



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

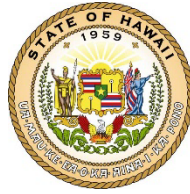
In the Matter of the Petition of ) DOCKET NO. SP26-416  
KA'AWANUI SOLAR )  
For Special Use Permit to Establish a Solar ) FINDINGS OF FACT, CONCLUSIONS OF  
Energy Facility on Approximately 269.195 ) LAW, AND DECISION AND ORDER, AND  
acre portion of land situated in Makaweli, ) CERTIFICATE OF SERVICE  
Waimea, Kaua'i, Hawai'i, identified by )  
Kaua'i Tax Map Key Nos. (4) 1-7-006:006 )  
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER**  
**AND**  
**CERTIFICATE OF SERVICE**

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06/17/2026

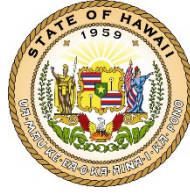
BY   
DANIEL E. ORODENKER  
Executive Officer



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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER**

The 2026 Petition for State Special Permit SP26-416 to construct a solar energy facility and accessory uses and structures (referred to herein as the “Project”, the “Solar Project”, or the “facility”) on approximately 269.195 acres of land in the State Land Use Agricultural District identified by Kaua‘i Tax Map Key Nos. (4) 1-7-006 (por.) and (4) 1-7-006:010 (por.) in Makaweli, Kaua‘i, Hawai‘i, was transmitted by the County of Kaua‘i Planning Department on May 4, 2026, pursuant to Hawai‘i Administrative Rules (“HAR”) §15-15-95 and Hawai‘i Revised Statutes (“HRS”) § 205-6.

The State of Hawai‘i Land Use Commission (“LUC” or “Commission”), having heard and examined the testimony, exhibits, evidence, and argument of counsel and the parties present during the May 13, 2026, hearing for Ka‘awanui Solar, LLC (“Petitioner” or “Applicant”)

Petition, along with the pleadings and files herein, hereby makes the following Finding of Facts, Conclusions of Law and Decision and Order.

### **FINDINGS OF FACT**

#### **Planning Commission Procedural Matters**

1. To the extent that any of the following Findings of Fact shall be determined to be Conclusions of Law, they shall be deemed as such.
2. By letter dated January 5, 2026, the Applicant filed the Application with the County of Kaua‘i Planning Department, together with a Standard Zoning Permit Application, General Class III and IV Requirement Checklist, Process Election Form, Checklist of State Special Permit Application Requirements, Authorizations of Applicant, Owner and Lessee, Ka‘awanui Solar Project Report with digital version (CD-rom), and all required fees with Ka‘āina S. Hull, Planning Director, Planning Department, County of Kaua‘i.
3. By letter dated January 13, 2026, the County of Kaua‘i Planning Director found the Application to be complete effective January 12, 2026, and began processing the Application pursuant to Section 8-3.1 of the Comprehensive Zoning Ordinance ("CZO") as contained in Title IV, Chapter 8 of the Kaua‘i County Code, 1987.
4. By Notice of Public Hearing published in The Garden Island newspaper, a newspaper of general circulation in the County of Kaua‘i, the Planning Director provided notice to the public that the agency hearing with a public hearing and an opportunity for public testimony would be held on the Application on March 10, 2026, at 9:00 a.m. or shortly thereafter, at the Līhu‘e Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Līhu‘e, Kaua‘i, Hawai‘i.

5. On February 6, 2026, the Applicant mailed a Notice of Public Hearing pursuant to CZO Section 8-3.1(f), Section 1-13-5(d) of the Rules of Practice and Procedure of The Planning Commission of The County of Kaua‘i ("P.C. Rules") to 85% of owners of parcels located within 300 feet of Parcels 6 and 10.
6. On February 6, 2026, the Applicant mailed an Affidavit as to Mailing of Notice to the Planning Director in compliance with CZO Section 8-3.1(f), the receipt of which was acknowledged by the County of Kaua‘i Planning Department on February 9, 2026. 6. At its February 24, 2026, meeting, the Planning Commission received the Planning Director's Report on the Application prepared in compliance with CZO Section 8-3.1(f)(3).
7. At the March 10, 2026, meeting, the County of Kaua‘i Planning Commission opened and closed the Agency Hearing on the Application.
8. At its March 10, 2026, meeting, the County of Kaua‘i Planning Commission approved, by a vote of a majority of the members of the Planning Commission, Use Permit No. U-2026-9 and Class IV Zoning Permit No. Z-IV-2026-12, and recommended approval of Special Permit No. SP-2026-4 to the State Land Use Commission, subject to the twenty-four (24) conditions of approval contained in their Decision and Order.

### **LUC Procedural Matters**

9. On April 29, 2026, the LUC emailed and mailed the Agenda for the May 13, 2026, hearing to the Kaua‘i and Statewide mailing lists, and the Parties; County of Kaua‘i Planning Department, Office of Planning and Sustainable Development (“OPSD”), and Petitioner.

10. On May 1, 2026, the LUC received and made publicly available written testimony from Kaua‘i Community College – Applied Workforce Technology Division.
11. On May 4, 2026, the LUC received and made publicly available the Special Permit Application and Exhibits 1-41 from the County of Kaua‘i Planning Department.
12. On May 6, 2026, the LUC Staff report was posted to the Land Use Commission Website for public review.
13. From May 7- 11, 2026, the LUC received and posted to the Land Use Commission Website for public review, four written public testimonies in support of the project.
14. On May 12, 2026, the LUC received and posted to the Land Use Commission Website for public review comments from OPSD, and two written public testimonies, including comments from the State of Hawai‘i Department of Agriculture and Biosecurity (“DAB”).
15. On May 13, 2026, the LUC received and posted to the Land Use Commission Website for public review comments from the State Department of Land and Natural Resources State Historic Preservation Division (“SHPD”).
16. On May 13, 2026, the County of Kaua‘i Planning Department re-filed Exhibit 29, Agency Comments to Planning Commission dated March 9, 2026, which LUC Staff stamped and posted to the LUC website for public review.
17. On May 13, 2026, the Commission held its hybrid meeting in Kapa‘a, Kaua‘i, at the Hilton Garden Inn Kaua‘i Wailua Bay, Kūhiō Ballroom 3-5920 Kūhiō Highway, Kapa‘a, HI 96746, open to the public, to consider the Petitioner’s Petition for a Special Permit (“SP”) to develop and operate a utility-scale solar energy facility. The Project will produce approximately 43 megawatts (“MW”) alternating current (“AC”)/ 52 MW direct

current (“DC”) of electrical power and includes a photovoltaic solar system with a battery energy storage system, substations, and related infrastructure to generate and supply renewable energy to the Kaua‘i Island Utility Cooperative (“KIUC”).

18. Individuals representing the Parties present at the hearing in person include the following:

Curtis Tabata, Esq., Max Graham, Esq., Megan Kane, AES Hawai‘i, Amy Bolan, AES Hawai‘i for Petitioner Ka‘awanui Solar, LLC.; Jodi Higuchi Sayegusa, Kenneth Estes, and Laura Barzilai, Esq. Corporation Counsel for the County of Kaua‘i Planning Department; Leodoloff (Leo) Asuncion and Aaron Setogawa for the OPSD.

19. At the May 13, 2026, meeting the following Commissioners were in attendance in person: Brian Lee (Chairman), Nancy Carr Smith (Vice chairman), Mel Kahele, Ken Hayashida, and Bruce U‘u, and in attendance online: Myles Miyasato. Commissioner Kūike Kamakea-‘Ohelo was excused, and Commissioner Michael Yamane was recused<sup>1</sup>.

20. At the May 13, 2026, hearing the LUC heard public testimony from Brad Rockwell [Tr. 5/13/2026, pgs. 10-13] in support of the Project.

21. At the May 13, 2026, hearing, the LUC The Commission heard presentations from the Applicant through Megan Kane (AES Hawai‘i) who was sworn in [Tr. 5/13/2026, pg.15] and OPSD through Leo Asuncion, presented their comment letter provided to the LUC on May 12, 2026. Jodi Higuchi Sayegusa presented on behalf of the County of Kaua‘i Planning Department, and supported adoption of the Planning Commission’s Findings of Fact, Conclusions of Law, and Decision and Order. The hearing was closed on May 13, 2026.

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<sup>1</sup> The transcript of the meeting identifies Commissioner Yamane as “excused”, however, at the May 14, 2026, LUC Meeting he clarified for the record that he recused himself from the matter as he is currently a Director on the Kaua‘i Island Utility Cooperative. Herein, Commissioner Yamane’s participation is reflected as recused.

22. Following the close of the the hearing, the Commission provided a second round of public testimony and received no additional public testimony. There were no individuals present or online that wished to provide public testimony.
23. After the Petitioner, County of Kaua‘i Planning Department, and OPSD were given the opportunity to provide final comments, the LUC then entered deliberation on this matter. Following discussion, a motion was made to approve the Ka‘awanui Solar Special Permit Application for solar development on approximately 269.195 acre portion of land located in Makaweli, Waimea, Kaua‘i, Hawai‘i, identified by Kaua‘i Tax Map Key Nos. (4) 1-7-006:006 (por.) ("Parcel 6") and 010 (por.) ("Parcel 10"), subject to the 24 County Conditions with the three additional Condition amendments on County conditions 2, 8, and 11, from the LUC Staff in the Staff Report, adopt the language in the Counties Decision and Order, and authorize the Chairperson to execute the order necessary to effectuate the Commission’s decision, subject to review and approval by the Department of the Attorney General. There being a vote total 6 ayes and 0 nays, one excused, one recused, and one vacant the motion passed. [Tr. 5/13/2026, pgs. 68-69]

## **FINDINGS BY THE PLANNING COMMISSION ADOPTED BY LUC**

### **Applicant/Project/Owner**

24. Applicant. The Applicant is Ka‘awanui Solar, LLC, a Delaware limited liability company. The Applicant has authorized Max W. J. Graham, Jr., Michael J. Belles, and Ian K. Jung of Belles Graham LLP, and Benjamin M. Matsubara and Curtis T. Tabata of Matsubara Kotake & Tabata to file this Application pursuant to the Applicant Authorization.

25. AES. The Applicant is a wholly owned, single-purpose affiliate of AES Hawai‘i, LLC, which is the regional operating arm of AES Clean Energy Development Company, LLC which is a subsidiary of The AES Corporation. The AES Corporation has a long history in the development and operation of solar powered electric facilities, battery energy storage systems and other renewable and conventional power generation facilities. The AES Corporation is a Fortune 500 global power company with over 37,000 MW of generating capacity, seven utility companies, and 19,000 employees in 17 countries.
26. Project Site. Robinson Family Partners ("RFP") owns the Project Site, which is located in Makaweli, Waimea, Kauai, Hawai‘i, identified by Kaua‘i Tax Map Key Nos. (4) 1-7-006:006 ("Parcel 6") and (4) 1-7-006:010 ("Parcel 10"). RFP leases the Project Site to Gay & Robinson, Inc., a Hawai‘i corporation ("G&R").
27. Project Description. The Applicant proposes to develop the Project within Parcels 6 and 10. The Project will be a photovoltaic solar energy facility on an approximately 269.195 acre portion of Parcels 6 and 10, and will include the following improvements ("Project Improvements"): a solar photovoltaic (PV) system with solar panels and racking system; power conversion stations; a Battery Energy Storage System ("BESS"); a network of electrical collector lines; communications equipment; an Operations & Maintenance Shed; an AES Hawai‘i Substation; a Ka‘awanui Substation and interconnection lines (which will be transferred to KIUC); fencing; and access roads. RFP and G&R have agreed to grant the Applicant an option to acquire an easement ("Project Easement") to use: the portions of the Project Site other than the common roads on an exclusive basis to develop and operate the Project; and the common roads within the Project Site on a non-exclusive basis for access and utility purposes.

