Maunaloa residents
July 26, 2006	Social Impact Assessment meeting at Kaunakakai Elementary School
July 27, 2006	Social Impact Assessment Focus group meeting with Filipino residents
July 28, 2006	Social Impact Assessment Focus group meeting with ALDC
July 31, 2006	Social Impact Assessment Focus group meeting with Kaluako‘i and Pāpōhaku Ranch residents
August 25, 2006	Meeting with EIS consulted parties
December 1, 2006	Consulted with Police Department – Moloka‘i Station
December 23, 2006	Draft EIS distributed to agencies/organizations/individuals for public comment and made available at Moloka‘i library

From March 2004 through May 2004, five committees (Environment, Cultural, Economics, Tourism, and Recreation) met with a total of 1,000 participants. The meetings were open to the public and most of the meetings were aired on the Akaku Channel 53. Representatives of the five committees formed the Land Use Committee, which worked to produce the policies and principles for the land use plan.

Between July 2004 and March 2005, there were 12 community meetings and 24 community and focus group presentations regarding the Community-Based Master Land Use Plan. The meetings were held island-wide, in Kaunakakai, Kualapu‘u, Mana‘e, Maunaloa, and Ho‘olehua, with over 1,000 participants.

Four Land Use Committee meetings, specifically focusing on all aspects of the Lā‘au Point project, were held between May 2005 and July 2005, and included presentations from MPL’s planners and a visit to Lā‘au Point by those who had concerns about subsistence issues.

Sign-in sheets were taken at all the Lā‘au Point meetings. In the process, sign-in sheets were provided at every meeting, but there were individuals who chose not to sign in as they did not want their names to be published. Therefore, a complete list of names for every participant is not included. Appendix A and Section 8.0, however, contains lists of the most active participants during the processes.

On August 1, 2006, the 27-member EC Land Use Committee voted to approve the *Community-Based Master Land Use Plan for Molokai Ranch*. The final vote was 19 in favor, 6 opposed, 2 abstentions.

On November 1, 2005, the EC Governance Board of Directors voted to approve the *Community-Based Master Land Use Plan for Molokai Ranch* based on the recommendation from the EC Land Use Committee. The 13-member board voted 10 in favor, 2 opposed (1 Director did not vote).

Since the EC Land Use Committee and Governance Board of Director’s approval of the *Community-Based Master Land Use Plan for Molokai Ranch*, MPL has moved forward with implementing the actions proposed in the Plan. Since the Lā‘au Point EIS process began with the

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distribution of the EIS Preparation Notice, public community meetings have been held to help obtain feedback for the cultural assessment, social impact study, and water plans. In addition, MPL met with individuals that requested to be a consulted party to the EIS on August 25, 2006.

In addition to community meetings, the following activities have occurred to educate the Moloka'i community and others about the Plan:

- A 24-minute DVD was produced featuring a cross-section of Moloka'i residents and other supporters of the Plan. The video began airing on both O'ahu and Maui County public television stations in November 2006 and is will continue to be shown in 2007.
- The DVD will also be shown at selected public forums throughout the community and plans are underway to have each residential household on Moloka'i receive a copy of DVD.
- A brochure explaining the Plan was finalized and distributed to more than 3,200 Moloka'i households in December 2006.
- Radio spots about the Plan will begin airing on selected radio stations in December 2006.
- Supporters of the Plan are enrolled in classes provide by AKAKU Public Access Television to learn skills and techniques for producing videos that can be used to further educate television audiences about the Plan.
- A website was developed by volunteers that support the Plan and is being updated with information on a regular basis.
- Copies of the Plan have been printed and distributed to MPL employees with follow-up informational sessions and site tours being led by the employees. MPL employees, their families, and other interested community residents have participated in these tours and sessions.
- Copies of the Plan have been distributed to individuals in the community and will continue to be shared with interested persons upon requests.
- A series of articles about land trusts was prepared and submitted to Moloka'i newspapers by trustees of the Moloka'i Land Trust to inform the community about land trusts.
- Paid advertisements about the Plan were developed by volunteer MPL employees and the OHA trustee for Moloka'i. The ads were printed in the local Moloka'i newspapers and the OHA trustee's ad was printed in the Moloka'i papers in addition to being distributed statewide through OHA's newspaper.
- Copies of the DVD, interviews of Plan supporters, press releases, and letters to editors were submitted to newspapers on Moloka'i, Maui, and O'ahu, in addition to television news outlets on O'ahu.
- Informational sessions have been held with business organizations such as the Moloka'i Chamber of Commerce, and plans are underway to educate other community groups and organizations as well as students and faculty at the community college, and public and private schools on island.
- Educational rallies that are organized by MPL employees and Plan supporters are being implemented during the months of December 2006 through June 2007.
- Volunteer MPL employees have constructed and distributed educational signs that are seen in various locations on Moloka'i indicating support for the Plan.

During the Draft EIS comment period, there were numerous comments received from community members, whom sought information concerning the *Community-Based Master Land Use Plan for Molokai Ranch* (Master Plan) process, its validity, and the current status of other

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aspects of the Master Plan implementation, in particular about documentation between the parties involved. Questions also related to whether MPL had been honest in its intentions at the commencement of the Master Plan process.

In addition, the Social Impact Assessment Report recommended that MPL conduct further community outreach regarding the Master Plan, since it appeared that many island residents were unaware of the Master Plan's provisions; many were aware of the Lā'au development more than any other aspect of the entire Master Plan's purported benefits for the community. These important issues are discussed below:

2.4.1 MPL's Intentions at the Commencement of the Planning Process

At the commencement of EC Project #47 "Molokai Sustainable development," the Conservation Fund conducted a two-day seminar on likely outcomes of the planning process and made recommendations as to the process to be followed.

This seminar, attended by community leaders, and many of the current opponents to the Master Plan, including DeGray Vanderbilt, Walter Ritte, Glenn Teves, and others, took place on January 28 and January 29, 2003 at the OHA/DHHL conference room at the Kulana 'Ōiwi center in Kaunakakai.

The EC had been adamant that MPL outline its intentions at that meeting. MPL's CEO, Peter Nicholas, prepared a written speech detailing what MPL needed from the process and what it hoped the community could gain. That speech, which is attached as Appendix C sets out its vision for land protection, and its needs for a future development to sustain its on-going activities and curb its losses.

Many comment letters to the Draft EIS asserted that Lā'au Point was brought up only at the end of the community planning process. Page 2 of the speech clearly indicates the contrary, as it states: "Economically, we need some development at Lā'au Point, because the Kaluako'i Hotel and Golf Course will almost certainly lose money for many years until a marketing campaign kicks in. We need a larger financial engine than just the hotel and the golf course."

Subsequent to that speech, there was only one question concerning its Highland Golf Course option; an option that was subsequently discarded at the wishes of the Cultural Committee.

MPL believes it was always honest in its intentions and outlined all its proposals at the commencement of the process.

2.4.2 Validity of the Master Plan process

MPL believes in the validity of the community-based process, which resulted in the creation of the *Community-Based Master Land Use Plan for Molokai Ranch*.

As previously discussed in Section 2.1.6, between September 2003 and September 2005, MPL joined with community participants to discuss a community-based master land use plan for Molokai Ranch's lands in an EC-sponsored process (EC Project #47). The EC was the appropriate organization with which to partner in this planning exercise; it was an elected

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501(a)(3) non-profit organization charged with the island's sustainable development future options. The EC ensured all meetings were open to the public, many being advertised extensively. Most committee meetings were shown on Akaku community television, which is broadcast on Moloka'i.

Despite comments to the contrary, MPL did not control the planning process; MPL was a participant. MPL participated in all committees, and later in the Land Use Committee. MPL answered all questions put to it during the process regarding the Lā'au Point development, including the presentation of shoreline setback studies, information concerning its operational financial losses, the funding it needed to re-open the Kaluako'i Hotel, and the many alternatives to Lā'au Point, which are further analyzed in Section 6.0 of this EIS.

Questions have been raised concerning the members of the Land Use Committee and those elected members of the EC who were MPL employees and who voted for the acceptance of the Master Plan. MPL acknowledges that 3 of the 29 members of the Land Use Committee were MPL employees. However, if MPL employees had abstained from voting, a majority of the remaining members would still have passed the Master Plan.

2.4.3 Further Plan Outreach

To ensure adequate information was supplied and feedback from the community received on the Master Plan and this LUC application, MPL currently employs two staff full-time who are responsible for community relations, outreach, and education concerning the Master Plan.

MPL has also distributed an information sheet and DVD on the Master Plan to all households on Moloka'i. MPL staff responds to letters to the local and national media, provides accurate information on a regular basis, and continues to attend outreach meetings with community groups, island, County, State, and Federal leaders.

A major rally outlining the plans for the future of the Kaluako'i Hotel and Golf Course was held in late 2006 and more large group gatherings are planned.

2.4.4 Other Master Plan Implementation

While there has been a necessary concentration by MPL on preparing information for the Land Use Commission petition, other aspects of the Master Plan implementation have been underway.

Since the filing of the Draft EIS in December 2006, the following initiatives of the Master Plan have been implemented:

- **First Lands Donation.** The 1,600-acre Mokio parcel is on track for gifting to the Moloka'i Land Trust in early 2008, following an extensive due diligence process by the Land Trust and the preparation of a cultural and environmental inventory and an important access and management plan for the area.
- **Land Trust/MPL agreement on Master Plan implementation.** This agreement, an extensive and complicated document, is being drafted and should be finalized by November 2007.

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- **Kaluako‘i Hotel refurbishment.** MPL has filed an SMA application with the Maui County Planning Department and awaits a hearing date. Detailed working drawings are awaiting approval of preliminary design and landscape plans.
- **Pu‘u Hakina & Kamāka‘ipō Shoreline Access Management Plan.** This document which spells out the management criteria for the expanded Conservation District has been approved by the Land Trust and is attached as Appendix B.
- **Affordable Housing.** As a forerunner to future affordable housing partnerships with the CDC, a trial 10-lot affordable housing project is underway on MPL subdivided lots in Maunaloa. MPL and a developer will build these houses for a total sales price not exceeding \$170,000 for the land and buildings. Completion is expected in early 2008.
- **Rural Landscape Reserve and Agricultural Easements.** Documents relating to the easement provisions on the Rural Landscape Reserve lands (10,560 acres) and land protected for agriculture (14,390 acres) are in preparation and will be completed early in 2008 for ratification by the Moloka‘i Land Trust.
- **Protection of Subsistence Resources and Access Issues.** A major initiative under the Master Plan calls for improved access for the community to all of MPL’s property for subsistence fishing and hunting. MPL employees and Maunaloa residents have been working closely with the Land Trust on preparatory plans, in particular on access to the Mokio donated parcel and with the protected areas within the Lā‘au development.

2.5 DEVELOPMENT TIMETABLE AND PRELIMINARY COSTS

Development and sales of Lā‘au Point are projected to be completed within 15 years from construction commencement. Within this total time and before construction, permitting and entitlement processing is expected to take approximately two years. Construction of the infrastructure and finished lots is estimated to take two more years, with sales of all lots completed by 2012, or if there are permitting delays, by 2014. Residential homes are anticipated to begin construction in ~~2010~~ 2012 with full project absorption through to 2023.

The estimated order of magnitude costs for the development of onsite and offsite infrastructure, final subdivision layout, lot grading and finishing, and general administrative costs during construction is expected to be approximately \$88 million (see ~~Table 3~~ Table 5 below and Appendix J). These costs to develop Lā‘au Point are preliminary and do not include taxes. Development costs will be better defined in the future following detailed site engineering prior to construction.

Table 3 Table 5. Development Timetable and Preliminary Costs

Development	Completion Range	Costs
Infrastructure and Development	2007 – 2009	\$17,730,000
Amenities	2008 - 2009	\$2,350,000
Onsite (roadways, housepads, water systems, etc.)	2007 - 2012	\$39,234,000
Design & Contingencies, Other Costs	2007 - 2012	\$12,683,000
Maintenance, Operations, and Management	2008 - 2015	\$16,153,000
Total Project Development Costs	-	\$88,150,000

3.0 DESCRIPTION OF THE NATURAL ENVIRONMENT, POTENTIAL IMPACTS, AND MITIGATION MEASURES

3.1 CLIMATE

Like all of Hawai'i's islands, Moloka'i has an array of micro-climates: tropical rainforest, dry desert, steep green valleys, and rolling plains. Windward areas, on the east and north sides of the island, receive the most rain. On the south and west sides, drier conditions prevail. Lā'au Point, located in Southwest Moloka'i, is characterized by dry conditions.

The climate of the Lā'au Point area is affected by its near coastal situation and by nearby mountains. Winds are variable but are often trade winds from the north or northeast. Wind speeds vary between 5 and 15 miles per hour.

Temperatures on Moloka'i average about 75° F. In the winter (December through March), nighttime temperatures may drop to the lower 60s and rainfall is more likely. Temperatures in the spring, summer, and fall are very similar, with warm days (up to 85° F) cooled by trade winds and evenings in the mid to lower 70s.

As one of the driest areas on the island, the Lā'au Point area has very little rainfall. Average annual rainfall is less than 15 inches.

3.2 GEOLOGY AND TOPOGRAPHY

Moloka'i was formed by three separate volcanoes, as evidenced by the island's environmental diversity compressed within its small land area. Moloka'i can be divided into three major sections: East Moloka'i, the Central Ho'olehua plain, and West Moloka'i.

The mountains of East Moloka'i are over 1.8 million years old and are dominated by extremely steep sea cliffs that rise over 3,000 feet on the north coast. The Kalaupapa Peninsula, located on the north-central coast, remains isolated from the rest of Moloka'i because of steep cliffs that rise to 1,600 feet that are negotiable only on foot or by mule (Juvik and Juvik 1998).

West Moloka'i, where Lā'au Point is located, was formed by a volcanic dome that is 1.9 million years old and 1,381 feet high. Moloka'i's south shore features Hawai'i's most extensive coastal reef system, with offshore reefs stretching over 14,000 acres.

The topography of the Lā'au Point project site ranges from 0 feet mean sea level (msl) at the shoreline to approximately 200 feet above msl in the mauka areas. The project site generally slopes in a mauka to makai direction. The cross slopes along the westerly strip of land between Kaluako'i and Lā'au Point varies between 3 to 7 percent, whereas the lands along the southerly boundary toward Hale o Lono Harbor is a bit steeper with cross slopes ranging between 7 and 15 percent. Steeper slopes can be found in isolated areas in between.

POTENTIAL IMPACTS AND MITIGATION MEASURES

Impacts to the topography of the site will be caused by alterations, such as grading, to accommodate roads at Lā'au Point. To the extent possible, improvements will conform to the contours of the land, limiting the need for extensive grading of the site.

No structures will be built in the gulches, except for necessary drainage retention and erosion abatement structures in roadways that cross gulches. Further information on drainage plans for Lā'au Point is provided in Section 4.9.1.

Opening up the Lā'au parcel to hunting and constructing a deer and livestock fence will also help control erosion by keeping wild animals from denuding the landscape. Fencing out animals helps prevent erosion, water quality degradation from run-off, protect threatened and endangered plants, which in turn reduces soil compaction and maintains soil productivity. Fencing is an applicable biocontrol measure where existing vegetation, aesthetic values, desired forest reproduction, and recreation are damaged by these animals.

Appropriate engineering, design, and construction measures will be undertaken to minimize potential erosion due to grading of soils during construction. As such, significant geological impacts are not expected. Further information on soils and grading is provided in the Section 3.3 below.

3.3 SOILS

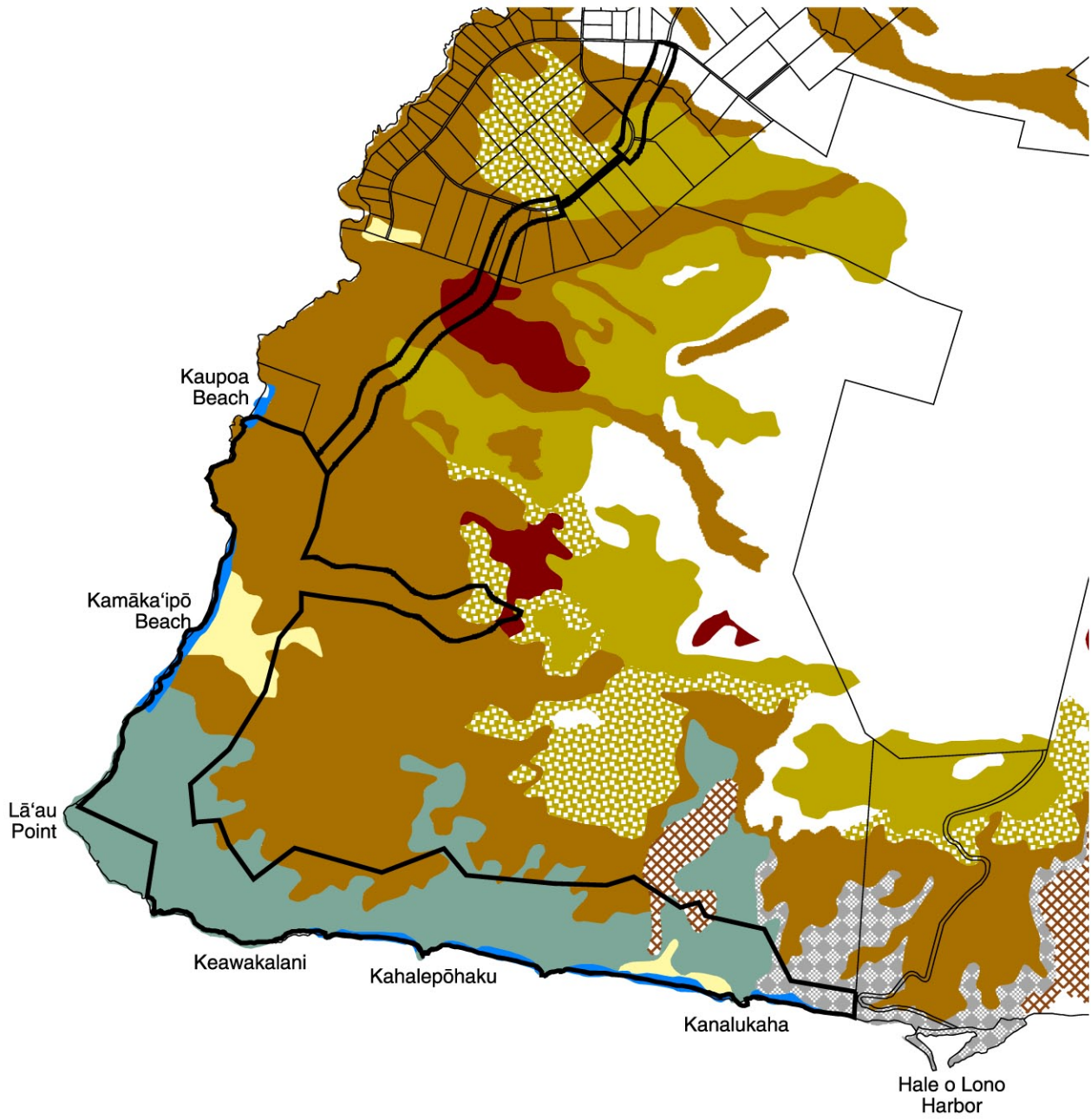
There are three soil suitability studies prepared for lands in Hawai'i whose principal focus has been to describe the physical attributes of land and the relative productivity of different land types for agricultural production. These are: 1) the U.S. Department of Agriculture Natural Resource Conservation Services (NRCS) Soil Survey; 2) the University of Hawai'i Land Study Bureau Detailed Land Classification; and 3) the State Department of Agriculture's Agricultural Lands of Importance to the State of Hawai'i (ALISH) system.

