

**Exhibit 6 – December 23, 2022, APE Letter to the HI SHPD and
Response**

APE Expansion



U.S. Department
of Transportation
**Federal Aviation
Administration**

United States Department of Transportation
FEDERAL AVIATION ADMINISTRATION
Office of Policy, International Affairs & Environment
Office of Environment and Energy

NATIONAL PARKS AIR TOUR MANAGEMENT PROGRAM

December 23, 2022

Re: Continuing Consultation under Section 106 of the National Historic Preservation Act for the development of an Air Tour Management Plan for Haleakalā National Park (HICRIS Project 2022PR00396)

Dr. Alan Downer
Deputy State Historic Preservation Officer
Hawai'i State Historic Preservation Division
Hawai'i Department of Land and Natural Resources
Kakuhihewa Building, Room 555
601 Kamokila Boulevard
Kapolei, HI 96707

Dear Dr. Alan Downer:

The Federal Aviation Administration (FAA), in coordination with the National Park Service (NPS), seeks to continue consultation with your office under Section 106 of the National Historic Preservation Act (NHPA) for the development of an air tour management plan (ATMP) for Haleakalā National Park (Park). The FAA initiated consultation with your office for the Park in a letter dated March 29, 2021.

This letter presents a description of the proposed undertaking in accordance with 36 CFR 800.3(a) and 800.16(y) and a proposed Area of Potential Effects (APE) pursuant to 36 CFR 800.4(a)(1). The FAA specifically requests your comments on our proposed APE.

Description of the Undertaking

Consistent with the National Parks Air Tour Management Act of 2000 (Act), the proposed ATMP for the Park would regulate commercial air tours over the Park or within a half-mile outside the boundary of the Park, referred to as the ATMP planning area. Further background information regarding the history of commercial air tours over the Park, the authority under which they are currently conducted, and the area to be regulated under the ATMP is available in the February 2022 Scoping Newsletter, prepared by the FAA and the NPS (together, the agencies), that was previously provided to your office and is available at the following link:

- Haleakalā National Park: <https://parkplanning.nps.gov/HaleakalaATMP>

The proposed ATMP would authorize or prohibit commercial air tour operations over the Park in accordance with the conditions included in the preferred alternative. The agencies are working to

identify the preferred alternative for the ATMP. The preferred alternative identified will be the undertaking for the Park. The current draft action alternatives are shown in the table below, and a summary of the elements in each alternative being considered can be found in **Attachment A**. Maps of the alternatives under consideration were previously provided to your office in the invitations to the November 10, 2022 consulting party meeting.

Potential Undertakings for Haleakalā National Park

Alternative 2 – No Air Tours in the Planning Area
Alternative 3 – Reduction of Air Tours

Proposed Area of Potential Effects

The APE as defined at 36 CFR 800.16(d) is the geographic area or areas within which the undertaking may directly or indirectly cause alterations in the character or use of any historic properties, if any such properties exist. The proposed FAA and NPS approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its assessment on the potential introduction of visual or audible elements resulting from the undertaking that could diminish the integrity of any identified historic properties.

In establishing the proposed APE, the FAA sought to include areas where any historic property present could be affected by introduction of noise from or sight of commercial air tours as a result of the implementation of the ATMP. The FAA will consider the number and altitude of commercial air tours over historic properties in these areas to further assess the potential for visual effects and any incremental change in noise levels that may result in alteration of the characteristics of historic properties qualifying them for listing in the National Register of Historic Places (NRHP).

Under the no air tour alternative (Alternative 2) it is reasonably foreseeable that operators would continue to fly to points of interest on the island outside of the ATMP planning area where they already fly or fly routes over or around the Park similar to existing flight paths but outside of the ATMP planning area. Under Alternative 3 (reduced air tours), it is reasonably foreseeable that operators would fly the proposed flight path at a minimum of 2,000 feet (ft.) above ground level (AGL) or fly close to their existing flight paths above 5,000 ft. AGL or outside the ATMP planning area. Alternative 3 proposes a flight path through the Park that varies from currently reported routes. The proposed flight path connects to existing flight paths at the easternmost and westernmost bounds of the ATMP planning area (based on automatic dependent surveillance-broadcast (ADS-B) systems¹ data of flight paths) but shifts to the south at the Kaupō Denman parcel as well as the Kīpahulu and Kaʻāpahu areas. While the flights may not follow a straight line connecting the route outside the ATMP planning area, it is reasonably foreseeable that some flights would follow the Alternative 3 proposed flight path and maintain a direct connection to the path outside of the ATMP planning area some of the time.