28. Authorization. RFP has authorized Applicant to file this Application pursuant to the Landowner Authorization. G&R has authorized the Applicant to file this Application pursuant to the Lessee Authorization.

### **Location and Land Use Designation**

29. Location. The Project Site is located in Makaweli, Waimea, Kaua‘i, Hawai‘i. The Project Site is located in the ahupua‘a of Makaweli.

30. SLUC. The Project Site is located in the SLUC Agricultural District.

31. Kaua‘i General Plan. The Project Site is subject to the provisions of the Kaua‘i Kā Kou (Kaua‘i County General Plan) ("Kaua‘i General Plan").

32. CZO. The Project Site is located primarily in the CZO Agriculture District, although a small portion of the Project Site along its southern side (along the Ka‘awanui Gulch) is also located in the CZO Open District.

33. Development Plan Area. The Project Site is located within the West Kaua‘i Community Plan ("WKCP") Area. The Project Site has been designated Agriculture on the WKCP Regional Map.

34. CZMA/Special Management Area. As set forth in Hawai‘i Revised Statutes ("HRS") Chapter 205A (Part I), all lands in the State of Hawai‘i, including the Project Site, are located in the Coastal Zone Management Area ("CZMA") and are subject to the objectives and policies of the Coastal Zone Management Program ("CZMP"), as described in HRS Section 205A-2. None of the Project Site is located within the Special Management Area ("SMA") of the County of Kaua‘i.

35. Violations. There are no existing violations of any land use laws or regulations on the Project Site. 23. Land Use Conditions. RFP is in the process of purchasing Old Government Road A from the State of Hawai‘i, a portion of which (the "Road A Section") is located within the Project Site. The sale is subject to a condition requiring the Road A Section to be consolidated into Parcel 10. The Project Site is not subject to any other land use conditions.
36. Important Agricultural Lands. The Project Site has not been designated as Important Agricultural Lands ("IAL") pursuant to HRS Chapter 205, Part III.

#### **Past, Existing, And Proposed Used of Project Site**

37. Past and Existing Uses. In the past the Project Site has been used for agricultural purposes, including sugar cane cultivation, and for cattle and livestock pasture purposes. The Project Site has been used most recently for the grazing of cattle, sheep, and water buffalo within fenced pens.
38. Proposed Project. The Applicant is proposing to develop the Project on the Project Site.
39. Solar PV System/Power Conversion/Electrical Collection. The Project will be located on the Project Site as shown on the Site Development Plan Set. It will consist of an approximately 52 megawatt Direct Current (MW DC)/43 megawatt Alternating Current (MW AC) ground mounted solar photo-voltaic ("PV") system, coupled with a 172 MWh Battery Energy Storage System (BESS), and related interconnection and ancillary facilities. The Project will consist of solar panels mounted on single-axis trackers, which will rotate along a fixed horizontal axis from east to west as the sun moves across the sky, increasing the efficiency of the system as opposed to a traditional fixed-tilt system. The

solar panels, racking system, and other equipment. The Project will include solar panels, which will produce direct current electricity. The output of the solar panels will be directed to central inverters, which will convert the electricity from direct current to alternating current. The inverters will be connected to step-up transformers to convert the inverter output to medium voltage.

40. Substations. All of the power generated by the Project will be directed to a new substation ("AES Hawai'i Substation") and then to the BESS or the Ka'awanui Substation. The BESS will be located adjacent to the AES Hawai'i Substation and be used to store the electrical power. A generator step-up transformer will convert the medium voltage to transmission voltage to interconnect with the adjacent Ka'awanui Substation. The Ka'awanui Substation will be constructed by the Applicant at the same time as the Project, and will be located on an approximately two (2) acre portion of Parcel 10. The AES Hawai'i Substation will be located immediately adjacent to the Ka'awanui Substation and will be connected via an underground line. Upon completion of construction, the Applicant will transfer the Ka'awanui Substation to KIUC, and RFP will convey an easement over the Ka'awanui Substation portion of Parcel 10 to KIUC.
41. Utility Poles/Lines. Shield wire metal masts will be installed in the AES Hawai'i Substation (45 feet tall) and the Ka'awanui Substation (60-70 feet tall) to protect equipment. The Ka'awanui Substation will be connected to the main KIUC grid on Kaumuali'i Highway through interconnection lines located on steel poles (60-70 feet tall).
42. Support Facilities. The Project will include the following support facilities.
43. Operations and Maintenance Shed. An Operation and Maintenance Shed ("O&M Shed") will be constructed adjacent to the AES Hawai'i Substation. It will be a twelve (12)-foot-

high building measuring 20 feet by 42 feet and will be used for office purposes, remote site monitoring, equipment, and storage. The shed will use electricity from the station service line for climate control and lighting. Lavatories for the shed will either be connected through private domestic water connections and a septic tank or serviced by specialized sanitation crews who will manage waste and water tanks and perform routine maintenance.

44. Communication Equipment. Additional communication connections and equipment will be installed to interface with KIUC's supervisory control and data acquisition ("SCADA") system so that the energy generated by the Project can be remotely controlled and dispatched by KIUC. The Project will include an energy management system ("EMS") that will: allow all operations to be supervised and all system functions to be protected in response to real-time dispatch signals from KIUC; and will report production data, energy forecasts, and other system health data.
45. Fencing/Roads. The Project Site will be surrounded by seven (7) foot high chain link security fence. There will be a buffer around the outside of the security fence, and there will be access roads (including the Common Roads) throughout the Project Site, which will allow for convenient access and navigation within the Project Site to all major equipment.
46. General Dimensions. The Project Improvements will have the following dimensions.
47. Solar Panels. The proposed ground mounted solar panels will be on a single-axis tracking system, which will tilt the panels along a horizontal axis to follow the sun as it moves across the sky from east to west. The average height of the Solar Panels will be five (5) feet off the ground at a stow position where the panels are flat. As they rotate, their

highest point will reach eight (8) feet high. Given the height of the panels, there will be room for people to move under and around the system with ease.

48. BESS. The BESS Containers will be ten (10) feet in height, eight (8) feet in width, and twenty (20) feet in length. The BESS Containers will include the lithium-ion battery modules. In addition, each BESS Container will have several layers of protection to avoid failures and to contain hazards in the event of a failure. There will be forty-four (44) BESS Containers located adjacent to the AES Hawai‘i Substation.
49. Development/Construction. Petitioner estimates it may take from 6 to 18 months after approval of this Application by the Planning Commission and SLUC to finalize engineering and design and obtain necessary ministerial permits. Thereafter, actual construction is estimated to take 16 to 24 months, with final Testing to take 8 to 12 months. The target commercial operating date is estimated to be in 2028.
50. Plans. The Applicant will develop a Health, Safety and Security Plan, an Environmental Compliance Plan, and an Emergency Response Plan.
51. Staging Area. The Project Site will be grubbed and graded as necessary. During construction, approximately nine (9) acres within the Project Site will be utilized for one or more Staging Areas.
52. Delivery of Materials. The Project materials and equipment will be delivered to the Project Site and held in the Staging Areas.
53. Construction. The Project will be constructed.
54. BMPs. Following construction, all disturbed areas will be re-vegetated and where necessary protected by Best Management Practices ("BMPs").

55. Land Coverage. Pursuant to CZO Sections 8-8.2(a) and 8-4.3, the allowable land coverage in the CZO Agriculture District is 60% of lot or parcel area and the allowable land coverage in the CZO is 10% of lot or parcel area. The solar panels will be elevated on structural posts, minimizing new impervious area. The proposed development will add approximately nine and 842/1000 (9.842) acres of new impervious surface on Parcel 10 and on Parcel 6. The Parcel 10 Project Improvements will consist of the solar panel mounting posts, the AES Hawai'i Substation, the Ka'awanui Substation, the O&M Shed, transformer pads, BESS Blocks, inverters, transformers, and fence posts. The Parcel 6 Project Improvements will include the solar panel mounting posts, transformer pads, and fence posts. The allowable land coverage in Parcel 10 is 95.25 acres, and the allowable land coverage in Parcel 6 is 2,908.794 acres. As a result, the allowable land coverage on the Project Site will not be exceeded.

56. Landscaping. Because of the existing vegetative screening adjacent to Kaumuali'i Highway and elsewhere on the Project Site, the Project will only be partially visible from Kaumuali'i Highway. The Applicant will preserve this existing vegetation. In addition, to further mitigate visual impacts, new landscaping will be installed and maintained around the Project Site.

57. Compatible Agriculture. HRS Section 205-4.5(a)(21) allows solar energy facilities on lands with overall (master) productivity rating B (as is the case of the Project Site) provided that, among other things, the area occupied by the solar project is also made available for compatible agricultural activities at a lease rate that is at least 50% below the fair market rent for comparable lands. As described in the Compatible Agricultural Plan, the Applicant proposes to make the Project Site available for sheep grazing, poultry

production, and eventually crop production. The agricultural operator will be Kawaihana, Inc. The Applicant will not charge Kawaihana, Inc. rent for the use of the Project Site.

58. Operation. After construction and commissioning, the system will operate with minimal servicing and maintenance.

59. Monitoring. The Applicant will have 3 to 4 employees on site on a daily basis. In addition, metering equipment will send performance and production data to continuously monitored servers. The Applicant's software will notify its Operations & Maintenance team if the system is underperforming. The Applicant will have dedicated employees monitoring the Project twenty-four (24) hours per day seven (7) days per week, including an operator on island.

60. Noise. During operation, the solar panels will be silent. As discussed herein in Section 6.3, the BESS, inverters and transformers are also very quiet, emitting less than thirty-eight (38) a-weighted decibels (dBA) at 100 meters, which is approximately the loudness of a conversation.

61. Lighting. Permanent lighting may be required for the Project for site security. Any onsite lighting will be motion sensor-activated as well as angled downward and shielded to avoid excess light or glare beyond the Project Site boundary. All lighting requirements will be met by using LED lights.

62. Emergency Response Plan. The Applicant will implement an Emergency Response and Communication Plan to address emergency situations that may arise at the Project Site.

63. Decommissioning. Following the life and operation of the Project under the Project GOE, the Applicant will remove the solar energy facility which includes the following: (1) solar panels and racking system, including steel posts, (2) power conversion stations (3)

BESSs, including battery units and battery modules, inverters and transformers, and other auxiliary equipment (4) AES Hawai'i Substation and related components including communication, operations, and security equipment, (5) electrical wiring and connections, and (6) fencing and gates. The Applicant will cover up all pit holes, trenches, other borings, or excavations; reseed the soil with appropriate grass seed if necessary; and will otherwise return the land to substantially the same condition as its original condition. The Applicant will provide proof of financial security to decommission the facility as required by HRS §205-4.5(a)(21).

