

JAN 21 2022

A BILL FOR AN ACT

RELATING TO SPECIAL MANAGEMENT AREAS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that targeted amendments
2 to the definition of "development" as it relates to special
3 management areas will promote, not undercut, the environmental
4 controls and quality that special management area regulations
5 are intended to protect. Currently, the broad definition of
6 "development" coupled with rising labor and materials costs can
7 result in a special management area use permit review being
8 required for improvements, facilities, and incidental structures
9 that may not warrant such intense scrutiny and the associated
10 costs and delays that go along with it.

11 The legislature further finds that exclusions from the special
12 management area definition of "development" are desirable for
13 the following activities:

- 14 (1) Demolition or removal of improvements, as well as
15 structures, except on historic sites, to allow for
16 activities such as the removal of shoreline hardening
17 materials which may not qualify as structures;



(2) Certain types of repairs and improvements of pedestrian and bicycle facilities to reduce reliance on vehicles;

(3) Trash removal, invasive vegetation control, and fencing for invasive species control or preservation of native habitats to improve the quality of the environment;

(4) Improvements for inspection and maintenance of utilities to decrease the likelihood of system failure and environmental harm; and

(5) Improvements to lighting, fixtures, and equipment to comply with standards at public recreational facilities, including health and safety standards, to protect native seabird populations and reduce light pollution.

The purpose of this Act 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.



SECTION 2. Section 205A-22, Hawaii Revised Statutes, is amended by amending the definition of "development" to read as follows:

"Development" means any of the uses, activities, or operations on land or in or under water within a special management area that are included below:

- (1) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;
- (2) Grading, removing, dredging, mining, or extraction of any materials;
- (3) Change in the density or intensity of use of land, including but not limited to the division or subdivision of land;
- (4) Change in the intensity of use of water, ecology related thereto, or of access thereto; and
- (5) Construction, reconstruction, or alteration of the size of any structure.

"Development" does not include the following:

- (1) Construction or reconstruction of a single-family residence that is less than seven thousand five hundred square feet of floor area, is not situated on



- 1 a shoreline parcel or a parcel that is impacted by
- 2 waves, storm surges, high tide, or shoreline erosion,
- 3 and is not part of a larger development;
- 4 (2) Repair or maintenance of roads and highways within
- 5 existing rights-of-way;
- 6 (3) Routine maintenance dredging of existing streams,
- 7 channels, and drainage ways;
- 8 (4) Repair and maintenance of underground utility lines,
- 9 including but not limited to water, sewer, power, and
- 10 telephone and minor appurtenant structures such as pad
- 11 mounted transformers and sewer pump stations;
- 12 (5) Zoning variances, except for height, density, parking,
- 13 and shoreline setback;
- 14 (6) Repair, maintenance, or interior alterations to
- 15 existing structures;
- 16 (7) Demolition or removal of structures~~[r]~~ or
- 17 improvements, except those structures or improvements
- 18 located on any historic site as designated in national
- 19 or state registers;
- 20 (8) Use of any land for the purpose of cultivating,
- 21 planting, growing, and harvesting plants, crops,



1 trees, and other agricultural, horticultural, or
2 forestry products or animal husbandry, or aquaculture
3 or mariculture of plants or animals, or other
4 agricultural purposes;

5 (9) Transfer of title to land;

6 (10) Creation or termination of easements, covenants, or
7 other rights in structures or land;

8 (11) Subdivision of land into lots greater than twenty
9 acres in size;

10 (12) Subdivision of a parcel of land into four or fewer
11 parcels when no associated construction activities are
12 proposed; provided that any land that is so subdivided
13 shall not thereafter qualify for this exception with
14 respect to any subsequent subdivision of any of the
15 resulting parcels;

16 (13) Installation of underground utility lines and
17 appurtenant aboveground fixtures less than four feet
18 in height along existing corridors;

19 (14) Structural and nonstructural improvements to existing
20 single-family residences, where otherwise permissible;



1 (15) Nonstructural improvements to existing commercial or
2 noncommercial structures; ~~and~~

3 (16) Construction, installation, maintenance, repair, and
4 replacement of emergency management warning or signal
5 devices and sirens;

6 (17) Construction, installation, maintenance, repair, and
7 replacement of pedestrian and bicycle facilities,
8 including sidewalks, paths, bikeways, crosswalks,
9 stairs, ramps, signs, signals, and associated
10 improvements, and the placement of barriers for the
11 control of vehicular movement;

12 (18) Trash removal that will result in incidental ground
13 disturbance or vegetation removal;

14 (19) Invasive vegetation control with subsurface stump
15 removal, excluding the use of pesticides;

16 (20) Installation of fencing, including associated
17 improvements and incidental structures, for invasive
18 species control or preservation of native habitats;

19 (21) Removal of fences, walls, or barriers, and replacement
20 with gates or other access devices and associated



1 minor improvements, for inspection and maintenance of
2 utilities; and
3 (22) Installation, maintenance, repair, and replacement of
4 existing lighting, fixtures, and equipment to
5 establish compliance with current standards at
6 existing public recreational facilities;

7 provided that whenever the authority finds that any excluded
8 use, activity, or operation may have a cumulative impact, or a
9 significant environmental or ecological effect on a special
10 management area, that use, activity, or operation shall be
11 defined as "development" for the purpose of this part."

12 SECTION 3. This Act does not affect rights and duties that
13 matured, penalties that were incurred, and proceedings that were
14 begun before its effective date.

15 SECTION 4. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: *Guinevere R. Inouye*



S.B. NO. 2764

Report Title:

Special Management Areas; Development; Definition; Exclusions;
Office of Planning and Sustainable Development

Description:

Expands 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.

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