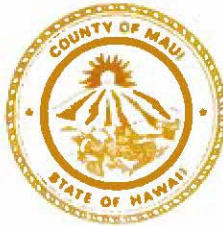


RICHARD T. BISSEN, JR.
Mayor

JACKY TAKAKURA
Acting Director

ANA LILLIS
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAI'I 96793

February 27, 2026

Honorable Richard T. Bissen Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawai'i 96793

APPROVED FOR TRANSMITTAL

 3-5-26
Mayor Date

For Transmittal to:

Honorable Tom Cook, Councilmember
Maui County Council
200 South High Street
Wailuku, Hawai'i 96793
via e-mail: wai.committee@mauicounty.us

Dear Councilmember Cook:

**SUBJECT: BILL 1 (2026), AMENDING THE WATER AVAILABILITY
POLICY ON SUBDIVISION CONSTRUCTION PLANS (WAI-21)**

Thank you for your February 10, 2026, correspondence requesting comments on Bill 1 (2026), entitled "A BILL FOR AN ORDINANCE AMENDING THE WATER AVAILABILITY POLICY AND SUBDIVISION ORDINANCE ON SUBDIVISION CONSTRUCTION PLANS." The Planning Department offers the following comments:

1. Bill 1 (2026) may streamline the subdivision process by allowing construction plan approval before written verification of a long-term water source, while still requiring verification prior to final subdivision approval. The measure could improve efficiency, reduce delays, and enhance interagency coordination, potentially supporting economic development and housing. However, approving construction plans before confirming water availability conflicts with long-standing policies requiring infrastructure, especially water to be available prior to or concurrent with development. Early approval could create pressure to allocate water after significant investment, potentially undermining environmental safeguards, public trust obligations, Native Hawaiian and Department of Hawaiian Home Lands water priorities, and sustainable infrastructure planning.

Honorable Tom Cook, Councilmember
February 27, 2026
Page 2

2. To avoid potential misunderstanding, the bill should include clarifying that early approval creates no vested rights to water or final approval, add sunset provisions, require clear public disclosure and reaffirm public trust principles and water allocation priorities. With these safeguards, efficiency gains could be better balanced with resource protection and consistency with adopted plans.
3. Please see attached general plan policy review for more detailed analysis.

Should you have any questions, please feel free to contact me.

Sincerely,



JACKY TAKAKURA
Acting Director

Attachment:
Bill_1_2026GP_ConsistencyAnalysis_FINAL.docx
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**General Plan Consistency Analysis
Bill 1, CD1 (2026)
Department of Planning – Long Range Division
February 23, 2026**

LONG RANGE DIVISION COMMENTS:

The Long Range Division reviews bills for ordinances for conformity with the policies of the Maui County General Plan, which includes the Countywide Policy Plan (CWPP) approved in 2010 and amended in 2021, the Maui Island Plan (MIP) adopted in 2012, the Hāna Community Plan (1994), Kihei-Mākena Community Plan (1998), Makawao-Pukalani-Kula Community Plan (1996), Pa‘ia-Ha‘ikū Community Plan (1995), Wailuku-Kahului Community Plan (2002) and Lāna‘i Community Plan (2016) to determine if the proposed bill amending the water availability policy and subdivision ordinance on subdivision construction plans is consistent with the General Plan.

OVERALL COMMENTS:

Bill 1 (2026) may streamline the subdivision process by allowing construction plan approval before written verification of a long-term water source, while still requiring verification prior to final subdivision approval. The measure could improve efficiency, reduce delays, and enhance interagency coordination, potentially supporting economic development and housing. However, approving construction plans before confirming water availability may conflict with long-standing policies requiring infrastructure—especially water—to be available prior to or concurrent with development. Early approval could create pressure to allocate water after significant investment, potentially undermining environmental safeguards, public trust obligations, Native Hawaiian and DHHL water priorities, and sustainable infrastructure planning.

Potential mitigation measures include clarifying that early approval creates no vested rights to water or final approval, adding sunset provisions, requiring clear public disclosure to prevent misunderstanding, and reaffirming public trust principles and water allocation priorities. With these safeguards, efficiency gains could be better balanced with resource protection and consistency with adopted plans.

CWPP ANALYSIS:**CWPP | A. Protect the Natural Environment**

Goal: Maui County’s natural environment and distinctive open spaces will be preserved, managed, and cared for in perpetuity.

Objective 3: Improve the stewardship of the natural environment.

Policy:

c. Evaluate development to assess potential short-term and long-term impacts on land, air, aquatic, and marine environments.