3.3.1 NRCS Soil Survey

The *Soil Survey of the Islands of Kauai, Oahu, Maui, Molokai, and Lanai* (NRCS 1972) classifies the soils of the Lā'au Point site as Kapuhikani Extremely Stony Clay, Very Stony Land, Rock Land, Beaches, and Mala Silty Clay (see Figure ~~12~~ 14).

Under the NRCS's Land Capability Grouping, soil types are rated according to eight levels, with I being the highest classification level and VIII, being the lowest. Lower case letters following the classification level indicate specific subclasses. Brief descriptions of soils of the Lā'au Point site, along with their Land Capability Grouping rating, are provided below.

Kapuhikani Extremely Stony Clay (KKTC) – These soils are well drained and extremely stony with slope ranges from 3 to 15 percent, and elevation ranges from nearly sea level to 500 feet. These soils are used for wildlife habitat and pasture. Runoff is slow to medium, and the erosion hazard is slight to moderate. The project area contains a significant amount of this type of soil. KKTC soils are rated Class VII, non-irrigated. Class VII soils have very severe



LEGEND

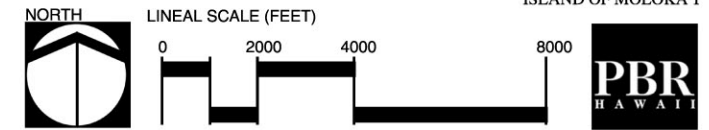
- Soil Types**
- BS: Beaches
 - HvA, HvB: HOLOMUA Silt Loam
 - HvB3, HvC3: HOLOMUA Silt Loam, Severely Eroded
 - KKTC: KAPUHIKANI Extremely Stony Clay
 - MmA: MĀLA Silty Clay
 - PJD2: PAMOA Stony Silty Clay, Eroded
 - rRK: Rock Land
 - rVS: Very Stony Land
 - rVT2: Very Stony Land, Eroded
- Project Area**

Source:
Natural Resources Conservation Service GIS (1995)

Figure 14
Natural Resources Conservation Service
Soil Survey Map

Lā'au Point

ISLAND OF MOLOKAI



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limitations that make them unsuited to cultivation (i.e., abundant stones and shallow soil). Irrigated, Kapuhikani soils are placed in Classification ranging from II for lands with 3 to 7 percent slope, to IV for lands with 15 percent slope. Only 10 percent of the acreage of Kapuhikani Soil Series is made up with very stony condition. In order for stony conditions to be a limiting factor that would place a soil series in VII, greater than 60 percent of the acreage need to be covered with stony conditions.

Very Stony Land (rVS, rVT2) – Very Stony Land (rVS) occurs where 50 to 90 percent of the surface is covered with stones and boulders. The slope ranges from 7 to 30 percent. Elevations range from sea level to 1,500 feet. This land type is used for pasture and wildlife habitat. Pasture improvement is very difficult because of the many stones. Very Stony Land, eroded (rVT2) supports a thicker stand of vegetation than Very Stony Land because it has more soil material.

A majority of the Lā'au Point site contains rVT2 soil. This soil is classified as VIIs, non-irrigated. Type VII soils have very severe limitations that make them unsuited to cultivation and that restrict their use largely to pasture or range, woodland, or wildlife. Subclass VIIs soils are limited mainly because they are shallow, droughty, or stony.

Rock Land (rRK) - Rock land is made up of areas where exposed rock covers 25 to 90 percent of the surface. The rock outcrops and very shallow soils are the main characteristics. This land type is nearly level to very steep and is used for pasture, wildlife habitat, water supply, and urban development.

Beaches (BS) - Beaches occur as sandy, gravelly, or cobbly areas that are washed and reworked by ocean waves. The beaches consist mainly of light-colored sands derived from coral and seashells. Beaches have no value for farming. Where accessible and free of stones, beaches are highly suitable for recreational uses and resort development.

Mala Silty Clay (MmA) – This series consists of well-drained soils on bottoms of drainage ways and on alluvial fans on coastal plains. Elevations range from nearly sea level to 100 feet. These soils are used for pasture, alfalfa, truck crops, orchards, and wildlife habitat. The soil is slightly acidic to neutral in the surface layer and upper part of the subsoil and moderately alkaline in the lower part of the subsoil. Permeability is moderate, runoff is slow, and the erosion hazard is no more than slight.

In low areas, this soil is subject to flooding for short periods during heavy rains. Shallow wells can be dug in this soil. The water in the wells is likely to be brackish, and care is required if it is used for irrigation purposes. The soil is easily compacted, and sub soiling may be necessary. MmA is classified as VIc, non-irrigated.

Holomua silt loam, 0 to 3 percent slopes (HvA), 3 to 7 percent slopes (HvB), 3 to 7 percent slopes, severely eroded (HvB3) – Holomua soils consist of well-drained soils, developed in volcanic ash and material weathered from andesite rock. They are nearly level to strongly sloping. This soil occurs as large, smooth areas. These soils are used for pineapple and truck crops where irrigation water is available and for pasture and wildlife habitat where water is not available.

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For HvA soils, permeability is moderate. Runoff is slow, and the erosion hazard is slight. The available water capacity is about 1.7 inches per foot of soil. In places roots penetrate to a depth of 5 feet or more. Insufficient water is the principal limiting factor. For HvB soils, runoff is slow and the erosion hazard is slight to moderate. HvA and HvB soils are rated VIc, nonirrigated. HvA and HvB soils occur north of the project area, within the adjacent residential subdivision, and where the project’s access road is proposed. For HvB3 soils, runoff is slow to medium and the erosion hazard is moderate. Most of the surface layer and, in places, part of the subsoil have been removed by wind and water erosion. Vegetation is sparse, especially in summer. HvB3 soils are rated VIe, nonirrigated. Only a small portion of the proposed access road, as well as a portion of the Cultural Protection Zone at Kamāka‘ipō Gulch, will be on this soil.

Pamoa stony silty clay, 5 to 20 percent slopes, eroded (PJD2) – This soil is well-drained and gently sloping to moderately steep. Runoff is medium, and the erosion hazard is severe. Both sheet erosion and gully erosion are active. Most of the surface layer has been removed, and gullies are common. The gullies are steep sided, and many extend to the bedrock. The gullies and stones make workability difficult. This soil is used for pasture and wildlife habitat. This soil is rated VIe, nonirrigated. A small portion of the proposed access road contains this soil.

3.3.2 Land Study Bureau Detailed Land Classification

The University of Hawai‘i’s Land Study Bureau Detailed Land Classification classifies soils based on a five-class productivity rating using the letters A, B, C, D, and E, with A representing the highest class of productivity and E the lowest.

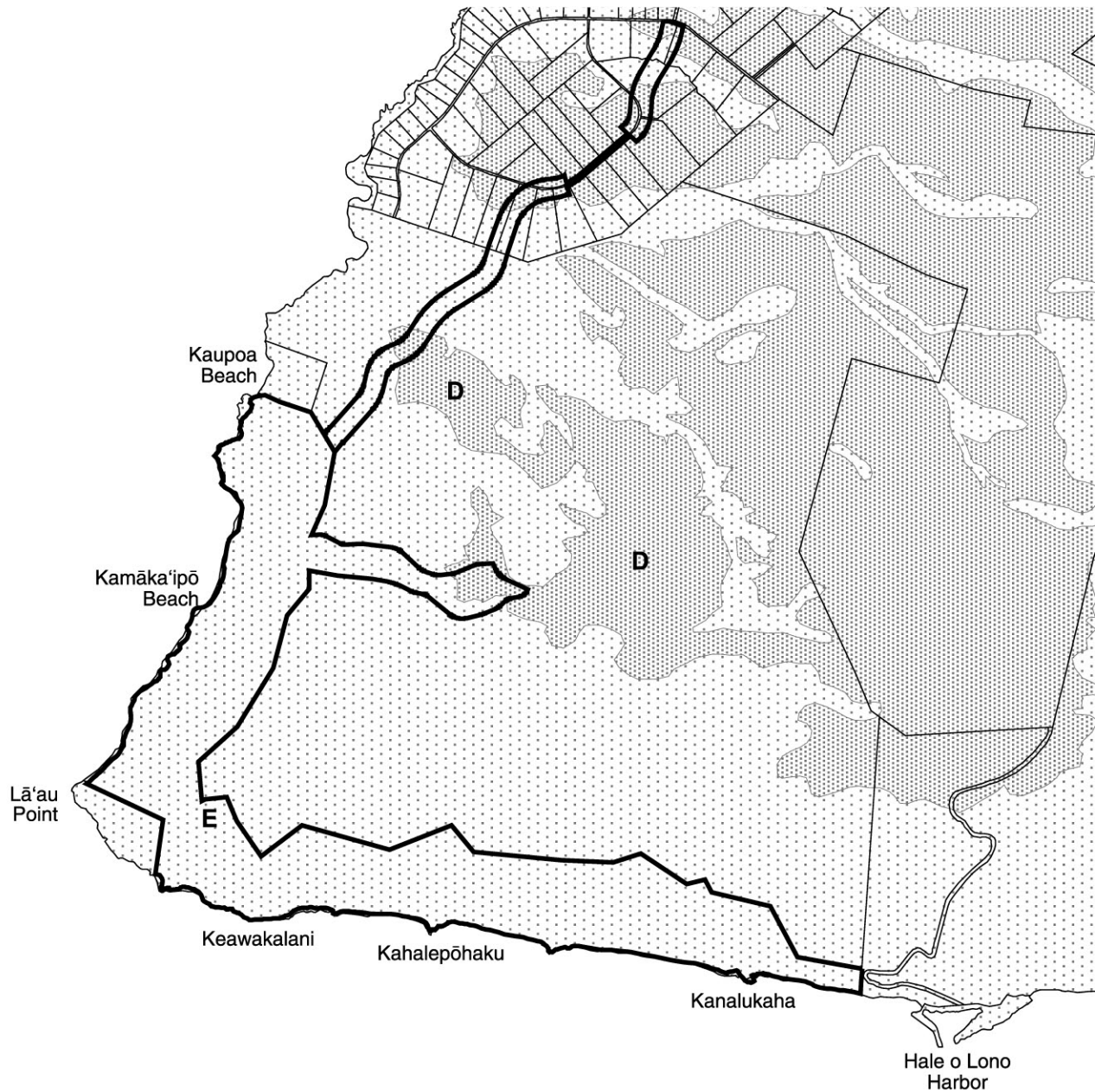
The soil classification ratings for the Lā‘au Point site range from “D” (poor) to “E” (very poor) (see Figure 43 15). The site consists primarily of very poor (rated “E”) soils, except for 24 acres of poor (rated “D”) soils within the Kamāka‘ipō Gulch. Soils classified as “D” and “E” are marginal agricultural soils. Soils rated “E” are considered as having little or no suitability for soil-based agricultural production.

3.3.3 Agricultural Lands of Importance to the State of Hawai‘i (ALISH)

The Agricultural Lands of Importance to the State of Hawai‘i (ALISH) system classifies some of the lands within the Lā‘au Point site as “Other Agricultural Land,” and the majority of the lands as “Unclassified” (see Figure 44 16).

Other Agricultural Land is land other than Prime or Unique Agricultural Land that is of statewide or local importance for the production of food, feed, fiber, and forage crops. The lands in this classification are important to agriculture in Hawai‘i, yet they exhibit properties such as seasonal wetness, erosion, limited rooting zone, slope, flooding, or drought, which exclude them from the Prime or Unique Agricultural Land classifications. These lands can be farmed satisfactorily (i.e., by applying greater inputs of fertilizer and other soil amendments, constructing drainage improvements, and implementing erosion control practices and flood protection measures), and can produce fair to good crop yields when managed properly.

The lands designated as “Unclassified” provide no value for soil-based agriculture.



LEGEND

Agricultural Land Productivity Rating

- A (Excellent)
- ▒ B (Good)
- ▒ C (Fair)
- ▒ D (Poor)
- ▒ E (Very Poor)

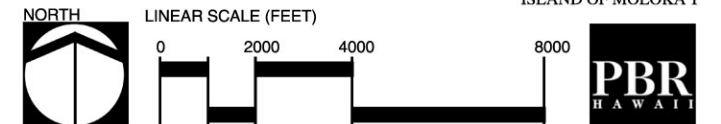
 Project Area

Source:
Land Study Bureau (1967)

Figure 15
Detailed Land Classification Map

Lā'au Point






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LEGEND

- ALISH Types
-  Prime ALISH Lands
 -  Unique ALISH Lands
 -  Other ALISH Lands
 -  Not Classified
-  Project Area

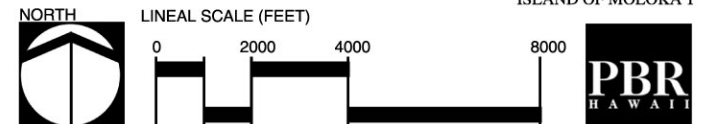
Source:
State Department of Agriculture (1977)

Figure 16

Agricultural Lands of Importance to the State of Hawaii (ALISH)

Lā'au Point

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3.3.4 Geotechnical Engineering Reconnaissance

A Geotechnical Engineering Reconnaissance (Survey) was performed by Geolabs, Inc., in July and August of 2007 within the project area. The Survey, which is provided as Appendix D, provides a general study of the predominant soil characteristics of the project area.

A review of aerial photographs combined with site reconnaissance and laboratory testing of selected soil samples, indicates that the predominant soil at the project site is represented by a reddish brown to brown colored silty clay with a typical shrink-swell potential of less than about two to four percent, which is considered to be of generally low expansion potential. Based on an evaluation of the existing site conditions, these soils reside over approximately 70 to 80 percent of the land area within the project limits. The remaining 20 to 30 percent of the land area within the project limits may contain generally isolated and discontinuous deposits of expansive, dark grayish brown colored clay, which may be classified as a true vertisol containing a higher percentage of montmorillite clay mineralogy.

In summary, the predominant surface soils encountered during reconnaissance consists of reddish brown to brown silty clays (CH) representing residual soil material derived from the weathering of basaltic rock. In general, these soils appear to have a low expansion potential. Reddish brown to brown clayey soils (CH) with sand are encountered mainly in alluvial depositional environments, which appear generally confined to topographic low elevations such as depressions and drainage ravines. These soils appear to have a low to moderate expansion potential.

Finally, the dark brown to grayish brown clay (CH) soil is encountered as isolated inland deposits and discontinuous deposits along the lower elevation coastal regions at the southern portion of the project site. These soils may have a relatively high expansion potential. With the exception of the northernmost portions of the project site (northerly of Kamāka'ipō Gulch), basalt rock formation is encountered at the ground surface and partly exposed at the ground surface mixed with the soils mentioned previously.

POTENTIAL IMPACTS AND MITIGATION MEASURES

The Lā'au Point project will be built parallel to the coastline north and east of the actual Lā'au Point on the southwestern tip of Moloka'i. Part of the development process will include grading inland portions of the area for the infrastructure. As previously stated in Section 3.2, the roads are planned to conform to existing contours, which will limit extensive grading.

The NRCS Soil Survey, Land Study Bureau Detailed Land Classification, and ALISH soil rating systems classify the Lā'au Point soils as poorly suited for soil-based agriculture.

Impacts to the soils of the site include the potential for soil erosion and the generation of dust during construction. Clearing and grubbing activities will temporarily disturb the soil retention values of the existing vegetation and expose soils to erosion. Some wind erosion of soils could occur without a proper watering and re-vegetation program. Heavy rainfall could also cause erosion of soils within disturbed areas of land. Southwest Moloka'i, however, is one of the driest areas on the island, with average annual rainfall of less than 15 inches.

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All construction activities will comply with all applicable Federal, State, and County regulations and rules for erosion control. Before issuance of a grading permit by the County of Maui, an erosion control plan and best management practices will be prepared describing the implementation of appropriate erosion control measures. All construction activities will also comply with the provisions of Chapter 11-60.1, Hawaii Administrative Rules, and Section 11-60.1-33 on fugitive dust.