Therefore, the APE includes the Park and areas outside the Park but within ½ mile of its boundary. The APE also includes areas outside of the ATMP planning area between the Nuʻu and Kaʻāpahu regions of the park, bounded to the south by the southern limits of the ½ mile buffer around the Kaupō Denman parcel, and the overland area between the Kaʻāpahu and Kīpahulu regions of the park. The inclusion of areas outside the ATMP planning area addresses the most direct path operators may fly to connect to

¹ ADS-B systems periodically transmits aircraft location data in real-time.

the proposed flight path, allowing for deviation in the route and the extent of new visual and audible impacts that may result. The APE extends vertically from ground level to encompass areas where the operators may fly above the ATMP planning area (i.e., more than 5,000 ft. AGL). In the event that operators choose to fly above the ATMP planning area, they would likely keep to an altitude close to but just above 5,000 ft. AGL, as higher flights would provide limited value to a sightseeing operation. As the ground level varies throughout the park, the vertical limits extend to just above 5,000 ft. mean sea level (MSL) at the coastline to no more than 10,000 ft. MSL near the summit.²

This APE encompasses the reasonably foreseeable areas where operators may fly given the implementation of the ATMP and therefore the areas within which the undertaking may directly or indirectly cause alterations in the character or use of historical properties within the APE if any such properties exist. The proposed APE is depicted in the map included in **Attachment B**.

Preliminary Identification of Historic Properties

The FAA coordinated with Park staff and the Hawai'i State Historic Preservation Division (SHPD) to identify known historic properties located within the proposed APE. A preliminary historic properties list for the Park was provided to the SHPD and all consulting parties as part of the meeting materials for the November 10, 2022 consulting party meeting. This list will be updated once the APE is finalized. The FAA has requested consulting party input on the identification of historic properties and potential effects of the undertaking on historic properties within the APE and received several comments during and following the consulting party meeting. Consulting party comments were taken into consideration when refining the APE presented in this letter. The FAA will soon provide a separate response to consulting party input and will include your office in the correspondence.

Review Request

The FAA requests that you provide any comments you may have regarding the proposed APE for Haleakalā National Park within 15 business days as the agencies are working under court supervision and must complete the ATMP for the Park, and all associated compliance, within an expedited timeframe. Please feel free to contact me if you would like any additional information regarding this undertaking or if it would be beneficial to schedule a meeting to further discuss the establishment of the APE. I can be reached by phone at 202-267-4185 or by email at Judith.Walker@faa.gov, copying the ATMP team at ATMPTeam@dot.gov.

Sincerely,



Judith Walker
Federal Preservation Officer
Senior Environmental Policy Analyst

² Supplemental oxygen use is required in unpressurized aircraft flying over 10,000 ft MSL (14 CFR § 135.89, § 135.157); therefore, it is unlikely air tours would fly higher for extended periods of time.

