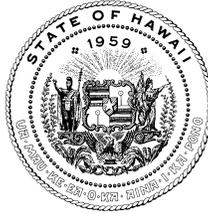


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Dr. Alan Downer
Administrator
State Historic Preservation Division
Kakuhihewa Building
601 Kamokila Blvd., Suite 555
Kapolei, HI 96707

RE: Continued consultation and request for concurrence under Chapter 6E-42 Consultation for MDA Phase I Geotechnical Testing at Kuaokalā Ridge, Oahu, TMK (1) 6-9-003:001 and (1) 8-1-001:014.

Dear Dr. Downer,

We are writing to provide you with updated materials in order to complete consultation with your office under Chapter 6E-42 of the Hawai'i Revised Statutes (HRS) for the Missile Defense Agency's (MDA) proposed Phase I Geotechnical Testing at Kuaokalā Ridge, O'ahu (Project). This consultation is required as a result of the Special Use (Right-of-Entry [ROE]) permit granted by our office to MDA that allows MDA to conduct surveys and studies, including limited geotechnical testing, needed to determine site viability and constructability for future MDA projects.

We previously submitted documents to your office regarding this project on August 16, 2018 (SHPD LOG 2018.01185). Since that submittal, MDA staff have met with staff from your office on several occasions to discuss the Archaeological Inventory Survey (AIS), the status of Native Hawaiian consultation completed by MDA, and general information regarding the geotechnical testing. In a meeting between your office and MDA following that initial submission, your staff indicated that MDA needed to conduct additional consultation with Native Hawaiian Organizations (NHOs) before your office would concur with a determination of effects for the Project. MDA conducted additional consultation with Native Hawaiians with meetings held in Wai'anae and Wahiawā on October 9 and 11, 2018, and completed a site visit on October 10 with staff from your office and the Office of Hawaiian Affairs. Your staff also provided verbal comments to MDA on the AIS in a meeting on November 16, 2018 and requested that MDA address their comments in a revised AIS.

As such, and in accordance with HRS Chapter 6E-42, we have enclosed for your review a Revised AIS completed in December 2018 by Keala Pono Archaeological Consulting, LLC (Keala Pono) (Enclosure 3). Also please find enclosed the HRS Chapter 6E Intake Form (Enclosure 1), additional Project Submittal documentation (Enclosure 2), an updated summary of the NHO consultation completed by MDA (Enclosure 4), and a revised Archaeological Monitoring Plan (Enclosure 5) to be followed during the geotechnical testing.

Based on our review of these materials, the Division of Forestry and Wildlife (DOFAW), Oahu District believes the proposed geotechnical testing may have an adverse effect on significant historic properties under Hawaii Administrative Rules [HAR] §13-284-2 and has determined the Project would result in an “Effect, with Agreed Upon Mitigation Commitments” under Chapter 6E-42

The remainder of this letter briefly describes the Project and Project Area, MDA’s efforts to consult with NHOs and cultural descendants, the identification and evaluation of historic properties, an assessment of effects under Chapter 6E-42, and DOFAW and MDA’s mitigation commitments, including archaeological monitoring.

Description of the Project and Project Area

The Project is defined as granting the permit and conducting Phase I geotechnical testing in support of potential future MDA actions and alternative site selection related to the Homeland Defense Radar – Hawai’i (HDR-H) project, which is a separate undertaking. The geotechnical testing will consist of 10 soil test borings and 3 auger borings. The soil test borings will be 4 to 6 inches in diameter and up to 100 feet deep. Auger borings will be up to 12 inches in diameter and up to 6 feet deep. Consistent with HAR § 13-168-16 and the DLNR Commission on Water Resource Management, following each soil test boring, the lower portion of the boring will be backfilled with a bentonite grout, and the top portion backfilled with drill spoils and on-site soils. Each auger boring will be backfilled with the excavated material. Prior to the start of the geotechnical testing, the geotechnical survey crew will conduct a boundary survey and stake out proposed boring locations, adjusting locations as needed to accommodate existing conditions such as topography, utilities, vegetation, and sensitive resources. Vegetation may be locally cleared to form temporary pathways and work areas. Equipment may include a truck- and/or track-mounted drill rig, water truck, flat-bed support truck, low-boy trailer, and pickup trucks and/or sport utility vehicles. Equipment will be delivered to the site using the existing KPSTS access road.

