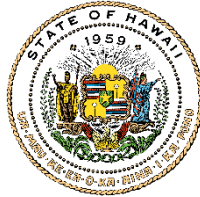


JOSH GREEN, M.D.  
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE  
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
KA 'OIHANA KUMUWAIWAI 'ĀINA  
P.O. BOX 621  
HONOLULU, HAWAII 96809

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

LAURA H.E. KAAKUA  
FIRST DEPUTY

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

Testimony of  
DAWN N. S. CHANG  
Chairperson

Before the Senate Committee on  
WATER AND LAND

Monday, March 13, 2023  
1:00 p.m.

State Capitol, Conference Room 229 & Videoconference

In consideration of  
HOUSE BILL 365, HOUSE DRAFT 1  
RELATING TO SPECIAL MANAGEMENT AREAS

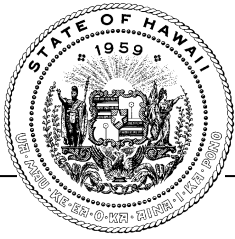
House Bill 365, House Draft 1 proposes to expand exclusions from the definition of “development” as it applies to special management areas to reduce the need for special management area permits for certain activities. **The Department of Land and Natural Resources (Department) supports the bill.**

Many parts of the State fall both within the Special Management Area and the State Land Use Conservation District, and land uses in these areas might require both Special Management Area permits and Conservation District Use Permits.

The Department appreciates that this Act will exclude from the definition of “development” invasive species control and the installation of fencing for invasive species control or the preservation of native habitats. We believe that this will help facilitate projects that are intended to preserve and protect the State’s natural and cultural resources.

The Department also appreciates that traditional fishpond and traditional agricultural practices will be excluded from the definition of development. In 2015 the Department initiated the “Ho‘āla Loko I‘a” program, which streamlined the permitting process for the repair, restoration, and operation of traditional Hawaiian fishpond systems. The proposed bill is consistent with this program, and we believe it will benefit cultural practitioners who are working to restore the State’s fishponds.

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



**STATE OF HAWAII  
OFFICE OF PLANNING  
& SUSTAINABLE DEVELOPMENT**

**JOSH GREEN, M.D.**  
GOVERNOR

**SCOTT J. GLENN**  
DIRECTOR

235 South Beretania Street, 6th Floor, Honolulu, Hawaii'i 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii'i 96804

Telephone: (808) 587-2846  
Fax: (808) 587-2824  
Web: <https://planning.hawaii.gov/>

Statement of  
**SCOTT GLENN, Director**

before the  
**SENATE COMMITTEE ON WATER AND LAND**

Monday, March 13, 2023, 1:00 PM  
State Capitol, Conference Room 229

in consideration of  
**HB 365 HD1**  
**RELATING TO SPECIAL MANAGEMENT AREAS.**

Chair Inouye, Vice Chair Elefante, and Members of the Senate Committee on Water and Land:

As the lead agency of the Hawaii Coastal Zone Management Program, the Office of Planning and Sustainable Development (OPSD) **supports and provides a recommendation** to HB 365 HD1, which proposes additions for proposed activities to be considered excluded "development" under Hawaii Revised Statutes § 205A-22 to reduce the need for Special Management Area (SMA) permitting procedures for those proposed actions that have no adverse environmental impacts on the SMAs.

The OPSD offers the following amendment that would allow for the possibility of incidental ground disturbance associated with trash removal and invasive vegetation:

Page 6, Lines 15-16

(R) Trash removal or invasive vegetation removal or control, including incidental ground disturbance, excluding the use of herbicides;

Thank you for the opportunity to testify on this measure.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
PHONE: (808) 768-8000 • FAX: (808) 768-6041  
DEPT. WEB SITE: [www.honolulu.dpp.org](http://www.honolulu.dpp.org) • CITY WEB SITE: [www.honolulu.gov](http://www.honolulu.gov)

RICK BLANGIARDI  
MAYOR



DAWN TAKEUCHI APUNA  
DIRECTOR

JIRO SUMADA  
DEPUTY DIRECTOR

March 13, 2023

The Honorable Lorraine R. Inouye, Chair  
and Members of the Committee on Water and Land  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Inouye and Committee Members:

**Subject: House Bill No. 365, HD 1  
Relating to Special Management Areas**

The Department of Planning and Permitting (DPP) **supports** House Bill No. 365, HD 1, which would expand exclusions from the definition of "development" as it applies to special management areas (SMA) to reduce the need for SMA permits for certain activities.

We support the change in the HD 1 to keep the dwelling size at 7,500 square feet, instead of reducing it to 5,000 square feet. We also support the intent of the Bill and believe SMA permit streamlining will facilitate important restoration activities, enhance public pedestrian and bicycle access to recreational areas within the SMA, and support safety measures for public facilities.