Environmental Policy Division (AEE-400)
Federal Aviation Administration

cc: Stephanie Hacker, Archaeologist

Attachments

- A. Summary of Project Alternatives
- B. Proposed APE Map

ATTACHMENT A
SUMMARY OF PROJECT ALTERNATIVES

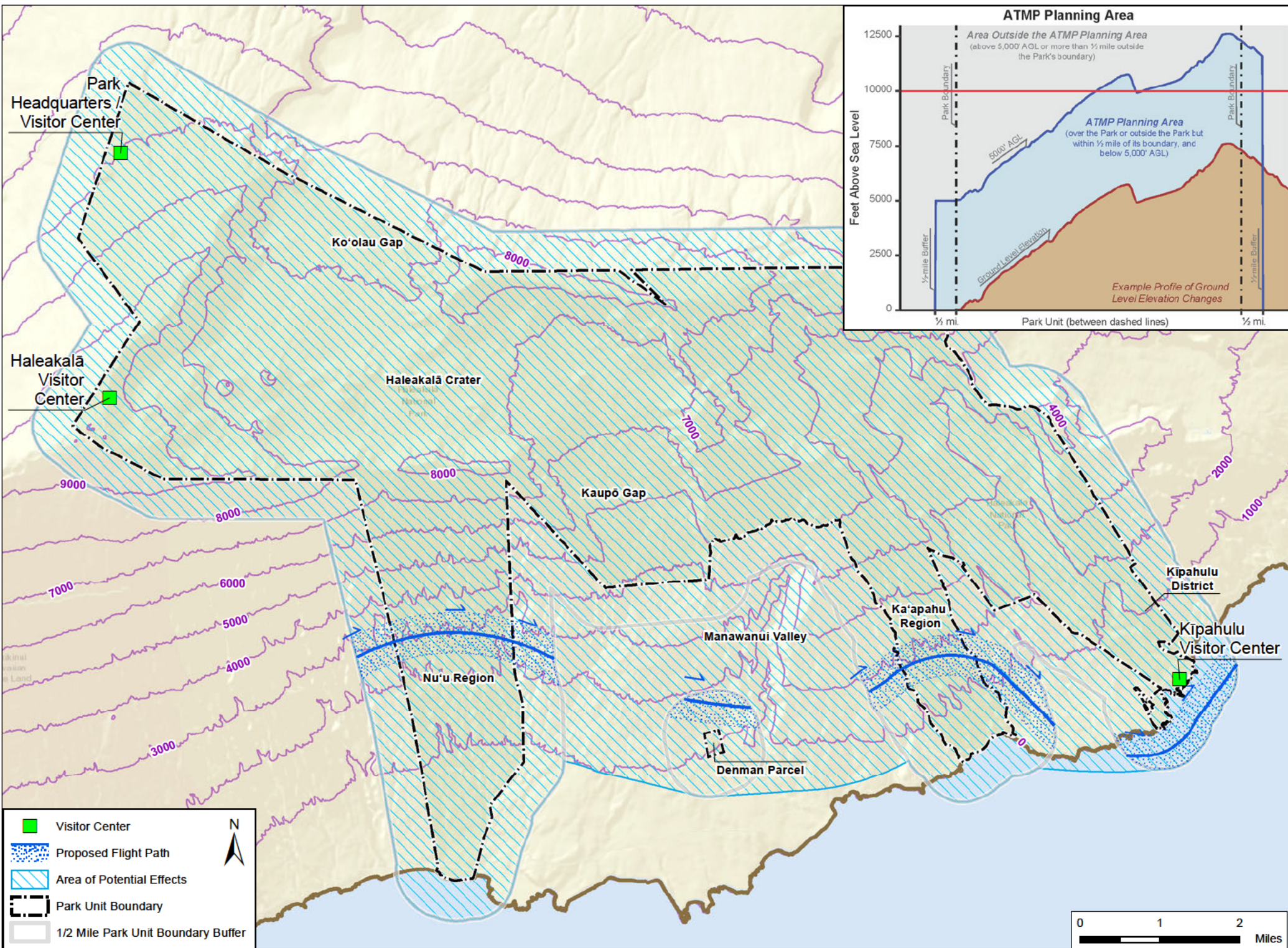
Table 1. Summary Comparison of the ATMP Action Alternatives for Haleakalā National Park

