JOSH GREEN, M.D. GOVERNOR I KE KIA'ĀINA

SYLVIA LUKE LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA





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

P.O. BOX 621 HONOLULU, HAWAII 96809

Testimony of DAWN N. S. CHANG Chairperson

Before the House Committee on WATER & LAND

Thursday, March 13, 2025 9:00 AM State Capitol, VIA VIDEOCONFERENCE, Conference Room 411

In consideration of SENATE BILL 841, SENATE DRAFT 1 RELATING TO MARINE LIFE CONSERVATION DISTRICTS

Senate Bill 841, Senate Draft 1 proposes to: 1) require the Department of Land and Natural Resources (Department) to establish and conduct the Marine Life Conservation District (MLCD) Carrying Capacity Program; 2) require the Department to submit a report to the Legislature and adopt administrative rules; and 3) appropriate funds. **The Department supports this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Budget Request.**

The Department's Division of Aquatic Resources is leading the Holomua Marine Initiative to improve marine management practices across the state to ensure healthy ecosystems and abundant resources that allow the people of Hawai'i to enjoy coastal waters, support local livelihoods, and feed our families. One of the four pillars of Holomua is monitoring to measure current conditions and track progress following implementation of new management approaches and to use data to identify areas where management actions need to be further adapted.

Events such as the extreme flooding in Hā'ena, Kaua'i and the COVID-19 pandemic have provided unique glimpses into how nearshore marine resources respond to reduced human use. It is becoming increasingly evident that activities long considered "non-extractive" can have significant impacts on nearshore ecosystems. It is critical that we better understand these impacts and human-use thresholds so we can prevent precious and unique areas like the state's MLCDs from being "loved to death."

There are currently ten designated MLCDs statewide:

DAWN N.S. CHANG

CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

RYAN K.P. KANAKA'OLE FIRST DEPLITY

CIARA W.K. KAHAHANE DEPUTY DIRECTOR - WATER

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

- Hanauma Bay MLCD, Oʻahu
- Pūpūkea MLCD, Oʻahu
- Waikīkī MLCD, Oʻahu
- Kealakekua Bay MLCD, Hawai'i
- Lapakahi MLCD, Hawai'i

- Old Kona Airport MLCD, Hawai'i
- Waialea Bay MLCD, Hawai'i
- Honolua Mokulē'ia MCLD, Maui
 - Molokini Shoal MLCD, Maui
- Mānele Hulopo'e MLCD, Lāna'i

A carrying capacity study has recently been conducted for Hanauma Bay, and a study is currently being conducted for Pūpūkea. For the remaining eight MLCDs, the Department estimates that a well-designed carrying capacity study program would cost around \$300,000 per MLCD to conduct. The Department would not be able to effectively conduct carrying capacity studies at all eight MLCDs simultaneously due to limited staff and contractor capacity. Establishing such a program requires a long-term commitment of resources. The best course of action is to build a team, form a plan, set priorities, and conduct one carrying capacity study per year on a continuous cycle. These studies have a maximum shelf life of 10 years as conditions change, so updates need to be conducted regularly.

The Department agrees that carrying capacity studies should be conducted in consultation with affected stakeholders and subject matter experts, including the counties, University of Hawai'i researchers, and community groups. The Department also intends to engage with commercial operators such as SCUBA and snorkel charters and surf schools to ensure that all affected stakeholders are included in the process.

Mahalo for the opportunity to provide testimony in support of this measure.



COMMITTEE ON WATER AND LAND DATE: Thursday, March 13, 2025 TIME: 9:00 AM

Support SB841 with Ocean Tourism Coalition Amendments

Aloha Chair Hashem. Vice Chair Lamosau and committee members,

My name is Antoinette Davis. It has been my honor to represent the Activities and Attractions Association of Hawaii (A3H), a not-for-profit 501c6 trade organization, as its executive director since 1997 (28 years). **A3H supports SB 841 with the amendments provided by the Ocean Tourism Coalition.**

SB841 SD1 seeks to establish the Marine Life Conservation District (MLCD) Carrying Capacity Program under the DLNR. OTC has humbly and respectfully requested an amendment to Section 2(b) to require the State to consult with permitted commercial operators actively operating within MLCDs.