The Project will occur on portions of Ka’ena Point Satellite Tracking Station (KPSTS) and on State land located on Kuaokalā Ridge. The Project Area (Area of Potential Effect, or APE) was initially defined as the entire approximate 160-acre Kuaokalā Ridge candidate site for the HDR-H project. Based in part on comments received from consulting parties, MDA has refined the Project Area as the specific portion within the Kuaokalā Ridge candidate site where geotechnical testing would occur: an approximate 89-acre area incorporating 67 acres of State land maintained by DOFAW, and 22 acres of KPSTS existing leased land as shown in the enclosed figures.

Native Hawaiian Consultation

MDA consulted with NHOs and individuals of Native Hawaiian descent on the Phase I Geotechnical Testing undertaking. The consultation was conducted in part to address the requirements of Section 106 of the NHPA and HRS Chapter 6E-42. MDA initiated the consultation on July 16, 2018. Over the course of the consultation, MDA reached out to a total of 145 parties and sought input during two comment periods and four in-person consultation meetings held in August and October 2018. MDA received verbal and written input from a total of 67 parties. Comments and consultation covered a variety of topics and themes related to the undertaking (Project), the APE (Project Area), historic properties, possible effects from geotechnical testing, and archaeological monitoring. MDA also received comments from members of the public providing input on the effects of the undertaking on resources of importance to Native Hawaiians and the community at large. A summary of MDA’s outreach and consultation effort is provided as Enclosure 4.

Archaeological Inventory Survey and Identification of Historic Properties

MDA contracted Keala Pono to conduct an AIS of the project area, which was completed in July 2018. The report has been revised since our original submittal of the AIS to your office in August 2018, taking into account comments received from your office and through MDA's consultation with Native Hawaiians and community members.

Keala Pono conducted a pedestrian survey over a 160-acre area that included the entire 89-acre Project Area with transects spaced at 8-meter (m) intervals. The survey included detailed recording and mapping of two archaeological sites identified during the survey: the previously recorded Site 188, Moka'ena Heiau, and a new site, Site 8777, Pu'u O Pōhaku Hāpaina (formerly designated Temporary Site 1 [TS 1]).

Site 188, Moka'ena Heiau, was previously recorded by McAllister (1933) and in a 1980s inventory at KPSTS (Hammatt and Borthwick 1987). The heiau consists of four terraces, one of which incorporates a natural outcropping. The heiau is described in the KPSTS Integrated Cultural Resources Management Plan as eligible for listing in the National Register of Historic Places (NRHP) under Criterion D and is noted as possessing cultural significance meeting Criterion "e" defined under Chapter 6E. No record was found of any previous determination of eligibility. Keala Pono recommends Site 188 as eligible for listing in the NRHP under Criteria A and D, and as significant under Chapter 6E Criteria "a", "d", and "e".

Site 8777, Pu'u O Pōhaku Hāpaina, consists of a possible stone terrace and alignment. Archaeologically it is in poor condition and is not well defined. No information about Site 8777 was found during the literature review for the pedestrian survey. However, during MDA's consultation, Pu'u O Pōhaku Hāpaina was identified by a consulting party as a site where kahunas-in-training were tested and had to demonstrate their ability to move a boulder with their spiritual power. According to a consulting party and his family's oral tradition, this ability was used to construct the Moka'ena Heiau, which is approximately 200 m east-southeast of Pu'u O Pōhaku Hāpaina. Keala Pono recommends the site may be eligible for NRHP listing under Criteria A and D, and that additional data is needed to complete the evaluation. Under Chapter 6E, Keala Pono recommends the site as significant under Criterion "e", with additional data needed to establish significance under Criteria "a" and "d".

There are no architectural resources in the APE. An architectural inventory at KPSTS was completed in 2012 during which all historic and Cold War-era buildings were documented and evaluated for NRHP eligibility. Two NRHP-eligible resources, Buildings 35 and 39006, are near but outside of the southwest corner of the APE. The SHPD concurred with the results of the architectural inventory in a letter dated March 21, 2012 (LOG: 2011.0711; DOC: 1203MG30).

Evaluation of Significance

MDA conducted consultation with Native Hawaiians, the community, and other consulting parties regarding the Project, the Project Area, the identification of historic properties, and the significance of and potential for effects to historic properties. Taking into account the comments from consulting parties and Native Hawaiians, as well as the revised AIS, DOFAW accepts the recommendations in the AIS and as outlined above, that Site 188 is significant under Chapter 6E Criteria "a", "d", and "e" and that Site 8777 is significant under Criteria "e". We also concur that further work is needed to evaluate the significance of Site 8777 under Criteria "a" and "d". Therefore, the Project Area contains two significant historic properties, as defined under HAR 13-284-2: Site 188 (Moka'ena Heiau) and Site 8777 (Pu'u O Pōhaku Hāpaina). DOFAW is requesting your concurrence with these significance assessments.