We note the counties are empowered to require an SMA permit if they determine coastal zone impacts are anticipated for any project. Given this, we believe the proposed amendments would not compromise the need to manage activities within the SMA in Hawaii.

Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to be "Dawn Takeuchi Apuna", written over a horizontal line.

Dawn Takeuchi Apuna  
Director

**RICHARD T. BISSEN, JR.**  
Mayor

**KEKUHAUPIO R. AKANA**  
Acting Managing Director



**OFFICE OF THE MAYOR**  
COUNTY OF MAUI  
200 SOUTH HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.mauicounty.gov](http://www.mauicounty.gov)

March 10, 2023

TO: Honorable Senator Lorraine R. Inouye, Chair  
Honorable Senator Brandon J.C. Elefante, Vice Chair  
Senate Committee on Land and Water

FROM: Richard T. Bissen, Jr., Mayor  
Kathleen Aoki, Planning Director

DATE: March 10, 2023

SUBJECT: **SUPPORT OF HB 365, HD1, RELATING TO SPECIAL MANAGEMENT AREAS.**

Thank you for the opportunity to testify in **SUPPORT** of this important measure. The purpose of this measure is to expand exclusions to the definition of "development" in chapter 205A, Hawaii Revised Statutes, to reduce the need for special management area permits for certain activities.

Our administration **SUPPORTS** this measure for the following reasons:

1. This measure will help expedite the special management area permits process to avoid increased labor and material costs.
2. This measure, as amended, will continue to protect environmental controls and quality that Special Management Area regulations are intended to protect.
3. This measure will facilitate the timely approval of important projects, including improvements to pedestrian and bicycling infrastructure, environmental and wildlife protection, and security at public facilities.

For the foregoing reasons, we **SUPPORT** this measure.

Council Chair  
Alice L. Lee

Vice-Chair  
Yuki Lei K. Sugimura

Presiding Officer Pro Tempore  
Tasha Kama

Councilmembers  
Tom Cook  
Gabe Johnson  
Tamara Paltin  
Keani N.W. Rawlins-Fernandez  
Shane M. Sinenci  
Nohelani U'u-Hodgins



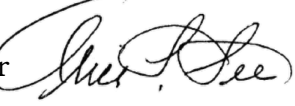
Director of Council Services  
Traci N. T. Fujita, Esq.

Deputy Director of Council Services  
David M. Raatz, Jr., Esq.

**COUNTY COUNCIL**  
COUNTY OF MAUI  
200 S. HIGH STREET  
WAILUKU, MAUI, HAWAII 96793  
[www.MauiCounty.us](http://www.MauiCounty.us)

March 10, 2023

TO: The Honorable Senator Lorraine R. Inouye, Chair, and  
Members of the Senate Committee on Water and Land

FROM: Alice L. Lee  
Council Chair 

SUBJECT: **HEARING OF MARCH 13, 2023; TESTIMONY IN SUPPORT OF HB 365,  
HD1, RELATING TO SPECIAL MANAGEMENT AREAS**

Thank you for the opportunity to testify in **support** of this important measure. This measure's purpose is to eliminate the need for Special Management Area permits for certain beneficial projects, including those for pedestrian and bicycle facilities, native-habitat preservation, native-seabird protection, and security at public facilities.

The Maui County Council has not had the opportunity to take a formal position on this measure as amended. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I support this measure for the following reasons:

1. This measure's targeted amendments to the definition of "development" will promote, not undercut, the environmental controls and quality that Special Management Area regulations are intended to protect.
2. This measure will facilitate the timely approval of important projects to benefit the public, including improvements to pedestrian and bicycling infrastructure, environmental and wildlife protection, traditional fishpond and traditional agricultural practices, and security at public facilities.

For the foregoing reasons, I **support** this measure.

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**Maui Metropolitan  
Planning Organization**

200 South High Street  
Wailuku, HI 96793  
[www.mauimpo.org](http://www.mauimpo.org)

March 10, 2023

Testimony of Pam Eaton  
Maui MPO Executive Director

Before the Senate Committee on Water and Land

March 13, 2023 at 1:00 p.m.  
Conference Room 229

**HEARING OF MARCH 13, 2023; TESTIMONY IN SUPPORT OF HB 365, HD 1, RELATING TO  
SPECIAL MANAGEMENT AREAS**

Honorable Lorraine Innouye, Chair  
Honorable Elefante Brandon, Vice Chair  
Honorable Members of the Senate Committee on Water and Land

Thank you for the opportunity to testify in **support** of HB 365, HD 1. The Maui Metropolitan Planning Organization **supports** HB 365 HD 1. By eliminating the need for Special Management Area (SMA) permits for safety improvements to bicycle and pedestrian routes and infrastructure, this measure will facilitate and streamline more timely approvals of Complete Streets and other multi-modal transportation projects. Further, by reducing the need for SMA permitting, a more streamlined process will enable access to important activities that will enhance pedestrian/bicycle access to recreational areas within the SMA. The Maui Metropolitan Planning Organization **supports** HB 365 HD 1.