Before a grading and grubbing permit can be secured from the County, a grading and grubbing permit must be secured from the County in accordance with Chapter 20.08 Maui County Code, "Soil Erosion and Sedimentation Control". This Chapter helps the County comply with Federal and State requirements to protect coastal waters from non-point source pollution and minimize construction impacts to downstream properties coastal ecosystems.

Erosion control plans are reviewed by the County Department of Public Works, the State of Hawaii Department of Health Clean Water Branch, and the Federal Natural Resources Conservation Services (NRCS).

The BMP plan which is part of the application will show silt fencing around construction areas. According to County policy, no more than 15 acres can be exposed at any given time. Each exposed area will be provided with a temporary sedimentation basin. Each exposed area must also be regressed or re-vegetated before the next 15 acre section can be graded. Contractors will also be asked to "leapfrog" between areas to be graded to minimize the cumulative exposed area.

After construction, the establishment of permanent landscaping will provide long-term erosion control. Since annual rainfall in West Moloka'i is less than 15 inches per year, a permanent irrigation system will be installed to irrigate and establish ground cover on all disturbed areas such as, roadway shoulders and cut and fill slopes, which are estimated to total 85 acres. Water for this purpose will be from the Kākahale Well as discussed elsewhere in this EIS document. A nonpotable water irrigation reservoir or tank will be constructed above the project site at the outset to ensure continuous non-potable supply and source for this purpose. To the extent possible, Conservation District areas will not be landscaped or irrigated. Exceptions to this may include areas subject to erosion, where new landscaping can serve to stabilize the soil.

3.4 AGRICULTURAL IMPACT

The Lā'au Point site is currently vacant. No ranching activities have occurred at the site since ~~1999~~ 2000. In addition, no chemicals or fertilizers have been used on the site since 1970 when pesticides were used to kill overgrown kiawe trees. Historically, pineapple cultivation took place on gently sloping land near the top of the Lā'au Point parcel, but never in the area proposed for the development.

POTENTIAL IMPACTS AND MITIGATION MEASURES

As previously discussed in Section 3.3 (Soils), the NRCS Soil Survey, Land Study Bureau Detailed Land Classification, and ALISH soil rating systems classify the Lā'au Point soils as poorly suited for soil-based agriculture.

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Other agricultural activities in the project area, such as cattle grazing, ceased in ~~1999~~ 2000, therefore, the Lā'au Point project will not take any active agricultural land out of production and will not impact Molokai Ranch's agricultural operations.

As far as future potential for agricultural development, the Lā'au Point site lies outside of the 14,390 acres being designated for protection through restrictive agricultural easements in favor of the Moloka'i Land Trust (See Section 2.1.8). These agricultural easement lands are located mostly in Central Moloka'i near numerous irrigation water sources suitable for high-value or intensive agriculture. The agricultural easement lands proposed for West Moloka'i are also serviced by water lines and are designated for extensive agriculture (see Chapter 3.5 in Appendix A). These lands will be dedicated for agricultural use and only single farm dwellings can be built there. A large parcel of land which buffers Lā'au Point from the West Molokai agricultural easement lands is designated as part of the Rural Landscape Reserve, which was created to protect views and the rural character of the island.

3.5 NATURAL HAZARDS

Natural hazards impacting the Hawaiian Islands include hurricanes, tsunamis, volcanic eruptions, earthquakes, and flooding.

Devastating hurricanes have impacted Hawai'i twice since 1980: Hurricane 'Iwa in 1982 and Hurricane 'Iniki in 1992. While it is difficult to predict these natural occurrences, it is reasonable to assume that future events could be likely given the recent record.

Tsunamis are large, rapidly moving ocean waves triggered by a major disturbance of the ocean floor, which is usually caused by an earthquake but sometimes can be produced by a submarine landslide or a volcanic eruption. About 50 tsunamis have been reported in the Hawaiian Islands since the early 1800s. Seven caused major damage, and two of these were locally generated. Only a small portion in the southeast of the Lā'au Point site is designated as a Tsunami Inundation Zone (see Figure ~~45~~ 17).

Volcanic hazards in the Lā'au Point area are considered minimal due to the extinct status of the volcanoes comprising Moloka'i.

In Hawai'i most earthquakes are linked to volcanic activity, unlike other areas where a shift in tectonic plates is the cause of an earthquake. Each year thousands of earthquakes occur in Hawai'i, the vast majority of them so small they are detectable only with highly sensitive instruments. However, moderate and disastrous earthquakes have occurred; most recently a 6.7-magnitude earthquake centered on the Kona side of the Big Island occurred in 2006.

Flood hazards are primarily identified by the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency (FEMA), National Flood Insurance Program. According to the FIRM (Panel ID: 1500030025B), the project site is predominantly Zone C, outside of the floodplain and in areas subject to minimal flooding. The lower lying coastline and shoreline areas of Lā'au Point are in Zones V25, V15, and A4, which are areas inundated by 100-year flooding with velocity hazard (wave action); base flood elevations have been determined (see Figure ~~46~~ 18).

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POTENTIAL IMPACTS AND MITIGATION MEASURES

Lā'au Point will not exacerbate any hazard conditions. No structures will be built within FIRM Zones V and A to mitigate against coastal and flooding hazards. The potential impact of earthquakes, and destructive winds and torrential rainfall caused by hurricanes, will be mitigated through compliance with the Maui County Building Code. ~~Likewise, the stringent CC&Rs and Lā'au Point Construction Rules and Design Guidelines will ensure that all structures be constructed for protection from earthquakes in compliance with the requirements of the Maui County Building Code.~~ Although a small portion of the site is located within the Tsunami Inundation Zone (Figure ~~15-17~~), no structures will be allowed to be built in these areas. At the appropriate time during the project design phase, MPL will consult with the State Department of Civil Defense regarding appropriate placement of the Civil Defense sirens. State Department of Civil Defense has recommended that two outdoor warning sirens should be included in the design.

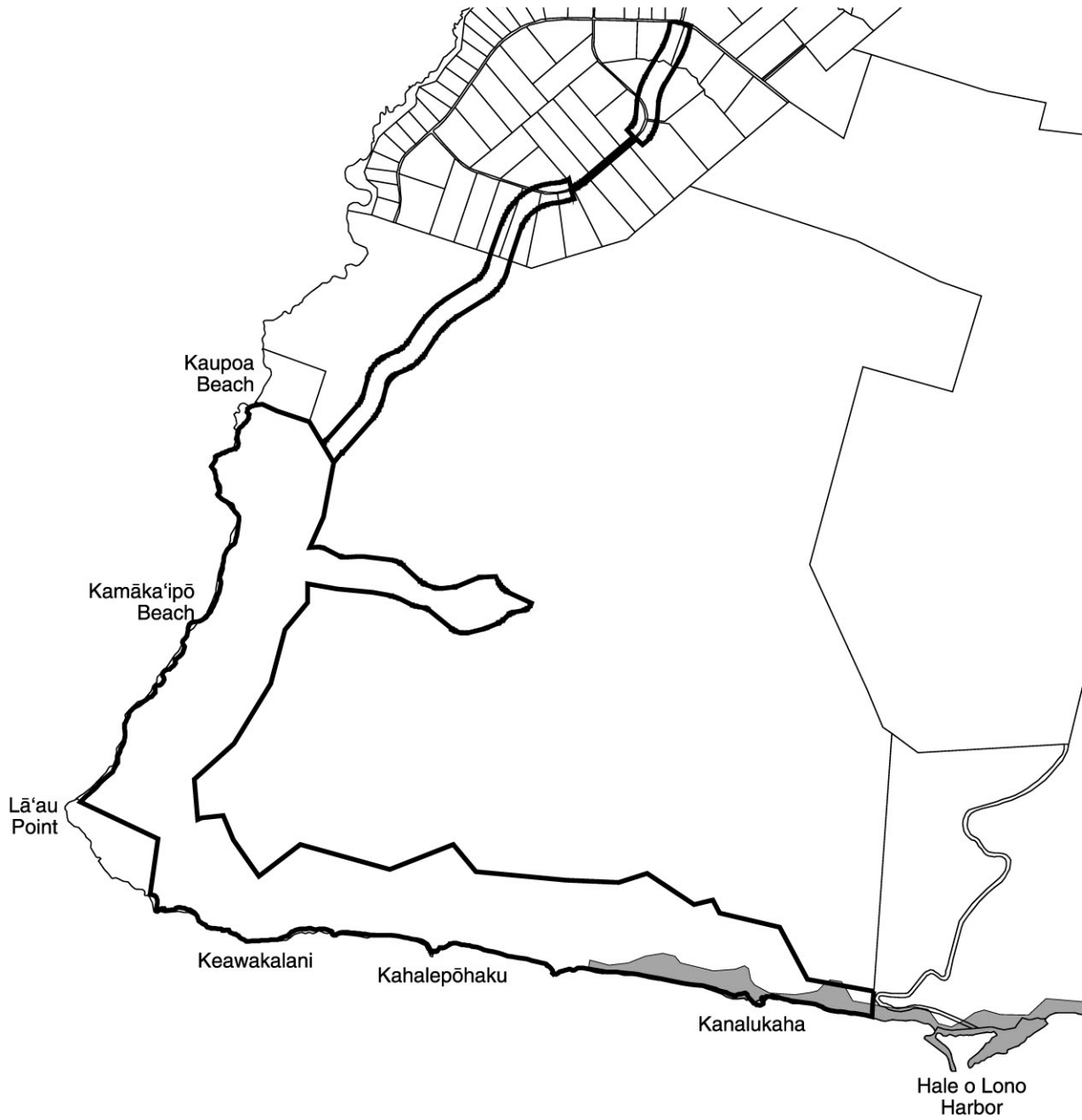
3.6 FLORA

The vast majority of Lā'au Point is vegetated by non-native plants. Although dominated by non-natives, healthy native plant communities can still be found in sandy beach, rocky shoreline shrub land/grassland, and seasonal wetland habitats. Three species considered rare in Hawai'i include: *Cressa truxillensis*, Hawaiian cotton or ma'ō (*Gossypium tomentosum*), and 'ihi'ihilauakea (*Marsilea villosa*).

The sandy beach habitat of Lā'au Point contains the most extensive example in Hawai'i of a seasonal herb land dominated by Alkali Weed (*Cressa truxillensis*). Other native plants include: 'aki 'aki (*Sporobolus virginicus*), 'akulikuli (*Sesuvium portulacastrum*), pohuehue or beach morning glory (*Ipomoea pes-caprae*), the sedge (*Fimbristylis cymosa*), and pohinahina (*Vitex rotundifolia*). The non-native kiawe (*Prosopis pallida*) and animal grazing have been main pressures on these plant communities.

Only ten percent of the rocky shoreline shrub land/grassland habitat has native plant cover, but it contains the highest number of native plants, which include: naupaka (*Scaevola sericea*), uhaloa (*Waltheria indica*), Hawaiian cotton or ma'ō (*Gossypium tomentosum*), 'ilima (*Sida fallax*), alena (*Boerhavia diffusa*), pau o Hi'iaka (*Jacquemontia ovalifolia* ssp. *Sandwicensis*), 'ihi (*Portulaca lutea*), akulikuli (*Sesuvium portulacastrum*), the grass *Panicum fauriei* var. *latius*, aki'aki (*Fimbristylis cymosa* ssp. *Umbellate-capitata*), and Kakonakona (*Panicum torridum*). Non-native plants that dominate this habitat include: golden crown beard (*Verbesina encelioides*), Australian salt bush (*Atriplex semibaccata*), dog fennel (*Dessodia tenuiloba*), and kiawe.

The federally endangered 'ihi'ihilauakea (*Marsilea villosa*) was found near a seasonal wetland along where the Kamāka'ipō Gulch drainage meets the coast. This native fern is the only federally listed endangered plant occurring in the Lā'au Point area. 'Ihi'ihilauakea was federally listed as endangered in 1992. A total of 11 populations have been reported: five on O'ahu, four on Moloka'i, and one on Ni'ihau. Although critical habitats for 'ihi'ihilauakea have been established on O'ahu, no critical habitats for 'ihi'ihilauakea have yet been designated for Moloka'i.



LEGEND

■ Tsunami Inundation Zone

▮ Project Area

Source:
Pacific Disaster Center (1998)

Figure 17
Tsunami Inundation Zone

Lā'au Point

NORTH



LINEAR SCALE (FEET)



ISLAND OF MOLOKAI



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LEGEND

Flood Zones

-  Zone A: 100-Year Floodplain
-  Outside Floodplain/Minimal Flooding Area

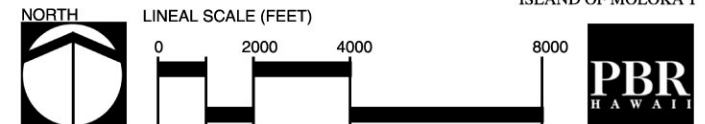
 Project Area

Source:
Federal Emergency Management Agency
(Panel ID: 1500030025B, 1981)

Figure 18
Flood Insurance Rate Map

Lā'au Point

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The Kamāka'ipō Gulch population of this rare fern is not a new discovery. This population is known from historic accounts and recent surveys. Collections were reported to state and federal agencies as part of required collection permit reporting. In the past, collections from this population have also been distributed to botanical gardens in Hawai'i with programs dedicated to endangered plant conservation.

Due to 'ihi'ihilauakea's unique requirement for flooded areas, this fern can be very difficult to find. Hence, the survey for the 'ihi'ihilauakea was specifically conducted over a six month period (November 28, 2005 to June 6, 2006), including surveys after the heavy rains of 2006, so that the populations could be found and mapped under the best possible conditions. All potential habitat in the area was checked multiple times in the survey period and no additional Marsilea populations were observed.

The 'ihi'ihilauakea population at Kamāka'ipō is currently expanding, despite occasional foot traffic. Samples are being preserved in three endangered plant collections around the state. The surrounding habitat is no longer the intact native shrubland that would have existed there hundreds of years ago.

Under drought situations, the seasonal wetland community is dominated by several dryland weed species, including cocklebur (*Xanthium saccharatum*), bristly foxtail (*Setaria verticilata*), finger grass (*Chloris barbata*), and the vine *Merremia aegyptica*. The perimeter of the seasonal wetlands is dominated by kiawe and guinea grass (*Panicum maximum*).

The most widespread plant community in the Lā'au Point parcel is kiawe lowland dry forest. In many areas, these forests stretch up to the high tide line due to the trees' ability to utilize brackish groundwater. The kiawe forests are most developed in areas where groundwater is available, just inland of the coastal strand, and in the drainages. Native plants in this habitat include: 'ilima, *Abutilon incanum*, and pili grass (*Heteropogon contortus*).

Non-native lantana is the dominant species in lowland shrub land areas where rocky terrain, erosion, and lack of water have created gaps in the lowland kiawe forest.

Appendix B D of this EIS contains the botanical survey by William Garnett. The botanical survey was carried out over a period of six months (late November 2005 to early June 2006) to assure detecting 'ihi'ihilauakea (*Marsilea villosa*) and other seasonally ephemeral species. To assure complete coverage, detailed GPS track logs were kept to record both ground and air survey routes. To be aware of any possibilities, a list of historical plant collections made from within the survey area was provided by the Bishop Museum herbarium. However, it is always possible that additional populations could appear in other seasonal wetlands under different conditions in future years.

POTENTIAL IMPACTS AND MITIGATION MEASURES

The majority of the native plant communities are located in the expanded Conservation District area in the sandy beach and rocky shoreline areas, where no development will occur within the setback of the coastal conservation zone. Of the native plant species, Only only the 'ihi'ihilauakea (*Marsilea villosa*) population is located within the proposed development project area, at Kamāka'ipō Gulch. Kamāka'ipō Gulch will be part of the expanded Conservation

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District area, designated a Cultural Protection Zone, and managed by the Land Trust. No development will occur in expanded Conservation District area, including Kamāka'ipō Gulch. The 'ihi'ihilauakea population is not within the proposed residential houselot area.

A management plan is to be A Shoreline Access Management Plan (SAMP) (Appendix B) has been developed adopted by the Land Trust as the easement holder of the expanded Conservation District area and county-zoned open space areas. Kamāka'ipō Gulch, which will be deeded to the Land Trust, is also covered by the SAMP. This will The provisions of the SAMP include managing this the significant 'ihi'ihilauakea population, including possible opportunities to use for private landowner "safe harbor" conservation programs. The 'ihi'ihilauakea might also benefit from habitat created by any settling ponds planned for the site. The key to protecting the 'ihi'ihilauakea is the creation and implementation of provisions to protect the fern from grazing, trampling, erosion, fire, or other habitat changes.

To protect environmentally sensitive features, including native, rare, threatened, and endangered plants, the Terrestrial Biological Resources Preservation of Resources section of the SAMP provides for:

1. Promulgation of rules and regulations to protect native, rare, threatened or endangered species.
2. Development of a natural resource management plan to identify management of terrestrial resources.
3. Provision of informational/educational signs where rare, threatened, or endangered plants or animals are found and to manage or control access.
4. Provision of buffer zones to ensure protection of sensitive species or habitats
5. Development of a monitoring program incorporating both scientific and anecdotal evidence to monitor the environment and ensure the viability of native species and habitats.
6. Enforcement of rules and prohibitions by an on-site Resource Manager.
7. Education of all individuals (staff, contract or volunteers) implementing the natural resource management plan.

The Lā'au Point project will include landscaping appropriate to the coastal setting. Where feasible, new landscaping will include drought-tolerant native plants and grasses.

Evidence at public meetings has been given that the kiawe and other non-native plant species drain the limited water resources that would otherwise be available for feeding native plants. The Land Trust and the homeowners together will plan for the best use of native plants, ensuring they have the necessary growth opportunities.