64. Grid Stability. The proposed Project will provide approximately 17.5% of KIUC's total electric generation. One of its key benefits will be to improve electric grid stability by enabling KIUC to utilize stored solar energy from the BESS to be dispatched at any time KIUC desires. This will help KIUC to meet its evening peak demand, along with other supporting ancillary services on the grid. KIUC intends to use the stored energy in the BESS system to: (1) provide energy as the sun sets and into the evening to offset KIUC's evening peak demand; (2) provide energy in the morning to offset KIUC's morning peak; and (3) respond to low-frequency events by supplying additional power automatically, all of which will help KIUC reduce its dependence on more expensive and inefficient conventional oil-fired units. It is anticipated the Project will reduce KIUC's fossil fuel usage by over 179 million gallons over the 25-year PPA term (Exhibit 2, pg.17).

65. Green Energy. The Project will also provide benefits to human health and environment through the use of an alternative "green" energy source that does not generate greenhouse gases and does not result in water contamination or other environmental impacts often associated with fossil fuel production. KIUC and its members/customers will use

approximately 7,150,000 fewer gallons of oil annually (Exhibit 2, pg.17). The amount of clean renewable green energy expected to be generated from the Project per year is enough to power almost 16,000 homes (Exhibit 2, pg.17). The energy generated will also assist KIUC in achieving the State of Hawai‘i’s Renewable Portfolio Standard (RPS), as set forth in HRS §269-91 et seq. and its own more ambitious goal of 100% renewable RPS by 2033.

66. Public Benefits. The construction and maintenance of the system will benefit the public as a whole and support the local economy by: increasing tax revenues; providing jobs; and increasing the sale of local goods and services. The Project will deliver power at a low, fixed price over its 25-year lifespan at a cheaper cost than current fossil fuel prices.
67. Federal Solar Tax Credit. Between July 2024, when the Applicant bid this Project to KIUC, and December 2025, federal legislation and rulemaking have created an unprecedented urgency to bring solar projects online. Under current rules, the Applicant must place the Project into service no later than December 31, 2029, to qualify for the federal solar tax credits assumed in the PPA price negotiated with KIUC. These federal tax credits allow the Applicant to sell energy to KIUC at a lower rate, which KIUC can then pass along to its members. The Project schedule currently targets commercial operation in 2028, but any permitting delay could have compounding effects on the Project schedule and jeopardize obtaining the federal tax credits.
68. PPA. The Applicant and KIUC have entered into a Power Purchase Agreement, which has been approved by the Hawai‘i Public Utilities Commission ("PUC"), through its Decision and Order issued on March 2, 2026. By its terms, KIUC will purchase the electrical power generated by the Project for a minimum of twenty-five (25) year period.

69. GOE/Option. RFP and Petitioner have executed an Option Agreement that provides Petitioner the right to enter into a Grant of Easement Agreement (the "Project GOE") covering the Project Site. The Project GOE will grant Petitioner: a Construction Term of three (3) years and two (2) extensions of the Construction Term for six (6) months each to construct the Project; an initial Operating Term of 25 years; and three (3) extensions of the Operating Term of five (5) years each. The total term of the Project GOE will be forty-four (44) years. The Applicant will exercise the Option upon approval of the PPA by the PUC and upon approval of all necessary discretionary and ministerial permits.

#### **Description of Project Site and Identification of Surrounding Lands**

70. Adjacent Property. Parcels 6 and 10 are located adjacent to, or within 300 feet of, the properties identified on the Adjacent Property Index.

71. Natural Environment. The Project Site is composed of gently sloping lands (4%) in an area generally lying east of Waimea Town, and north (mauka) of Kaunali'i Highway. The Project Site is located approximately 20 feet to 215 feet above sea level. The Project Site is gentle sloping in a mauka to makai direction. The Project Site is currently used for agricultural purposes. Most of the Project Site consists of open areas. The A'akuki Stream and Kekupua Valley run along the northern boundary of the Project Site. The Ka'awanui Gulch runs along the southern boundary of the Project Site.

72. Soils/Survey Map. According to the U.S. Department of Agriculture ("USDA") Soil Survey Geographic ("SSURGO") database (2001) and soil survey data gathered by Foote et al. (1972), the soils in the Project Site consist of:

- a. Makaweli stony silty clay loam (0-6%) (MhB).

- b. Makaweli stony silty clay loam (6-12% slope) (MhC).
  - c. Makaweli stony silty clay loam (0-6% slope) (MgB).
  - d. Nonopahu clay (2-10% slope) (NnC).
  - e. Rough broken land (rRR).
  - f. Dune land (DL).
73. Land Study Bureau. Lands in Hawai‘i have been classified in a five-class productivity rating system using the Letters A, B, C, D and E where A represents the class of highest productivity and E the lowest. As shown on the Detailed Land Classification Map (Island of Kaua‘i) (Land Study Bureau, University of Hawai‘i), the Over-all Productivity Rating for most of the lands within the Project Site is Class B. The Project Site is also designated as Agricultural Lands Important to the State of Hawai‘i ("ALISH").
74. Rainfall. The Project Site receives approximately 21 inches of annual rainfall.
75. Biological Resources. AECOS Inc. has prepared a Natural Resources Assessment for The Proposed Ka‘awanui Project (October 30, 2025) which describes the biological resources on the Project Site ("AECOS Report"). The AECOS Report has been further supplemented by a Hawai‘i Gap Analysis Project Land Cover and Vegetation Map.
76. Jurisdictional Waters. None of the water features on the Project Site (irrigation ditches, streams and gulches) are subject to the jurisdiction of the U.S. Army Corps of Engineers.
77. Flora. The Project Site is pastureland dominated by grasses. A total of 97 species of plants (including 6 indigenous and 3 early Polynesia species) were identified but none are listed as threatened or endangered under state or federal law.
78. Avian. A total of 25 species of birds were recorded in the avian survey, of which one (Hawaiian duck) is a listed species under federal and state of Hawai‘i endangered species

statutes. Two other species (Black-crowned Night Heron and Pacific Golden-Plover) are native but not endangered or threatened. No suitable nesting habitats exist on the Project Site for any endemic waterbirds. As a result, the proposed Project will not impact listed waterbird species.

79. Mammalian. All other vertebrates observed are non-native. However, it is possible that the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*) uses resources in the area. Adverse impacts to Hawaiian hoary bat can be avoided or minimized by not clearing woody vegetation taller than 4.6 m (15 feet) between June 1 and September 15, the bat pupping season, and by avoiding the use of barbed wire for project fencing, which the Project will implement during construction and operations.
80. Flood Hazard. According to the Federal Insurance Rate Maps (1500020259G and 1500020267F), the Project Site is located in Flood Zone X, which is an area determined to be outside of the 500-year flood plain.<sup>2</sup>
81. Water Resources. The Project will utilize an existing private, potable, and agricultural water system for potable and agricultural water purposes. This use will have no significant impact on Groundwater Resources. In addition, the Project will not withdraw water from, and will have no impact on, any streams in the vicinity.
82. Wildfire Hazard. The Applicant will incorporate multiple layers of fire prevention and suppression measures to enhance the safety of the Project Site and adjacent lands.

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<sup>2</sup> Exhibit 41 the County of Kaua'i Planning Commission Decision and Order FOF 68 refers to Federal Insurance Rate Maps (Map No. 1500020258G and Map No. 1500020259G), however, FOF 82 refers to Flood Insurance Rate Maps 1500020259G and 1500020267F, the inconsistency resulted in LUC Staff amending FOF 80 to reflect Flood Insurance Rate Maps 1500020259G and 1500020267F.

## Permits Requested and Required

83. Use Permit. The construction of the Project will take place primarily within the CZO Agriculture District, although a small portion will be located in the CZO Open District. For purposes of the CZO, the Project Improvements, including the AES Hawai'i Substation (but not the Ka'awanui Substation), constitute a "Solar Energy Facility". Conversely, the Ka'awanui Substation is defined as a "public utilities facility" under the CZO. In both cases, however, the uses require a Use Permit for uses in the CZO Agriculture District pursuant to CZO Sections 8-2.4(r)(22), (s)(16) and (s)(21) and in the CZO Open District pursuant to CZO Sections 8-2.4(u)(14) and (u)(15). Therefore, the Applicant has requested that the Planning Commission issue a Use Permit pursuant to CZO Section 8-3.2 for the construction of the Project (including the Ka'awanui Substation). The Applicant filed a Standard Zoning Permit Application in support of this Use Permit request.
84. Class IV Zoning Permit. The Project (including the Ka'awanui Substation) requires the issuance of a Class IV Zoning Permit as a condition of the Use Permit approval pursuant to CZO Section 8-8.4(4). The Applicant filed a General Class III & IV Zoning Requirement Checklist in support of this Class IV Zoning Permit request.
85. Special Permit. A SLUC Special Permit as described in HRS Section 205-6 and Hawai'i Administrative Rules ("HAR") Title 15, Subtitle 3, Chapter 15, Subchapter 12, is required pursuant to HRS Section 205-4.5(a)(21) for the portions of the proposed Project which are considered to be a "Solar Energy Facility". This would include all of the Project Improvements, including the AES Hawai'i Substation, but not the Ka'awanui Substation. The Ka'awanui Substation is a permitted use under HRS Section 205-

4.5(a)(7), which allows "Public...utility lines and roadways, transformer stations...or other similar structures...", and is not subject to the Special Permit requirement. The Applicant filed a Checklist of State Special Permit Application Requirements in support of this Special Permit request.

## **Impacts of Development**

86. Botanical Resources and Wildlife. The existing state of botanical resources and wildlife have been heavily compromised by past and present agricultural uses on the Project Site. As a result, there do not appear to be any mammalian or avian species or botanical resources that will be endangered by the Project.
87. Flora. The habitat currently present on the Project Site is comprised of improved and unimproved lands which have been used for various agricultural purposes since the closure of sugarcane operations in the area. The vegetation is dominated almost to the exclusion of native species by alien introduced grasses and weedy species. Native taxa comprise 6 indigenous and 3 Early Polynesian ("canoe plants") species, representing only 9% of the total plant species identified.
88. Mammalian. Terrestrial mammals present on the Project Site and within the vicinity are likewise alien species. There is the possibility that the endemic endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*) overflies the Project Site and possibly forages for insects on a seasonal basis above the Project Site.
89. Avifauna. A total of 25 species of birds were recorded of which one (the Hawaiian duck) is listed under federal and state of Hawai'i endangered species statutes. Two other species (Black-crowned Night Heron and Pacific Golden-Plover) are native but not endangered

or threatened. No suitable nesting habitats exist on the Project Site for any endemic waterbirds. Four species, Rose-ringed Parakeet (*Psittacula krameria*), a Common Myna (*Acridotheric tristis*), Common Waxbill (*Estrilda astrild*), and Red Junglefowl (*Gallus gallus*) accounted for 51% of the total number of birds recorded during the field survey. The remaining 22 species recorded are all alien to the Hawaiian Islands. Eight of the species are protected under the federal Migratory Bird Treaty Act. The avian diversity and densities observed during the survey were consistent with the environment at the Project Site and with current usage at this elevation range on the Island of Kauaʻi. No seabirds were recorded during the surveys, but at least two listed seabird species - Hawaiian Petrel (*Pterodroma sandwichensis*) and Newell's Shearwater (*Puffinus newelli*) - may overfly the Project Site during the breeding season.