Section 2(b) of the bill mandates consultation with the counties, the University of Hawaii (including the Hawaii Institute of Marine Biology), and nonprofit community organizations. However, it does not include consultation with currently permitted operators with extensive, firsthand knowledge of MLCDs and the daily interactions between ocean users and marine life. These operators—many of whom have decades of experience—can offer invaluable insights into responsible management practices, sustainable tourism, and enforcement challenges. It is imperative to use these operators' expertise to create effective and practical management strategies.

Mahalo, thank you for your time, consideration, and opportunity to testify.

Submitted on: 3/11/2025 9:03:21 AM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
SLEIMAN K. SALIBI	TRUE BLUE INC.	Support	Written Testimony Only

Comments:

Support SB841 with Ocean Tourism Coalition Amendments

Aloha Chair Hashem. Vice Chair Lamosau and committee members,

My name is Sleiman K. Salibi. I represent True Blue Inc. DBA Kauai Beach Boys; DBA Da Life Outdoor Gear; Established on Kauai since 1983.

SB841 SD1, seeks to establish the Marine Life Conservation District (MLCD) Carrying Capacity Program under the DLNR. OTC has humbly and respectfully requested an amendment to Section 2(b) to require the State to consult with permitted commercial operators actively operating within MLCDs.

Currently, Section 2(b) of the bill mandates consultation with the counties, the University of Hawaii (including the Hawaii Institute of Marine Biology), and nonprofit community organizations. **However, it does not include consultation with currently**

permitted operators who have extensive, firsthand knowledge of MLCDs and the daily interactions between ocean users and marine life. These operators—many of whom have decades of experience—can offer invaluable insights on responsible management practices, sustainable tourism, and enforcement challenges. Their expertise should be utilized to create effective and practical management strategies.

Mahalo, thank you for your time, consideration, and opportunity to testify.

Submitted on: 3/11/2025 11:17:09 AM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Godfrey Akaka	The Native Hawaiian Gathering Rights Association	Oppose	Written Testimony Only

Comments:

We the NHGRA have concerns in relation to carrying capacity regulations.

- #1- We support carrying capacity regulations in MLCD locations only and targeting tourism only, due to the fact that fishing is prohibited, therefore all comercial activities should also be prohibited as MLCD's would be implemented for monopoly financial gain. So all comercial activities should be prohibited if fishing is prohibited so MLCD's do not motivate the opportunity for profit off of our natural resources while prohibiting subsistence gathering. Alternatively, prohibiting tourism and all comercial activities would discourage the need for additional MLCD's.
- #2- Who carrying capacity is applied to? Hawaii residents and native Hawaiians should never be denied access to our beaches and ocean. Who in these carrying capacity locations is given priority? Are local residents denied access to the ocean when capacity is reached by tourists? That is not pono and we hope you would agree with that scenario.
- #3- Carrying capacity is now being implemented by CBSFA's and other regulated fishing zones. Again, who is given priority in these areas and how do you limit families, residents, and those with local ties access to the ocean?
- #4- The government is over stepping its bounds in trying to regulate how many people can have access to the ocean. This power will negatively impact residents especially local native Hawaiian communities and is using covid as a method of justifying tyranical governing practices.
- #5- The State is not addressing these overpopulated marine concerns properly. The State encourages out of control tourism and travel to Hawai'i, and is trying to control carrying capacity in specific locations at the same time. The State needs to throttle back the influx of tourism into the state. I will give an example for Molokai. Molokai residents work hard at preventing over development. In addition Mokulele is a bottle neck for us and comes with its pros and cons. Tour businesses are heavily regulated including hotel capacity and rental car limitations. The state needs to stop and begin to address the impacts of continuous development and out of control tourism the industry is creating unrelgulated. The state needs to develop tourism carrying capacity instead of beach access carrying capacity. Additionally, the state needs to support sb 1 to stop all foreigners from purchasing and owning land in Hawaii. The state has an obligation to

consider all of these solutions to effectively address the impacts the state is allowing to incur upon our natural resources as well as our residents.