Alternative Attributes	Alternative 2 (No Air Tours)	Alternative 3 (Reduction of Air Tours)
General Description and Objectives	Prohibits air tours within the ATMP planning area to maximize Park resource protection. Air tours could still continue to fly outside the ATMP planning area (i.e., above 5,000 ft. AGL or more than ½-mile outside of the Park’s boundary).	Provides a singular flight path within the ATMP planning area and a reduction in the annual number of commercial air tours over the Park. Air tours could still continue to fly outside the ATMP planning area (i.e., above 5,000 ft. AGL or more than ½-mile outside of the Park’s boundary).
Routes	None in ATMP planning area.	One air tour route, entering the Park from the west, south of the State Kahikinui Forest Reserve and exiting the ATMP planning area approximately 1.25km from the Kīpahulu area and Visitor Center. This route allows operators to fly in one direction.
Minimum Altitudes	No minimum altitude would be set. However, flights over the Park that are above 5,000 ft. AGL could occur as they are outside the ATMP planning area. The minimum altitude for air tour operations conducted more than ½ mile outside the Park boundary would be 1,500 ft. AGL unless the operator has OpSpecs B048 (air tour operations below 1,500 ft. AGL in the State of Hawaii), in which case the operator must comply with the requirements and procedures of the Hawaii Air Tour Common Procedures Manual (HI Manual) for conducting commercial air tour operations below 1,500 ft. AGL.	Minimum 2,000 ft. AGL over land; minimum 3,000 ft. MSL over the ocean. Flights more than ½-mile outside the Park boundary are similarly outside the ATMP planning area and are subject to the altitude requirements and procedures of the HI Manual.
Time of Day	N/A	On days where air tours are permitted: 11 AM – 2 PM for non-quiet technology flights. 11 AM – 4 PM for quiet technology flights.
Day of Week	N/A	No-fly days on Sunday and Wednesday.
Hovering/ Circling	N/A	Not permitted.
Quiet Technology (quiet technology) Incentives	N/A	Quiet technology flights may fly 11AM – 4PM. All commercial air tours within the ATMP planning area must utilize quiet technology aircraft by 2033.
Interpretative Training and Education	N/A	Mandatory.

Annual Meeting	N/A	Mandatory.
Restrictions for Particular Events	N/A	Six no-fly days generated by following the Hawaiian Moon Calendar and Makahiki Season; two no-fly days on Hawaiian State holidays of historical importance with one year notice provided to operators.
Adaptive Management	N/A	To be considered/analyzed.
Operators, Initial Allocation of Air Tours, and Aircraft Types	N/A	The initial allocation would reflect the proportional number of air tours reported over the Park and the existing aircraft types of each of the five operators that have reported operating in the period from 2017-2019. Then it would move to competitive bidding. Any new or replacement aircraft must not exceed the noise level produced by the aircraft being replaced.

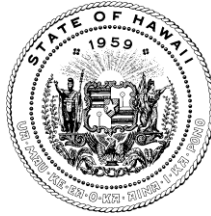
ATTACHMENT B
PROPOSED AREA OF POTENTIAL EFFECTS MAP

Proposed Area of Potential Effects for ATMP at Haleakalā National Park



JOSH GREEN, M.D.
GOVERNOR | KE KOA'AINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'AINA



DAWN N. S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

January 26, 2023

Judith Walker
Federal Preservation Officer
Senior Environmental Policy Analyst
Environmental Policy Division (AEE-400)
Federal Aviation Administration
United States Department of Transportation
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Washington, D.C. 20591
Email: judith.walker@faa.gov
Electronic Transmittal Only, No Hard Copy to Follow

IN REPLY REFER TO:
Project No.: 2022PR00396
Doc No.: 2301SH07
Archaeology

Dear Judith Walker:

SUBJECT: **National Historic Preservation Act (NHPA) Section 106 Review –
Continued Consultation and Request for Comments on the Area of Potential Effects
Air Tour Management Plan for Haleakalā National Park
Ke'anae, Ha'ikū Uka, Pūlehunui, Ko'olau, Kalialinui, Kawaipapa, Kamehamenui,
Waiakoa, 'Alaenui, Nu'u, Papa'anui, Nakula, Kahikinui, Naholoku, 'Alaiki, Pu'uhaao,
Wailua, Ka'āpahu, Kukui'ula, Pua'alu'u, Kukui'ulaiki, Kīko'o and Ahupua'a
Ko'olau, Hāmākualoa, Kula, Hāna, Kīpahulu, Kaupō, Honua'ula, Kahikinui, Districts,
Island of Maui
TMK: (2) various**

The State Historic Preservation Division (SHPD) received letters dated November 14, 2022 (HICRIS Submission 2021PR00396.005) and December 23, 2022 (HICRIS Submission 2021PR00396.006) from the Federal Aviation Administration to continue the Section 106 historic preservation review process and to request the State Historic Preservation Officer's (SHPO's) comments on the Area of Potential Effects for the Air Tour Management Plan for Haleakalā National Park on the island of Maui. The SHPD received these submittals on November 14, 2022 and December 23, 2022.

