Concerns Beyond Process

- Relationship of IAL to Rural:
  - How are we going to use IAL? What will be the results of using IAL?
- Process identifying of IAL not even half of the problem,
  - Constitution requires standards and criteria to remove IAL; the critical part is the process for doing this, how you take IAL out -- this is where conflict is
- Look at existing language of constitutional mandate, is it consistent with what's done here
- IAL is not a single bullet -- it is part of a comprehensive package/approach, including incentives
- State Court has determined State has not established standards/criteria for redistricting or rezoning of IAL
- Other Court findings:
  - LUC improperly delegated authority/responsibility to fulfill constitutional mandate
  - This forum is opportunity to remedy some of these court findings
- This is just part of a bigger picture as to what happens to land between conservation and urban
- Assumption that's not stated: LUC would need to make changes to district boundaries reflected in county IAL process
- Process has limited view of State/LUC's role in IAL; prefer Oregon model which states Ag land isn't only focus of State interest, there are other areas of State concern (e.g., Infrastructure)
- Where is overall framework to fit Ag piece in?
- LUC rules require LUC to look at a number of decision making criteria for reclassification, including IAL; this effort could help the LUC clarify this set decision making of criteria or how to apply the criteria
  *Other criteria include economic development, transportation, public education facilities, etc.*
- This decision making process comes mainly from regulatory perspective rather than planning perspective
- It is structured from planning perspective, but not like Oregon's framework. Declaratory orders process also provides a means to check the application of State standards/criteria.
- Hard to mix and match Oregon and Hawaii systems:
  - No State land use overlay
- Need to open up to thinking about many alternatives to existing Land Use system
- Have a lot of frustration over the inability of the system to get at the heart of what we need, i.e., a framework to manage growth; we may not be able advance our Ag goals without getting to this larger system change

Role of State Legislature

- Last bullet referring to rural: Need to focus on Ag, rural district is separate discussion
- Criteria for removing land from Ag should not occur until counties show they have a system for dealing with the Ag land coming out
• Would agree that some Ag land should go out, but need to rethink existing standards for rural and Ag (don’t work). Need State and counties working at same table on some of this. What is important for Ag, etc? Need more work on how to manage rural.

• Need to quit using term “Ag Land” since there’s no agreement on what this means: is it IAL? Land in the ag district, does it include pasture land, etc?

• Ag district includes high ag value and low ag value land as well as lands that meet other public/community values

• Within district, there are these other sub-components. Need to be clear on which we are talking about

• At beginning of AWG, we weren’t talking about rural, should focus on “ag”

• Are we talking about ag land or what the nature of our urban growth pattern will be? This is important, but it doesn’t flow from this constitutional mandate for ag lands. The ag lands piece is a fairly “simple” problem to solve.

• Need to recognize that when counties are asked to identify IAL, the planning departments will need to develop a system for dealing with rural and urban land use/growth

• If counties aren’t ready to do rural, and remove land from ag to the rural district, then would be a disaster. Counties need to have in place rural plans, urban plans, etc.

• Need funding to counties to boost their planning capacity for this

• IAL is only part of ag district; may not be looking at having non-IAL go rural? Need to have conversation first on IAL and a process for identifying IAL, and then discuss what then happens to other ag lands.

• Want to reiterate the role of the Office of Planning in LUC process and formulating and presenting State position in LUC proceedings, such as is being recommended here

Criteria for Identifying IAL

• Will be difficult to get agreement on IAL criteria, because of diversity of ag enterprise, ag activity. Need to be very regional, not top-down, won’t have to come up with formula

• We need to address IAL. How is ag not better off if we don’t do IAL?

• Need counties to have own criteria for IAL as well. If there is ag activity on land, then need to know how the benefits will flow (especially for ag on non-IAL lands)

• State could set minimum standards for IAL; then if counties want to add more land to IAL, they can use additional county-defined criteria

• Need flexibility in application of standards/criteria at the county level

• Need to focus on criteria – start working on those

• Maybe counties could apply their plans as they are able to get to it

• Would lands that meet criteria automatically be IAL or would counties determine which lands meeting criteria would then be IAL?