In conclusion, although NHGRA agrees that too much people on our beaches poses a negative impact to our natural resources, NHGRA opposes carrying capacity regulations as outloned in this bill due to the fact that the primary concerns as stated in our testimony are not being addressed. In short, the pros do not outweigh the cons. Mahalo.

Submitted on: 3/11/2025 2:21:59 PM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Daniel Hazen	Ocean Tourism Coalition	Oppose	Remotely Via Zoom

Comments:

Aloha Chair Hashem, Vice Chair Lamosao, and Members of the Committee on Water and Land,

My name is Daniel Hazen, and I am the Operations Manager for Holo Holo Charters as well as a Director for the Ocean Tourism Coalition (OTC). OTC represents hundreds of locally owned ocean tourism businesses statewide, many of which are family-owned. While we recognize the importance of protecting Marine Life Conservation Districts (MLCDs), we are concerned that this bill may introduce significant regulatory changes without valuable consultation with affected stakeholders, including ocean tourism businesses.

SB841 proposes assessments, restrictions, and potential limits on commercial use within MLCDs without a clearly defined process for engaging stakeholders who depend on these areas for their livelihoods. This bill should require direct consultation with commercial operators before any new restrictions or regulations are enacted.

We respectfully ask the committee to require a formal stakeholder advisory group that includes commercial operators to guide MLCD management decisions. Hawaii's MLCDs are important ecological and cultural resources, and their management should reflect a balanced approach that safeguards marine life while allowing for responsible, regulated use.

We urge the committee to amend SB841 to ensure that stakeholders are formally included in the study.

Mahalo for your time and consideration,

Daniel Hazen Operations Manager, Holo Holo Charters, Inc. Director, Ocean Tourism Coalition





March 11, 2025

COMMITTEE ON WATER AND LAND

DATE: Thursday, March 13, 2025

TIME: 9:00 AM

Support SB841 with Ocean Tourism Coalition Amendments

Aloha Chair Hashem, Vice Chair Lamosau and Committee Members,

My name is Peter Wood and I support SB841 provided the amendments recommended by the Ocean Tourism Coalition are added.

SB841 SD1, seeks to establish the Marine Life Conservation District (MLCD) Carrying Capacity Program under the DLNR. OTC has humbly and respectfully requested an amendment to Section 2(b) to require the State to consult with permitted commercial operators actively operating within MLCDs.

Currently, Section 2(b) of the bill mandates consultation with the counties, the University of Hawaii (including the Hawaii Institute of Marine Biology), and nonprofit community organizations. However, it does not include consultation with currently

permitted operators who have extensive, firsthand knowledge of MLCDs and the daily interactions between ocean users and marine life. As an operator with over 50 years of experience— I can offer invaluable insights on responsible management practices, sustainable tourism, and enforcement challenges. My expertise should be utilized to create effective and practical management strategies.

Mahalo for allowing me the opportunity to Testify on this matter.

Respectfully, Captain Peter Wood – Sailing Maui Inc. 808 870-3672





March 11, 2025

COMMITTEE ON WATER AND LAND

DATE: Thursday, March 13, 2025

TIME: 9:00 AM

Support SB841 with Ocean Tourism Coalition Amendments

Aloha Chair Hashem, Vice Chair Lamosau and Committee Members,

My name is Inca Robbin and I support SB841 provided the amendments recommended by the Ocean Tourism Coalition are added.