90. Historical Resources. The Project Site has been heavily disturbed by past and present agricultural activities. As a result, with the exception of the post-contact Historic Properties identified in the Reconnaissance Level Survey prepared by Mason Architects (September 2025) ("Mason RLS"), the Archaeological Literature Review And Field Inspection (Bautista, et.al., September 2025) ("LRFI"), and the Archaeological Inventory Survey Of 268.4 Acres For The Proposed Kaʻawanui Project (Hallett H. Hammatt, PhD, et.al./Cultural Surveys Hawaiʻi, Inc./September 2025) ("AIS") (collectively, the "Archaeological Studies"), there do not appear to be any pre-contact archaeological, cultural or historical resources on the surface of the Project Site in which the Project will take place which will be affected by the Project.

91. Historic Properties. The following historic properties were identified in the AIS:

- a. SHPD# 50-30-09-02269 (historic plantation ditch system).

- b. SHPD# 50-30-09-CSH-3 (historic Old Government Road).
- c. SHPD# 50-30-09-CSH-4 (historic Ka‘awanui Village Road).
- d. SHPD# 50-30-09-CSH-5 (historic Plantation Road).
- e. SHPD# 50-30-09-CSH-6 (railroad track remnant).
- f. SHPD# 50-30-09-CSH-7 (historic water tank facility).

92. HICRIS. The Project was initiated in the Hawai‘i Cultural Resource Information System ("HICRIS") on April 25, 2025, and assigned as Project Number 2025PR00506. In the event of an inadvertent discovery of a historic site or burial in the future, the Applicant will immediately contact SHPD.

93. Air Quality/Noise. The Project will have little or no impact on the air quality and ambient noise levels in the area. Air quality and ambient noise levels may be affected at a very minimal level during the Project construction activities. All vehicles or equipment used by the Applicant during construction will be properly muffled, housed, and maintained to reduce any noise impacts or emission impacts. The Environmental Protection Agency ("EPA") and State of Hawai‘i air quality standards will not be exceeded.

94. Flooding and Drainage. The Project Site is situated within Flood Zone X (Areas outside of 500 year flood plain), as shown on Flood Insurance Rate Maps 1500020259G and 1500020267F. The Project will meet all of the requirements of the Flood Plain Management Ordinance of the County of Kaua‘i, as contained in Chapter 15, Article 1, of the Kaua‘i County Code, 1987. The Project will have no impact on flooding on or around the Project Site. All drainage resulting from the Project will be retained on site and subject to best management practices.

95. Water. The Project will obtain potable water and agricultural water from an existing private water system located mauka of Kaumuali‘i Highway. Use of this system will have no significant impact on groundwater resources.
96. Electric/Communications. Electricity and telecommunication services for the Project will all be within the Project Site and either connect to existing service lines or be delivered along the same route as the new Project Interconnection Line. The storage containers will utilize electricity provided through the station service line for climate control and lighting, and communication equipment will be installed in the AES Hawai‘i Substation and throughout the facility for operations and security purposes. There will be no impacts associated with these new connections.
97. Wastewater Treatment and Disposal. The County of Kaua‘i Public Works – Wastewater Management Division operates Kaua‘i’s wastewater infrastructure, and the wastewater system does not currently service the Project Site. Lavatories for the O&M shed will either have a septic tank or be serviced by specialized sanitation crews who will manage waste and water tanks and perform routine maintenance.
98. Solid Waste Disposal. Solid waste collection will be provided by private means. During construction, all waste will be temporarily stored onsite and periodically transported by the construction contractor for recycling or disposal at Kekaha Landfill. During decommissioning, if necessary and as required, components that cannot be reused, salvaged, recycled, or repurposed will be disposed of off-island at an authorized solid waste facility or landfill. In total, the construction, operation, and decommissioning of the Project are not expected to generate significant new demand for solid waste management services.

99. Fire and Police Services. Fire and police services in the vicinity are located in Waimea, approximately 3.2 miles (Fire) and 3.6 miles (Police) from the Project Site. The Project will not significantly increase the need for existing fire and police services.
100. Schools. The closest schools are Eleele Elementary School in Eleele, Waimea Canyon Middle School and Waimea High School in Waimea, and Kekaha Elementary School, Kula Aupuni Niihau A Kahelelani Charter School, and Ke Kula Ni‘ihau O Kekaha Charter School in Kekaha. The Project will not generate any additional enrollment.
101. Economics. The Project will have the beneficial economic impacts described in the Economic Impact Analysis.
102. Housing. The Project will not result in the need for any Workforce Housing units.
103. Property Values. Since the fair market value of real property is based on the value of the land and physical improvements, the completion of the Project will increase the value of the Project Site. This may result in increased real property taxes on the Project Site, subject to any exemptions available for commercial alternative energy facilities contained in Section 5A-11.30 of the Kaua‘i County Code, 1987. However, it will not, in and of itself, have a material impact on the value of, or real property taxes assessed against, surrounding properties.
104. Population. The Project will not result in any significant increase in population on Kaua‘i.
105. Traffic Circulation. The major roads which serve the Project Site are: Kaumuali‘i Highway (a State highway) to the southwest (makai); remnants of the Kaua‘i Belt Highway (a State road); and private, improved roads located within the Project Site. As

discussed in the Traffic Impact Analysis Report, the Project, in and of itself, will not significantly increase traffic on Kaumuali‘i Highway.

106. Road Remnants. Located mauka of Kaumuali‘i Highway, between Hanapepe Town and the Waimea River, and surrounded by lands owned by RFP (including certain Robinson Family Members), are two former highway remnants owned by the State of Hawai‘i. These remnants are identified as Old Government Road A and Old Government Road B (the "Remnants"). A portion of Old Government Road A ("Road A Section") is located between Parcel 6 and Parcel 10. RFP has agreed to buy, and the State of Hawai‘i, through its Department of Transportation ("HDOT"), has agreed to sell to RFP, the Remnants, including the Road A Section. The Project GOE will provide Applicant with a non-exclusive easement for access and utility purposes over the Road A Section, as well as the Road to Parcel 11 and Ka‘awanui Village Road.

107. Heritage Resources. As shown on the West Kaua‘i Heritage Resource Map (Figure 5-9 of the Kaua‘i General Plan) and as discussed in the View Study, the Project will not have an impact on the historic resources within the Project Site. The proposed Project will be located on a relatively level portion of the Project Site. With current and proposed screening vegetation, the Project will be substantially screened from public roads.<sup>3</sup>

108. Airports. The Project Site is located approximately 3.7 miles from the Port Allen Airport (a State facility) and 10.6 miles from the Barking Sands Airport (a U.S. Navy facility). The Project Site is not located near or beneath any flight paths for these airports.

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<sup>3</sup> Exhibit 41 the County of Kaua‘i Planning Commission Decision and Order FOF 111 identifies historic, cultural, or archeological resources on the property, are related to plantation era improvements, however, FOF 95 states “there are no historic resources noted within the Project Site”, the inconsistency resulted in LUC Staff amending the LUC’s FOF 107 to reflect the historic resources would not be impacted per the Counties FOF 111.

109. FAA/Wildlife. The U.S. Department of Transportation, Federal Aviation Administration ("FAA") has issued an Advisory Circular (ACNO: 150/5200-33b) entitled Hazardous Wildlife Attractants On or Near Airports. This Advisory Circular provides guidance on certain land uses that have the potential to attract hazardous wildlife (avian species) within a five (5) mile range of any airports (referred to as "Air Operation Areas" or "AOA"). Because the Project is located within the five (5) mile range of the Port Allen airport, it is subject to the Advisory Circular. The Applicant does not anticipate that the Project will attract any more wildlife than is already present on the Project Site in its current condition. It should be noted that "photovoltaic and solar farms" are not among the enumerated land-use practices in the Advisory Circular that have the potential for attracting hazardous wildlife.

110. OP TAM. As discussed in the Glare Hazard Analysis, the Project will create minimal glare impacts. The State Office of Planning and Sustainable Development has issued Technical Assistance Memorandum TAM-2016-1 ("TAM") pursuant to FAA Order 5190.6B. The TAM discusses the State's obligation to restrict land uses adjacent to or in the immediate vicinity of airports (which have received federal funds) to activities and purposes compatible with normal airport operations. The TAM adopts the five (5) mile range (discussed above in the Advisory Circular) in evaluating adjacent land uses. One of the concerns is the ocular impact (referred to as "Glint/Glare") of solar panels on aircraft use, especially as solar facilities are being incorporated into current airport operations. As discussed in the FAA Technical Guidance for Evaluating Selected Solar Technologies On Airports (Report No. FAA-ARP-TR-10-1), the primary concern is that light reflection (Glint/Glare) from solar facilities does not cause the temporary loss of

vision to pilots on arrival or departure from airports, or to Air Traffic Control personnel in the control tower. This concern affects solar facilities located adjacent to or near the AOA (i.e., within the 5 miles range) or within the flight paths for the airport.

111. Glint/Glare. Because the Project is located within the 5 mile range of the Port Allen airport, it will need to address Glint/Glare issues. As discussed in the Glare Hazard Analysis, the Solar Panels which will be used for the Project are designed to minimize reflection and maximize the absorption of light. The solar arrays will be mounted on solar trackers which are aligned in a north to south direction and which move with the sun to maximize absorption and minimize reflection. The Project will comply with all applicable Glint/Glare requirements.

112. Chemicals and Fertilizers. A limited area (1.5-acre area) along the southern boundary of the Project Site has been used for truck parking and miscellaneous farm equipment storage. Based on the types of farm equipment and the Project Site's historical use, combined with inspections of several containers, it is reasonably believed that these containers currently or formerly held hazardous substances, including petroleum products. The drums that did have labels were typically labeled "used oil". All miscellaneous farming equipment currently stored at the Project Site will be removed before construction begins.

### **Land Use Commission Considerations**

113. Compliance with SLUC Agricultural District Standards. The proposed uses include the development of: solar energy facilities (within B rated lands); and utilities. The AES Hawai'i Substation and the Ka'awanui Substation are permitted uses pursuant to HRS Section 205-4.5(a)(7). The remainder of the Project is a use under HRS Sections 205-

2(d)(6)(B) and 205-4.5(a)(21) which may be permitted, subject to the issuance of a Special Permit pursuant to HRS Section 205-6. The Applicant will satisfy the special provisions applicable to solar energy facilities.

114. Agricultural Activities. As discussed in the Agricultural Plan, the Applicant will lease the usable portions of the Project Site for Agricultural Activities at rates which are at least 50% below the fair market rental value.

115. Decommissioning. The Applicant will provide such security as required by HRS §205-4.5(a)(21) to insure the decommissioning and removal of the solar energy facility at the end of the lease term. The Ka‘awanui Substation is not subject to the decommissioning requirement and will not be removed, as it will continue to be owned and operated by KIUC as part of its island-wide grid system.

116. Compliance with State Plan. The proposed Project complies with the State Planning Act in that it will: provide dependable, efficient, and economical energy; increase energy self-sufficiency; promote energy security; reduce greenhouse gas emissions; and promote living within the natural resources and limits of the State.