3.7 FAUNA

No native land birds, native water birds, or seabirds were observed at the project site during an avifaunal and feral mammal survey (Appendix E) conducted in August 2006. The only native land bird species likely to forage in this area is the Hawaiian Owl or Pueo (*Asio flammeus sandwichensis*). This species is listed by the State of Hawaii as endangered on O'ahu but not elsewhere in the State. They hunt in grasslands, agricultural fields and forests and nest on the ground in habitats with tall grass.

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Four species of common migratory shorebirds were observed ~~on the survey~~: Pacific Golden-Plover or Kolea (*Pluvialis fulva*); Ruddy Turnstone or 'Akekeke (*Arenaria interpres*); Wandering Tattler or 'Ulili (*Heteroscelus incanus*); and Sanderling or Hunakai (*Calidris alba*). None of these migratory shorebirds are listed as threatened or endangered. Thirteen species of introduced alien birds were also tallied ~~on~~ during the survey, none of which are listed as threatened or endangered.

Most mammals typically found in the area are introduced, and include rats, mice, axis deer, and mongoose. ~~Two endangered~~ During the survey, two Hawaiian Monk Seals (*Monachus schauinslandi*) were observed resting on Sam Wights Beach north of Lā'au Point.

~~Appendix C of this EIS contains the avifaunal and feral mammal survey prepared by Phillip Bruner.~~

The Hawaiian monk seal is protected under the Endangered Species Act and the Marine Mammal Protection Act. In their comment letter on the Draft EIS dated February 5, 2007, the National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) noted that since 1984, a total of 169 Hawaiian monk seal sightings have been documented on the shoreline of the project area. Most of these sightings were documented in 2005 and 2006 when increased observations occurred. To date, a total of 18 uniquely identifiable seals have been documented among these sightings. Because not all Hawaiian monk seal are tagged or well-identified by natural marks, these 18 represent a minimum number of individual seals that have used the area. Of the 18 identified seals, nine were known to have been born on Molokai: eight at Kalaupapa Peninsula, and one at a small pocket beach between Lā'au Point and Hale O Lono.

According to the NOAA NMFS, Lā'au Point is an especially good Hawaiian monk seal habitat because of its remoteness and limited access, sandy beach substrate, and proximity to foraging areas.

In a subsequent letter (dated June 21, 2007) to their comment letter on the Draft EIS, NOAA NMFS stated: "NMFS believes it would not be necessary to conduct a survey at the site to ascertain that Lā'au Point is important monk seal habitat, as that is already known."

POTENTIAL IMPACTS AND MITIGATION MEASURES

The Lā'au Point project will be sensitive to natural systems and define areas for environmental protection. A State Land Use District Boundary Amendment is proposed to expand the existing Conservation District, thereby increasing the amount of shoreline and Hawaiian monk seal habitat put into permanent protection. This request is reflective of the community's desire to preserve shoreline resources. The coastal area also falls within the County's Special Management Area which provides additional rules and regulations designed to protect shoreline resources.

In addition, the project proposes that lot lines should be set back at least 250 feet from the designated shoreline or high water mark. Residential lot boundary lines for Lā'au Point will be at least 50 feet behind the current Conservation District boundary. In addition, the makai lots along the shoreline will have an additional 50-foot building setback. These specified setbacks

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result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet. These setbacks will prevent encroachment and provide a natural buffer zone within the Conservation District between the homes and shoreline.

Monk Hawaiian monk seals have been documented on the sandy beaches around Lā'au Point. Monk seals and are known to visit deserted beaches, or beaches not heavily used by people. The project increases the potential for interactions between humans and the endangered species Hawaiian monk seal. In their February 5, 2007 letter commenting on the Draft EIS, NOAA NMFS notes that potential threats to Hawaiian monk seals as a result of the project include: 1) human-caused disturbance; 2) disturbance, physical harm, and potential disease transfer from dogs; and 3) hooking and entanglement associated with shore-based fishing. In their subsequent letter dated June 21, 2007 NOAA states that they believe there should be a monitoring program with regular surveys conducted before, during, and after development to determine whether or not Hawaiian monk seal use of the habitat changes as land and ocean uses change.

The Cultural Impact Assessment (see Section 4.2) calls for the need to provide education and enforce laws protecting Hawaiian monk seals. In addition, the Shoreline Access Management Plan (SAMP)(further discussed in Section 4.3 and provided as Appendix B) is a community-based and developed set of guidelines, rules, monitoring programs, and general principals for the protection and utilization of the cultural, biological, and social resources of the area, including Hawaiian monk seals.

The SAMP contains a plan and recommendations for the protection of Hawaiian monk seals developed in consultation with NOAA. Elements of the plan and recommendations were taken from NOAA's draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006). NOAA. In addition, the SAMP provides for the establishment of management plans which include monitoring of potential impacts to resources, including Hawaiian monk seals.

The SAMP also provides rules to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of Lā'au Point as an area for Hawaiian monk seals to frequent and "haul out." Rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore.

To ensure that the project does not alter behavior of Hawaiian monk seals that visit the area, residents and visitors will be educated about possible interaction with these animals and the appropriate human behavior for that interaction. Appropriate protocol if one encounters a Hawaiian monk seal on the beach is to notify National Marine Fisheries Service (NMFS), who will check if the animal is injured or entangled, then put tape around the site to keep people from approaching too closely. Due to the lack of available NMFS staff on Moloka'i, a Resource Manager will monitor the Lā'au shoreline area daily. The Resource Manager will:

- Post signs in regular intervals along the shoreline explaining the rules regarding Hawaiian monk seals.
- Cordon off areas, place signs around resting Hawaiian monk seals, and designate areas closed to fishing as a result of a Hawaiian monk seal sightings.

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- Report Hawaiian monk seal sightings to NOAA and take whatever actions are required by NOAA to ensure the safety of the Hawaiian monk seal.
- Enforce all Hawaiian monk seal protection rules, regulations, and protocols.
- Report violations of federal or state laws to appropriate authorities and act as a witness in the prosecution of any person violating federal or state laws.
- Receive training as a Hawaiian monk seal protection specialist.
- Notify NOAA of entangled Hawaiian monk seals.
- Remove debris that may be harmful to Hawaiian monk seals from the shoreline area.
- Monitor the shoreline area for contaminants that may be harmful to Hawaiian monk seals.
- Work with NMFS to develop a volunteer seal monitoring program.

~~This information would be included in the CC&Rs and other educational materials given to Lā'au Point buyers. Adherence to the SAMP is required by the CC&Rs. In addition, everyone accessing the area must be educated on the law, rules, and protocols associated with Hawaiian monk seal protection. Additional information on the educational requirements of the SAMP is included in Section 4.2 (Trails and Access).~~

~~The SAMP also addresses other biological and endangered species protection. A long term monitoring program will be developed to adapt to changing circumstances and to measure the effectiveness of the mitigation measures.~~

~~The Lā'au Point project will be sensitive to natural systems and define areas for environmental protection. A State Land Use District Boundary Amendment is proposed to expand the existing Conservation District, thereby increasing the amount of shoreline and monk seal habitat put into permanent protection. This request is reflective of the community's desire to preserve shoreline resources. The coastal area also falls within the County's Special Management Area which provides additional rules and regulations designed to protect shoreline resources.~~

~~In addition, the project proposes that lot lines should be set back at least 250 feet from the designated shoreline or high water mark. Residential lot boundary lines for Lā'au Point will be at least 50 feet behind the current Conservation District boundary. In addition, boundaries for the makai lots along the shoreline will have covenants requiring an additional 50-foot building setback. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet. These setbacks will prevent encroachment and provide a natural buffer zone within the Conservation District between the homes and shoreline.~~

~~The impact of the Lā'au Point project on birds is not expected to be significantly adverse. The expanded shoreline setback zone Conservation District will reduce impacts to protect water and shorebirds. Land birds and mammals may be displaced by the residential development. It is noted, however, that the vast majority of the parcel will be left in its natural condition. These species could readily relocate and re-populate adjacent open spaces.~~

~~As the shoreline and in-shore areas are available only for subsistence gathering, the Land Trust and the homeowners have a responsibility to protect land birds and mammals by firstly,~~

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educating visitors, and secondly, enforcing policies and procedures to be developed for subsistence gathering. The Lā'au Point landscaping will be restricted to appropriate native and Polynesian species that are drought-tolerant and suitable for coastal locations.

Regarding lighting impacts on animals, as addressed Section 2.3.6 (Covenants), the CC&Rs require that all exterior lighting be shielded. Although the subdivision roadways will be privately-owned, the street lighting standards will conform to County of Maui standards. Lā'au Point outdoor lights will include low-wattage, low-pressure sodium lamps that direct light downward, as recommended by the County's proposed Outdoor Lighting Standards, to curtail light pollution that interferes with astronomical observations and prevent turtles and seabirds from being disoriented during their migration. This recommendation is also promulgated by the US Fish & Wildlife Service.

3.8 MARINE ENVIRONMENT

Marine habitat characteristics at Lā'au Point are described as typical wave-exposed, low relief reef type with generally low coral cover. This area is exposed to high wave energy, moderate sand movement, and fairly low fishing pressure relative to other near shore areas in the main Hawaiian Islands.

Large-scale marine habitat features include shelf zone (84 percent), followed by reef flat (8 percent), fore reef (6 percent), and shoreline intertidal (2 percent). The sea bottom cover is dominated by turf algae (57 percent), followed by sand (22 percent), macroalgae (10 percent), and hard coral cover (6 percent).

Numbers of individual fish are higher north of Lā'au Point. Diversity, evenness, and species richness are higher north of the point as well. Fish biomass, however, are higher east of Lā'au Point.

Small schools of surgeonfishes (manini – *Acanthurus triostegus*, kala lolo – *Naso brevirostris*, na'ena'e – *A. olivaceus*), planktivores, triggerfishes, herbivores, and apex predators, primarily a single island jack (uluu – *Carangoides orthogrammus*) and two individuals of the introduced peacock grouper (roi – *Cephalopholis argus*) were observed around Lā'au Point.

Marine biological and water quality baseline surveys of the area found that fish characteristics at Lā'au Point are generally lower than average values reported from large-scale studies statewide. The amount of fish was more than four times lower at Lā'au Point compared to no-take Marine Life Conservation Districts (MLCDs) and 42 percent lower than open access areas across multiple habitat types statewide.

According to the State Department of Health Environmental Planning Office Total Maximum Daily Load (TMDL) Program, "Receiving waters for the proposed project are 'Class AA West Molokai open coastal waters,' and water quality in a portion of these receiving waters is impaired by excessive nutrients, turbidity, and suspended solids (Final 2004 List of Impaired Waters in Hawaii Prepared under Clean Water Act Section 303(d))."

The marine waters surrounding Lā'au Point experience episodic "red water" events following periods of heavy rainfall. Turbidity, suspended solids and nutrient concentrations may be

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significantly elevated during these events. Sediment delivery to coastal waters is exacerbated by soil loosened by natural causes, including the effects of deer and livestock transiting and foraging in upland areas. The return to baseline conditions after a storm event is aided by turbulent mixing from waves and advection by currents along this exposed coast. The coastal marine communities are adapted to this periodic influx of runoff as well as to occasional high surf and the resulting scour from moving sand and rocks. Coral cover in particular is low and the low relief of the substratum provides limited fish habitat.

Appendix D G of this EIS contains the marine biological and water quality baseline surveys prepared by The Environmental Company, Inc. (TEC). Section 4.2 (Cultural Resources) of this EIS provides discussion of subsistence gathering along the shoreline and nearshore waters. According to their letter dated February 15, 2007, the State Department of Land and Natural Resources, Division of Aquatic Resources stated: "the methodology employed by their subcontractor TEC is consistent with acceptable practices, and very likely akin to what we would have done ourselves if given the task."

POTENTIAL IMPACTS AND MITIGATION MEASURES

The marine water quality report concludes that it is likely that sediment discharge from runoff to the ocean will be significantly less with the Lā'au Point development compared with existing conditions. This conclusion is based on several measures planned for Lā'au Point that will protect nearshore waters from increased degradation of water quality, such as drainage control systems, CC&Rs to regulate the use of fertilizers and pesticides, re-vegetation as a means of permanent erosion control measures throughout the developed areas, and fencing to keep deer and other animals from disturbing the soil near the community (see Section 2.3.6). Therefore, it is also likely that the long-term water quality in adjacent coastal waters may be improved by these measures.

Lā'au Point will be in compliance with all laws and regulations regarding runoff and non-point source pollution, ensuring that storm water runoff and siltation will not adversely affect the downstream marine environment and near shore and offshore water quality. The drainage plan (see Section 4.9.1) states that any increase in runoff from each developed lot will be retained onsite in surface or subsurface facilities. The anticipated increase in surface runoff from the paved roadway areas will be directed into surface or subsurface detention and/or desilting facilities before being released into the nearby drainage ways.

Potential short-term impacts of construction on marine waters will be mitigated by implementation of State and County approved Best Management Practices to control drainage and mitigate erosion from grading for the duration of the construction period. Subsequent water monitoring activities will be conducted by a Council representing Homeowners and the Moloka'i Land Trust. These organizations will have management responsibility and enforcement authority over the Pu'u Hakina and Kamāka'ipō (Lā'au area) shoreline area and fishing zone. The Land Trust will conduct the monitoring on a regular basis. Should it be determined that there is some problem with water quality, testing will be undertaken and investigation made as to the cause. The action taken will depend on the results of the investigation and the attributed cause. Through the CC&Rs or through the courts, the problem will be rectified if the cause is a violation of the law of the CC&Rs.

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The Cultural Impact Assessment (see Section 4.2) indicated that Moloka'i subsistence fishermen felt the new Lā'au Point residents would probably not directly damage the fishing grounds because they would not know how to fish. The fishermen feel the real impact on the fishing resources comes from Honolulu boaters fishing all along the west end and south shore (for commercial purposes), and fishing out the grounds of lobster and fish. Therefore, to preserve inshore fishing/subsistence resources, a subsistence fishing management zone in the coastal waters along all of the Ranch's coastline property will be created, as previously discussed in Section 2.3.7 and as recommended in the *Community-Based Master Land Use Plan for Molokai Ranch* (Appendix A). In addition, a no commercial-take zone a quarter-mile from the shoreline (north and west shore) and from the beach to the reef edge/breaker line (south shore) will be established. Page 59 of Appendix A shows the proposed designated subsistence fishing zones. The Cultural Impact Assessment suggests using the pilot project at Mo'omomi and the rights of the Kalapana people to fish in the Volcanoes National Park as community-based models. Efforts should also be coordinated with the communities of Miloli'i on Hawai'i, and Hā'ena on Kaua'i who are also establishing community-based fishing zones.

Preservation of offshore and shoreline resources for subsistence gathering is of great importance to the people of Moloka'i. Therefore, perpetual right to subsistence gathering will be noted on the titles of the areas to be preserved. Protections to subsistence gathering will be specified in the CC&Rs for Lā'au Point. The CC&Rs will establish policies that permit subsistence gathering and cultural practices, as well as permit the hiring of resource managers to maintain the subsistence lifestyle. Further discussion on subsistence fishing and gathering is presented in Section 4.2 on cultural impacts and mitigation.

Based on the community-proposed access plan (Appendix A, p. 105), protection of the offshore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Therefore, a ~~management plan will be~~ Shoreline Access Management Plan (SAMP)(further discussed in Section 4.3 and provided as Appendix B) ~~has been~~ developed and adopted to regulate (through legal and enforceable means) the use of the land and ocean resources to ensure the continuance of the resources for future generations.

The ~~proposed shoreline access management plan for Lā'au Point~~ SAMP consolidates public shoreline access to two locations at the proposed beach parks. The ~~shoreline access management plan would adopt~~ SAMP ~~adopts~~ protocol, rules, and permitted activities for persons engaging in subsistence shoreline fishing and gathering in ~~these~~ the expanded Conservation District shoreline ~~areas~~ area. ~~Mandatory~~ Under the SAMP, mandatory educational classes in traditional subsistence gathering and access responsibilities, safety and protocol ~~would also be~~ are required. Due to hazardous shoreline conditions toward Lā'au Point (USA Lighthouse parcel), public access to these areas would be discouraged. Access would be restricted to experienced subsistence fishermen only. Further discussion of the impacts upon marine and coastal resources as affected by shoreline access issues is presented in Section 4.3.

4.0 ASSESSMENT OF THE HUMAN ENVIRONMENT, POTENTIAL IMPACTS, AND MITIGATION MEASURES

This section describes the existing conditions of the human environment, potential impacts of Lā‘au Point, and mitigation measures to minimize any impacts.

4.1 ARCHAEOLOGICAL AND HISTORIC RESOURCES

Cultural Landscapes Hawai‘i conducted a series of archaeological studies and prepared mitigation plans for Lā‘au Point during the period 2001-2006. Their work consisted of historical background and archival research; inspection and survey of the parcel; mapping and description of site features; consultation with community groups and individuals; and analysis, interpretation, and reporting of all relevant data. The objectives of the archaeological mitigation plans are to:

- Reduce potential impacts of the Lā‘au Point project.
- Increase preservation as a cultural resource management goal by establishing a community Land Trust tasked with preserving natural and cultural resources within lands deeded to it.
- Create conservation easements and cultural overlay districts on privately held land.
- Develop codes, covenants, and restrictions for Lā‘au Point that would help preserve sites therein and establish procedures for a management partnership between the Lā‘au Point homeowners’ association and the Land Trust.