Comment: Approving construction plans before water source verification may weaken environmental safeguards and create pressure to provide water, given the significant investment and approval of speculative plans. Adding language to clarify that early approval creates no vested rights, adding sunset provisions, and requiring public disclosure to avoid misunderstandings would be beneficial.

CWPP | F. Strengthen the Local Economy

Goal: Maui County's economy will be diverse, sustainable, and supportive of community values.

Objective 1: Promote an economic climate that will encourage diversification of the County's economic base and a sustainable rate of economic growth.

Policies:

a. Support economic decisions that create long-term benefits.

c. Invest in infrastructure, facilities, and programs that foster economic diversification.

Comment: The proposed bill may support long-term economic benefits and foster diversification by streamlining the subdivision review process and reducing delays. However, approving construction plans before water verification introduces uncertainty that could undermine long-term infrastructure planning, which is essential for sustainable economic outcomes.

CWPP | I. Improve Physical Infrastructure

Goal: Maui County's physical infrastructure will be maintained in optimum condition and will provide for and effectively serve the needs of the County through clean and sustainable technologies.

Objective 1: Improve water systems to assure access to sustainable, clean, reliable, and affordable sources of water.

Policies:

a. Ensure that adequate supplies of water are available prior to approval of subdivision or construction documents.

h. Seek reliable long-term sources of water to serve developments that achieve consistency with the appropriate Community Plans.

Comment: Bill 1 (2026) conflicts with CWPP I.1.a and I.1.h by allowing construction plan approval before confirming a long-term water source.

CWPP | I. Improve Physical Infrastructure

Goal: Maui County's physical infrastructure will be maintained in optimum condition and will provide for and effectively serve the needs of the County through clean and sustainable technologies.

Objective 4: Improve the planning and management of infrastructure systems.

Policy:

c. Improve coordination among infrastructure providers and planning agencies to minimize construction impacts.

Comment: Bill 1 (2026) may improve coordination among agencies by allowing earlier technical review of subdivision plans, potentially reducing delays. However, approving plans before water verification may undermine efforts to minimize construction impacts.

g. Ensure that infrastructure is built concurrent with or prior to development.

Comment: By requiring verification of water supply before final subdivision approval, Bill 1 (2026) addresses CWPP I.4.g. However, approving construction plans before verification may undermine the intent to ensure infrastructure readiness.

CWPP | J. Promote Sustainable Land Use and Growth Management

Goal: Community character, lifestyles, economies, and natural assets will be preserved by managing growth and using land in a sustainable manner.

Objective 1: Improve land use management and implement a directed-growth strategy.

Policies:

f. Direct new development in and around communities with existing infrastructure and service capacity, and protect natural, scenic, shoreline, and cultural resources.

Comment: The proposed Bill No. 1 (2026) aligns with this policy by allowing early technical review to confirm infrastructure capacity, promoting concurrency, reducing delays, and improving coordination. However, allowing subdivision plans to proceed before confirmed water and service capacity may conflict with directed-growth policies and efforts to protect community character and natural resources.

CWPP | K. Strive for Good Governance

Goal: Government services will be transparent, effective, efficient, and responsive to the needs of residents.

Objective 3: Improve the efficiency, reliability, and transparency of County government's internal processes and decision making.

Policies:

b. Simplify and clarify the permitting process to provide uniformity, reliability, efficiency, and transparency.

Comment: The proposed bill supports efficiency goals by streamlining review; however, early construction plan approval without water verification may introduce uncertainty, reducing reliability for applicants and the public.

d. Ensure that laws, policies, and regulations are internally consistent and effectuate the intent of the General Plan.

Implementing Actions:

a. Update the County Code to be consistent with the General Plan.

b. Identify and update County regulations and procedures to increase the productivity and efficiency of County government.

Comment: The bill, as proposed, appears inconsistent with policy K.3.d and implementing action K.3.a. Allowing construction plan approval before confirming water availability conflicts with the

General Plan. However, the intention to update County regulations to increase efficiency is supported by implementing action K.3.b

MIP ANALYSIS:

MIP | Economic Development

Goal 4.1 Maui will have a balanced economy composed of a variety of industries that offer employment opportunities and well-paying jobs and a business environment that is sensitive to resident needs and the island's unique natural and cultural resources.

Objective 4.1.1 A more diversified economy.

Policy:

4.1.1.c. Facilitate and expedite permits and approvals.

Comment: The proposed bill supports the goal of expediting permits and approvals by allowing concurrent review of subdivision construction plans.

