

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

JOSH GREEN, M.D.
GOVERNOR

MARY ALICE EVANS
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
MARY ALICE EVANS, Director

before the
SENATE COMMITTEE ON AGRICULTURAL AND ENVIRONMENT

Monday, February 10, 2025, 1:01 PM
State Capitol, Conference Room 224

in consideration of
SB 1109
RELATING TO THE ENVIRONMENTAL REVIEW PROCESS.

Chair Gabbard, Vice Chair Richards, and Members of the Senate Committee on Agriculture and Environment.

The Office of Planning and Sustainable Development (OPSD) offers the following **comments with concerns** on SB 1109, which amends HRS Chapter 343-2 by adding a new definition, “finding of completion of environmental disclosure process” and repealing the existing definition of “finding of no significant impact” (FONSI).

OPSD notes that a FONSI determination is a state or county agency’s method for establishing, after a review of an action’s final EA, that the action has been determined to have no significant impact on the environment. However, a FONSI does not indicate that an action is complete, since Ch. 343-7 allows agency determinations to be challenged in court.

There are two other possible agency determinations besides a FONSI that indicate the action has undergone the review process, namely an Exemption determination or an Acceptance determination for a final Environmental Impact Statement (EIS). All three allow for judicial challenges and thus do not signal completion.

A FONSI provides clarity that the action is not expected to have a significant impact, with “significant impact” having a defined meaning enumerated in the administrative rules for the environmental review process (HAR Section 11-200.1-13). The concept of “significance” is important to the environmental review process; as it distinguishes the EA pathway from the more intensive EIS pathway. This clarity will be lost if the title of the determination is changed.

Currently, draft EAs begin the process with an agency making an Anticipated FONSI determination. If an agency anticipates that the action will have a significant impact, then a more robust EIS is required to be prepared from the outset. Occasionally, the final EA uncovers that the action likely will have a significant impact on the environment. In these cases the agency will not make a FONSI determination and instead will require the preparation of an EIS.

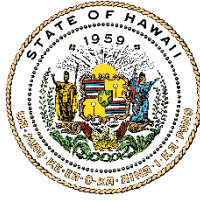
SB 1109 RELATING TO ENVIRONMENTAL REVIEW PROCESS - COMMENT
State Office of Planning and Sustainable Development
February 10, 2025

Additionally, the proposed amendment includes a reference to an “accepting agency.” This is not a defined term in Ch. 343 or HAR 11.200.1. There are “proposing” and “approving” agencies, in the case of EAs for agency or applicant actions, respectively. For EISs, there are “accepting authorities,” but in no case is there a defined “accepting agency”.

Thank you for the opportunity to testify on this measure.

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHANE
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, Feb 10, 2025
1:01 p.m.

State Capitol, Conference Room 224 & Videoconference

In consideration of
SENATE BILL 1109
RELATING TO THE ENVIRONMENTAL REVIEW PROCESS

Senate Bill 1109 proposes to amend Hawai'i Revised Statutes Chapter 343 relating to Environmental Impact Statements by repealing the definition of "finding of no significant impact" and adding a new definition of "finding of completion of environmental disclosure process." **The Department of Land and Natural Resources (Department) supports the bill.**

Environmental Assessments (EA) are disclosure documents, and not permits in and of themselves. If an EA shows that environmental impacts are minimal or can be mitigated successfully, a Finding of No Significant Impact (FONSI) is issued by the permitting authority, meaning a more detailed and comprehensive Environmental Impact Statement (EIS) would not be required.

The term FONSI is used in the context of the National Environmental Policy Act (NEPA), and has been adopted by some states. Other states use their own unique terminology to indicate that the environmental disclosure process is complete.

The proposed new term, "Finding of Completion of Environmental Disclosure Process," makes for a more awkward acronym (FOC-EDP) than FONSI, but more accurately reflects the findings that a permitting agency makes. DLNR does not believe that changing the term would have an impact on the actual environmental review process in Hawai'i.

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

DEPARTMENT OF PLANNING AND PERMITTING
KA 'OIHANA HO'OLĀLĀ A ME NĀ PALAPALA 'AE
CITY AND COUNTY OF HONOLULU

650 SOUTH KING STREET, 7TH FLOOR • HONOLULU, HAWAII 96813
PHONE: (808) 768-8000 • FAX: (808) 768-6041 • WEBSITE: honolulu.gov/dpp

RICK BLANGIARDI
MAYOR
MEIA



DAWN TAKEUCHI APUNA
DIRECTOR
PO'O

BRYAN GALLAGHER, P.E.
DEPUTY DIRECTOR
HOPE PO'O

REGINA MALEPEAI
2ND DEPUTY DIRECTOR
HOPE PO'O KUALUA

February 10, 2025

The Honorable Mike Gabbard, Chair
and Members of the Committee on Agriculture and the Environment
Hawaii'i State Senate
Hawaii'i State Capitol
415 South Beretania Street
Honolulu, Hawaii'I 96813

Dear Chair Gabbard and Committee Members:

Subject: Senate Bill No. 1109
Relating to the Environmental Review Process

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 1109, relating to the Environmental Review Process.