SB841 SD1, seeks to establish the Marine Life Conservation District (MLCD) Carrying Capacity Program under the DLNR. OTC has humbly and respectfully requested an amendment to Section 2(b) to require the State to consult with permitted commercial operators actively operating within MLCDs.

Currently, Section 2(b) of the bill mandates consultation with the counties, the University of Hawaii (including the Hawaii Institute of Marine Biology), and nonprofit community organizations.

However, it does not include consultation with currently permitted operators who have extensive, firsthand knowledge of MLCDs and the daily interactions between ocean users and marine life. As an operator with over 39 years of experience—I can offer invaluable insights on responsible management practices, sustainable tourism, and enforcement challenges. My expertise should be utilized to create effective and practical management strategies.

Thank you for allowing me the opportunity to Testify on this matter.

Respectfully, Inca Robbin – Sailing Maui Inc. 808 870-3673



Mālama Pūpūkea-Waimea Post Office Box 188 Hale'iwa, HI 96712

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Federal Nonprofit Organization 501(c)(3) FEIN 27-0855937 www.pupukeawaimea.org info@pupukeawaimea.org WAL HEARING: Thursday March 13, 2025, 9:00 am Conference Room 229

Re: SB841 SD1 Support with Comments - Relating to MLCDs

Aloha WAL Chair Hashem, Vice Chair Lamosao, and Committee members.

Mālama Pūpūkea-Waimea (MPW) is a grassroots, community non-profit on the North Shore of Oʻahu that actively works to care for, educate about, and protect our fragile, near-shore marine ecosystems. Our mission is "working to replenish and sustain the natural and cultural resources of the Pūpūkea and Waimea ahupua'a for present and future generations through active community stewardship, education, and partnerships."

MPW is fortunate to have been selected through an open RFP process by DLNR's Division of Aquatic Resources (DAR) to be the lead entity implementing the Act 31 (2002) Carrying Capacity Program that is mentioned in SB841 as a model. The focus of the Act 31 program, as directed by the Legislature's intent, is on the sensitive shallow water areas of the MLCD, which is the Kapo'o (Sharks Cove) tidepools and cove, about a 5-acre marine area very heavily impacted by visitors.

The funding for the three-year Act 31 program from the Legislature was \$300,000 (reduced after the Governor's 10% restriction to \$270,000) or \$90,000 per year. We are just starting Year 3 of the three-year program of in-water surveys and on-land projects that end in November 2025.

One highlight of what we have already found through our monitoring is that, just in one year, **between 2022 and 2023, the number of human users** (almost all non-resident tourists) of the **Kapo'o tidepools <u>doubled</u>**, primarily due to social media promotion, which threatens the marine biodiversity in this sensitive "nursery" area of the MLCD. We look forward to providing a full report with management recommendations to DAR and the Legislature in December 2025.

Given MPW's experience for the past two years of working very hard on this program with a broad range of consultants and advisors, MPW agrees with the bill's purpose clause that this "carrying capacity" approach, which focuses on ensuring thriving marine biodiversity and assessing/managing **biological impacts** of human use "is an excellent first step at addressing the capacity limits of the State's most valuable

marine resources and should serve as a model for all MLCDs in the State." We note that Act 31 and our program stands on the shoulders of the many years of robust carrying capacity studies done by HIMB and others at Hanauma Bay.

(Please note that the term "carrying capacity" has many different meanings – and several prior studies in Hawai'i have focused on the "visitor experience" type of carrying capacity study (i.e., how many humans can crowd a beach before the resident or visitor experience is diminished). While these visitor-experience-focused studies are useful for other reasons, that type of carrying capacity study is definitely *NOT* the focus on Act 31 or, we believe, SB841, which is clearly focused on "marine biodiversity health" – that is, the purpose of MLCDs, to further "the state policy of conserving, supplementing and increasing the State's marine resources." HRS § 190-3.)