Effect Determination

Under Chapter 6E-42 and HAR § 13-284-2, an adverse effect is “any alteration to the characteristics of a historic property.” As part of the Project, MDA will avoid all archaeological sites during geotechnical testing by at least 30 m, and a 30 m buffer will be demarcated with orange construction fencing that will be installed prior to the beginning of testing activities. Therefore, no direct impacts will occur at either site.

Although one consulting party expressed that avoidance buffers would protect the sites from any impacts, MDA heard from some consulting parties that the geotechnical testing would have an indirect effect on Site 188 because it would disturb the mana associated with the heiau that permeates throughout the ridge. The AIS defines this mana as a contributing quality of Site 188 and as part of the property’s setting. The AIS also notes that impacts on this mana would affect Site 8777 (Pu‘u O Pōhaku Hāpaina). The extent of testing proposed in the undertaking would be extremely limited, with just 13 holes drilled across the 89-acre area, none of them greater than 12 inches in diameter, and none located within 30 m of either site. The undertaking would likely result in less than 25 square feet of ground disturbance within the Project Area.

Although the Project would have no direct effects on historic properties, the geotechnical testing may disturb the mana and therefore the setting of Site 188 and potentially Site 8777. DOFAW finds that this impact would be considered an adverse effect under HAR § 13-284-2. Through MDA’s consultation with Native Hawaiians and the community, mitigation commitments were discussed. As such, and in accordance with Chapter 6E-42 and HAR §13-284, DOFAW has determined that the proposed geotechnical testing would result in an Effect, with Agreed Upon Mitigation Commitments and seeks your concurrence with this effect determination for both Site 188 and Site 8777.

Agreed Upon Mitigation Commitments

DOFAW and MDA recognize that beyond any historic significance protected by cultural resources laws and regulations, Site 188 and Site 8777 are sensitive resources that are important to the Native Hawaiian community. Several consulting parties expressed their view that the act of drilling into Kuaokalā Ridge would be sacrilegious and would desecrate the area, including Moka‘ena Heiau. In addition to protective measures and monitoring that were already proposed as part of the Project, MDA developed several measures through consultation to minimize impacts on these resources. MDA has agreed to the following mitigation commitments as they carry out the geotechnical testing in the Project Area:

- Archaeological monitoring by a local archaeological firm familiar with the area and its resources
- Cultural monitoring, preferably by one or more persons with lineal ties to the area or at a minimum is/are familiar with the area.
- 30 m protective buffer around identified historic properties, marked with orange construction fencing
- Cultural sensitivity training for geotechnical testing personnel
- Invitation to Native Hawaiian cultural practitioners to perform appropriate protocols ahead of geotechnical testing
- Return of soil samples to excavations, to the extent practical

The purposes of the archaeological and cultural monitoring are threefold. First, monitors will ensure no disturbance will occur within the flagged/fenced buffers around Site 188 and Site 8777. Second, archaeological monitoring of the geotechnical testing provides an opportunity to collect data on the stratigraphy and potential for subsurface archaeological deposits in the APE to inform future possible

undertakings, including the HDR-H project. Third, monitoring will ensure that in the event of an unanticipated discovery of historic properties or human remains, the discovery is protected and appropriate discovery procedures are implemented. Although such discoveries are not anticipated, the AIS did describe areas of low visibility where sites may be present. An archaeological monitoring plan (AMP) addressing archaeological, historical, and cultural concerns has been prepared in accordance with HAR §13-279-4 and is attached (Enclosure 5) for SHPD review. MDA has contracted with two permitted, local Hawaiian cultural firms, Garcia and Associates and Keala Pona Archaeological Consulting, to perform the cultural and archaeological monitoring, respectively. The AMP serves as the detailed mitigation plan for this Project and we request that you review and accept the plan concurrently with your review of the evaluation of significance and effect determination.

In addition, MDA is working with DLNR to replace and expand the fence at Moka'ena Heiau. The existing fence, meant to keep cattle from disturbing the site, is in disrepair and is not sized appropriately to the actual boundaries of the site. The above measures and the AMP constitute MDA's "Agreed Upon Mitigation Commitments" with DOFAW in accordance with their recommended finding under Chapter 6E-42.