The Bill proposes to replace the title of "Finding of No Significant Impact (FONSI)" with "Finding of Completion of Environmental Disclosure Process" for purposes of Hawaii Revised Statutes Chapter 343. We have found the term FONSI is confusing to stakeholders and believe a Finding of Completion of Environmental Disclosure Process would more accurately reflect the result of completing an Environmental Assessment (EA).

The findings and purpose of Chapter 343 are to "alert decision makers to significant environmental effects." Environmental disclosure is the first step for a development project; in almost all cases, further analysis and mitigation are required in subsequent permits. When reviewing a Final EA, the accepting agency must:

- 1) Issue a notice of FONSI indicating no further environmental review is required,
- or
- 2) Issue an Environmental Impact Statement (EIS) Preparation Notice, indicating that additional environmental review and disclosure are required.

The Honorable Mike Gabbard, Chair
and Members of the Committee on Agriculture and the Environment
Hawai'i State Senate
Senate Bill No. 1109
February 10, 2025
Page 2

EIS documents are required for proposed actions that will likely have a significant effect on the environment, including "irrevocable commitments of natural resources." Many projects do not rise to the preparation of an EIS, but may have some environmental impacts that require mitigation in subsequent permits. Therefore, avoiding the term "no significant impact" during the EA stage will more accurately reflect the process-oriented nature of environmental review and documentation.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in blue ink, consisting of a stylized 'D' followed by a horizontal line.

Dawn Takeuchi Apuna
Director Designate



HAWAII REGIONAL COUNCIL OF CARPENTERS

February 10, 2025

TO: The Honorable Mike Gabbard, Chair
The Honorable Herbert M. "Tim" Richards, III, Vice Chair
and Members of the Senate Committee on Agriculture and Environment

FROM: Mitchell Tynanes
Hawai'i Regional Council of Carpenters

RE: **Opposition for SB1109 – Relating to the Environmental Review Process**

Chair Gabbard, Vice Chair Richards, and Members of the Committee:

On behalf of the Hawai'i Regional Council of Carpenters, we are **opposed to SB1109**, which weakens the environmental review process and threatens to delay critical housing and infrastructure projects that our state desperately needs.

This bill replaces the "Finding of No Significant Impact" (FONSI) standard with a new, untested process called a "Finding of Completion of Environmental Disclosure Process." While this might sound like a small technical change, it actually removes a key decision-making step that determines whether a project requires a full Environmental Impact Statement (EIS).

The end result? **More legal uncertainty, more lawsuits, and more delays for construction projects**—especially those that provide affordable housing, infrastructure improvements, and commercial developments that create jobs for skilled local craftspeople.

Right now, the FONSI process gives developers a **clear path** to determining whether an EIS is needed. Replacing it with a **vague "completion" standard** makes it **easier for opponents to sue** and block projects in court. This means **delays in job-creating projects**, putting Hawai'i's working families at risk.

We oppose this bill because uncertainty **drives up costs for housing and public projects**. Hawai'i already has some of the highest housing and infrastructure costs in the country. The uncertainty in the approval process discourages developers from investing and makes financing harder to secure. That leads to higher costs for taxpayers and homebuyers—the exact opposite of what we need.

STATE HEADQUARTERS & BUSINESS OFFICES

OAHU: 1311 Houghtailing Street, Honolulu Hawaii 96817-2712 • Ph. (808) 847-5761 Fax (808) 440-9188
HILO OFFICE: 525 Kilauea Avenue, Room 205, Hilo, Hawaii 96720-3050 • Ph. (808) 935-8575 Fax (808) 935-8576
KONA OFFICE: 75-126 Lunapule Road, Kailua-Kona, Hawaii 96740-2106 • Ph. (808) 329-7355 Fax (808) 326-9376
MAUI OFFICE: 330 Hookahi Street, Wailuku, Maui 96793-1449 • Ph. (808) 242-6891 Fax (808) 242-5961
KAUAI OFFICE: Kuhio Medical Ctr Bldg., 3-3295 Kuhio Hwy, Suite 201, Lihue, Kauai 96766-1040 • Ph. (808) 245-8511 Fax (808) 245-8911

If the goal is to improve the environmental review process, the Legislature should focus on making it more efficient, not more confusing. Instead of passing SB1109, the state should: 1) Keep the FONSI process intact to ensure clear and fair decision-making; 2) Speed up environmental reviews for critical projects like affordable housing and infrastructure; and 3) Ensure legal clarity so the review process isn't misused to stall necessary development.

SB1109 will not streamline the environmental review process—it will slow it down. This bill invites more lawsuits, more delays, and more uncertainty at a time when Hawai'i needs more housing, better infrastructure, and good-paying jobs. We urge you to **defer SB1109 indefinitely** and focus on real solutions that balance environmental protection with economic growth.

Mahalo for the opportunity to testify.

Mitchell Tynanes

Hawai'i Regional Council of Carpenters