117. Compliance with Coastal Zone Management Area (“CZMA”). Location Within CZMA. The Project Site contains approximately 269.195 acres and is located adjacent to and mauka of Kaumuali‘i Highway. The Project Site at its closest point (east/makai) is located approximately 700 feet from the shoreline, at an elevation of approximately 20 feet above mean seal level (msl). The Project Site rises in the northwesterly direction (mauka) to an elevation of approximately 215 feet above msl. At its mauka side, the Project Site is located over 2.0 mile from the closest State Forest Reserve Lands.

118. Recreational Resources. There are no public recreational opportunities taking place on the Project Site. The proposed Project will have no impacts on the public's access rights to the Shoreline or Forest Reserve areas. The construction of the Project will not overburden the use of, nor restrict access to, the Shoreline or the Forest Reserve areas.
119. Cultural and Historic Resources. The only known historic, cultural or archaeological resources located on or near the Project Site are related to plantation era improvements. As a result, the proposed Project will not have any significant impacts on any pre-contact Historic Sites. There are no known traditional or customary practices of native Hawaiians (including gathering or religious practices) presently occurring on the Project Site; there are no pre-contact cultural or historic sites or resources located on the Project Site; and there are no known native Hawaiian burials on the Project Site. In addition, the Project will not detrimentally affect access to streams, to the shoreline, or to mountain areas.
120. Scenic and Open Space Resources. The proposed Project will have only minor impacts on the scenic and open space resources on and around the Project Site. The Project will be compatible with and blend into the surrounding area. The Project will not interfere with any views to or along the shoreline. The Applicant will use additional landscaping, if necessary, to provide reasonable mitigation to the visual impacts the Project may have on the scenic quality of the Project Site and on views from Kaumuali'i Highway and other surrounding areas.
121. Coastal Ecosystems. The Project Site is not located near or along the Shoreline and is not part of the coastal ecosystem of this area. The proposed Project will have no impact on the coastal ecosystem. The Project will be constructed and maintained so that any erosion or increased runoff will be maintained on site, and will not be allowed to enter into the

Shoreline, the ocean, any streams, or any drainageways leading to the ocean. No aspect of the Project will endanger the coastal ecosystem or have any negative impacts on it.

122. Economic Uses. The Project will create short term economic benefits associated with the construction of the Project and long-term economic benefits associated with maintenance and operational activities on the Project Site. The proposed Project will not have any negative impacts on the economy.

123. Coastal Hazards. The Project Site is not located near or along the Shoreline and will not be subject to any coastal hazards. The Project Site is located in Flood Zone X and will not be exposed to flooding. The proposed Project will have no contributory impact on flooding on or around the Project Site. Any additional surface water flows caused by the Project will be maintained on Parcels 6 and 10.

124. Managing Development/Public Participation. Since early 2025, Applicant has been meeting, conducting workshops, and communicating with the greater West Kauaʻi community, persons with knowledge of the Project Site and surrounding areas, governmental representatives, and other interested organizations and parties concerning the Project. Applicant has elicited and made best efforts to mitigate and address the concerns raised by the community regarding the Project. This continued public participation has been further insured by the process by which this Application was heard by the Planning Commission and was heard by the SLUC.

125. Beach Protection/Marine Resources. The Project Site is not located near or along the Shoreline. The Project will have no impact on any shoreline or beach areas, or on any open space areas along the Shoreline. The Project will not involve any development within the beach or coastal area that would have any negative impact on marine or coastal

resources. The Kekupua Fishpond and the Makaweli Landing are located on the makai side of Kaumuali‘i Highway, across from the Project Site. The Project will have no impact on these features.

126. Impacts Within CZMA. The Project on the Project Site will have no negative impact on the CZMA and will be consistent with and non-violative of the objectives and policies of the CZMP in the following respects:

- a. The Project will be compatible with existing uses in areas on or around the Project Site.
- b. The Project will not negatively impact scenic or open space resources within the CZMA.
- c. The Project will not increase runoff or otherwise endanger the coastal ecosystem.
- d. The Project on the Project Site will not be located in a coastal hazard area.
- e. The Project will have no detrimental impact on recreational, historic, or economic resources.
- f. The Project will not have detrimental impacts on beach or marine resources.
- g. Approval of the Project will not result in the foreclosure of future management options for development in the area.
- h. The design, siting, and landscaping of the Project as proposed will ensure that the proposed Project will recognize, preserve, maintain and contribute to the characteristics of the surrounding lands. In particular, the Project will be compatible with, and will protect, the unique natural forms of, biologic systems contained within, and aesthetic characteristic of, the CZMA.

127. Sea Level Rise. With the exception of a portion of the A‘akuki Stream, the Project Site is not located in the Sea Level Rise Exposure Area (3.2 feet scenario). None of the Project Improvements will be subject to flooding caused by Sea Level Rise.

### **General Plan Considerations**

128. Kaua‘i General Plan Land Use Designation. As shown on the Waimea Kekaha Land Use Map (which is contained in the Kaua‘i General Plan as Figure 5-2), the Project Site is located in the Agricultural Land Use Designation.

129. Goals. The overall Goals contained in Section 1.3 of the Kaua‘i General Plan, and the Project's compliance therewith, are as follows:

- a. Goal 1 – A Sustainable Island. The Project will promote the operation of a clean and sustainable source of additional electrical generation and storage for Kaua‘i.
- b. Goal 2 – A Unique and Beautiful Place. The Project will benefit human health and the Kaua‘i environment through the use of additional electrical generation and storage that does not result in greenhouse gases, water contamination, and other environmental impacts associated with fossil fuel production and use.
- c. Goal 3 – A Healthy and Resilient People. The Project will have minimal visual impacts and will have no negative impacts on historic sites or Hawaiian cultural practices.
- d. Goal 4 – An Equitable Place, with Opportunity for All. The Project will independently enhance the stability and operation of the solar electric services on Kaua‘i.

130. Policies. The Policies contained in Section 1.4 of the Kaua‘i General Plan, and the Project's compliance therewith, are as follows:

- a. Manage Growth to Preserve Rural Character. The Project will not detract from the rural characteristics of Kaua‘i. It will support agricultural, commercial, resort, and residential activities on Kaua‘i by providing additional electric generation and storage resources.
- b. Provide Local Housing. The Project will have no negative impacts on local housing.
- c. Recognize the Identity of Kaua‘i's Individual Towns and Districts. The Project will help ensure that additional electric generation and storage resources are available on Kaua‘i.
- d. Design Healthy and Complete Neighborhoods. The Project will help provide the alternative solar electric services necessary for healthy and complete neighborhoods.
- e. Make Strategic Infrastructure Investments. The Project will help create the necessary infrastructure for growth areas identified in the Kaua‘i General Plan.
- f. Reduce the Cost of Living. The Project will produce lower cost solar electric services which in turn will help reduce housing, food and transportation costs.
- g. Build a Balanced Transportation System. The Project will not increase traffic or congestion problems.
- h. Protect Kaua‘i's Scenic Beauty. The Project will have minimal visual impacts.
- i. Uphold Kaua‘i as a Unique Visitor Destination. The Project will provide necessary additional electric generation and storage resources to visitor destination area on Kaua‘i, but will not in and of itself result in increased visitor numbers.

- j. Help Business Thrive. The Project will provide dependable, additional electric generation and storage resources in support of business and commercial activities on Kaua‘i.
- k. Help Agricultural Lands Be Productive. The Project will help provide additional electric generation and storage resources for agricultural activities on Kaua‘i. The Project will have no negative impact on surrounding agricultural uses, and will remove only a minimal amount of land from the 136,908 acres of lands available within the SLUC Agricultural District on Kaua‘i.
- l. Protect Our Watersheds. The Project will have no negative impacts on the watershed areas.
- m. Complete Kaua‘i's Shift to Clean Energy. The purpose of the Project is to utilize agricultural lands for the implementation of solar energy facilities for solar energy generation. The Project will assist KIUC in meeting the State of Hawai‘i’s mandate to achieve 100% renewable energy by 2045. In 2023, Kaua‘i achieved 58% renewable energy production. The Project will produce over 17% of the total energy requirements for Kaua‘i, and it will allow KIUC to make significant progress toward achieving 100% renewable energy. Additionally, with the upcoming sunset of federal tax credits for renewable energy projects, this is one of the last projects to qualify for those credits. These tax credits allow the Project to sell energy to KIUC at a low, fixed rate, and those savings get passed along to the customer. Other projects coming online after 2030 will not have that same opportunity.

- n. Prepare for Climate Change. Operation of the Project will not contribute to global GHG emissions and climate change. The operation of the Project will have substantial beneficial impacts by reducing the State and Kaua‘i’s reliance on fossil fuels and their contribution to global climate change by meeting the State of Hawai‘i’s mandate to achieve 100% renewable energy by 2045. The Project will produce renewable energy through the proposed solar energy generating infrastructures and facilities.
- o. Respect Native Hawaiian Rights and Wahi Pana. The Project will have no substantial impacts on any historic sites, Hawaiian traditional and cultural practices, or access to streams, shorelines, or areas associated with Hawaiian religious, traditional or cultural practices.
- p. Protect Access to Kaua‘i’s Treasured Places. The Project will have no impact on the public’s access to streams, the shoreline, trails, recreational areas, or places associated with Hawaiian religious, cultural, or traditional practices.
- q. Nurture Our Keiki. The Project will help provide a stable, additional electric generation and storage resources that will allow Kaua‘i’s young people to grow and flourish.
- r. Honor Our Kūpuna. The Project will help provide a stable, dependable additional electric generation and storage resources that will help create and sustain services and facilities to meet the needs of the Kūpuna of Kaua‘i.
- s. Communicate with Aloha. The scheduling of this Application before the Planning Commission will allow the public to participate in the planning and decision-making process for the Project.

131. Objectives & Actions by Sectors. The ten (10) Sectors contained in Section 3.0 of the Kaua'i General Plan (which represent the areas that must be considered in policy implementation), and the Project's compliance therewith, are as follows:
- a. The Watershed. It is believed the Project will have no negative impacts on the natural, historic, cultural, or environmental qualities of, or resources within, the Watershed areas, or access thereto.
  - b. Housing. Land easement payments will be made to a local land manager, G&R, which employs many people and provides housing through the Plantation Camps. These payments will give them the means to expand their business and upgrade infrastructure and housing. Additionally, the project will improve grid stability and reliability on the West side and increase renewable energy resources. This will allow for future population growth and expansion of the housing market.
  - c. Transportation. During construction, temporary traffic will be mitigated through a Traffic Management Plan. Once operational, the Project will not increase traffic and will have no negative impact on Kaua'i's transportation infrastructure.
  - d. Infrastructure & Services. The Project will be an essential part of a stable and dependable alternative solar electric service which promotes lower-cost services in support of future growth. These benefits will accrue to all residents, including those living in low income communities.
  - e. Shared Spaces. The Project will have no negative impacts on the county's efforts to maintain and use Shared Spaces.
  - f. Economy. The Project will be an essential part of a stable, dependable, sustainable alternative solar electric service that will support the full range of

economic activities (including agricultural activities) on Kaua‘i. Although located in the Kaua‘i General Plan Agricultural Land Use designation, the Project: is not located on Important Agricultural Lands; represents a small percentage of the total available Agricultural zoned lands on Kaua‘i (268.4 acres of 136,908 acres); will have no impact on surrounding agricultural activities on surrounding lands; and will support its own agricultural activities with a local agricultural partner. Additionally, over the Project’s lifetime, including direct, indirect, and induced effects, the Project is estimated to generate or sustain up to approximately 1,064 total jobs in Hawai‘i, \$77.9 million in local labor income, and a total local economic output of \$216.7 million. The land easement payment will be made to a local landowner, ensuring the money stays in Kaua‘i’s economy.