• IAL needs to take into account the counties general plans and community plans

• Does State identify IAL in this process? At what point is IAL actually identified

• What do the terms “land-based” vs. “non-land based” mean?

• Land and non-land were originally intended to refer to soil or crop productivity ratings

• “Non-land” based also allows for consideration of aquaculture/off shore aquaculture

• To help clarify this, put examples of what AWG means by “land/non-land”

• Have drafting group work on detailed language that fleshes these terms out

• Aquaculture people are not represented; need to talk with them about their needs. Bring them in if we are to include this type of non-land language in criteria. One issue for aquaculturalists is no zoning for off shore fisheries/aquaculture-agriculture

• Include in criteria: favorable land tenure condition

• Suggest striking “water at right cost”

• Suggest keeping in because this has been an issue throughout AWG discussion. Need as part of context of identifying IAL.

• Shouldn’t use long-term leases and water at night cost as criteria for identifying IAL.

• Why should “other public uses” of ag land be included in criteria for IAL?
- Should be kept because of future concerns for ag and food safety/security
- Why not have all land in ag district be IAL? Napa Valley seeing growth in vineyard acres because of ag zoning protection
- Another criteria needed: "margin-of-error" lands that allows for new markets that emerge in future
- Keep in mind: what is going to make farmer successful? Most important is water. Water criteria for IAL is critical.
- Include criteria for "contiguous"/"contiguity" (large uninterrupted blocks) of ag land
- Need to clarify that availability of water is key to identifying IAL, but lack of water won’t necessarily kick land out of IAL
- Look at criteria that ensures "contiguity" of ag land as applied, so that it does not result in residential development embedded in or breaking up IAL
- There are ag areas, as in Hamakua that are unique, where water availability is still an issue for farmers
- Need to develop report/conceptual framework for the specific legislative proposals offered to provide a context
- Preamble needs to discuss the overarching concept for specific legislative proposals of "balance"
- Process suggestion: group to work on wording prior to 11/24
- Add "margin-of-error" to IAL criteria
- Identification of IAL needs to take into account future of ag – long-term planning
- How are we going to deal with "pasture"? Pasture land won’t meet IAL criteria and there’s a broad range of "pasture"
- Pasture is one-forth of ag land in State – IAL should focus on high-value/hi-return ag
- Are we going to prioritize criteria for IAL?
- Add forested watershed-as important to availability of water
- County of Hawaii – comfortable with process that is being discussed. Legislature needs to appropriate money to do this. Have some ideas for items II & III
- County of Maui – Okay with how this is proceeding. Criteria: do we want to add ag historical element to criteria for identifying IAL?
- City & County -- okay thus far, have some comments as to specific items, will reserve final comments for later drafts
- Constitutional mandate is broader than just developing standards/criteria for identifying IAL
- Add: "traditional" (as in traditional ag) to criteria
- Reason for doing IAL is to target incentives for ag, "pasture" discussion would seem to then exclude them from incentives, livestock is still important to Hawaii ag
- Still need to look at pasture in different way – in reserve for conservation, future ag use, future urban use, etc.
- Can’t discount livestock industry, seeing resurgence of livestock demand with new consumer markets like Atkins diet
- Criteria: need to include State plans?
- Need to exclude lands in State urban land use district
- Maui has county ag-planned lands in urban district, wouldn’t want those excluded
- Not easy for ag to survive surrounded by urban densities
- Maybe the exclusion of urban district ad lands can be tied or worked out with incentive package
- We are talking about fleshing out ideas or fleshing out legislative language?
- Need to have some guidance for how counties identify IAL
- Insert constitutional mandate language as part of preamble
- Add standard/criteria for State and county reclassification and rezoning of IAL
- Defining IAL as subset for ag district
- Legislature codifies standards/criteria for identifying IAL, they don’t adopt maps
Role of Counties in Identifying IAL

