

## **Frequently Asked Questions on the Statewide Large-Capacity Ferry Environmental Impact Statement**

### **1. What does "EIS" stand for?**

EIS is the acronym for Environmental Impact Statement.

### **2. What is the action to be evaluated in the EIS?**

In accordance with Act 2, Second Special Session of 2007, the action is the improvements made or to be made to commercial harbors throughout the state that require the expenditure of public funds to accommodate the use of a large-capacity ferry vessel company.

### **3. Who is preparing the EIS?**

The Department of Transportation (DOT) is responsible for commercial harbor improvements and is required to prepare the EIS.

### **4. What's the difference between an EA and an EIS? Why did it change from being an EA to an EIS?**

In general, environmental assessments (EAs) and environmental impact statements (EISs) are documents used to publicly disclose the potential environmental impacts of a proposed action and to assist in decision-making. The content of an EA and an EIS may be quite similar. Both may include similar technical or specialty studies. EIS documents tend to be more detailed and lengthy since they typically involve the analysis of resources that are anticipated to be significantly affected. A primary difference between an EA and EIS is in the process and the scope. The requirements of an EA or EIS are defined by the governing law and its implementing rules or regulations. The law governing a federal EA or EIS is the National Environmental Policy Act (NEPA). At the state level, the law governing a Hawaii EA or EIS is Chapter 343, Hawaii Revised Statutes (HRS).

Under both the federal and state laws, if an action is not deemed to be excluded/exempted from further environmental analysis (typically because it is listed as an action that has been previously considered and determined to not pose significant environmental impacts), the next step is the preparation of an EA. The EA is conducted to evaluate the environmental impacts of a proposed action and to determine whether to prepare an EIS or a "Finding of No Significant Impact" (FONSI). If a FONSI should be issued, the final EA is submitted with such a finding and the process ends. If, on the other hand, a FONSI is not appropriate, an EIS should be prepared to further evaluate those impacts that may be significant.

In this case, the Legislature in special session, promulgated into law Act 2. Act 2 does not recognize the EA to EIS relationship described above; rather, Act 2 simply requires the preparation of an EIS.

**5. I understand that the content of the EIS to be prepared and the process to be followed, as specified in Act 2, will differ from what is required by Chapter 343, HRS, the State's EIS law, and its implementing rules. What is the difference between an Act 2 EIS and a Chapter 343 EIS?**

The EIS to evaluate commercial harbor improvements to accommodate a large-capacity ferry vessel company and its operations is governed under Act 2, and not by Chapter 343, HRS. For those familiar with Chapter 343, HRS, and its implementing rules, distinct differences include the following:

1. There is no requirement for an EIS Preparation Notice under Act 2. The EIS Preparation Notice process serves to reveal environmental concerns by including consultations with appropriate agencies, citizen groups, and concerned individuals. Given the numerous testimonies and comments presented in court and at public meetings associated with this highly publicized case, environmental concerns and concerned citizens and groups have already been identified and will be used to define the scope of the EIS.
2. Act 2 identifies the State of Hawaii Office of Environmental Quality Control (OEQC) as the accepting agency. If this were a Chapter 343 document, the DOT or the Governor would be the accepting agency for the EIS.
3. Act 2 does not specifically require a separate cultural impact assessment (CIA), as defined by Act 50. Act 2 does require that the EIS propose mitigation measures to "avoid, minimize, rectify, or reduce impact, including provisions for compensation for losses of cultural community, historical, archaeological, fish and wildlife resources,..." Despite this, CIAs for each harbor will be done.

**6. What is the scope of the EIS?**

The scope of the EIS will include an evaluation of the environmental consequences of DOT's action and its secondary impacts, including impacts of a large-capacity ferry vessel company and its operations. Environmental concerns planned to be addressed include: ocean life and marine animals and plants, including a whale avoidance policy and procedures; water resources and quality; harbor infrastructure; vehicular traffic; public safety and security; controlling the spread of invasive species; cultural resources, including hunting, fishing, and native Hawaiian resources; and economic consequences and impacts.

The EIS process will identify environmental concerns; obtain various relevant data; conduct necessary studies; receive public and agency input; evaluate alternatives; and

propose measures to avoid, minimize, rectify, or reduce adverse impacts.

## **7. What are the contents of the EIS?**

The Draft EIS will contain the following:

- Summary sheet.
- Executive summary.
- Table of contents.
- Purpose and need.
- Project description.
- Alternatives.
- Environmental setting.
- Probable impacts (direct, indirect/secondary, and cumulative impacts)
- Statement of the relationship of the action to land use plans, policies and controls for the affected area.
- Description of relationship between local short-term uses of humanity's environment and the maintenance and enhancement of long-term productivity
- Description of irreversible and irretrievable commitments of resources that would be involved in the action should it be implemented.
- All probable adverse environmental effects that cannot be avoided.
- Mitigation measures proposed to avoid, minimize, rectify, or reduce impact.
- Summary of unresolved issues.
- List of consulted parties.
- Reproductions of substantive comments received from the consulted parties and the responses to said comments made during the consultation process.

The Final EIS will contain the above plus the following:

- Incorporate substantive comments received during the Draft EIS review process.
- Reproductions of all letters received containing substantive questions, comments, and recommendations.
- List of persons, organizations, and public agencies commenting on the Draft EIS.
- Responses to each substantive question, comment, or recommendation received in the review process. The text will distinguish the changes made to the Draft EIS.