- g. Heritage Resources. The Project will have minimal visual impacts on surrounding lands, and no substantial impacts on historic sites, Hawaiian cultural or traditional practices, or access to streams, shorelines, areas associated with Hawaiian cultural or traditional practices, recreational areas or other special places. The Project does not contain and will not negatively impact any special features or resources that are shown on the Waimea-Kekaha Heritage Resource Map (Kaua‘i General Plan Figure 5-9).
- h. Energy Sustainability. The Project will: reduce fossil fuel uses; promote the transition to renewable resources; encourage the use of alternative power sources; promote clean, green energy production; and reduce energy costs.

- i. Public Safety & Hazards Resiliency. The Project will provide additional electric generation and storage resources during natural emergencies. The Project is not located near the shoreline and will not be subject to sea level rise.
- j. Opportunity & Health for All. The Project will be part of a stable and dependable additional electric generation and storage resources, which is an essential component of maintaining and growing educational and healthcare services which benefit all residents.

132. Compliance with Kaua‘i General Plan Standards. The Project itself will have no significant impact on the surrounding environment. The Project will include uses that are compatible with agricultural and other uses in the area, as well as with the surrounding environment. The Project will help provide a stable, independent source of additional electric generation and storage resources, which will assist agricultural activities on Kaua‘i.

### **Development Plan Considerations**

133. Community Plan Area. The Project Site is located in the West Kaua‘i geographic area and is subject to the provisions of the West Kaua‘i Community Plan ("WKCP") as set forth in Title IV, Chapter 10, Article 3 of the Kaua‘i County Code, 1987 ("KCC").

134. Land Use. The desired long-range land use pattern for the Project Site is shown on the West Kaua‘i Regional Map (Figure 12 of the WKCP) and on the Makaweli Town Plan Map (Figure 15 of the WKCP). In both cases, the maps provide for an Agriculture Land Use designation for the Project Site.

135. Regional Policies. The Regional Policies set forth in the WKCP, and the Project's compliance with such policies, are as follows:

a. Town Design.

- i. Town Design Policy #1. Focus development in existing towns to protect West Kaua'i's rural qualities and agricultural resources.

Response. The Project could not be placed next to an existing town, because it is utility-scale and requires 200+ acres of land. However, the compatible agriculture plan will increase the amount of agriculture occurring on this land, expanding the agricultural resources in West Kaua'i.

- ii. Town Design Policy #2. Strengthen and activate town centers through development that supports the unique character of each town.

Response. The Project is not applicable to this design policy.

- iii. Town Design Policy #3. Meet the housing needs of West Kaua'i's residents by expanding mixed-use communities that are walkable, bikeable, and resilient.

Response. Land easement payments will be made to a local land manager, G&R, which employs many people and provides housing through the Plantation Camps. These payments will give them the means to expand their business and upgrade infrastructure in the Plantation Camps. Additionally, the Project will improve grid stability and reliability on the

West side and increase renewable energy resources. This will allow for future population growth and expansion of the housing market.

- iv. Town Design Policy #4. Protect and support the unique Plantation Camps. Response. Land easement payments will be made to a local land manager, G&R, which employs many people and provides housing through the Plantation Camps. These payments will give them the means to expand their business and upgrade infrastructure in the Plantation Camps. Additionally, during the early project design, land within the Ka‘awanui Village Plantation Camp Urban Zoning expansion area was considered for the Project. Applicant removed the Plantation Camp zoning expansion area from the Project footprint to protect and support the future growth of Ka‘awanui Village.

b. Land Transportation.

- i. Land Transportation Policy #1. Work with the Hawaii Department of Transportation (HDOT) to identify congestion relief measures along Kaumuali‘i Highway. Response. During construction, the Project will implement a Traffic Management Plan to mitigate traffic impacts along Kaumuali‘i Highway. During operation, the Project will not have any negative impact on this Policy.

- ii. Land Transportation Policy #2. Improve bus service by implementing the West Kaua‘i components of the Kaua‘i Short-Range Transit Plan.

Response. The Project will not have any negative impacts on this Policy.

- iii. Land Transportation Policy #3. In each community, establish "safe routes"—primarily street networks that safely accommodate pedestrians and bicyclists to get from homes to schools, parks, shops, jobs, and services.

Response. The Project will not have any negative impacts on this Policy.

- iv. Land Transportation Policy #4. Establish shared-use paths for bicyclists and pedestrians that connect Westside towns.

Response. The Project will not have any negative impacts on this Policy.

c. Heritage Resources.

- i. Heritage Resources Policy #1. Preserve and protect the integrity of sacred heritage resources for current and future generations.

Response. The Project has conducted an AIS and will follow the SHPD directive to preserve historic properties located within the Project Site as required. Additionally, Applicant has consulted with the landowner, who has owned the land since 1865 and has an intimate knowledge of its history and heritage resources. With their input, the Project is preserving

historic properties significant to the family, such as the rock wall located on both sides of Ka‘awanui Road.

- ii. Heritage Resources Policy #2. Celebrate the cultural and historic features that represent West Kaua‘i's diverse cultural influences.

Response. The Project will not have any negative impacts on this Policy.

- iii. Heritage Resources Policy #3. Uphold traditional and customary rights.

Response. The Project has conducted a Cultural Impact Assessment with Ka Pa‘akai Analysis, which confirms that the Project will not negatively impact traditional and customary Native Hawaiian rights. Additionally, the Project has conducted extensive community outreach, providing the public with multiple avenues to ask questions and share their feedback and knowledge of the area. The Project will continue to collect feedback throughout its life.

- iv. Heritage Resources Policy #4. Preserve West Kaua‘i's historic structures and perpetuate its unique architecture.

Response. The Project will follow the SHPD directive to preserve historic properties located within the Project Site as required. Additionally, Applicant has consulted with the landowner, who has owned the land since 1865 and has an intimate knowledge of its history and heritage resources. With their input, the Project is preserving historic properties

significant to the family, such as the rock wall located on both sides of Ka‘awanui Road.

d. Resiliency.

- i. Resiliency Policy #1. Adapt West Kaua‘i's low-lying neighborhoods for climate change impacts and lay the groundwork for managed retreat.

Response. The Project, by generating energy from clean, renewable solar energy, will prevent the burning of oil and reduce Kaua‘i's greenhouse gas emissions. This will ultimately help reduce the severity of climate change.

- ii. Resiliency Policy #2. Increase the resiliency of flood prone neighborhoods through flood mitigation, drainage improvements, green infrastructure, and updated building standards.

Response. The Project, by generating energy from clean, renewable solar energy, will prevent the burning of oil and reduce Kaua‘i's greenhouse gas emissions. This will ultimately help reduce the severity of climate change.

- iii. Resiliency Policy #3. Strengthen the resiliency of the region's critical infrastructure and public facilities.

Response. The Project will strengthen the electrical grid's resilience by increasing renewable energy production and modernizing critical grid infrastructure through the construction of the new Ka‘awanui Substation.

The battery energy storage system component of the Project also creates firm, dispatchable energy that can be deployed when needed.

- iv. Resiliency Policy #4. Build on West Kaua‘i's close-knit community networks to promote regional resiliency and grassroots disaster planning and preparedness.

Response. This Project will build Kaua‘i energy sovereignty, decreasing its reliance on foreign oil and insulating it from global disasters and supply disruptions. The Project will strengthen the electrical grid's resilience by increasing renewable energy production and modernizing critical grid infrastructure through the construction of the new Ka‘awanui Substation. The battery energy storage system component of the Project also creates firm, dispatchable energy that can be deployed when needed.

- v. Resiliency Policy #5. Ensure the long-term resiliency of the land transportation network.

Response. The Project will not have any negative impacts on this Policy. There will be no alteration to the existing transportation network.

- vi. Resiliency Policy #6. Improve West Kaua‘i's long-term food security and sustain vital self-reliant community food systems.

Response. The Project will contribute to West Kaua‘i's long-term food security through its compatible agriculture plan with a local agriculture

partner. The agricultural partner's goal is to produce food for commercial sale.

e. Shared Spaces.

- i. Shared Spaces Policy #1. Support community-led design, programming, and stewardship of shared spaces.

Response. The Project will not have any negative impacts on this Policy.

- ii. Shared Spaces Policy #2. Protect the community's natural and recreational resources in perpetuity.

Response. The Project will not have any negative impacts on this Policy.

f. Economic Development.

- i. Economic Development Policy #1. Uphold Agriculture as an anchor industry.

Response. Through the compatible agriculture component of this Project, more agriculture will occur because of the Project than what is currently occurring on the land. Recently, the land has mainly been used for rotational grazing. Under the compatible agriculture plan, the agricultural partner will work to produce food for commercial sale.

- ii. Economic Development Policy #2. Provide supportive environments for business success.

Response. The Project will increase grid stability and resilience, creating a dependable energy supply for businesses. It will also provide energy at a low, fixed cost, cheaper than the current cost of fossil fuels, contributing to a lower cost of energy for businesses.

- iii. Economic Development Policy #3. Grow science literacy and invest in a STREAM-ready workforce.

Response. Over the Project's lifetime, including direct, indirect, and induced effects, the Project is estimated to generate or sustain up to approximately 1,064 total jobs in Hawai'i, including local construction and Operations and Maintenance jobs on Kaua'i. Additionally, Petitioner has been an active educational partner since 2019, supporting and participating in Kaua'i STREAM events and programs, including but not limited to: the Kaua'i Community Science Center, educational tours of Lāwa'i Solar + Storage, Career Fairs, Teacher Trainings, and Earth Day presentations. Petitioner has also funded college scholarships for Kaua'i STEM majors through the Hawai'i Community Foundation.

### **Compliance with Requirements for State Land Use Special Permit**

- 136. Special Permit Requirements. The proposed Project will meet with the requirements for an SLUC Special Permit, as contained in Hawai'i Revised Statutes Section 205- 6 and in Section 15-15-95 of the Land Use Commission Rules (Hawai'i Administrative Rules) as set forth herein.