We support SB841 SD1 and have several **cautionary comments** to offer for a proposed statewide expansion of similar carrying capacity studies for all MLCDs.

- 1. Budget. To cover all the state MLCDs, in our view, the Legislature would have to allocate roughly \$10 million per year, on a sustainable basis, to ensure adequate scientific and management work that can lead to tangible findings. Even with the generous funding for Act 31, and with a substantial "match" of private funding provided by our own fundraising efforts, MPW is able only to focus its work on a small sensitive area (the Kapo'o tidepools and cove), about 5-10% of the entire MLCD. To properly cover all of the Pūpūkea MLCD after 2025, which we would strongly recommend, would require about \$1 million per year. Scientific and human use monitoring, even with wonderful staff and contributing partners, is costly and time intensive. If a sustainable generous budget can be committed, then good research, and comparative work, can be done in and across all Hawai'i MLCDs. This area and all MLCDs deserve that sustained support!
- 2. DAR Capacity. Adding this statewide carrying capacity program for MLCDs to DAR would require additional staff and funding as well, just for bandwidth, oversight, and management within the agency. DAR does not currently have a program for dedicated staff to oversee the MLCD program or on the ground at any of the MLCDs, to our knowledge, and is doing great work in support of the MLCDs but is stretched. The Legislature might consider investing in dedicated DAR staff to oversee the MLCDs and dedicated staff at each specific MLCD, like a park ranger/ambassador/researcher, to complement the carrying capacity approach. This physical presence of staff would be hugely beneficial, particularly given the large and increasing number of non-resident visitors to these spectacular marine biodiversity areas.
- 3. **Precautionary Principle**. MPW supports the precautionary principle we should avoid risking our precious natural resources with human uses that may affect them unless those human uses are proven to not have an impact. In other words, **the benefit of the doubt should always be given to the MLCD marine life, not to the human uses**. This is not presently the case, with many human (and even extractive) uses allowed at Pūpūkea and in many MLCDs, but it worth keeping in mind as this bill moves forward given the very purpose of

MLCDs is to allow Hawai'i's native marine life to thrive and spillover to nearby coastal areas where human uses such as fishing are allowed. That goal cannot be accomplished without rigorous protection, sound management, and strong enforcement of MLCDs.

4. Carrying Capacity Studies must be multi-year and continuous not just "one year." We have found in our Act 31 work that multi-year research is essential to understanding a dynamic marine ecosystem. A "one year and done" approach would provide insufficient data on the health of the MLCD or the impacts of human use or how to manage those impacts. Continual management, long-term funding, and sustained study (and funding) is essential because human use is continual and sustained – with increasing impacts due to social media and new technology. To that end, please consider a sustainable, long-term funding approach to supporting the health of all State MLCDs.

As an organization in the midst of this process now, we are happy to share our mana'o with anyone interested in the "in the water" and "on the ground" challenges and successes of a biological carrying capacity program. Mahalo for the opportunity to provide testimony,

Denise Antolini

President, MPW

<u>SB-841-SD-1</u> Submitted on: 3/11/2025 9:50:18 PM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Hawai'i Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

SUPPORT!

Submitted on: 3/11/2025 8:04:01 AM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Eric Koch	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and fellow committee members,

I write to you today to offer my strong support of this measure and to offer some additional context. The very purpose of MLCDs is to conserve and enhance our overall aquatic resources. Whether they're effective should also be studied, but assuming they are, entry to them for commercial purposes should be done with 'equal access'. Fishing, of any kind is kapu in MLCDs from both recreational and commercial. The thought process is these activities are "consumptive" and other activities such as diving, snorkeling, surfing are allowed and considered "nonconsumptive". This has never made sense to me as a life long waterman, fisherman, diver. While it's true these activities don't take, they absolutely 'Displace'!! There's no doubt that huge amounts of people going to the same areas day in, day out, has a tremendous effect upon aquatic wildlife and anyone saying otherwise really is uninformed. This is a fact. It's not just fish that respond to human presence, it's most wild animals. Humans presence in small doses or occasionally, is harmless. But continually, it causes serious disturbances in the feeding, and reproduction of these fish. This undermines the very purpose of these MLCDs!! I'm not anti commercial, far from it, but I am about doing what's right, equal application, and logic based decision making. If the goal herr is to create a safe haven will theoretically enhance all of our aquatic resources, we should make sure that we aren't undermining the effect by only restricting fishermen. Let the commercial tourism operators take their business elsewhere and hopefully spread their impact over wide swaths instead of focusing it all into one or two spots. That's pono practice IMO. Please pass this measure, provide some funding for studies and oversight to address this very important issue. aloha