## **8. Will the EIS cover secondary impacts?**

Yes. Act 2 states that the EIS should analyze the impacts of commercial harbor improvements associated with a large-capacity ferry vessel (direct impacts), as well as the impacts of a large-capacity ferry vessel company and its operations (secondary/indirect impacts).

## **9. What are secondary impacts?**

Secondary impacts or indirect impacts are those impacts caused by the action that are later in time or further removed in distance but still reasonably foreseeable.

## **10. What is the schedule for completing this project?**

The Draft EIS is scheduled for completion and distribution January 2009. It was originally scheduled for October 2008, however, due to extenuating circumstances, the distribution date is pushed back by three months. Specifically, the special studies within the Draft EIS are based upon the large-capacity ferry vessel's operational plans and any proposals to change those plans would have a direct affect on the analysis. Rather than evaluating each change at the time it was proposed, certain studies for the Draft EIS were suspended until the operational plan was firmed up, or the time limit of Act 2 necessitated these studies to resume. The decision to resume studies was made in October 2008.

The Final EIS is scheduled for completion and distribution June 2009.

## **11. How much does the EIS cost, and who is paying for it?**

The contract for preparation of the EIS is for \$1.3 million, paid for by the DOT from funds collected from harbor user fees. The EIS fee covers the cost of technical studies by experts, consultation with agencies and other stakeholders, preparation and publication of the Draft EIS, response to comments on the Draft EIS, and preparation of the Final EIS, including the incorporation of substantive comments on the draft into the final document.

## **12. Will Superferry help pay for this EIS?**

No. The DOT is the responsible agency for determining whether or not commercial harbor improvements implemented for a large-capacity ferry company are subject to Chapter 343, HRS, and if so, the preparation (including cost) of the appropriate environmental document (e.g., EA or EIS). While the EIS being conducted under Act 2 is not governed by Chapter 343, HRS, the DOT remains responsible for the preparation of the document and the cost.

## **13. How can I participate in the environmental review process?**

Public meetings were held in March 2008 on each island. At these meetings, input was received for consideration in the EIS. Moreover, the Draft EIS will be made available for public review. Written comments may be submitted within the 45-day comment period. Any substantive comments received will be responded to in writing and, as appropriate, incorporated into the EIS.

#### **14. When can I provide comments on the EIS?**

The OEQC publishes a bimonthly bulletin (*The Environmental Notice*) listing statements and assessments that have been received. The review and comment period will start as of the date of notice in the OEQC bulletin. Comments should be submitted to the OEQC with a copy to the DOT at the following addresses.

To: Ms. Katherine Kealoha, Director  
Office of Environmental Quality Control  
235 South Beretania Street, Suite 702  
Honolulu, HI 96813

c: Mr. Michael D. Formby, Deputy Director  
DOT Harbors Division  
79 South Nimitz Highway  
Honolulu, HI 96813

#### **15. Where can I review the EIS?**

Copies of the Draft EIS will be available from the following:

1. Electronic copies can be downloaded at any one of the following websites:
  - a. OEQC: <http://hawaii.gov/health/environmental/oeqc/index.html/>
  - b. DOT: <http://hawaii.gov/dot/harbors>
2. Hard copies will be available at all regional and selected public libraries (locations to be announced by OEQC in *The Environmental Notice*).
3. Hard copies can be borrowed at OEQC, 235 South Beretania Street, Suite 702; Honolulu, Hawaii.
4. Electronic copies will be available on CD. To obtain a CD, please submit your request to:

Belt Collins Hawaii  
2153 N. King Street, Suite 200  
Honolulu, Hawaii 96819  
Attn: Ms. Lesley A. Matsumoto
5. Paper copies will be available for the reproduction cost. To obtain a paper copy, please submit your request to Belt Collins Hawaii at the address above.

## **16. Were any public meetings held?**

Yes, while the Act 2 does not require public meetings, the DOT determined it would be in the public interest to have meetings. Meetings were announced through local newspapers and held as follows:

1. March 11, 2008. Kaunakakai Elementary School Cafeteria, Molokai. 6 PM to 9 PM.
2. March 14, 2008. Farrington High School Auditorium, Oahu. 2 PM to 5 PM and 6 PM to 9 PM.
3. March 17, 2008. Baldwin High School Auditorium, Maui. 2 PM to 5 PM and 6 PM to 9 PM.
4. March 19, 2008. Kauai Community College Performing Arts Center, Kauai. 2 PM to 5 PM and 6 PM to 9 PM.
5. March 24, 2008. Hilo High School Auditorium, Hawaii Island. 2 PM to 5 PM and 6 PM to 9 PM.
6. March 27, 2008. Kealahou High School Auditorium, Hawaii Island. 2 PM to 5 PM and 6 PM to 9 PM.
7. March 31. Lanai Elementary School Cafeteria, Lanai. 6 PM to 9 PM.

## **17. What will OEQC's function be in relation to the EIS?**

As mandated by Act 2, the final authority to accept a Final EIS will rest with OEQC. OEQC is responsible for ensuring that the following criteria are satisfied:

1. The procedures as described in Act 2 have been satisfied, including the consultation process, review and the preparation and submission of the EIS.
2. The content requirements as described in Act 2 have been satisfied.
3. Comments submitted during the Draft EIS review period have received responses satisfactorily and have been incorporated into the EIS.