4.1.1 Historical Background and Settlement Pattern

The Kaluako‘i ahupua‘a, on Moloka‘i’s West End, is named for the pits and quarries (“lua”) from which adzes (“ko‘i”) were made. When Maui chief Kiha-a-Pi‘ilani ruled over Moloka‘i, he stationed his men in all of the coastal villages of Kaluako‘i to protect his rights to the ko‘i, and had a trail (KealapūpūoKihaaPi‘ilani) built for access and security over the quarries (Kaimikaua 1997). The historical trail runs from Mo‘omomi, around ‘Īlio Point, and to the south, through Pāpōhaku Beach, to Lā‘au Point, east to ‘Īloli in the south. This coastal trail was constructed with white shells (pūpūkea) to ensure safe nighttime travel.

One of the Moloka‘i chiefs who provided labor for the trail, Kamāka‘ipō, was immortalized in the name of the gulch and bay north of Lā‘au Point. Kamāka‘ipō Gulch exemplifies a mauka-makai settlement pattern system prevalent in the Kaluako‘i ahupua‘a. The gulches of Kaluako‘i are the foci of mauka-makai oriented landscape use. From north to south, the gulches and bays are where historic sites are clustered, and Kamāka‘ipō Gulch has an array of sites that remain relatively undisturbed. Between the gulches, the ridges and flatlands have relatively few traces of human presence.

The general gulch settlement pattern begins at the coasts. There are often multiple permanent habitations, fishing shrines, and abundant cultural deposits clustered around the bays. Inland of these, the lower gulches have a mixture of agricultural fields, temporary habitations, and work areas. Further inland, sites become more sporadic, and multi-function are less common. The

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complete mauka-makai system ends up in the summit region where there are numerous religious, habitation, agricultural, lithic, and other types of sites, but where the peaks and plateaus provide the foci for settlement. The mauka end of the gulch settlement system is often a source of stone quarried to make adzes and other tools.

When Europeans found the Hawaiian Islands, Western Moloka'i was not heavily populated. One explanation for the area's small population was that Moloka'i was a battleground in the struggles between Maui, Hawai'i, and O'ahu, and during the latter 18th century, lost much of its population to warfare (Menziess 1920). Another source indicates that O'ahu chief Peleioholani raided and burned Moloka'i in revenge for his daughter being killed on the island (Fornander, cited in Summers 1971). Regardless of the reasons, archaeological literature has accepted that Kaluako'i was a dry and thinly populated area.

Stokes (1909) stated that "inhabitants of the western end of Molokai deserted or were removed from their homes nearly half a century ago" (Stokes 1909:30), a period when Kamehameha V had begun ranching operations on the island. Stokes, after his 1909 survey also stated, "This part of the island [Kaluako'i] does not give any evidence of a dense population . . . It is probable that formerly, as now, coasts were periodically visited by the inhabitants of the rest of the island for the purpose of fishing, the waters there yielding very abundantly."(cited in Summers, p.40)

According to John Wesley Coulter in *Population and Utilization of Land and Sea in Hawaii, 1853* (1931), "Nearly all the western half of the island was uninhabited. There the semi-arid climate precluded successful agriculture."

Traditional wisdom among archaeologists has also concluded that this region would have been settled only after sweet potato was available, and after population densities had risen in the wetter areas, probably no earlier than about AD 1500 (Kirch 1985). Radiocarbon dates suggest somewhat earlier occupation may be possible, although the limited data make it hard to discern sporadic early use from a stable early habitation. An inland quarry yielded a radiocarbon date of AD 1260-1440, and the south Kamāka'ipō coastal site was dated between AD1410-1955. A subsequent, unpublished date from the 1991 excavations at Site 654, in a coastal imu that Weisler originally recommended dating, provided an even earlier date of AD 1019-1211, confirming the suspicion that coastal areas were used much earlier than they were permanently settled.

4.1.2 Archaeology

The Kaluako'i area, including Lā'au Point, had been surveyed and studied as early as 1909 when Stokes recorded ko'a (fishing shrines) on the coast at Kamāka'ipō (Sites 53 and 55), Lā'au (Site 58, destroyed by lighthouse construction), Keawakalani (Site 59), Kahalepōhaku (Site 61), Pu'u Hakina (Site 62), and Kalalua Heiau (Site 67).

Bonk (1954) excavated a fisherman's house site at Kamāka'ipō (Site 54). Strong (1971) documented four more house sites at Kamāka'ipō and a variety of associated features, including ahu (stone mounds), shrines, ko'a, a stone pile, and scatters of midden and artifacts strewn on the surface.

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In the early 1980s, Weisler (1984) surveyed coastal southwest Moloka'i, locating and discovering 11 sites (Sites 53 through 56, 655, 118, and 1134). Weisler's study in the 1980s focused on some sites he documented, and although he was aware that more existed, it was the size and quality of the 11 mentioned that caused him to nominate them for inclusion in the National Register of Historic Places (NRHP) as the District (which then got one all-inclusive number, 803). A notable outcome of Weisler's work was the creation of the Southwest Moloka'i Archaeological District (Site 803), which included Sites 53, 54, and 56. This district is now on the State of Hawai'i and National Registers of Historic Places, meaning that the sites within it are afforded additional protection.

A Bishop Museum survey of 6,350 acres of southwest Moloka'i encountered numerous features (Dixon and Major 1993). The Bishop Museum survey covered a larger area, and included not just major sites such as those documented by Weisler, but also things as small as a concentration of a few basalt flakes. For these reasons, the Bishop Survey documented 596 features in 163 sites. This survey provided the most complete coverage of the area to date, and reinforced the settlement pattern system of sites clustering around bays and gulches, as described in the previous section. The extensive survey area, however, also revealed a surprising number of large multi-roomed enclosures near the 100-foot elevation, such as the Sites 771-773 complex, which went against the previous model that inland features were marginal.

The proposed Lā'au Point access road corridor runs past a former military target range, leased by the US Government from Molokai Ranch between 1944 and 1965 (Burtchard 2000). The largest feature of the range was a large circular target (about 600 meters in diameter) comprised of three concentric earth and rock rings. Facilities included targets, cement observation bunkers, a range control tower, a munitions dump, and another possible communications tower. Archaeological reconnaissance of the area by Burtchard and Athens (2000) revealed 27 sites, five of which are near the proposed Lā'au Point access road corridor (Sites 520, 1784, 1758, 1760, and 1761).

The Lā'au Point parcel contains numerous known archaeological or historic features, including burials, heiaus, habitation sites, and complexes, with some areas having higher concentrations of features than others. Figure 10 12 shows the location of sites within the project area and the complete Archaeological Mitigation Plans in Appendix E include inventory lists of recorded State archaeological sites in the project area and vicinity.

Based on known excavations, subsurface deposits in southwest Kaluako'i can be expected to yield small to moderate amounts of cultural materials, although a few spots in intensive lithic workshops or long-term habitations may have abundant deposits. Coastal dunes and alluvial flats, where they have not yet been disturbed by erosion, may have extensive subsurface deposits. It is expected that subsurface deposits will show that the boundaries of some sites defined by surface features in the past area are actually larger; that is, the buried deposit may extend beyond visible surface features. It is not expected that many buried cultural deposits beyond the coastal flats and other known sites such as the agriculture based in gulches or quarrying locales will be found.

Subsurface deposits are most likely to be found in and around sites on the coast, from the high water mark to the base and top of the first ridge or cliff. Certain landforms also have a higher probability of having buried cultural deposits, based on their geomorphology, soil depths,

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proximity to surface archaeological sites, proximity to resources (water, agricultural soil, sources of various types of stone used for various purposes), proximity to old trails, and lack of erosion.

Archaeological projections are shown in the map and text sent to the Cultural Committee during the planning process for the Master Plan. Essentially, these are predicted deposits only at the most general level. For example, all of the coastal flat, up to any flat land immediately atop ridges or cliffs mauka of the coastal flat, are "high probability," whereas former pineapple fields and areas eroded down to hardpan are "low probability." These projections also suggest relatively high probability in gulches and along their rims, as well as the summit region from Maunaloa town east to Pu'u Nānā and Kā'ana. These projections played a part in the establishment of the Cultural Protection Zones, expansion of the Conservation District, and the Cultural Resource District overlay.

POTENTIAL IMPACTS AND MITIGATION MEASURES

MPL is committed to preserving known archaeological sites and complexes in the project area. As a result of the archaeological work and the two year involvement of the Cultural Committee and the larger community within the *Community-Based Master Land Use Plan for Molokai Ranch* process, approximately 1,000 acres of "Cultural Protection Zones" were identified to denote areas where groupings of archaeological and historic sites exist, such as the archaeological preserve (approximately 128 acres) to be created at Kamāka'ipō Gulch (see Figure 40 12). As noted throughout the Preservation Plan contained in Appendix E, the plan was developed with significant community input during the course of the community based planning process for the Master Plan and through the work of our archaeologist. The creation of Cultural Protection Zones, to be managed by the Land Trust, increases both continued community involvement and preservation of cultural landscapes rather than only individual sites, which represents a great advance not just in acreage, but in diversity and intensity of preservation actions. In their July 5, 2006 comment letter on the EISPN, OHA stated: "Because many known archaeological sites exist within this property, it is likely that more will be found, ...the area is more of a cultural property than a property containing cultural sites." The creation of Cultural Protection Zones acknowledges this concept and implements protection of cultural landscapes rather than only individual sites.

In their July 5, 2006 comment letter on the EISPN, OHA stated: "Further consultation also may show that view planes must be preserved between existing heiau and other cultural sites." The archaeological preservation plan provides for a buffer with a radius of nine meters to extend from burials and heiau. In the case of ko'a shrines, an additional aspect of the buffer will be a requirement to keep an open view plane toward the ocean. In the case of the Mauka-Makai preserve at Kamāka'ipō, the entire area will be a buffer, so that the overall character of the cultural landscape will be preserved.

Access roads and the rural-residential lots will not affect cultural resources since plans are to avoid Cultural Protection Zones and archaeological sites. Depending on the nature of the archaeological sites, mitigation measures such as buffers, permanent boundaries and easements, and interpretive signs will be established to protect and preserve sites. It is expected that the project will not have adverse effects to archaeological sites. The residential community will not encroach on Cultural Protection Zones and strict cultural resource management measures (discussed below) will be implemented.

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To ensure proper resource protection and management in the project area, mitigation efforts will include: 1) the establishment of the Moloka'i Land Trust, an organization tasked with preserving natural and cultural resources within lands deeded to it; 2) conservation easements and cultural overlay districts on MPL lands; and 3) CC&Rs for the Lā'au Point project that would help preserve sites therein and establish procedures for a management partnership between the Lā'au Point homeowners' association and the Land Trust.

MPL has committed to maintain or expand upon previous preservation measures as the landowner's plans have changed in response to the community becoming more involved in the process. It is recognized by MPL that TMK 5-1-008 (Pāpōhaku Ranchlands) does not yet have an adequate inventory survey. MPL will survey the Pāpōhaku Ranchlands parcels that will be affected by the road corridor through the area. This commitment does not extend into TMK 5-1-02-030. Prior to construction, the archaeologist will re-examine the road corridor and verify descriptions of known sites, gather additional data if possible, and search for unrecorded archaeological deposits or features observable due to changes in surface visibility. After the road corridor ~~re-survey~~ re-examination and supplemental data collection, the proposed subdivision lots and coastal zone will be also be ~~re-surveyed~~ re-examined, following the same methods for investigating and recording sites as described for the road corridor. Additional survey work will be done prior to designation of the road corridor in order to design the corridor to avoid significant sites. Inventory work will be performed in accordance with the Preservation and Monitoring Plans during the road construction period.

Archaeological sites will be treated in one of three ways: preservation, data recovery, or no action. Preservation means avoiding damage to the site whether treatment is passive (avoidance) or active (stabilization, interpretation, and other measures). Data recovery pertains to sites that are significant for their information only, and covers actions such as mapping, excavation, and surface collection that adequately gather that information. No action is planned for those sites that were deemed not significant in the 1993 Bishop Museum inventory report, such as sites that had been so badly damaged as to eliminate the possibility of determining their original form or salvaging meaningful data.

After the ~~re-surveys~~ re-examinations of the road corridor and project site, short-term site preservation measures will be implemented, such as establishing protective buffers and emergency stabilization. Then, data recovery and long-term preservation measures will be implemented. During construction, monitoring by an approved archeologist will occur. In their July 5, 2006 comment letter on the EISPN, OHA requested that "an archaeological monitor be on-site during all excavation and ground disturbances for this project." The archaeological mitigation plan has been submitted to the State Historic Preservation Division (SHPD) for review. The monitoring plan submitted to SHPD includes a provision for an archaeological monitor to be on-site during all construction activities, including excavation and/or ground disturbances.

The Preservation Plan, Burial Treatment Plan, Monitoring Plan, and Data Recovery Plan are contained in Appendix H. By letter February 13, 2007, SHPD has approved the Data Recovery Plan contained in Appendix H. The other three plans will be submitted in a revised form to SHPD in the near future. The Archaeological Plan in the Draft EIS has been replaced in its entirety by the four aforementioned plans.

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Traditional gathering rights and access will not be restricted during construction, except as necessary to ensure safety. In the event access is prevented for safety reasons alternate access routes will be provided.

Finally, MPL and its contractors will comply with all State and County laws and rules regarding the preservation of archaeological and historic sites. Should historic remains such as artifacts, burials, concentrations of shell or charcoal be encountered during the construction activities, work will cease immediately in the immediate vicinity of the find and the find will be protected from further damage. The contractor shall immediately contact the State Historic Preservation Division, which will assess the significance of the find and recommend appropriate mitigation measures, if necessary. ~~The Moloka'i Burial Council will also be notified of any newly found burials.~~ Should a possible burial be encountered that cannot be planned around, SHPD and OHA will be consulted prior to any testing of the burial.

4.2 CULTURAL RESOURCES

Davianna McGregor, PhD, professor of Ethnic Studies at UH Mānoa, conducted a cultural impact ~~study~~/assessment of the Lā'au Point site. The cultural impact ~~study~~/assessment is summarized below. Appendix F contains the full study.

4.2.1 Cultural Historical Overview

Cultural resources and subsistence practices are usually examined in relation to a particular island, district, and ahupua'a. An ahupua'a runs from the sea to the mountains and contains a sea fishery and sea beach, a stretch of kula or open cultivable land and higher up its forest. For this project area, the island is Moloka'i, the district is Kona and the ahupua'a is Kaluoko'i in West Moloka'i, and includes the nearshore resources out to one-quarter mile from the shoreline or to the outer edge of the reef.

During the time of early Western contact in the Hawaiian archipelago, Westerners viewed Kaluoko'i as an arid and sparsely inhabited land (previously discussed Section 4.1). There were few Native Hawaiians spotted living in this ahupua'a. Therefore, Westerners often regarded the valleys and streams of Mana'e as the more important part of the island. Beyond their grasp was that "Moloka'i pule o'o (Moloka'i of the potent prayers)," a "figurative reference to Moloka'i's fame in sorcery" (Pukui and Elbert 1957: 266; cited in Summers: 15), was a spiritual island, an island of mana. Halona Kaopuiki shares with us the mana of Moloka'i.

"... when you look at Molokai, when you look at the island, it's a mo'o, it's a mama lizard, and all the valleys is the babies, that she is carrying on her back, of Molokai. My father use to tell us, where the mana stay, where's the defense of the lizard, the mo'o? The tail, the West End!" (Enos et.al., 2005:24)

Without the mo'olelo (traditional story), the place names, and an understanding of the cultural uses and practices of Kaluoko'i, the mana of Kaluoko'i would have remained displaced by these Westerner's first impressions.

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The ahupua'a of Kaluako'i has, and still is well known today, for its vast marine resources, especially Penguin Banks located on the eastern portion of the south coast, off of Kapukuwahine. Along the boulder coastline were habitats for edible mollusks such as 'opihi, pupu'awa, pipipi, and a'ama crab, while in the nearshore area algae were abundant with a variety of species, including the edible seaweed, limu kohu (Army Corps of Engineers 1984; cited in Weisler 1984b: 9). There is also moi and aholehole, 'opihi and 'a'ama crab on the south shore. The 'opihi starts at Kapukuwahine on the south shore and out on the cliffs along what they refer to as 'Opihi Road. The western shore is known for moi, aholehole, and lobster. The southwest shore from Hale O Lono to Pālā'au also factors into the life cycle of the mullet, serving as a hatchery area from which they move east to Mana'e or East Moloka'i (McGregor 2006).

Due to the importance of fishing and the marine resources found on and off the shores of Kaluako'i, ko'a, or fishing shrines, were abundantly found up and down the entire coastline along with a myriad of heiau and burials. Maui ali'i Kiha'a Pi'ilani constructed a coastal trail, "Kealapupu i Moloka'i" (The shell road at Moloka'i), making it possible for the kanaka maoli of Kaluako'i to access the coastline. This trail was lined with shells to ensure safe travels at nighttime, thus further alluding to the vital significance of the marine resources.

Mo'olelo of Lā'au Point – There are three versions of how "Lā'au Point" was named. The first comes from Harriet Ne, a kupuna of Molokai who was the source for Tales of Molokai. The subsequent versions can be found in Summers (1971: 54) who compiled and provided a complete listing of known sites for *A Site Survey of Molokai*.

The first story comes from a legend involving the shark god of Kainalu (Ne 1992). The shark god left his home off of Moloka'i and traveled to Kaua'i. Romping in the ocean with the shark god of Kaua'i, a large floating branch from a hau tree got stuck on the Moloka'i shark's back. As he swam back toward Moloka'i, the branch came loose and washed ashore off of the southwest point. The people on the beach saw it float ashore and took the branch to a fertile bit of land and planted it. Their chief, Kuama, said they should call the place Ka Lae O Ka Lā'au (the Point of the Branch). The tree that grew from the branch was short and sprawled close to the ground. The beautiful blossoms were offered by the people of Moloka'i to their gods.

The other two stories involve Palila, the Kaua'i hero who, with a spear (lā'au palau) given to him by the gods, leapt to Kiha a Pi'ilani, a Moloka'i hill, and there attracted all the women; the angry and jealous Moloka'i men fought him. His club lost its mana to the gods of Moloka'i, and so he threw it away; it landed on this cape (Lā'au Point).