Thank you for this opportunity to testify.

Sincerely,

*Pam Eaton*

Pam Eaton  
Executive Director, Maui MPO

Cc: Maui MPO Policy Board

# LATE

Date: March 12<sup>th</sup>, 2023

From: Coastal Planners, LLC  
117 Loi Pohaku Place, Wailuku, HI 96793  
Tel: 808-344-1595  
Email: [Thorneabbott@yahoo.com](mailto:Thorneabbott@yahoo.com)  
[CoastalPlanners@gmail.com](mailto:CoastalPlanners@gmail.com)

To: Committee on Water and Land  
Senator Lorraine Inouye, Chair  
Senator Brandon Elefante, Vice Chair



RE: **HB 365 HD1, Relating to Special Management Areas**  
Amendments to HRS 205A-22

Dear Honorable Chair, Vice Chair and Committee Members:

Thank you for confirming the Governor's appointments of Scott Glenn and Laura Kaakua to leadership roles at your March 8, 2023 meeting last week.

On July 1, 2011 the Governor signed a crucial amendment to HRS 205A-22 that required houses larger than 7,500 square feet in floor area to undergo public review and scrutiny. The amended definition eliminated the automatic exemption within the Special Management Area (SMA) to construct a new, large, single family residence in recognition of their potential impact on coastal resources. The amendment also raised the threshold for work that the Planning Directors could approve with an SMA Minor permit from \$125,000 to \$500,000 in recognition of increasing construction costs. The amendments garnered strong support from builders, unions, planners, the Sierra Club, and the County Planning Departments and were effective at controlling oceanfront development for over a decade. I know because I helped write and negotiate it.

Nearly a decade later in 2020 during COVID-19, Act 16 was passed (i.e., SB 2060 S.D.2 H.D.2) with very little scrutiny, transparency, or input from professional coastal planners, permit processors or practitioners. It's stated purpose was to "protect state beaches and to **reduce residential exposure to coastal hazards**". It amended the definition of "Development" in HRS 205A-22 to exclude single family homes less than 7,500 square feet of floor area, that are "not situated on a shoreline parcel or a parcel that is impacted by waves, storm surges, high tide, or shoreline erosion..."

On its face, this would seem to encourage locating new homes out of harm's way. Unfortunately, it has had the opposite effect and it is having a perverse, unintended consequence that is opposite to what the author's intended. Due to Act 16, construction or reconstruction (>50%) of ALL single family dwellings on oceanfront property must go through a public hearing and review process. For instance, adding a 600 square foot ohana, regardless of whether the house site or parcel is exposed, or projected to be exposed, to coastal hazards would have to be approved at public hearing and all owners within 500 feet of the parcel notified by certified mail. As a result, **there is an incentive to construct the largest building possible** because the applicant **will have to go through a public hearing process no matter what the size, location, or exposure** of the building is to coastal hazards. Act 16 annuals the 7,500 square feet size limit for oceanfront properties and incentives bigger monster homes along our shorelines *in direct contravention to the purpose of the amendment* "to reduce residential exposure to coastal hazards".

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To fix this, we strongly **support** the proposed amendments to the definition of HRS 205A-22 **with the following critical change:**

- (1) ~~[(1)]~~ ~~(A)~~ Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area~~[(,)]~~; and would not be impacted by ~~is not situated on a shoreline parcel or a parcel that is~~ waves, storm surges, high tide, flooding, sea level rise, or shoreline erosion during the structures projected life span ~~[(,)]~~; and is not part of a larger development;

This change would also shift the burden of proof that the new residence is in a safe location to the applicant, rather than the government having to prove the location is risky in a public meeting, as is currently the case. Empowering government planners with the ability to grant new homes located out of harm's way with an exemption to holding a public hearing is a powerful carrot and stick approach to "**reduce residential exposure to coastal hazards**".

Lastly, please renumber the proposed sections to "Development" (a) Means ... and retain subsections 1 – 5 and (b) Does not include... and retain subsections 1-16 plus 17-22. This will make HRS 205A-22 consistent with the other section of HRS 205A and will avoid confusion in the future when referencing the applicable excluded subsection in past and future SMA exemptions and approvals.

Thank you for your consideration of this important amendment to protect our beaches and coastlines. Should you have any questions, please call me at 808 344-1595 or email [Coastalplanners@gmail.com](mailto:Coastalplanners@gmail.com)

Sincerely



Thorne Abbott