MIP | Housing

Goal 5.1 Maui will have a balanced economy composed of a variety of industries that offer employment opportunities and well-paying jobs and a business environment that is sensitive to resident needs and the island's unique natural and cultural resources.

Objective: Provide infrastructure in a more timely manner to support the development of affordable housing.

Policy:

5.1.4.a Prioritize the development of infrastructure that supports the development of affordable housing.

Comment: The proposed bill may support affordable housing by streamlining review and reducing delays. However, the proposed bill does not prioritize the development of infrastructure for affordable housing.

MIP | Infrastructure and Public Facilities: Water

Goal 6.3 Maui will have an environmentally sustainable, reliable, safe, and efficient water system.

Objective 6.3.1 More comprehensive approach to water resources planning to effectively protect, recharge, and manage water resources including watersheds, groundwater, streams, and aquifers.

Policy:

6.3.1.a Ensure that Department of Water Supply (DWS) actions reflect its public trust responsibilities toward water.

Comment: The intent of Bill 1 appears potentially inconsistent with the public trust doctrine. Approving construction plans before verifying a long-term water source may exert pressure on allocation decisions. Although final subdivision approval still requires verification, early approvals may not fully reflect a public-trust approach.

MIP | Goal 6.3 *Maui will have an environmentally sustainable, reliable, safe, and efficient water system.*

Objective 6.3.2 Increase the efficiency and capacity of the water systems in striving to meet the needs and balance the island's water needs.

Policy:

6.3.2.d Work with appropriate State and County agencies to achieve a balance in resolving the needs of water users in keeping with the water allocation priorities of the MIP.

Comment: The proposed bill still supports coordination and retains water verification before final approval, but may create pressure for water allocations and weaken balanced decision-making aligned with Maui Island Plan priorities.

MIP | Land Use

Goal 7.3

Maui will have livable human-scale urban communities, an efficient and sustainable land use pattern, and sufficient housing and services for Maui residents.

Objective 7.3.5 Ensure that Maui's planning and development review process becomes more transparent, efficient, and innovative.

Policy:

7.3.5.b Establish a predictable and timely development review process that facilitates the approval of projects that meet planning and regulatory requirements.

Comment: The bill's purpose is to streamline and improve efficiency by allowing concurrent review of subdivision construction plans prior to receiving written verification of a long-term water source.

7.3.5.c Increase inter-agency coordination between the Department of Planning and all State and County agencies responsible for infrastructure and public facilities provision, particularly as it relates to the mitigation of long-term cumulative impacts resulting from development projects.

Comment: The proposed bill may improve inter-agency coordination through earlier technical review, but early plan approval without verified water could create coordination challenges and hinder efforts to mitigate long-term cumulative impacts.

7.3.5.d Provide greater certainty and transparency in the development review process.

Comment: Early construction plan approval without water source verification may introduce uncertainty for applicants and the public.

COMMUNITY PLAN ANALYSIS:

Hāna Community Plan

Government

Goal: The provision of accessible, cost effective, and responsive government services and programs which meet the unique needs of residents and the cultural, geographic and socio-economic characteristics of the Hana region.

Objectives and Policies

2. Encourage improved communication between government agencies and residents in order to improve residents' understanding of the development permit process and compliance with regulatory requirements.

Comment: Construction plan approval prior to water source verification may lead to public misunderstanding about water availability and compliance requirements.

Kihei-Mākena Community Plan

Land Use

Goal: A well-planned community with land use and development patterns designed to achieve the efficient and timely provision of infrastructural and community needs while preserving and enhancing the unique character of Ma'alaea, Kihei, Wailea and Makena as well as the region's natural environment, marine resources and traditional shoreline uses.

Objectives and Policies

c. Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development.

Comment: Although Bill 1 still requires water source verification before final subdivision approval, approvals for subdivision construction plans could create pressure to proceed, which conflicts with the intention to ensure infrastructure, public facilities, and services are available before or concurrent with development.

Kihei-Mākena Community Plan

Physical and Social Infrastructure: Water Distribution

Goal: Provision of facility systems, public services and capital improvement projects in an efficient, reliable, cost effective, and environmentally sensitive manner which accommodates the needs of the Kihei-Makena community, and fully support present and planned land uses, especially in the case of project district implementation.

Allow no development for which infrastructure may not be available concurrent with the development's impacts.

Objective and Policy:

a. Provide for appropriate water source and transmission improvements concurrent with planned growth of the Kihei-Makena region.