It is also noted that the area from Lā'au to Pālā'au attracts fish. It has a lot of moi holes, kole, aholehole. That place was called Po'o Lo'ulo'u, a name special to Moloka'i which means turbulent - a metaphor for the wealth of Moloka'i—a place for the gathering of fishes. It was a special place for Ku and Hina—Kane and Wahine. There were heiau. The fish spawning begins at Pālā'au. The 'iole, the hatchlings would stock the fishponds.

Cultural Significance of Lā'au Point – In Hawaiian tradition, lae, or points of land into the ocean, are culturally significant. As a feature, the lae includes not only the point itself, which can be visualized as a nose on a face, but also the forehead, the land formation from which the point juts out into the ocean. The community refers to the lae, or points along the south shore, using

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numbers - first point (Kanalukaha), second point (Kapukuwahine), third point (Kahalepōhaku) and fourth point ('Opihi Road).

A large part of the significance of the Lā'au Point area is that it is raw and untouched. It is so isolated that most of the residents of Moloka'i may have never been there and may have no direct experience with the place. This factor gives Lā'au an almost mythical quality. Lā'au Point has become an icon of what Moloka'i represents – a rural stronghold and reserve of Native Hawaiian culture, a cultural kipuka. If Moloka'i is “The Last Hawaiian Island” then Lā'au is one of the last untouched Hawaiian places on “The Last Hawaiian Island.”

It should be noted that while the development is called Lā'au Point rural-residential subdivision, that Lā'au Point itself, is not part of the development. It is not owned by MPL, but by the U.S. federal government, which owns and manages a lighthouse for navigational safety within a 51-acre parcel.

Hawaiians consider the land and ocean to be integrally united and that these land sections also include the shoreline as well as inshore and offshore ocean areas such as fishponds, reefs, channels, and deep sea fishing grounds. Coastal shrines called fishing ko'a were constructed and maintained as markers for the offshore fishing grounds that were part of that ahupua'a.

4.2.2 Focus on Subsistence

Throughout the islands of Hawai'i, subsistence practices thrive in particular rural Hawaiian communities. Surrounding these communities, are pristine and abundant natural resources in the ocean, the streams, and the forest. This is largely due to the continued practices of aloha 'aina/kai (cherish the land and ocean) and malama 'āina/kai (care for the land and ocean).

On Moloka'i, subsistence is the customary and traditional uses of wild and cultivated renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, transportation, culture, religion, and medicine; for barter, or sharing, for personal or family consumption and for customary trade.
(Governor's Task Force on Moloka'i Fishpond Restoration)

Many families on Moloka'i, particularly Hawaiian families, continue to rely upon subsistence fishing, hunting, gathering, or cultivation for a significant portion of their food, or to supplement their daily needs. The practice of subsistence is also a valuable economic tool that allows individuals and families to survive, particularly in communities like Moloka'i, where employment opportunities are limited and often times seasonal. Subsistence has contributed to the persistence of traditional Hawaiian cultural values, customs, and practices. Subsistence practitioners respect and care for the surrounding natural resources. They only use and take what is needed. They allow the natural resources to reproduce. Cultural knowledge, such as about place names, fishing ko'a, methods of fishing and gathering, or the reproductive cycles of marine and land resources, were passed down from one generation to the next through training in subsistence skills. The sharing of foods gathered through subsistence activities continued to reinforce good relations among members of extended families and with neighbors.

An inherent aspect of traditional subsistence is the practice of conservation to ensure availability of natural resources for present and future generations. Traditional subsistence practitioners are

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governed by particular codes of conduct that are intended to ensure for the future availability of natural resources. Rules that guide behavior are often tied to spiritual beliefs concerning respect for 'āina, the virtues of sharing and not taking too much, and a holistic perspective of organisms and ecosystems that emphasizes balance and coexistence. The Hawaiian outlook which shapes these customs and practices is lōkahi, or maintaining spiritual, cultural, and natural balance with the elemental life forces.

In the summer of 1993, the Governor's Moloka'i Subsistence Task Force met with subsistence practitioners in focus groups to map sites important for fishing, ocean gathering, hunting, forest and stream gathering, gardening, raising animals, and trails to access the resources (see Page 59 of Appendix A). The map shows that the entire coastline of the MPL lands is important for subsistence fishing and ocean gathering. It also indicates that the MPL lands are very important for subsistence hunting. Forested areas on MPL lands are also accessed for subsistence gathering.

Hawaiians engage in subsistence and related practices more than other ethnic groups. This finding reflects the importance of subsistence to this group and the perpetuation of culture through subsistence activities. It is important to note that other groups (e.g. Filipinos, Japanese) engage in subsistence, although not at the same level as Hawaiians (Governor's Moloka'i Subsistence Task Force 1994).

4.2.3 Oral History and Interviews

The purpose of conducting oral history is to help gather knowledge about historic and traditional land use practices, including subsistence activities, that existing data do not contain. Understanding what areas were accessed, and for what reasons, can provide an overview of traditional uses and practices there, that can lead to a prediction of the cultural impact of a proposed project.

For the cultural impact assessment, community meetings were held island-wide to discuss cultural resource issues. The agenda for these meetings included: 1) Reviewing plans and maps of Conservation District shoreline setback, cultural sites protected areas, subsistence fishing, gathering, and hunting zones in relation to the proposed project; 2) Identifying additional resources and protection measures; and 3) Discussing the Water Plan. In addition, individuals were interviewed about their experience and knowledge of Lā'au Point. Individuals were asked about their knowledge of natural and cultural resources in the area, their subsistence and cultural activities there, the impact of the proposed development on the identified natural resources and their activities, their concerns about the water plan, and their overall assessment of the project.

A general synopsis of these interviews is provided below. The full Cultural Impact Assessment Report, including anecdotal information obtained during the study, is provided as Appendix F of this EIS.

In Hawaiian tradition, Lā'au Point represents a point of no return. For those traveling by canoe from O'ahu to Moloka'i across the Kaiwi Channel, once Lā'au Point is sighted, there is no turning back to O'ahu. This concept has been generally applied to the issue of the Lā'au Point project. Many Moloka'i residents feel that if the west and south shores adjacent to Lā'au Point are developed as proposed, that this will open up Moloka'i to new residents unfamiliar with the

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culture and way of life on Moloka'i and lead to irreversible cultural change. Most informants' concerns focused on the project's potential impacts to valued natural, cultural, subsistence, and spiritual resources.

Subsistence Fishing and Gathering – Participants in community meetings and interviews spoke of the south and west coasts adjoining Lā'au Point and the nearshore water as their “icebox.” It is a place where fishermen usually go to get fish, 'opihi, and crab for parties and gatherings of their large extended families.

Due to the seasonal ocean swells, the south shore is usually harvested in the winter time when there are north swells and the west shore is usually harvested in the summer time where there are south swells. Interviewed participants (informants) also spoke of the ocean as being very treacherous and not safe for swimming; there is a very strong current off of Lā'au Point, which has swept even the best divers out to the open ocean.

Traditionally, Lā'au Point was not a place that was fished on a regular basis because it is isolated and difficult to reach. However, the increased use of boats on Moloka'i and O'ahu has changed this. Informants noted that the resources have declined in the area with heavy seasonal harvesting by boaters from O'ahu and the opening of Hale O Lono Harbor and Kaluako'i as closer launching points to Lā'au Point for Moloka'i boaters.

Persons interviewed stated that they feel the project will spoil the experience of fishing in what is now an isolated, pristine, and spiritual area (Lā'au Point). Many informants felt that the proposed Lā'au Point project will greatly hinder, if not abolish altogether, ongoing traditional gathering activities currently enjoyed at Lā'au Point. A concern was the lack of privacy the subsistence fishermen would get if homes are built along the shoreline. In order to succeed, throw net subsistence fishermen require an undisturbed beach that allows fish to forage closer inshore. Gatherers of 'a'ama crabs require dark silent nights to ensnare their nocturnal prey. Gatherers of limu and pupu may be met with kayakers in the water, people sunbathing on the beach, and pet animals running up and down the shoreline. The sentiment from subsistence practitioners is that newcomers will be insensitive and intolerable of subsistence activities in what is perceived to be their front yards.

Most informants feel that the new residents will probably not directly damage the fishing grounds because they will not know how to fish. Rather, they believe the real impact on the fishing resources is from boaters. When the outboard motor and twin outboards came out at affordable prices, the Honolulu boats came fishing all along the west end and south shore. Honolulu commercial fishermen over fish the lobster and fish grounds, even the eggs, according to informants. Equally devastating to the resources has been over fishing by Moloka'i boaters as well.

Subsistence Hunting – The major hunting areas on Ranch lands, including the Lā'au Point parcel, are currently reserved for commercial hunting, and closed to subsistence hunting. Informants acknowledge that there is poaching of deer, but not as far out as the project area, except by illegal trophy hunters for prize money. The project area is thick with kiawe and lantana and inaccessible by land. While deer find refuge there, it is not a regularly hunted area.

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Hunters are concerned that the new landowners will not want to hear shooting and may be protective of the deer and oppose even bow hunting. Deer hunting could become an animal rights issue. Bullets can travel four miles, so there will need to be a sufficient buffer zone. The overall hunting area will be reduced by the no hunting zone in the project area, in addition to the necessary buffer and safety zones.

Cultural Resources and Practices – Informants are concerned that cultural sites will be destroyed during grading and clearing of the land for development. At Pāpōhaku, some homeowners have graded and damaged dune systems and destroyed cultural sites and burials located in the dunes. Some have extended their household area into the conservation zone, treated it like their own private property and tried to exclude Moloka'i residents from the public beach area fronting their homes. Informants feel the same process can occur at Lā'au Point.

In addition to natural resources utilized for subsistence, informants spoke of other natural resources which have cultural significance such as native plants, native species of turtles and monk seals, and the simple unspoiled natural beauty of the undeveloped seascape. Informants expressed concerns about the disturbance to the monk seals from construction or from new landowners who have dogs.

Spiritual Resources – The Lā'au area is generally regarded as a special place of spiritual mana and power. Community participants and key informants spoke of specific burials, fishing ko'a, and heiau. Such specific sites are documented and described in Section 4.1 (Archaeological Resources) of this EIS.

The overall general concern is that the development of the area will destroy the special quality of Lā'au as a special place of spiritual mana and power. The overall spiritual quality of the Lā'au area as a wahi pana and wahi kapu cannot be quantified and deserves recognition and respect.

Water – For many participants in the community meetings, water is the primary cultural resource. They feel that drawing brackish water out of the Kākahale Well, as proposed by the project, will have a huge impact on the culture and way of life on Moloka'i. They expressed concern that the additional water proposed to be drawn out of the Kākahale Well, even if it is brackish, will strain and diminish the water table on Moloka'i, increasing salinity levels of ocean discharge and in neighboring wells. They refer to findings in the Waiola Well Water Use Permit contested case before the Hawai'i State Commission on Water Resource Management which examined the potential impacts of withdrawing groundwater and affecting shoreline seepage on nearshore marine resources makai of Kākahale.

Hawaiian homesteaders, especially those with lots in Ho'olehua, feel that the greatest cultural impact of the Lā'au Point project is the MPL Water Plan (discussed in Section 6 of Appendix A and Section 4.9.2 of this EIS). They feel that the withdrawal of an additional 1,000,000 gallons per day of brackish water from the Kākahale Well will take away water that the Department of Hawaiian Homelands (DHHL) will need to support future expansion of agriculture and residential lots on their Moloka'i lands. Hawaiian homesteaders have the first preference for water from the Moloka'i aquifer.

4.2.4 Cultural Assessment

The cultural impact assessment has been designed to fulfill the mandate to the Land Use Commission from the Hawai'i State Supreme Court in its ruling, *Ka Pa'akai O Ka 'Aina v. Land use Commission, State of Hawai'i*. 94 Haw. 31 (2000). The specific section of the ruling that served to guide the development of the report is as follows:

In order for the rights of native Hawaiians to be enforceable, an appropriate analytical framework for enforcement is needed. Such an analytical framework must endeavor to accommodate the competing interests of protecting native Hawaiian culture and rights on the one hand, and economic development and security, on the other.

This assessment provides an analytical framework for decision-making which must endeavor to accommodate the competing interests of protecting native Hawaiian culture and rights on one hand, and economic development and security, on the other. Those responsible for the future of the land and natural resources of Moloka'i must weigh the cultural impacts and the benefits of the proposed development in consultation with the people of Moloka'i who depend upon these resources for subsistence, cultural, and spiritual purposes. In particular, the kama'āina families who have lived in Maunaloa and the Kaluako'i ahupua'a for generations and the long time employees of Molokai Ranch and their relatives have been the primary users of these resources and will be the most directly affected by the proposed development.

In general, of those people that were interviewed for the cultural impact assessment and those who came to cultural assessment community meetings, many expressed reservations about the proposed development. There were no enthusiastic advocates and the most vocal were opposed to the development.

Interestingly, the Maunaloa community and longtime employees of Molokai Ranch, people who have the most direct and longtime experience with the project area, are concerned and reluctant about the development, but are more willing to acknowledge and support the right and the need of the Ranch to seek the development. They felt that the negative impacts could be managed if the development would conform to the strict covenants, conditions and restrictions outlined in the *Community-Based Master Land Use Plan for Molokai Ranch*. They are confident that their community can work together with the project's resource managers to provide stewardship over the marine resources that they rely upon for subsistence. They also felt that the negative impacts would be offset with the gifting of important legacy lands to the community. The Maunaloa kupuna felt that the overall Plan, of which Lā'au Point is a part, provides for the community to manage and monitor the proposed development.

In addition, many longtime adversaries of Molokai Ranch, who were involved in developing the Plan, were willing to allow the project to proceed under guidelines and conditions agreed to over the course of a two-year planning process. For them, it was a process of negotiating a lasting settlement of a thirty-year struggle with Molokai Ranch over extravagant development schemes and the extractive use of millions of gallons of water. The proposed Lā'au development was difficult for some of them to accept and at that point some withdrew their support. However, the majority of the planning group persisted in their support for the overall Plan as a reasonable and balanced approach that empowers the community to manage premier Native Hawaiian legacy

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lands, control population growth and land speculation, and monitor the one last major development on Molokai Ranch lands. Moreover, the Plan revolves around the management of natural resources for subsistence, cultural, and spiritual purposes.

POTENTIAL IMPACTS AND MITIGATION MEASURES

There will be impacts from the Lā'au Point project. The vacant Ranch land at Lā'au Point will be developed into rural-residential lots. New residents at Lā'au Point may not be originally from Moloka'i and may not understand the Moloka'i lifestyle and subsistence practices. New homes at Lā'au Point will require water. Commercial hunting will close by the end of 2007, which will open areas on Molokai Ranch lands for subsistence hunting. Limiting access along the shoreline to foot access will open up access sufficiently that it might impact the resources, as the entry points through the proposed park sites located at each end of the project will be closer for those who now walk from Hale O Lono or Dixie Maru. If the access is easier, there will be more fishing and gathering.

To mitigate the overall impacts of the Lā'au Point project, the *Community-Based Master Land Use Plan for Molokai Ranch* provides measures that set unique precedents. These precedents are related to community planning, the creation of a Land Trust for the community, the donation of legacy lands to the Land Trust, the donation of easements to the Land Trust, and the protection of subsistence fishing, gathering, and hunting. The Plan also provides for CC&Rs that Lā'au Point homeowners will need to accept and agree to uphold in order to purchase a lot.

A total of 26,200 acres or 40 percent of Moloka'i Ranch lands will be donated to the Moloka'i Land Trust, who has the unique mission of:

- Protecting historic cultural archeological sites.
- Preserving the precious natural and environmental resources.
- Enhancing indigenous rights through the protection of subsistence gathering.

The donated lands include premier Native Hawaiian legacy lands and contain many subsistence resources. The lands include:

- The ancient burial ground in the sand dunes at Kawa'aloa Bay. This is one of the most famous and largest burial grounds in all of the islands. At one time, the Ranch allowed the mining of sand here and disturbed the burials. The Ranch also planned to develop a resort here. Now, these sacred grounds will be permanently protected under the Land Trust.
- Ka'ana, the birthplace of the hula, which originated on Moloka'i and spread to other islands. This sacred site will never be destroyed or commercialized.
- Nā'iwa, the only intact traditional makahiki grounds in the islands. This extensive area was once threatened by the development of a golf course. It will now be protected forever.
- Village sites at Kawakui, which could be under threat from the current designation in the Moloka'i Community Plan, will now be permanently protected.
- Burial mounds at Kawela, which at one time were threatened by development, will be protected under the Land Trust.
- Key subsistence fishing grounds from Keonelele to 'Īlio Point and from Pālā'au over to Hale O Lono, including Hālena and Kolo.

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- The historic Pāka‘a house sites, upland sweet potato gardens, and connecting trails.
- Pu‘u of Kaiaka, which was saved from development.
- Kamāka‘ipō Gulch will be preserved.
- Cultural sites used for spiritual customs and practices such as fishing ko‘a and heiau, as well as iwi kupuna or burials will be protected as discussed in the previous section on archaeological resources (Section 4.1).