- Shouldn’t be given to county councils, should be tasked to an independent task force
- Should be well-integrated into county planning process
- County of Hawaii – prefer task force/committee appointed for purpose of doing identifying/mapping
- County of Maui – Need to add in: how we deal with disagreements (appeal process)?
  - How do we deal with permits in the transition period?
  - Redefine/paradigm shift needed for rural. Don’t have to be so specific in State law as to permitted uses in rural district
  - Basic structure looks pretty good
- City and County has already made choice re: IAL and is before council now
- How will this work with councils? Would this committee trump council-adopted land use plans?
- Need funding mechanism for county process
- Does this process shift State responsibility for IAL to counties/another entity in opposition to court finding? Where did this process come from?
- Maybe specific people/organizations/agencies should be identified to work on this process at county-level
- Not sure that government at county can avoid saying this is our formal plan for IAL. Isn’t separate from county planning process
- Need to kick Alan’s question to AG’s re: State delegation”; potential for conflict over IAL arises. Potential for having this addressed by item 3?
- Ad hoc body doing this – how do you update in future? Concerned over legislation requiring county adoption of ag water plans and the lack of follow-through. Need hammer or incentive for this to be done, for counties to complete
- Can delegate authority for identifying IAL, but overall responsibility for having this accomplished rests with State
- Can’t see how IAL can’t go through existing planning process? May find other models for how to oversee this process. Two-tier level of scrutiny is important
- Need two-tier process with fixed deadline for completion. County General Plan for Hawaii is still not adopted. Need a fixed deadline with monetary penalties
- LUC is official custodian of maps, would include IAL maps as guidance for LUC decision making
- Where in process does voluntary nature of IAL fit in? Did the group decide that IAL is going to be regulatory in nature?
- Constitutional language ties IAL to regulatory process. Constitution operates at 2 levels: promoting ag, which is linked to incentives; conserving or protecting important ag lands, which is linked to regulatory process
- AWG theme has been that there is an incentive component and a regulatory component – that need to be linked and complement each other
- Tie-in incentives and regulatory component has to be there in preamble.
- Legislature will need effective date for implementation
- Bill needs to create a incentive for counties to do this within deadline; need guidance/flexibility to be able to do maps in chunks/pieces
- If counties want home rule and decision making authority, then they need to just do it
- Bullet on “customizations” on sheet – assumes that we are not just focusing on former sugar/pine lands, but at the range of ag activities occurring today
- Example of “customization” – lettuce growers in Ocean view, Big Island, who are farming in spite of lack of water
- “Knowledge of options” might be used in place of “customization”
- Need discussion of possible futures for ag
• How much in this process will farmers be involved? We can grow almost anything in Hawaii—whether it’s viable will make the difference—it’s very difficult to identify these opportunities.
• This is why the larger planning context is so important. Where you don’t have answers to where ag is going, then the long-term growth decisions play in terms of open space, growth areas, etc.
• Some of “role for counties” bullets seem like criteria for identifying IAL.
• Can make case for our ability to grow anything, anywhere.
• How will incentives be linked to non-IAL farmers? Might there be regions of ag that won't all be IAL?
• If we get too broad in identifying IAL, then we’re back into current problem where petitioner makes case for redistrict/rezoning because we have a lot of IAL (we want the bar pretty high). What do we do for the guy not in IAL? Maybe allow voluntary enrollment for IAL-linked incentives.
• Land use planning that should promote both long-term community growth and long-term economy development (eg, ag activity).
• Standard/criteria must also address the process, counties must show how they got to IAL.
• In the county process, here’s where you should be ground truthing how you are balancing needs to ag, urban growth, etc.
• Will be the counties’ job to balance criteria; need to have good dialogue process, involving farmers in process. Need input/inflow of information and policy suggestions at and to the county level.
• Need to have public involvement process (as part of the criteria).
• Fear that we will preserve all this ag land, without understanding what we are preserving this for: lifestyle? economic development? Fear that we’ll do all this, but then turn around and ask where are all the farmers? Sets up ag for looking bad in future.
• Up to Ag Feasibility Committee/AWG to recommend actions that will help farmers be successful, promoting good business plans, etc.
• At beginning of process, AWG recognized IAL is necessary but not sufficient for successful ag. Need business development supports, incentives, etc.
• Need to spend time working on standard/criteria for reclass/rezoning IAL.
• County people to take a look at item II, Role of Counties?
• When will linking of ag incentives and IAL pieces occur?