Comment: While Bill 1 prohibits final subdivision approval without water verification, approving a construction plan before confirming water availability may create perceived commitments, as this policy requires water source and transmission improvements to be provided concurrent with planned growth.

Kihei-Mākena Community Plan

Government

Goal: Efficient, effective and responsive government services in the Kihei-Makena region.

Objectives and Policies:

- a. Continue to streamline the permit process, where appropriate, through means such as consolidated public hearings and concurrent processing of applications.*
- b. Continue to expedite the review and approval process for projects which will result in public benefit by “fast-tracking” and the assignment of permit expeditors.*

Comment: Concurrent processing of permits may reduce delays and improve efficiency. However, early confirmation of water availability and essential service capacity is important to avoid creating unrealistic expectations or advancing projects that may not be feasible.

Makawao-Pukalani-Kula Community Plan

Department of Hawaiian Home Lands

Goal: The immediate implementation of programs and settlement of Native Hawaiians on lands of the Department of Hawaiian Home Lands, that diversifies and enriches the Upcountry community.

Objectives and Policies

- 2. Recognize and support the allocation of water resources for Department of Hawaiian Home Lands projects, consistent with applicable State and Federal laws.*

Water

Objectives and Policies

- 1. Prioritize the allocation of water as new resources and system improvements become available as follows: (a) for maintenance and expansion of diversified agricultural pursuits and for the Department of Hawaiian Homes projects; and then (b) for other uses including development of new housing, commercial and public/quasi-public uses.*
- 5. Recognize and support the immediate allocation of water resources for Department of Hawaiian Home Lands projects and agriculture.*

Comment: Bill 1 (2026) does not address the allocation of water for DHHL projects. The proposed bill changes the timing of water supply verification for subdivisions. This could impact how water allocation priorities are managed and influence whether DHHL and agricultural projects receive priority before other developments.

Makawao-Pukalani-Kula Community Plan

Government

Goal: The provision of accessible, cost effective and responsive government services and programs which meet the needs of Upcountry residents.

Objective and Policy

- 2. Pursue the streamlining of the development permit process through means such as consolidating public hearings and concurrent processing of applications.*

Comment: The proposed bill aims to streamline the permit process through concurrent review. To fully meet the policy's intent, complementary measures should ensure transparency and engagement alongside efficiency.

Pā'ia-Ha'ikū Community Plan

Physical Infrastructure: Water

Goal: An adequate supply of potable and irrigation water to meet the needs of the region.

Objectives and Policies

2. Ensure that adequate water capacity is available for domestic and agricultural needs of the region.

6. Ensure adequate supply of groundwater to residents of the region before water is transported to other regions of the island.

Comment: The proposed bill aligns with these policies by ensuring water verification requirements before final approval, but its approach to early plan review introduces potential tension with the goal of ensuring adequate water for domestic and agricultural needs in the region before development commitments deepen.

Pā'ia-Ha'ikū Community Plan

Government

Goal: Government that demonstrates the highest standards of fairness and is responsive to the needs of the community, fiscally responsible and prudent, effective in planning and implementing programs to accommodate anticipated growth, fair and equitable in taxation, strict in the implementation of the Community Plan, and managed efficiently to provide coordinated and timely responses and the delivery of necessary services and programs to the public.

Objectives and Policies

1. Coordinate, direct and manage future development, and provide for necessary public services and infrastructure in a more effective and timely fashion.

4. Continue to investigate and pursue ways to streamline the permit process through means such as consolidated public hearings and concurrent processing of applications.

5. Continue to investigate and pursue ways to expedite the review and approval process for projects which will result in public benefit by various methods such as "fast-tracking" and the assignment of permit expeditors.

Comment: The proposed bill is largely consistent with these policies by promoting concurrent review and improving efficiency in the subdivision approval process. However, it does not address transparency or prioritization for public-benefit projects, which are key elements of the policies' broader intent.

Wailuku-Kahului Community Plan

Government

Goal: Government that demonstrates the highest standards of fairness; responsiveness to the needs of the community; fiscal integrity; effectiveness in planning and implementation of programs and projects; a fair and equitable approach to taxation and regulation; and efficient, results-oriented management.

Objectives and Policies

3. Streamline the land use, building permit and subdivision approval processes.

5. Ensure that adequate infrastructure is or will be available to accommodate planned development.

Implementing Actions

1. Streamline the land use, building permit and subdivision processes through means such as consolidated public hearings and concurrent processing of applications.