Submitted on: 3/11/2025 9:11:10 AM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Ashley Roussel	Individual	Support	Written Testimony Only

Comments:

Marine Life Conservation District Carrying Capacity Program

Chair, Vice Chair, and Members of the Committee,

My name is Ashley with Sail Maui, which operates sustainable sailing tours and ocean activities in Maui. I strongly support **SB 841, SD1**, which mandates the establishment of the Marine Life Conservation District Carrying Capacity Program.

As a business that relies on the health of our reefs and marine ecosystems, we see firsthand the increasing pressure on our ocean environments. Implementing a carrying capacity program will help ensure that these critical ecosystems are not overburdened by human activity. By taking a data-driven approach to managing visitor impact, we can create long-term sustainability that benefits marine life, local businesses, and future generations.

Additionally, having a structured and well-researched conservation plan will provide clarity and guidance to businesses operating within Marine Life Conservation Districts. We want to be responsible stewards of our waters, and this program will give us the tools to align our operations with best practices in environmental conservation.

I encourage the committee to advance this bill and prioritize the health of Hawaii's marine environments. Thank you for your time and consideration.

Mahalo,

Ashley Roussel

Sail Maui

<u>SB-841-SD-1</u> Submitted on: 3/11/2025 12:26:20 PM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Abraham Antonio sr	Individual	Oppose	Written Testimony Only

Comments:

Oppose

<u>SB-841-SD-1</u> Submitted on: 3/11/2025 12:27:40 PM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Kelden Yagin	Individual	Oppose	Written Testimony Only

Comments:

I oppose 841 SB..

Submitted on: 3/11/2025 12:57:27 PM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Monique L LeBlanc	Individual	Support	Written Testimony Only

Comments:

I support SB841 provided the amendments recommended by the Ocean Tourism Coalition are added.

SB841 SD1, seeks to establish the Marine Life Conservation District (MLCD) Carrying Capacity Program under the DLNR. OTC has humbly and respectfully requested an amendment to Section 2(b) to require the State to consult with permitted commercial operators actively operating within MLCDs.

Currently, Section 2(b) of the bill mandates consultation with the counties, the University of Hawaii (including the Hawaii Institute of Marine Biology), and nonprofit community organizations. However, it does not include consultation with currently

permitted operators who have extensive, firsthand knowledge of MLCDs and the daily interactions between ocean users and marine life. These operators—many of whom have decades of experience—can offer invaluable insights on responsible management practices, sustainable tourism, and enforcement challenges. Their expertise should be utilized to create effective and practical management strategies.

Mahalo, thank you for your time, consideration, and opportunity to testify.

<u>SB-841-SD-1</u> Submitted on: 3/11/2025 3:28:21 PM Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Klayton Kubo	Individual	Oppose	Written Testimony Only

Comments:

Oppose.

Submitted on: 3/12/2025 6:37:29 PM

Testimony for WAL on 3/13/2025 9:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Uilani Naipo	Individual	Support	Written Testimony Only

Comments:

I am in strong support of this measure. This is a very much needed carrying capacity tool that DLNR needs to support their permitting system. DLNR has been plagued with lawsuits due to their inability to limit permitted activities that does not put devastating pressure on our natural and cultural resources.