

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

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Statement of
SCOTT GLENN, Director

before the
HOUSE COMMITTEE ON WATER AND LAND

Tuesday, January 31, 2023, 9:00 AM
State Capitol, Conference Room 430

in consideration of
HB 365
RELATING TO SPECIAL MANAGEMENT AREAS.

Chair Ichiyama, Vice Chair Poepoe, and Members of the House Committee on Water and Land:

The purpose for the addition of the proposed activities to be considered excluded “development” under Hawaii Revised Statutes § 205A-22 is to reduce the need for Special Management Area (SMA) permitting procedures for those proposed actions that have no adverse environmental impacts on the SMAs.

As the lead agency of the Hawaii Coastal Zone Management Program, the Office of Planning and Sustainable Development (OPSD) **supports the intent of HB 365** and recommends retaining the existing floor area threshold at 7,500 sq ft. for single-family residences that **are not situated** on shoreline parcels or parcels impacted by waves, storm surges, high tide, or shoreline erosion for the following reasons:

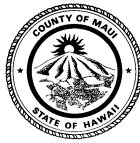
1. It is the County’s zoning ordinances, such as building setbacks, floor area ratio, height limits and use of a single-family residence, that determine the allowable uses of a parcel for residential development. Denying the development of a single-family residence can rarely be justified based on the SMA guidelines and is not the purpose of SMA permits.
2. The purpose of HB 365 is to expand exclusions to the definition of “development” in Hawaii Revised Statutes Chapter 205A to reduce the need for SMA permitting. The resulting outcome to lowering the floor area threshold from 7,500 to 5,000 square feet would result in an increase in cost, regulatory procedures and requirements, and additional time for the development of single-family residences that are not situated on shoreline parcels or parcels impacted by waves, storm surges, high tide, or shoreline erosion. Since the passage Act 16, Session Laws of Hawaii 2020, the City and County of Honolulu in particular has experienced in increase in SMA use permit volume by approximately 65%.

The existing limited staff resources would be more appropriately suited towards focusing SMA assessments for those developments that have significant environmental impacts and/or those that are impacted by coastal hazards, including waves, storm surges, shoreline erosion, and sea level rise.

In addition, OPSD recommends replacing the term “Traditional and customary practices” with “Hawaiian traditional and customary practices” on page 7 to more clearly express its intended purpose.

Thank you for the opportunity to testify on this measure.

Council Chair
Alice L. Lee



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

Councilmembers
Tom Cook
Gabe Johnson
Tasha Kama
Tamara Paltin
Keani N.W. Rawlins-Fernandez
Shane M. Sinenci
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COUNTY COUNCIL
COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
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January 30, 2023

TO: The Honorable Representative Linda Ichiyama, Chair,
and Members of the House Committee on Water & Land

FROM: Alice L. Lee
Maui County Council Chair

A handwritten signature in cursive script, appearing to read "Alice L. Lee".

SUBJECT: **HEARING OF JANUARY 31, 2023; TESTIMONY IN SUPPORT OF
HB 365, RELATING TO SPECIAL MANAGEMENT AREAS**

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

This measure is identical in substance to legislation in the 2023 Hawaii Association of Counties Legislative Package. Therefore, I offer this testimony on behalf of the Maui County Council.

The Maui County Council **supports** this measure for the following reasons:

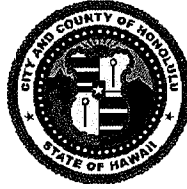
1. This measure's targeted amendments to the definition of "development" will promote, not undercut, the environmental controls and quality that Special Management Area regulations are intended to protect.
2. This measure will facilitate the timely approval of important projects to benefit the public,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

For the foregoing reasons, the Maui County Council **supports** this measure.

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



DAWN TAKEUCHI APUNA
DIRECTOR DESIGNATE

JIRO SUMADA
DEPUTY DIRECTOR

January 31, 2023

The Honorable Linda Ichiyama, Chair
and Members of the Committee on Water & Land
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Ichiyama and Committee Members:

Subject: House Bill No. 365
Relating to Special Management Areas

The Department of Planning and Permitting (DPP) **supports** House Bill No. 365,
with a suggested amendment.

As written, the Bill would exempt certain types of activities from the definition of “development” that are subject to Special Management Area (SMA) review and permitting. However, the DPP believes that the definition of “development” should not be revised so that dwellings that exceed 5,000 square feet in floor area would be considered development and would therefore require SMA permits. At present, SMA permits are required for dwellings that exceed 7,500 square feet and dwellings located on shoreline lots and lots impacted by waves, storm surges, high tide, and shoreline erosion. The remaining residential lots are primarily situated in mauka areas of the SMA that are not particularly susceptible to coastal hazards. Therefore, the reduction from 7,500 square feet of floor area to 5,000 square feet of floor area is unlikely to capture projects with particularly adverse impacts, but will require a lot of dedicated resources from the county governments, which are already struggling to keep up with the increased permitting load due to Act 16 (2020).

The Bill does not include a justification that relates coastal hazards to the 5,000-square-foot size of a dwelling that is **not** located on a shoreline lot or a lot impacted by waves, storm surges, high tide, or shoreline erosion. In addition, the counties are empowered to require an SMA permit if they determine coastal zone impacts are anticipated for any project. As such, we believe coastal zone resources will continue to be adequately protected with the existing size limit of 7,500 square feet.

We support the intent of the remainder of the Bill and believe the 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

The Honorable Linda Ichiyama, Chair
and Members of the Committee on Water & Land
Hawaii House of Representatives
House Bill No. 365
January 31, 2023
Page 2

facilities. 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, consisting of a large, stylized initial 'D' followed by a horizontal line extending to the right.

Dawn Takeuchi Apuna
Director