Comment: The proposed bill aligns with the policy goal and implementing action regarding streamlining approval processes by allowing concurrent review. However, it does not ensure infrastructure will be available to accommodate planned development, which is critical to achieving these policies' intent.

Wailuku-Kahului Community Plan

Land Use

Goal: An attractive, well-planned community with a mixture of compatible land uses in appropriate areas to accommodate the future needs of residents and visitors in a manner that provides for the social and economic well-being of residents and the preservation and enhancement of the region's environmental resources and traditional towns and villages.

Objectives and Policies

11. The subdivision ordinance should be revised to provide for public review of projects with significant impacts. Subdivision approval should consider environmental, economic, and social impacts of the project, including impacts on archaeological, historical and cultural resources.

16. Upon adoption of this plan, allow no further development unless infrastructure, public facilities, and services needed to service new development are available prior to or concurrent with the impacts of new development.

Comment: The proposed bill does not address public review of projects with significant impacts. While final approval still requires water supply verification, approving construction plans before confirming infrastructure availability could create momentum for projects, potentially undermining the policy's intent to ensure there is adequate infrastructure for new development.

West Maui Community Plan

Safe, healthy, livable communities for all.

2.5.14 Prioritize infrastructure for 100 percent affordable housing developments for resident households earning 100 percent AMI and below that are supported by the community and the Community Plan map and policies.

Comment: Bill 1 does not address prioritizing infrastructure for affordable housing.

Lāna'i Community Plan

Land Use

Goal: Lāna'i will have an efficient and sustainable land use pattern that protects agricultural lands, open space, natural systems, and rural and urban character.

Policy:

12. Facilitate the provision of infrastructure and public facilities and services prior to, or concurrently with, development, including provision for ongoing maintenance through community facilities district funding or other funding mechanisms.

Comment: The proposed bill aligns with the policy in maintaining water verification before final approval but falls short of fully addressing the policy's broader goal of ensuring infrastructure is available before or concurrent with development.

Moloka'i Island Plan

Goal: Moloka'i will have a sufficient supply of potable and non-potable water provided in an environmentally sustainable and cost-effective manner.

Policies

- 1. Adhere to priority water rights of Native Hawaiians under the Hawaiian Homes Commission Act and the State Water Code. Protect, restore, and enhance surface and subsurface water sources, stream habitats, and forested watershed areas to support water recharge, aquatic and environmental processes, and riparian, scenic, recreational, and Native Hawaiian cultural resources, as well as constitutionally protected traditional, customary, and DHHL water rights.*
- 2. Supply water in sufficient quantities to meet the communities' needs while protecting freshwater ecosystems and species.*
- 6. Encourage water resource conservation.*
- 9. Support better management and oversight of water withdrawal to ensure sustainable yields for both human consumption and protection of freshwater ecosystems and native species.*
- 13. Recognize that water is held in trust by the State, for the benefit of the people. Public trust purposes, which receive priority over private commercial uses, include domestic uses. Native Hawaiian and traditional and customary rights, appurtenant rights, environmental protection, and reservations for DHHL.*

Comment: Bill 1 (2026) does not address Moloka'i's policies to ensure a sustainable and sufficient water supply. Bill 1 changes the timing of water supply verification for subdivisions, but does not affirm Native Hawaiian water rights, the State's public trust responsibilities, protections for freshwater ecosystems, or DHHL reservations as a priority. The bill may affect how water allocation priorities are managed without ensuring conservation or sustainable withdrawal practices.

WAI Committee

From: Estrelita B. Dahilig <Estrelita.B.Dahilig@co.maui.hi.us>
Sent: Thursday, March 5, 2026 9:49 AM
To: Thomas M. Cook; Maui_County Council_mailbox; WAI Committee
Cc: Jacalyn M. Takakura; Ana L. Lillis; joy.paredes@co.maui.hi.us; Josiah K. Nishita; Erin A. Wade; Cynthia E. Sasada; Didi A. Hamai; Kelii P. Nahooikaika
Subject: TRANSMITTAL: BILL 1 (2026), AMENDING THE WATER AVAILABILITY POLICY ON SUBDIVISION CONSTRUCTION PLANS (WAI-21)
Attachments: MT#11416.Tom.Cook.pdf

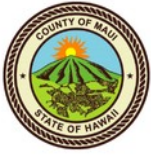
Aloha,

Please see attached transmittal dated February 27, 2026, from Acting Planning Director Jacky Takakura regarding the above subject matter.

Thank you and have a great day!

Mahalo,

Lita



Lita B. Dahilig

Secretary

County of Maui
Office of the Mayor
808-270-7855
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