137. The use will not be contrary to the objectives sought to be accomplished by the HRS Chapter 205 and 205A, and the SLUC Rules. The proposed use will not interfere with other agricultural uses which are generally allowed within the SLUC Agricultural District. It is consistent with solar facility uses which are allowed (with a Special Permit) in the SLUC Agricultural District. It is also located so as to minimize impacts on agricultural activities in this area.
138. The desired use will not adversely affect surrounding property. As discussed herein, the proposed use will be compatible with the surrounding neighborhood and uses, and will not generate any significant adverse impacts. It will not prevent surrounding lands from being used for agricultural purposes. The amount of additional traffic that will be generated as a result of this proposal will be insignificant and will not create any substantial adverse impacts.
139. The use will not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection. As discussed herein, no burden will be placed on public agencies to provide additional facilities, services, and utilities as a result of this proposal. Conversely, by providing an alternative green source of energy for electricity, it will promote the sustainability and availability of electrical production resources for the public.
140. Unusual conditions, trends and needs have arisen since the district boundaries and regulations were established. The State has recently recognized the need to promote alternative energy production, including solar energy production. Such facilities require large areas, as are available in the SLUC Agricultural District compared to the SLUC Urban District. Provided such new uses do not adversely impact surrounding

agricultural activities, they are recognized as necessary and permissible in the SLUC Agricultural District.

141. The land on which the proposed use is sought is unsuited for the uses permitted with the District. To the extent feasible, the Applicant will continue to use the Project Site for Agricultural Activities as described in the Agricultural Plan. In addition, although the Project Site is suitable for agricultural uses, it is better suited at this time for the production of alternative energy production via the Project proposed herein.

### **HRS Chapter 343 (Environmental Impact Statements) Considerations**

142. HRS Chapter 343. The Project is not subject to the provisions of Hawai'i Revised Statutes Chapter 343. HRS Chapter 343 requires the preparation of an Environmental Assessment and/or an Environmental Impact Statement for certain activities as specified in HRS Section 343-5. The proposed Project does not fall within such specified activities, in that the Project does not:
- a. Propose the use of state or county lands or the use of state or county funds;
  - b. Propose any use within any land classified as conservation district by the State Land Use Commission under HRS Chapter 205;
  - c. Propose any use within the shoreline area as defined in HRS Section 205A-41;
  - d. Propose any use within any historic site as designated in the National Register or Hawai'i Register as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or HRS Chapter 6E;

- e. Propose any use within the Waikīkī area of O‘ahu, the boundaries of which are delineated in the land use ordinance as amended, establishing the "Waikīkī Special District";
- f. Propose any amendments to existing county general plans where such amendment would result in designations other than agriculture, conservation, or preservation;
- g. Propose any reclassification of any land classified as conservation district by the State land Use Commission under HRS Chapter 205;
- h. Propose the construction of new, or the expansion or modification of existing, helicopter facilities within the state; or
- i. Propose the construction of a wastewater treatment unit, waste-to energy facility, oil refinery, or power generating facility (which use petroleum based fuels).

### **Native Hawaiian Issues**

143. Traditional or Cultural Practices. An analysis of the traditional or cultural practices occurring on or related to the Project Site have been addressed in the Archaeological Reports, in the Community Outreach Report, in the Cultural Impact Assessment and Ka Pa‘akai Analysis for Ka‘awanui Project (Cultural Surveys Hawaii, Inc.), and in the Cultural Study (collectively, the "Ka Pa‘akai Report"). The conclusion contained in the Ka Pa‘akai Report is that the Project will have no impact on any known traditional or customary practices of native Hawaiians within the Project Site. As noted in the Ka Pa‘akai Report, no traditional cultural properties were identified as existing, and no traditional cultural practices were identified as taking place, within the Project Site or its vicinity.

144. Summary of Impacts on Traditional or Cultural Practices. In summary, the Project will have no impact on any known traditional or customary practices of native Hawaiians for the following reasons:

- a. There are no known traditional or customary practices of native Hawaiians that are presently occurring within the Project Site.
- b. There are no special gathering practices taking place within any portion of the Project Site.
- c. The Project will not detrimentally affect: access to any streams; access to the shoreline or other adjacent shoreline areas; or gathering along any streams, the shoreline or in the ocean.
- d. There are no known religious practices taking place within the Project Site.
- e. There are no known pre-contact cultural or historic sites or resources located within the Project Site.
- f. There are no known burials within the Project Site.

#### **OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT POSITION**

145. The OPSD filed their Comments on Ka‘awanui Solar Application for a Special Permit with the LUC on May 13, 2026, and recommended approval of the State Special Permit.

146. During the LUC’s May 13, 2026, hearing, OPSD presented that the proposed project is an unusual and reasonable use permitted in the State agricultural district, based on HAR Section 15-15-95c [Tr. 5/13/2026, pgs.51-53].

## **KAUA‘I COUNTY PLANNING DEPARTMENT POSITION**

147. Kaua‘i County transferred the record to the LUC on May 4, 2026. Exhibit 26, of the record is the Kaua‘i County Planning Department Directors Report, and Exhibit 41, is the County’s Executed Decision and Order, which recommends the approval of the State Special Permit, subject to the 24 conditions contained in the Decision and Order.
148. During the LUC May 13, 2026, hearing, Kaua‘i County Planning Department verbally presented their position, representing that the Planning Commission conducted a thorough review, including public hearings, consideration of testimony, both from the applicant and public, as well as agency comments, evaluation of applicable standards governing special permits within the agricultural district, and recommended that the Commission approve the State Special Use Permit [Tr. 5/13/2026, pgs.50-51].
149. During the line of questioning, Kaua‘i County agreed to the Commissions amendments to the conditions 2, 8, and 11 [Tr. 5/13/2026, pgs.66].

### **CONCLUSIONS OF LAW**

1. To the extent that any of the following Conclusions of Law shall be determined to be Findings of Fact, they shall be deemed as such.
2. The LUC has jurisdiction over this matter pursuant to HRS §205-6, and HAR §§15-15-95 and 15-15-96.
3. HRS Sections 205-2 and 205-4.5(a), which provide permitted uses in the State Land Use Agricultural District
4. Based upon the record and pursuant to HRS §205-6, HRS and HAR §15-15-95 et seq., the LUC finds that the Project meets the guidelines for determining an "unusual and

reasonable use" and "would promote the effectiveness and objectives" of HRS Chapter 205 within the State Land Use Agricultural District.

5. The Project constitutes an unusual and reasonable use within the agricultural district other than those for which the district is classified, and complies with §205-6(a), HRS.
6. The Project constitutes an exceptional situation where the use desired would not change the essential character of the district nor be inconsistent therewith. *Save Sunset Beach Coalition v. City and County of Honolulu*, 102 Haw. 465, 78 P.3d 1 (2003).
7. The Project constitutes a use that would promote the effectiveness and objectives of HRS Chapter 205, and complies with §205-6(c), HRS.
8. The Project is consistent with the "overarching purpose" of HRS Chapter 205 which is to "protect and conserve natural resources and foster intelligent, effective, and orderly land allocation and development." *Kaua'i Springs v. Planning Commission*, 130 Haw. 407, 312 P.3d 283 (2013).
9. The Project's Agricultural Plan dedicates the land to long-term agricultural uses, supports the sustained growth of agriculture uses, supports the sustained growth of the agricultural industry.
10. Article XI, section 1, of the Hawai'i State Constitution requires the State to conserve and protect Hawai'i's natural beauty and all natural resources, including land, water, air, minerals, and energy sources, and to promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self sufficiency of the State.

11. Article XI, Section 3, of the Hawai‘i State Constitution requires the State to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency, and assure the availability of agriculturally suitable lands.
12. Article XII, Section 7, of the Hawai‘i State Constitution requires the State to protect Native Hawaiian traditional and customary rights. The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by ahupua‘a tenants who are descendants of Native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.
13. The LUC finds the Project has satisfied the requirements of Section 205-4.5(a)(21), HRS.
14. The Project is consistent with the Legislature’s statement of energy policy, as set forth in HRS§196-1, HRS §226-18, and the State of Hawai‘i’s stated policy to mitigate its greenhouse gas emissions by sequestering more atmospheric carbon and greenhouse gases than the State produces as quickly as practicable, but no later than 2045 pursuant to HRS Chapter 225P, HRS§225P-1.
15. The LUC, through its judgment and experience, voted to approve the Ka‘awanui Solar Special Permit Application for solar development on approximately 269.195 acre portion of land located in Makaweli, Waimea, Kaua‘i, Hawai‘i, identified by Kaua‘i Tax Map Key Nos. (4) 1-7-006:006 (por.) ("Parcel 6") and 010 (por.) ("Parcel 10"), subject to the 24 County Conditions with the three additional Condition amendments on County conditions 2, 8, and 11.

## **DECISION AND ORDER**

The LUC, having duly considered the written and oral arguments presented by the Petitioner, AES Hawai‘i, Ka‘awanui Solar, LLC., the County of Kaua‘i Planning Department and Planning Commission, the OPSD, and members of the public, and a motion having been made and seconded at the meeting on May 13, 2026, held at the Hilton Garden Inn Kaua‘i Wailua Bay, Kūhiō Ballroom 3-5920 Kūhiō Highway, Kapa‘a, HI 96746, and the motion having received the affirmative votes required by HAR § 15-15-13, and there being good cause for the motion,

HEREBY FINDS AND CONCLUDES that, pursuant to HRS Chapter 205 and the Commission Rules under HAR chapter 15-15, upon consideration of the decision-making criteria set forth in HAR § 15-15-95(c), and based upon the preponderance of the evidence and good cause shown, the Petitioner’s application for a Special Permit to develop and operate a utility-scale solar energy facility is approved, on approximately 269.195 acre portion of land located in Makaweli, Waimea, Kaua‘i, Hawai‘i, identified by Kaua‘i Tax Map Key Nos. (4) 1-7-006:006 (por.) and 010 (por.), subject to the 24 County Conditions with the three additional Condition amendments on County conditions 2, 8, and 11, attached hereto and incorporated by reference herein, subject to the following conditions:

1. The project shall be constructed as represented. Any changes to the operation and/or the respective structures shall be reviewed by the Planning Director to determine whether Planning Commission review and approval is warranted.
2. Usable lands of the Petition Area, including areas under PV panels, shall be made available for compatible agricultural use at a lease rate that is at least 50 percent below the fair market rent for comparable properties, as long as the Project is in

operation. Compatible agricultural operations shall be established by the Applicant and its successors and/or assigns within 6 months of the start of commercial power generation. Extensions to this deadline may be granted by the Director of the County of Kaua‘i Planning Department, after consultation with the State Department of Agriculture and Biosecurity for unforeseen extenuating circumstances. Additional consideration may be given if the Applicant is actively seeking to have such operations established.

3. If at any time during the term of the subject permits no compatible agricultural operations exist on the usable lands of the Petition Area for 6 months, the Applicant shall notify the Director of the County of Kaua‘i Planning Department in writing within 30 days of the end of the 6-month period. If requested by the Planning Director, the Applicant shall attend a meeting of the Planning Commission and submit a report to the Planning Commission detailing the Applicant’s actual and reasonable efforts to establish compatible agricultural operations on the usable lands of the Petition Area. The Planning Commission may determine whether probable cause exists to re-evaluate the subject permits and to hold a hearing pursuant to the Rules of the Planning Commission. Extensions to the 6-month deadline may be granted by the Planning Director for unforeseen extenuating circumstances.
4. The Applicant shall submit for review and obtain the approval of the following from the Director of the County of Kaua‘i Planning Department, prior to the issuance of a grading or building permit:
  - a. A survey map accompanied by metes and bounds description of the approved Petition Area.