DOFAW requests your review of the enclosed materials, and your concurrence with our evaluation of significance of Site 188 and Site 8777, our finding that the Project will have an Effect, with Agreed Upon Mitigation Commitments for both Site 188 and Site 8777, and that you concur with the mitigation commitments proposed by MDA and the detailed mitigation plan presented in the AMP.

Should you have any questions about the Project or this submittal, please contact me at (808) 973-9787 or marigold.s.zoll@hawaii.gov.

Sincerely,



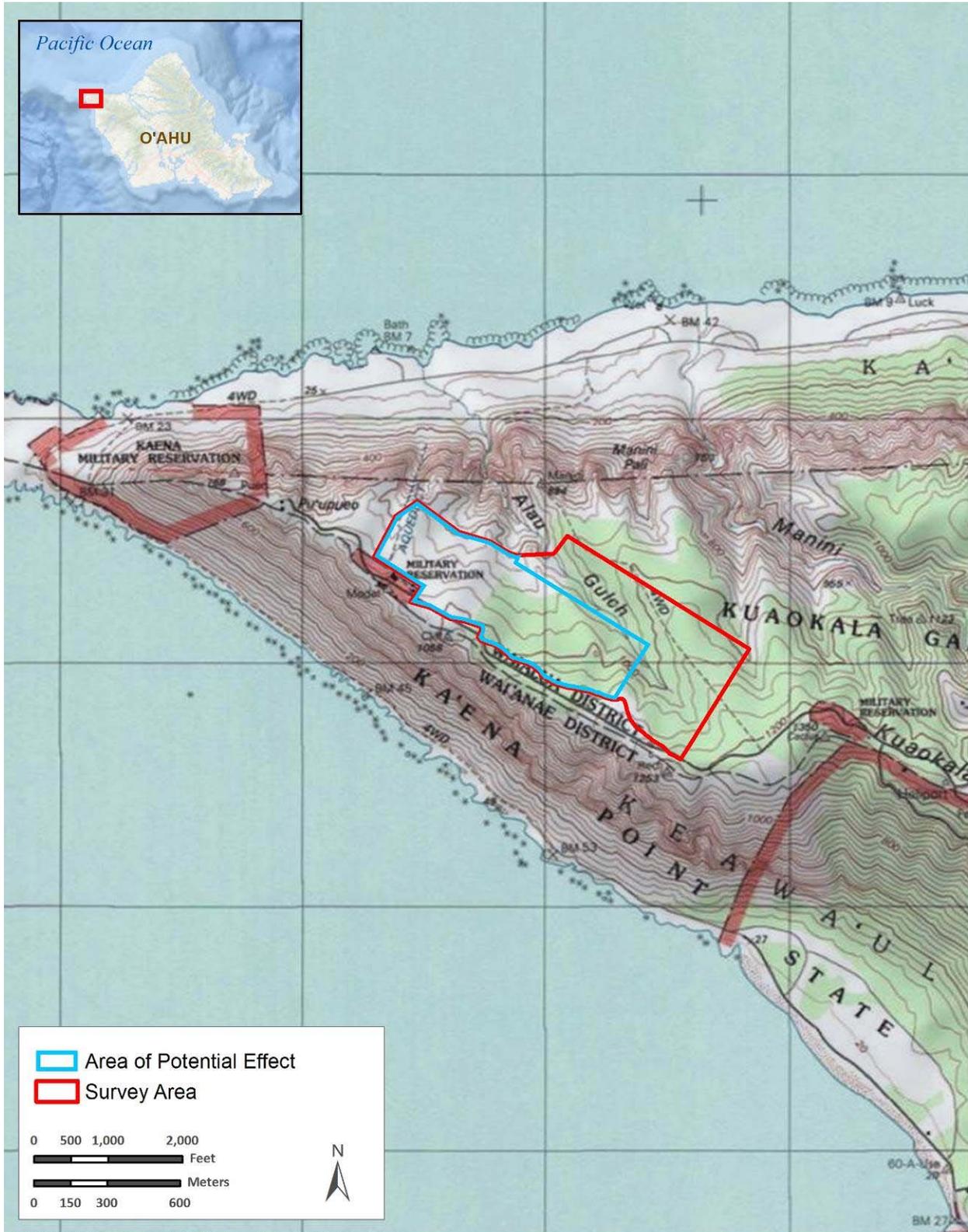
Marigold Zoll

Enclosures:

1. HRS Chapter 6E Intake Form
2. Project Submittals
3. Revised Draft Archaeological Inventory Survey
4. Updated NHO Consultation Summary
5. Revised Archaeological Monitoring Plan

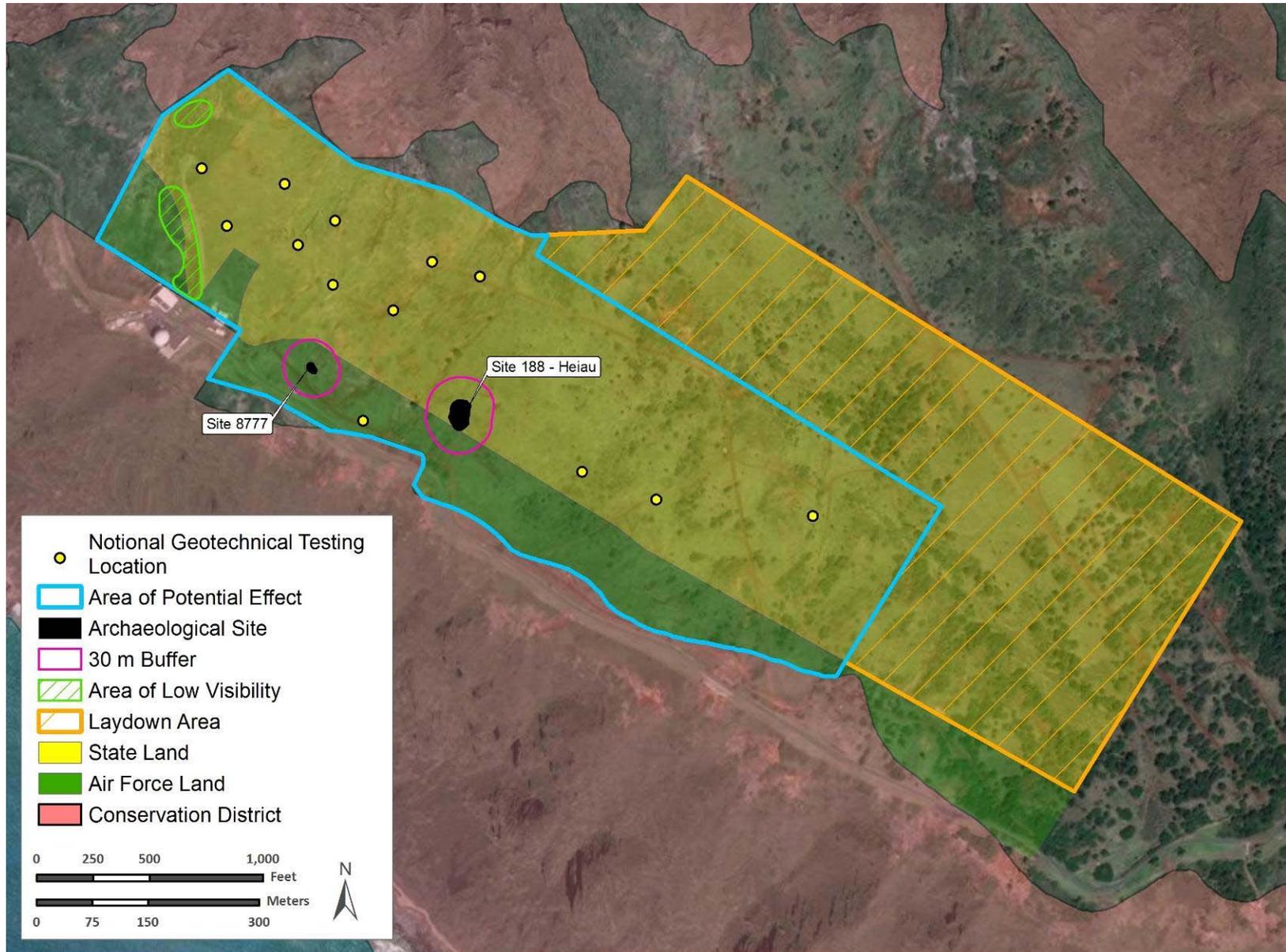
cc: Dr. Buff Crosby, MDA
Dr. Susan Lebo, SHPD
Stephanie Hacker, SHPD

Figure of the Project Area (Area of Potential Effect) and Survey Area Location



Data Source: USA Topo Maps; World Ocean Base

Figure Showing the Project Area (Area of Potential Effect) for Proposed Geotechnical Testing, Site Locations, and Notional Boring Locations



Data Source: World Imagery