Mitigation measures for impacts to subsistence activities include the recognition of Native Hawaiian subsistence rights, and protecting for the community, the hunting and fishing resources of the island. Under the *Community-Based Master Land Use Plan for Molokai Ranch*, MPL, Moloka‘i Land Trust, the homeowners, and the broader community will work together as follows:

- Seek to establish a subsistence fishing zone (see Appendix A, p. 59), which will not require special legislation to be enacted by the State legislature (as previously discussed in Section 2.3.7). The zone would encompass the areas stretching from the shoreline to the outer edge of the reef on the Southern coast, and where there is no reef on the western shoreline, out a quarter-mile from the shoreline along the 40-mile perimeter of MPL’s coastline property. The subsistence fishing zone for Lā‘au would be modeled after the Hui Malama O Mo‘omomi Subsistence Fishing Zone which has proven to be most successful in protecting the coastal resources at Mo‘omomi. As with the Mo‘omomi Community-Based Subsistence Fishing Management Area, the objectives are: 1) Regulate fishing activities that are incompatible with sustainable use of marine resources in the marine waters and submerged lands traditionally utilized for subsistence; 2) Prevent depletion of subsistence fishery resources by managing on the side of caution; 3) Maintain and restore customary fishery practices that are consistent with subsistence uses and values; 4) Establish a cooperative management system in which authority and responsibility are shared by the fishing community and the State of Hawai‘i and there is a fusion of customary management practices with contemporary government regulations; 5) Train volunteer resource managers, recruited from the community, to monitor harvesting activities and resource conditions and assist the State of Hawai‘i in enforcing regulations in the management area; 6) Design and implement an educational program to perpetuate subsistence fishing methods and values through initiation of novice fishermen of the young generations; 7) Integrate local knowledge of natural history and fishermen’s experience with conventional scientific data collection to monitor and manage the fishery (“Proposal to Designate Mo‘omomi Community-Based Subsistence Fishing Area,” Northwest Coast of Moloka‘i, Hui Mālama O Mo‘omomi, April 1995, p. 5).
- End commercial hunting (commercial leases expire 2007), and allowing only subsistence hunting on the property.
- Ensure access to the shoreline will be available only by foot.
- Establish demonstration fishing nurseries/kapu sites to insure reproduction of key subsistence food species (e.g. ‘opihi, moi, mullet, limu, lobster, ulua, uhu he‘e).
- Support protection for Penguin Banks from overfishing.
- Each year, an experienced Resource Group, comprising Maunaloa subsistence practitioners and the Land Trust will recommend open areas for subsistence fishing based on protecting and not depleting the resources.
- Those provided access to fish and gather once the community-based subsistence fishing management zone is established will be asked to take an educational course on traditional

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fishing methods, practices and conservation measures that will be offered by the resource managers, with guidance by the Maunaloa residents.

- Erect a fence to demarcate private property from public access area. All of the informants felt that it is important to have a clear physical demarcation, such as a log fence, running along the individual property lines to distinguish between private property and the public access area. By putting in a fence of some kind the public will know the boundary.
- Establish an access trail that would follow the contour of the old traditional trail as much as possible. Existing kiawe would serve as a buffer between the trail and the sand and ocean. This can help reduce impact of the trail on the beach and ocean. The trail will be unpaved and only for walking (no cars, ATVs, or bicycles). Because of community concerns about how kiawe drain water from this dry part of the island, selected pruning may be necessary to enable the re-establishment of native plants in the Conservation areas.

Regarding concerns to water, MPL is currently working with the Department of Hawaiian Homelands (DHHL), the County of Maui Department of Water Supply (DWS), and the US Geological Survey (USGS) to comprehensively evaluate Moloka'i's long-term water demands and resources. It is expected that many of Moloka'i's water issues will be addressed by a comprehensive modeling analysis. Although the specifics of the water resource issues and modeling analysis have yet to be identified, MPL has long acknowledged publicly that its water use would yield to DHHL's priority first rights to water. Further mitigation measures for potential water impacts are discussed in Section 4.9.2 of this EIS.

An overall concern is that the development of the area will destroy the special quality of Lā'au as a special place of spiritual mana and power. The overall spiritual quality of the Lā'au area as a wahi pana and wahi kapu cannot be quantified and deserves recognition and respect. The Lā'au Point project will have an impact upon the solitude and spiritual resources now existing. That impact can be minimized, however, reinforcing the importance of having the homeowners learn from the Moloka'i community about the area's uniqueness. The Plan calls upon the leadership of the Moloka'i Land Trust to bring various sectors of the community together in a working relationship to ensure the spiritual, physical, and natural resources of the area are properly cared for.

The intended locations of the house lots and protection of cultural sites will also serve to create a sense of respect for the area. For example, it is important to note that the 200 homes will be on relatively large lots (approximately two acres each) which provides for a very low-density rural community. Homes will be sited appropriately to avoid a dense urban-like development. Further, with a projected average occupancy of approximately 30 percent (as discussed in Section 4.8.1 Population), there will be relatively few residents in the area.

The establishment of Cultural Protection Zones (as discussed in Sections 2.3.1 and 4.1) will protect the spiritual quality of important cultural complexes, such as at Kamāka'ipō Gulch. Limiting access to a walking trail and providing a clear demarcation between the private lots and the general public access areas can help protect the integrity of the shoreline and mitigate the impact of the house lots.

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4.3 TRAILS AND ACCESS

An essential aspect of Native Hawaiian cultural and subsistence practices are access routes to reach subsistence and cultural resources. Maps produced by M.D. Monsarrat for the Hawaiian Government Survey in 1886 and 1897 clearly show a trail going from Kapālauo'a near Mo'omomi to 'Īlio Point and from 'Īlio Point along the west coast to Lā'au Point.

When the Cooke family owned Molokai Ranch until 1988, access to the west and south coastlines adjacent to Lā'au Point was limited to the Cooke family and the Ranch stockholders. Ranch employees could go hunting and fishing on the whole West End under a pass system.

Currently, a subsistence committee comprising of senior Molokai Ranch employees, most of who are from the Maunaloa community, manages permitted access by Ranch employees. Guided access is also provided to hotel guests and guests of out-sourced commercial operators who offer a range of approved recreational activities on the Ranch. Employees and their families usually camp out on weekends. However, employees who are off on weekdays can go during the week, provided access at that time is approved by the employees' committee. They are limited to two or three vehicles and ten adults. ATV's and motorcycles are not allowed. Families can go only once a month to give everyone a chance. Gathering is allowed for parties, and there is a three-gallon limit on 'opihi.

The Lā'au Point coastline offers a total of approximately 5.2 miles of shoreline from Hale O Lono Harbor to Kaupoa Beach. Stretches of white sand beach are broken by large, rocky outcroppings. The lava rock bluffs are generally steep and difficult to negotiate. The opening of public access to Hale O Lono Harbor increased access to the south shore out to Lā'au Point – both by foot and by boat. While it is still a long walk from Hale O Lono along the south coastline to Lā'au Point, it is closer than what it had been. Hale O Lono also provides a closer point for boats from Moloka'i to launch and get to the fishing grounds and 'opihi covered rocks of the south coastline.

The opening of Kaluako'i and Pāpōhaku also afforded closer access points to the western coast south to Lā'au Point – both by foot and by boat. Fishermen could begin at Kaunalu Bay or "Dixie" to walk south to Lā'au. Boaters can launch from Kainalu Bay and an area off Kaluako'i Resort.

Although the sandy beaches along Lā'au Point are excellent for picnicking and beachcombing, the waters off the south and west shores are often unsuitable for recreational swimming due to the exposure to swift ocean currents. There are a few surf spots on both the south and west shores, identified in Appendix 8 of the *Community-Based Master Land Use Plan for Molokai Ranch* (provided in Appendix A of this EIS).

POTENTIAL IMPACTS AND MITIGATION MEASURES

MPL recognizes and reaffirms all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes by descendants of Native Hawaiians. Project plans propose that Native Hawaiians and the general public will have Lā'au Point shoreline access from two points – one on the south shore at the southeast entry and one on the west shore at the northwest entry.

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Vehicular access to the shoreline is restricted to the two public parks. Access beyond the two parks shall be by foot only. Vehicular access beyond the two parks is prohibited, except for emergency access. Off-road vehicles, ATVs, motorcycles and any other motorized vehicle are also specifically prohibited, except as needed by the Resource Managers.

In the process of developing the *Community-Based Master Land Use Plan for Molokai Ranch*, subsistence fishermen and gatherers were very concerned of marine resource depletion that could be caused by opening up the south and west shores to increase public access to every 1,500 feet, as the Maui County Code (MCC) Section ~~18.19.210~~ 18.16.210 provides. The County of Maui requires rights-of-way to be created where land fronting the shoreline is subdivided. The County of Maui recommends the placement of 15-foot wide shoreline access rights-of-way every 1,500 feet, where possible. This standard would require 16 public access rights-of-way for the project. Using the standard application of the County requirements as described above would result in many access rights-of-way in locations where access to the shoreline would be difficult and dangerous, thereby making the beach access locations undesirable for most users. This access method would also not be conducive to protecting the coastal resources of the Lā'au Point area.

Subsistence fishermen regretted that the opening of nearby Hale O Lono Harbor to general public access had severely decreased the marine resources there and they did not want to see the same happen to Lā'au Point. Opening up access points every 1,500 feet would have severe impact on the subsistence resources along the west and south coasts adjacent to Lā'au Point. The subsistence fishermen and gatherers felt that the provision of two access points and parking at either end of the project site would afford sufficient access, and that the need to walk in would protect the area.

As provided for in County regulations, the Director of Public Works, “may require that rights-of-way be consolidated to provide sufficient area for vehicular access, parking, development of shoreline or other recreational facilities, or other public purposes; or may modify the standard rights-of-way to take into consideration terrain features, length of frontage, uses of parcel to be subdivided and other pertinent features; provided, however, that the total area to be dedicated shall not differ substantially from that which would be required by the provision of standard rights-of-way, unless additional areas of improvement are mutually agreed to by the subdivider and Director” (MCC Sec. 18.16.210).

~~Some community members have expressed concerns that subdivision lot owners and their friends will have preferential access to the coast. Their concern is that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle. To some community members, affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal. Informants also expressed concern that landowners might call police if they see the general public walking on the beach, as this has happened at Pāpōhaku.~~

Increased public access to the shoreline and other cultural and coastal resources has the potential to damage the natural environment and diminish the uniqueness and cultural resources of the coast. As a result of the Master Plan process, the community decided that protection of the off-shore coastal resources at Lā'au Point and the onshore cultural resources and subsistence practices would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering (see Appendix A, p. 105). Therefore, to protect the

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natural resources of the shoreline, manage subsistence activities, and protect cultural resources a shoreline access management plan Shoreline Access Management Plan (SAMP) for the area will be implemented which addresses maintenance and resource management for the area has been developed with, and adopted by, the Moloka'i Land Trust to regulate the use of the land and cultural and ocean resources to ensure the continuance of the resources for future generations. The SAMP includes protocols, rules, and permitted activities for persons engaging in cultural activities and subsistence shoreline fishing and gathering in the shoreline area. It also contains provisions to protect the federally-listed endangered species in the area.

Appendix B contains the SAMP. In summary, the SAMP is a community-based and developed set of guidelines, rules, monitoring programs and general principals for the protection and utilization of the cultural, biological and social resources of Lā'au Point. It will ensure protection of the area's marine resources. The SAMP has been accepted by the Land Trust as an initial governing document based on current knowledge of the cultural, subsistence and biological resources of the site. From a social standpoint it is intended to foster a harmonious and respectful relationship between current users and subsistence practitioners of the area, Lā'au Point homeowners, and new local users of the area. Adherence to the SAMP is required by the CC&Rs.

Specific issues addressed by the SAMP include:

- **Hawaiian Monk Seal Protection** – The SAMP contains a plan and recommendations developed in consultation with NOAA. Elements of the plan and recommendations were taken directly from NOAA's draft *Recovery Plan for the Hawaiian Monk Seal* (November 2006). The SAMP reiterates the rules required to ensure non-disturbance of Hawaiian monk seal habitat and the promotion of La'au Point as an area for Hawaiian monk seals to frequent and "haul out." A Resource Manager for the area will undertake the removal of debris and materials that may be harmful to Hawaiian monk seals. Strict rules have been developed on removal of gear, the use of certain types of gear, and responses to Hawaiian monk seal sightings. No domestic pets and animals (including hunting dogs) will be allowed in the managed area. The use of toxins and pesticides is specifically prohibited and equipment will be purchased for cordoning off areas where Hawaiian monk seals have come ashore. These measures are designed to ensure the health and safety of the Hawaiian monk seals. Additional provisions governing monitoring programs and education and outreach are also included.
- **Biological/Endangered Species Protection** – Similar to the Hawaiian monk seal requirements, rules for access and designation of closed areas are set forth in the SAMP. The Resource Manager will be responsible for monitoring the health of any significant organisms, designating closed areas, and enforcing regulations designed to protect the resource including fires and limitations on access to the area. A long term monitoring program will also be developed to adapt to changing circumstances and to measure the effectiveness of the program.
- **Subsistence Gathering** – A large part of the SAMP activity and requirements is dedicated to education to ensure that the area remains open for subsistence use and that new residents will honor the rights of local practitioners. Limitations on over-night camping and the prohibition of vehicles onto the area will limit the taking of resources to what can be carried out. Protocols for monitoring resources are included as well as the ability to designate seasonal and long term restrictions.

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- **Cultural Resource Management** – The Preservation Plan attached to the EIS designates areas for protection and preservation of cultural resources. These measures are to be made a part of the SAMP and implemented by the Resource Manager. A large part of the SAMP's protocols in this area also concern educational requirements. Concerns over continued access and desecration are mitigated by rules concerning who may access sites and when (by permission on notice), oversight (by a Resource Manager), the development of a "Kahu council" and the designation of access areas and non-access areas. Movement or harm to cultural resources will be strictly prohibited with enforcement by the council. Commercial activities (tours) are specifically prohibited. The educational program includes awareness of the rights and sacred nature of the assets and the area.
- **Marine Resource Management** – Limitations on access (non-vehicular) and regular monitoring of the health of the resource are indicated in the SAMP. Water quality monitoring, as well as the health of the fishery and stock will be assessed regularly. A plan and program will be developed from this program by the Resource Manager to ensure the resource is protected.
- **Access and Over-utilization** – Community concerns over excessive utilization of an area that has been closed to the public are addressed by limiting access to the area to footpaths from the two parks at the ends of the project area, prohibiting access from the subdivision roadways and specifying closure periods for the Parks themselves. In this manner increased traffic into the area will be minimized. Enforcement is through the Resource Manager.
- **Monitoring and Resource Management** – The resources are to be monitored, as set out above, to ensure that the SAMP is effective and actually protecting and preserving the various resources. On site Resource Managers will monitor the situation daily and adjustments made to the rules and plan to ensure the goals of the SAMP are met. Enforcement of the rules by the Resource Managers will further serve to ensure the mitigation of any impacts on the area resources.
- **Education (Cultural and Environmental of Homeowners)** – All homeowners must undertake an education program. This program will be designed to create awareness and will mitigate cultural and social impacts as well as instruct and inform homeowners and users of the rules and requirements of the SAMP and the cultural and biological resources being protected. The educational program sets forth topic areas on Hawaiian culture and Moloka'i social and cultural traditions to mitigate concerns that homeowners will not be sensitive to, or understand, the cultural environment they are entering. The program will explain rules on the handling of cultural and archaeological sites, their significance and use in the Hawaiian culture to prevent destruction and desecration and to provide recognition of the rights of families and practitioners to access the sites. Education on the social fabric of Moloka'i is designed to inform homeowners of the subsistence lifestyle and traditional use of the area for hunting, fishing, and gathering and its importance to Moloka'i's way of life. Training on the rules regarding Hawaiian monk seals and notice of the opportunity to volunteer in monitoring programs will be given to ensure adherence to the Hawaiian monk seal requirements. Similar instruction is required for biological assets to ensure their preservation. Additional training is to be provided to educate the homeowners on the rules and management policies regarding enforcement to ensure adherence to the SAMP guidelines and rules.

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SAMP education will be conducted in a variety of forms - written, audio-visual and personal hands-on on-site orientations - and not be limited to any one form. The educational requirement will be mandatory. From a practical standpoint, it is recognized that short-term guests may not have the time to undertake the program. However, it can be assumed that the homeowners who have undertaken the program will inform and educate their guests.

Admittedly, educational classes for landowners, vacationing or permanent, are a new approach to a decades old problem of disconnect between new landowners from outside Hawai'i and the local and Native Hawaiian communities.

We can only assume that educating new residents would have a better effect than if new residents were not educated at all. It is very likely that new buyers will be willing to attend classes to learn how to protect the environmental resources and Moloka'i lifestyle and culture. This is already occurring, whereby relatively newer residents are participating in environmental advocacy and protection efforts.

Currently, MPL allows limited beach access for MPL employees and Maunaloa residents to the area projected for residential development. It is mandatory that employees and their guests view a conservation video in order to qualify for a beach pass. This system has worked well and received the cooperation of those who have used beach passes.

A timeline for completion of the SAMP can only be estimated. The SAMP requires the development of various mitigation and protection programs as well as the development of an educational program. Over the course of several months beginning in the fall of 2007 work will begin on creating the working programs required by the SAMP.

As previously discussed in Section 2.3.5 (Project Description), the Conservation District shoreline areas will be jointly controlled and managed by the Land Trust and homeowners' association through a council made up of an even number of directors appointed by the Homeowner's Association and a corresponding number appointed by the Land Trust (see Figure 44-13). All decisions regarding the management of the SAMP area, including fees charged to users (if any), restrictions on catch and general management, and protection of the areas biological and cultural resources, will be made by the Council. ~~A shoreline access management plan~~ The SAMP will be ~~included in~~ incorporated by reference into the CC&Rs (adherence to which is made a Master Plan Covenant and unable to be changed), and homeowner orientation and education materials. Resource Managers hired by the Land Trust or security hired jointly with the homeowners' association will enforce the agreed-upon ~~shoreline access management plan~~ SAMP.