The Federal Aviation Administration (FAA) and the National Park Service (NPS) are developing Air Tour Management Plans (ATMPs) for 23 parks including Haleakalā National Park (HALE). ATMPs apply to commercial air tours flown at or below 5,000 feet above ground level in, and within, a half mile of the park boundary. The ATMPs are being developed in accordance with the National Parks Air Tour Management Act (NPATMA). NPATMA directs the agencies to either enter into voluntary agreements with air tour operators or establish ATMPs for national parks and adjacent tribal lands where commercial air tour operations are conducted or proposed.

The proposed project has been determined a federal undertaking as defined in 36 CFR 800.16(y) and is subject to compliance with Section 106 of the NHPA. The FAA is acting as the lead federal agency for this undertaking. The FAA initiated Section 106 historic preservation review process with the SHPO in March 2021.

The FAA states the proposed approval of the ATMP does not require land acquisition, construction, or ground disturbance, and the FAA anticipates no physical effects to historic properties. The FAA is therefore focusing its

assessment of the APE on the potential introduction of visual or audible elements resulting from the undertaking that could diminish the integrity of identified historic properties. In establishing the proposed APE, the FAA sought to include areas where any historic property present could be affected by introduction of noise from or sight of commercial air tours as a result of the implementation of the ATMP. The FAA states it will consider the potential for visual effects and any incremental change in noise levels that may result in the alteration of the characteristics of historic properties qualifying them for listing in the National Register of Historic Places (NRHP).

In response, the SHPD offers the following for consideration. Consulting party comments during recent consultation for this project raised concern with how the audio and visual effects from commercial air tours may affect Hawaiian practices. Therefore, for an undertaking such as this it is important that the agency also take into consideration intangible resources, more specifically traditional cultural properties, which may not yet have been identified and which could be affected by the proposed undertaking.

The FAA proposes the APE include the Park and areas outside the park but within ½ mile of its boundary. The APE also includes areas outside of the ATMP planning area between the Nu‘u and Ka‘āpahu regions of the park, bounded to the south by the southern limits of the ½ mile buffer around the Kaupō Denman parcel, and the overland area between the Ka‘āpahu and Kīpahulu regions of the park. The inclusion of areas outside the ATMP planning area addresses the most direct path operators may fly to connect to the proposed flight path, allowing for deviation in the route and the extent of new visual and audible impacts that may result. The APE extends vertically from ground level to encompass areas where the operators may fly above the ATMP planning area. As the ground level varies throughout the park, the vertical limits extend to just above 5,000 ft. mean sea level (MSL) at the coastline to no more than 10,000 ft. MSL near the summit.

Based on the information received, SHPO has no objections to the APE at this time. However, the SHPO looks forward to receiving documentation of comments received from consulting parties regarding the APE, and the FAA and NPS’s response to comments.

Please submit all forthcoming information and correspondence related to the subject project to SHPD via HICRIS to HICRIS Project No. 2022PR00396 using the Project Supplement option.

The SHPD looks forward to continuing the Section 106 process for the proposed project.

The FAA and the NPS are the offices of record for this undertaking. Please maintain a copy of this letter with your environmental review record for this undertaking.

Please contact Stephanie Hacker, Historic Preservation Archaeologist IV, at Stephanie.Hacker@hawaii.gov or at (808) 692-8046 for matters regarding archaeological resources or this letter.

Aloha,

Alan Downer

Alan S. Downer, PhD
Administrator, State Historic Preservation Division
Deputy State Historic Preservation Officer

cc: ATMPTeam@dot.gov
Shauna Haas, DOT (shauna.haas@dot.gov)
Katherine Giraldo, DOT (k.giraldo@dot.gov)
Amy Hootman, DOT (amy.hootman@dot.gov)