- b. A site plan showing the area required under Condition 2, above, relating to the minimum land area to be made available for compatible agricultural use.
5. Prior to the closing of the building permit for the facility, the Applicant shall submit to the County of Kaua‘i Planning Department proof of financial security, such as a letter of credit or similar assurance, from a creditworthy financial institution satisfactory to the County of Kaua‘i Planning Department. The security shall remain in place for the duration of the operation of the Project, with evidence of same provided to the Director of the County of Kaua‘i Planning Department on an annual basis, in an amount approved by the County of Kaua‘i Planning Department as sufficient to decommission the Project and restore the Petition Area to substantially the same physical condition as existed prior to the development of the facility.

The Applicant shall decommission the facility (not including the Ka‘awanui Substation), including the removal of all equipment related to the facility, within twelve (12) months following the termination of operations of the facility. A change in the project ownership or a change in ownership of the land subject to the Special Permit, which warrants a new proof of financial security to decommission the project, shall be submitted to the County of Kaua‘i Planning Department for processing through the Planning Commission, within three (3) months of the ownership change.

The Applicant shall incorporate this condition in the license and/or lease agreement with the landowner and said license and/or lease agreement shall be reviewed for approval by the County of Kaua‘i Planning Department.

6. The Applicant shall mitigate impacts to flora on site as follows:

- a. Prior to initiating any ground-disturbing activities, the Applicant should identify and implement feasible measures to reasonably protect, replace or relocate any indigenous or native plant species, or cultural and natural resources within the project area, based on consultation with applicable governmental agencies.
7. The Applicant shall mitigate impacts to fauna on site as follows:
- a. Applicant shall develop an endangered species awareness training module, which shall include all potential endangered species that may frequent the Petition Area.
  - b. All construction workers and solar facility employees shall undergo endangered species awareness training prior to starting work.
  - c. In order to minimize adverse impacts on the Federally Listed Threatened Species, Newell's Shearwater and other seabirds, external lighting shall be only of the following types: shielded lights, cut-off luminaries, or indirect lighting. Spotlights aimed upward or spotlighting of structures, landscaping or the ocean shall be prohibited.
  - d. Barbed wire shall not be used on the top of any fencing.
  - e. Applicant shall monitor avian injuries occurring within the Project Site, and report occurrences to the United States Fish and Wildlife Service ("USFWS").
  - f. Applicant shall minimize or avoid clearing or grading activities from June 1 through September 15.
8. The Applicant shall begin commercial operations of the Project within four (4) years of the date of the Land Use Commission's (LUC) Decision and Order approving the

- Special Permit. Requests for extension of this deadline shall be submitted to the Director of the County of Kaua‘i Planning Department prior to the expiration of the deadline. The LUC may grant an extension to the deadline to establish the Project due to unforeseen circumstances that were beyond the control of the Applicant. This Special Permit shall be valid for a period of thirty-five (35) years from the date of the start of commercial operations of the Project, subject to further extensions upon a timely request for extension filed with the Planning Commission at least one hundred twenty (120) days prior to the Special Permit's expiration. Approval of Special Permit time extensions shall be required from the State of Hawai‘i Land Use Commission.
9. On or before December 31 of each year that the Special Permit is in effect, the Applicant or its successor shall file an annual report to the LUC, State of Hawai‘i Office of Planning and Sustainable Development, and the County of Kaua‘i Planning Department that demonstrates the Applicant’s compliance with conditions of the subject permits.
  10. Major modifications to: (1) the Project plans, including but not limited to significant increases in the number of PV panels; (2) amendments to the conditions of approval; (3) significant expansions of the approved area; or (4) change in uses stated herein, shall be subject to the review and approval of the Planning Commission and the SLUC. Minor modifications including minor additions to accessory uses and structures, and new incidental uses and structures in the approved area are subject to review and approval by the Director of the County of Kaua‘i Planning Department.
  11. The Applicant shall notify the Director of the County of Kaua‘i Planning Department and the State of Hawai‘i Land Use Commission of:

- a. Any change or transfer of the license on the Petition Area.
  - b. Any change in uses on the Petition Area.
  - c. Termination of any uses on the Petition Area; and/or
  - d. Transfer in ownership of the Petition Area.
12. Enforcement of the conditions of the subject permits shall be enforced pursuant to the Rules of the Planning Commission, including the issuance of an order to show cause as to the reason the subject permits should not be revoked if the Planning Commission has reason to believe that there has been a failure to perform the conditions herein.
  13. If the PV array or the Project creates a hazardous condition for pilots or motorists, the facility operator shall immediately mitigate the hazard upon notification by the State of Hawai‘i Department of Transportation (DOT), DOT Airports Division, or the Federal Aviation Administration.
  14. If required to mitigate visual impacts, new landscaping shall be installed and maintained around the Solar Project to screen it when viewed from Kaumuali‘i Highway. The County of Kaua‘i Planning Department shall determine whether additional landscape screening is necessary and the degree at which it is provided.
  15. In the event that historic resources, including human skeletal remains, structural remains, cultural deposits, artifacts, sand deposits, or sink holes, are identified during grading and/or construction activities, all work shall cease in the immediate vicinity of the find, the find shall be protected from additional disturbance, and the State Historic Preservation Division (SHPD) and Kaua‘i Island Burial Council, as applicable, shall be contacted immediately. Without any limitation to any other

condition found herein, if any burials or archaeological or historic sites are discovered during the course of construction of the facility, all construction activity in the vicinity of the discovery shall stop until the issuance of an archaeological clearance from the SHPD has been obtained that mitigation measures have been implemented to its satisfaction.

16. Project construction workers and all other personnel involved in the construction and related activities of the Project shall be informed of the possibility of inadvertent cultural finds, including human skeletal remains. In the event any potential historic properties are identified during construction activities, all activities will cease and the SHPD will be notified pursuant to HAR §13-280-3. In the event ‘iwi kupuna (Native Hawaiian skeletal remains) are identified, all earth moving activities in the area will stop, the area will be cordoned off, and the SHPD and Police Department will be notified pursuant to HAR §13-300-40. In addition, in the event of an inadvertent discovery of human remains, the completion of a burial treatment plan, in compliance with HAR §13-300 and HRS §6E-43, is required.
17. In the event ‘iwi kupuna and/or cultural finds are encountered during construction, Project proponents shall consult with cultural and lineal descendants of the area to develop a reinterment plan and cultural preservation plan for proper cultural protocol, curation, and long-term maintenance.
18. The Applicant shall resolve and comply with all agency requirements as recommended in the permit application review, including but not limited to the permit requirements for the County DPW-Engineering Division, water requirements for the County Department of Water, requirements and recommendations of SHPD or the

Kaua‘i Island Burial Council, and regulations involving environmental concerns as administered by the State Department of Health.

19. The Applicant shall develop and utilize Best Management Practices (BMP’s) to ensure the Project does not generate impacts that may affect the health, safety, and welfare of those in the surrounding area of the proposal.
20. The Applicant shall implement to the extent possible sustainable building techniques and operational methods for the Project, such as Leadership in Energy and Environmental Design (L.E.E.D.) standards or another comparable state-approved, nationally recognized, and consensus-based guideline, standard, or system, and strategies, which may include but is not limited to recycling, natural lighting, extensive landscaping, solar panels, low energy fixtures, low energy lighting and other similar methods and techniques. All such proposals shall be reflected on the plans submitted for building permit review.
21. To the extent possible within the confines of union requirements and applicable prohibitions against discrimination in employment, the Applicant shall seek to hire Kaua‘i contractors as long as they are qualified and reasonably competitive with other contractors, and shall seek to employ residents of Kaua‘i in temporary construction and permanent jobs. It is recognized that the Applicant may have to employ non-Kaua‘i residents for particular skilled jobs where no qualified Kaua‘i resident possesses such skills. For the purposes of this condition, the Commission shall relieve the Applicant of this requirement if the Applicant is subjected to anti-competitive restraints on trade or other monopolistic practices.

22. The Applicant is advised that prior to construction and/or use, additional government agency conditions may be imposed. It shall be the Applicant's responsibility to resolve those conditions with the respective agency(ies).
23. The Planning Commission reserves the right to revise, modify, add or delete conditions of approval in order to address or mitigate unforeseen impacts this project may create, or revoke the permits through the proper procedures should conditions of approval be violated or adverse impacts be created that cannot be properly addressed.
24. The portion of the Project containing the Ka'awanui Substation shall be subject to Conditions 1, 4a., 6, 7, 12, and 14 through 23, but shall not be subject to Conditions 2, 3, 4b., 5, 8 through 11, and 13.

ADOPTION OF DECISION AND ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing DECISION AND ORDER on 06/17/2026. This DECISION AND ORDER may be executed in counterparts. This DECISION AND ORDER shall take effect upon the date this DECISION AND ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this day of 06/17/2026, per motion on May 13, 2026.

APPROVED AS TO FORM

*Miranda Steed*

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MIRANDA STEED  
Deputy Attorney General

LAND USE COMMISSION

STATE OF HAWAI'I

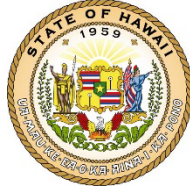
By   
\_\_\_\_\_  
BRIAN LEE  
Chairperson and Commissioner

Filed and effective on:

06/17/2026

Certified by:

  
\_\_\_\_\_  
DANIEL E. ORODENKER  
Executive Officer



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of ) DOCKET NO. SP26-416  
KA'AWANUI SOLAR ) CERTIFICATE OF SERVICE  
For Special Use Permit to Establish a Solar )  
Energy Facility on Approximately 269.195 )  
acre portion of land situated in Makaweli, )  
Waimea, Kaua'i, Hawai'i, identified by )  
Kaua'i Tax Map Key Nos. (4) 1-7-006:006 )  
(por.) ("Parcel 6") and 010 (por.) ("Parcel )  
10"). )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER approve the Ka'awanui Solar Special Permit Application for solar development on approximately 269.195 acre portion of land located in Makaweli, Waimea, Kaua'i, Hawai'i, identified by Kaua'i Tax Map Key Nos. (4) 1-7-006:006 (por.) ("Parcel 6") and 010 (por.) ("Parcel 10"), subject to the 24 County Conditions and the three additional Condition amendments to Conditions 2, 8, and 11, adopt the condition language in the Counties Decision and Order, and authorize the Chairperson to execute the order necessary to effectuate the Commission's decision and order, subject to review and approval by the Department of the

Attorney General, was served upon the following, by either hand delivery or depositing the same in the U.S. Postal Service by regular or certified mail on the date appearing below, as follows:

HAND DEL.: LEO ASUNCION, Land Use Division Administrator  
MARY ALICE EVANS, Director  
Office of Planning and Sustainable Development  
P. O. Box 2359  
Honolulu, Hawai'i 96804-2359

HAND DEL.: ALISON KATO, Esq.  
Deputy Attorney General  
425 Queen Street  
Honolulu, Hawai'i 96813

CERT. MAIL: LAURA BARZILAI, ESQ.  
Office of the County Attorney  
4444 Rice Street, Suite 220  
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CERT. MAIL: KA'ĀINA S. HULL, Planning Director  
Department of Planning  
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CERT. DEL.: CURTIS TABATA, ESQ.  
888 Mililani Street, Suite 308  
Honolulu, HI 96813-2931

Dated 06/17/2026  
Honolulu, Hawai'i.



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DANIEL E. ORODENKER  
Executive Officer