Some community members have expressed concerns that subdivision lot owners and their friends will have preferential access to the coast. Their concern is that there will be nothing to stop the owners who live along the shoreline and their guests from walking down to the beach and even using a vehicle. To some community members, affording only two access points for the general public while owners in the subdivision will have access from their homes, seems unequal. Informants also expressed concern that landowners might call police if they see the general public walking on the beach, as this has happened at Pāpōhaku. To mitigate these concerns, all Lā'au Point homeowners will be required to undergo an education program about the restrictions on access, its importance, and the requirements of the SAMP. Adherence to the SAMP is

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mandatory. In addition, the educational process, the lack of infrastructure and paths through to the shoreline, and the density of the foliage and rough terrain as a practical and natural barrier, will support adherence to the SAMP and serve to limit widespread access to the shoreline.

Vehicular access in the Conservation District area will be prohibited, unless identified for emergencies or kupuna use. The SAMP, contains several clarifications of this policy: 1) vehicular access will be provided for emergency services; and 2) kupuna who are unable to access the area on their own, as well as the infirmed wishing to access the site for cultural purposes, will be allowed assisted access in a form, including vehicular, at the discretion of the SAMP governing Council or its designee. Land alteration such as clearing and grading for vehicle trails will be prohibited and strictly enforced.

~~Based on the community proposed access plan (see Appendix A, p. 105), protection of the off-shore coastal resources at Lā'au Point would best be achieved by controlling access to the area so that the community can retain the area for subsistence gathering. Therefore, a shoreline access management plan will be developed and adopted to regulate (through legal and enforceable means) the use of the land and ocean resources to ensure the continuance of the resources for future generations.~~

~~The shoreline access management plan would adopt protocol, rules, and permitted activities for persons engaging in subsistence shoreline fishing and gathering in these Conservation District shoreline areas. Mandatory educational classes in traditional subsistence gathering and access responsibilities, safety and protocol would also be required for every person wishing to gain access. A caretaker or Land Trust steward will supervise access to ensure overfishing does not take place, and that those who access the area have taken the appropriate education classes.~~

Participants in community meetings felt it was important to provide emergency access through the subdivision to the shoreline for emergencies. They were also concerned that access should be afforded for kupuna and persons with special needs. Some pointed out that the areas closest to the access points will be heavily impacted, while spreading out the access points might spread out the impact. It was also noted that the road down to Hale O Lono Harbor would need to be maintained in order to keep access to the area open.

Due to hazardous shoreline conditions toward Lā'au Point (USA Lighthouse parcel), public access to these areas would be discouraged. Access would be restricted to experienced subsistence fishermen only. The lighthouse property is owned by the US Government and is under the jurisdiction of the US Coast Guard. The shoreline and ocean area around this parcel can be treacherous and is not advisable for inexperienced users. MPL recognizes that it cannot exercise control over or prevent access along the shoreline below the high water mark. The area controlled by the Land Trust and the Homeowner's Association can be subject to conditions and rules of access. As the area near the lighthouse is hazardous, the conditions themselves will discourage inexperienced users. This could be supplemented by warning signs and educational materials.

Emergency access through the subdivision would be allowed. Emergency access for the project is further discussed in Section 4.10.3 of this EIS.

4.4 ROADWAYS AND TRAFFIC

In the project vicinity of West Moloka‘i, the main roads are Maunaloa Highway and Kaluako‘i Road; both two-lane, two-way roadways. Maunaloa Highway has an east-west orientation and Kaluako‘i Road has a north-south orientation. The intersection of these two roads is an unsignalized, T-intersection. All approaches are one-lane. There are no separate turn lanes at any approach.

Traffic on these roads and intersections operate at a Level-of-service (LOS) “A,” which represents free-flow conditions with no congestion. Traffic turning from Maunaloa Highway onto Kaluako‘i Road and traffic turning onto Maunaloa Highway has a negligible impact on traffic operations along Maunaloa Highway.

There are currently no formal roads within the Lā‘au Point site. There are, however, various unpaved jeep trails that traverse the Lā‘au Point parcel. There is also a coral-based, unpaved State-owned road that abuts the southeast corner of the project site; this road connects Hale O Lono Harbor with Maunaloa Highway, but will not provide access to the Lā‘au Point project.

Appendix G of this EIS contains the Traffic Impact Assessment Report (TIAR) prepared by Phillip Rowell & Associates.

POTENTIAL IMPACTS AND MITIGATION MEASURES

Primary access to the Lā‘au Point site will be from a new access road connecting from Kaluako‘i Road. Future traffic growth for the region from Lā‘au Point and other projects within the vicinity were analyzed in the TIAR. The only other development project proposed between Lā‘au Point and Maunaloa Highway is the remaining build-out of the Kaluako‘i Resort.

Although only 30 percent of the homes at Lā‘au Point are expected to be permanently occupied, the trip generation rates used in the TIAR, ~~per the request of County of Maui Department of Public Works and Environmental Management,~~ are based on single-family housing units typical for a suburban subdivision with daily commuting. Therefore, the number of trips for Lā‘au Point may be overestimated.

Based on the trip generation data for single-family dwelling units, at full build-out the project would generate 40 inbound trips and 95 outbound trips during the morning peak hour and 95 inbound trips and 60 outbound trips during the afternoon peak hour. Based on findings of the Level of Service (LOS) analysis, traffic levels at the main intersection of Maunaloa Highway at Kaluako‘i Road will operate at an acceptable LOS; ~~and therefore, no improvements are recommended for build-out in the year 2023.~~

Relative to pedestrian and recreational activities along Kaluako‘i Road, consideration will be given to providing sufficient shoulders along both sides that can be used by pedestrians and bicyclists.

The main access road and spur roads within Lā‘au Point will be designed and constructed in accordance with Maui County Subdivision Design Standards (MCC Section 18.16). All roads

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will be built to County minor road standards, which require 40-foot wide right-of-ways and 22-foot pavement widths. At full build-out, it is anticipated that all intersections within Lā'au Point would operate at LOS "A;" therefore, signalization or separate turn lanes for project-generated traffic would not be required.

MPL will fund the construction costs of all Lā'au Point roads which will be built using County standards ~~to keep the option for future dedication.~~ In their June 21, 2006 comment letter on the EISPN, the Maui County Department of Public Works and Environmental Management stated: "We note that roads for the development will be built to County standards. We also note that access for these roads are from a private road. As such, the roads for the development shall remain under private ownership and maintenance." After build-out, ~~should~~ the roads will remain private, and the Lā'au Point homeowners' association will be responsible for maintenance. In addition, MPL will plan, design, and construct, at no cost to the State: 1) a left-turn deceleration lane and right-turn deceleration lane at the intersection of the proposed project access road (Kaluako'i Road) with Maunaloa Highway; and 2) highway improvements recommended as mitigation measures as required by the Highways Division.

Regarding an option of having the access road go directly from Maunaloa Town to Lā'au Point, this alternative was rejected because the remaining parcel area mauka of the Lā'au Point residential community will be open to subsistence hunting and the area is also designated for "Rural Landscape Reserve." An access road cutting through hunting lands would disrupt hunting there and spoil the landscape views from the Maunaloa Highway.

The old coastal jeep road will be abandoned due to its alignment through several archaeological sites and erosion-prone environments. Portions of the jeep road may be used to provide emergency access and subsistence foot trail access to the shoreline.

4.5 NOISE

The Lā'au Point site is currently exposed to daytime ambient noise from wind, birds, the ocean, and occasional distant aircraft. Aircraft are routed over the northern portion of the project area to the Moloka'i Airport. Aircraft are audible when they fly over. Flyovers, however, occur infrequently, only during daytime hours, and are not greater than 55 decibels (dBA).

Appendix H of this EIS contains the Noise Assessment Report prepared by D.L. Adams.

POTENTIAL IMPACTS AND MITIGATION MEASURES

Potential impacts to the acoustic environment of the site will primarily relate to short-term construction activity noise. The expected noise levels due to construction will largely be a function of the methods employed during the construction. Earthmoving equipment, for example, is expected to be the loudest equipment used during construction. However, given that the nearest residential property is more than a mile from the project site, there will be no noise impact due to construction-generated noise in the vicinity. Although there may be a noise impact for residences in the vicinity of access roads to the project site, a significant noise impact due to vehicular traffic in the surrounding area is not expected.

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Construction activities will comply with Chapter 11-46, HAR (Community Noise Control). Proper mitigation measures will be employed to minimize construction-related noise and comply with all Federal and State noise control regulations. Increased noise activity due to construction will be limited to daytime hours and occur only during the construction period. Construction vehicles will also be equipped with mufflers.

Noise impacts in the long-term may include noise from stationary mechanical equipment (air conditioners, condensing units, compressors, etc.) that are typical for residential housing. Noise from this type of mechanical equipment must ~~meet State DOH noise rules~~ comply with Chapter 11-46, HAR, which stipulates maximum permissible noise for single-family homes at the property line to be 55 dBA during daytime hours and 45 dBA during nighttime hours. The CC&Rs will require noisy equipment to be located away from neighbors and other residences, as much as practical.

Vehicular traffic at Lā'au Point is expected to be low in volume, and traveling at low speeds typical of a residential environment. Noise levels from Lā'au Point vehicular traffic are predicted to be below the US Federal Highway Administration and Hawai'i Department of Transportation maximum noise limit of 67 dBA. Therefore, a significant noise impact is not expected.

Lā'au Point is located well outside the airport's 55 dBA noise contour; therefore, significant noise impacts from aircrafts are not expected.

4.6 AIR QUALITY

The air quality in the Lā'au Point region is believed to be relatively good. Periodically, air quality is affected by distant volcanic emissions (VOG).

Regional and local climate along with the amount and type of human activity generally dictate the air quality of a given location. The climate of the Lā'au Point region is affected by its coastal location and nearby mountains. Winds are variable but are often trade winds from the north or northeast. Temperatures in the area are generally very consistent and moderate, with an average daily temperature of 75 ° F.

Both Federal and State standards have been established to maintain ambient air quality. At the present time, seven parameters are regulated, which include: particulate matter, sulfur dioxide, hydrogen sulfide, nitrogen dioxide, carbon monoxide, ozone, and lead. State of Hawai'i air quality standards are more stringent than the comparable national standards, except for those pertaining to sulfur dioxide and particulate matter, which are equivalent.

Appendix I of this EIS contains the air quality study prepared by B.D. Neal & Associates.

POTENTIAL IMPACTS AND MITIGATION MEASURES

Short-term Impacts – Construction of the Lā'au Point community may result in short-term impacts on air quality either directly or indirectly as a consequence of construction (i.e., clearing and grading). The direct impacts may include fugitive dust from soil excavation, vehicle movement, and exhaust emissions from on-site construction equipment. Indirect short-term air quality impacts may result from disruption of traffic on nearby roadways from slow-moving

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construction equipment traveling to and from the project site, and from commuting construction workers. These potential air quality impacts, however, will be short-term, and it is anticipated that no State or Federal air quality standards will be violated during or after the construction of Lā'au Point.

The State of Hawai'i Air Pollution Control Regulations prohibit visible emissions of fugitive dust from construction activities at the property line. All activities will comply with the provisions of Hawai'i Administrative Rules, §11-60.1-33 on Fugitive Dust. Therefore, an effective dust control plan will be prepared for the project construction phase. In an effort to To control fugitive dust, a program will be implemented to keep bare-dirt surfaces in active construction areas from becoming significant sources of dust. In addition, open-bodied trucks will be covered at all times when in motion and transporting materials that create airborne dust. An effective dust control plan will be prepared for the project construction phase, which may include the following:

- Planning the different phases of construction, focusing on minimizing the amount of dust-generating materials and activities, centralizing on-site vehicular traffic routes, and locating potential dust-generating equipment in areas of the least impact.
- Landscaping and providing rapid covering of bare areas, including slopes, starting from the initial grading phase.
- Minimizing dust from shoulders and access roads.
- Providing adequate dust control measures during weekends, after hours, and prior to daily start-up of construction activities.
- Controlling dust from debris being hauled away from the project site by having open-bodied trucks be covered at all times when in motion and transporting materials that create airborne dust.

Long-term Impacts – After the construction period, long-term air quality impacts generally come from motor vehicle exhausts. Traffic for Lā'au Point will use Kaluako'i Road and several intersecting project access roads. Because traffic associated with the project is estimated to be less than 200 vehicles per hour at full build-out and all intersections in the vicinity will have very good level-of-service conditions, traffic-related long-term air quality impacts are not expected to be significant.

Long-term impacts from indirect emissions associated with electrical power and solid waste disposal is expected to be negligible as well.

4.7 SCENIC RESOURCES

The Lā'au Point coastline offers a total of approximately 5.2 miles of shoreline from Hale O Lono Harbor to Kaupoa Beach. Stretches of white sand beach are broken by large, rocky outcroppings. Current access to Lā'au Point and its scenic resources is via hiking along the shoreline, on very rough dirt roads over private Ranch lands, or by boat.

The South shore has three long, white-sand beaches: Kanaluhaka Beach, Kapukuwahine Beach, and Kahalepōhaku Beach. Kapukuwahine Beach is backed by a low sea cliff for the entire length of the beach. Kanaluhaka Beach and Kahalepōhaku Beach are backed by small sand dunes and kiawe trees.

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The West shore has a rocky shoreline with scattered areas of sandy beach. A dense kiawe forest borders the sand dunes backing the shoreline.

Looking mauka from both shorelines, the dominant view of the project site is upward sloping land covered in dryland kiawe forest and brush.

Within the project site looking makai, the west shore lots have views of the ocean, shoreline, sunset, and distant O'ahu vistas. South shore lots have views of the ocean, shoreline, and distant Lāna'i vistas.

Figure 9 contains site photographs.

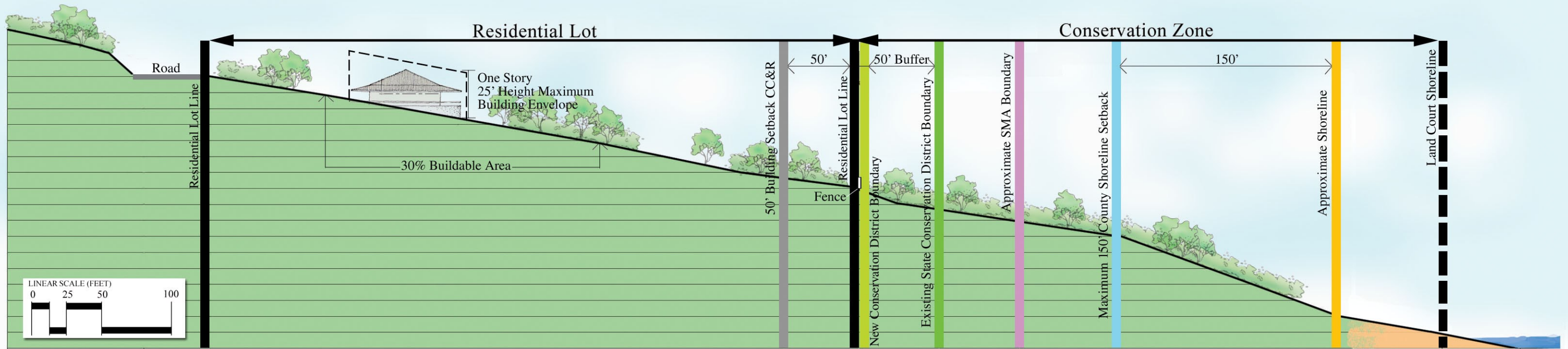
POTENTIAL IMPACTS AND MITIGATION MEASURES

The existing landscape and views around Lā'au Point will change with the creation of the rural-residential community. To mitigate visual impacts, the houses, lots, roadways, and infrastructure of the Lā'au Point project will occupy only ~~seven~~ eight percent of the entire 6,348-acre Lā'au parcel, protecting the majority of the land's open space landscapes. It is also important to note that the 200 homes will be on relatively large lots (approximately two acres each) which provides for a very low-density rural character. Homes will be sited appropriately to blend into the landscape and avoid a dense urban-like setting.

To mitigate visual impacts for shoreline users and provide privacy for the homeowners, lot lines will be set back at least 250 feet from the designated shoreline or high water mark, creating a coastal conservation zone buffer. Using the current Conservation District boundary, which is approximately 150 to 200 feet inland from the shoreline, as a base, residential lot property lines for Lā'au Point were determined to be at least 50 feet beyond the current Conservation District. In addition, makai residential lots along the Conservation District will have covenants requiring an additional 50-foot building setback from their lot line. These specified setbacks result in providing substantial building setbacks from the shoreline; in some areas, this is as much as 1,000 feet.

To further mitigate minimize visual impacts, residential construction will be subject to stringent CC&Rs (as previously discussed in Section 2.3.6). The maximum buildable area will be 30 percent of the lot (e.g. two-acre Lot = +/-26,000 s.f. or about 1/2-acre). Buildings must maintain a low-profile rural character and respect the natural environment. Restrictions on building height (one-story, maximum 25 feet high), materials, colors, and style are important factors to blend homes into the environment. Figure 47 19 contains a setback and buffer zone analysis of a typical lot section.

In their July 5, 2006 comment letter on the EISPN, OHA stated: "Further consultation also may show that view planes must be preserved between existing heiau and other cultural sites." The archaeological preservation plan provides for a buffer with a radius of nine meters to extend from burials and heiau. In the case of ko'a shrines, an additional aspect of the buffer will be a requirement to keep an open view plane toward the ocean. In the case of the Mauka-Makai preserve at Kamāka'ipō, the entire area will be a buffer, so that the overall character of the cultural landscape will be preserved.



LEGEND

- Land Court Shoreline
- Approximate Shoreline
- Maximum 150 ft. County Shoreline Setback
- Approximate SMA Boundary
- State Conservation District Boundary (Existing)
- 50 ft. Minimum Lot Line Setback from Conservation District Boundary
- Residential Lot Line/New Conservation District Boundary
- 50 ft Building Setback from Oceanfront Lot Line

Figure 19
 Conservation Zone Setbacks &
 Buffer Zone Analysis - South Section
Lā'au Point

Island of Molokai

