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COUNTY OF MAUI  
**DEPARTMENT OF PUBLIC WORKS**  
200 SOUTH HIGH STREET, ROOM 434  
WAILUKU, MAUI, HAWAII 96793

August 29, 2022

APPROVED FOR TRANSMITTAL

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, Maui, Hawaii 96793

  
\_\_\_\_\_  
Mayor Date 8/30/22

For Transmittal to:

Honorable Kelly Takaya King, Chair and Members  
of the Climate Action, Resilience, and Environment Committee  
Maui County Council  
200 South High Street  
Wailuku, Maui, Hawaii 96793

Dear Chair King and Members:

**SUBJECT: BILL 21, CD1, FD1 (2022), SEABIRD AND BIODIVERSITY  
PROTECTION (CARE-74)**

Per correspondence dated August 18, 2022, please see following response:

The Department appreciates being consulted on this matter and the opportunity to comment on the latest draft of Bill 21. The Department offers the following comments and recommendations:

1. The Department recommends replacing the bill's two percent blue light content requirement proposed under Section 20.35.060.D. with a requirement for the Department to develop lighting standards that seek to minimize potential impacts of artificial light on wildlife in sensitive areas and critical habitats.

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Since the bill's title and purpose statement has been expanded to protecting all wildlife beyond just seabirds, the bill's protection measures should also be expanded to address the different ways that artificial light affects different species of wildlife. As discussed in the Department's draft environmental assessment, not all species are equally affected by blue light. By assuming that blue light is the only color of concern, the Bill ignores how other light colors may affect different wildlife species.

2. The Department's authority to establish administrative rules should be expanded to cover the entire outdoor lighting code.

The Department's rule making authority proposed under Section 20.35.060.E.3. is limited to only addressing the height of outdoor lighting fixtures. Expanding the Department's rule making authority will support the development of more robust lighting standards for sensitive areas which will likely require a combination of strategies beyond just how high a light fixture is mounted.

3. The Department requests clarification on whether the proposed exemption under Section 20.35.070.A.3. relating to "residential outdoor lighting fixtures" is applicable only to single-family homes and no other types of housing developments.

The phrase "residential outdoor lighting fixtures" is already used in Section 20.35.080 to exempt residential fixtures from plan review approvals. At the time when this exemption was adopted, it was the Department's understanding that this exemption was intended only for single-family dwellings.

If the intent of Bill 21 is to only exempt single-family dwellings, then housing projects other than those comprising only single-family dwellings cannot obtain an outdoor lighting approval until compliance with Bill 21 is shown. This is a concern because housing projects are likely to experience additional delays while the Department works to establish protocols and procedures for determining compliance with the new requirements proposed under Bill 21.

Additionally, the proposed exemption under Section 20.35.070.A.3. is limited to allowing only residential outdoor lighting fixtures that have a lumen output of eight thousand one hundred lumens for each acre of property that is intended to be

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illuminated. The amount of lighting typical for multi-unit housing projects will always exceed the eight thousand one hundred lumens threshold. Therefore, this lumen restriction will effectively cause housing projects other than single-family dwelling projects to be excluded from the proposed residential outdoor lighting fixture exemption.

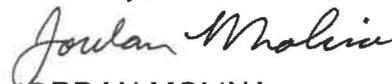
4. The proposed amendments to Section 20.35.090 can be more simply stated by deleting the entirety of Section 20.35.090 and amending Section 20.35.060 to read as follows:

**“20.35.060 General Requirements. A. All new and existing outdoor lighting fixtures [shall comply with the requirements of section 20.35.090.**

**B. All outdoor lighting fixtures that were legally installed before January 25, 2007, [shall comply with section 20.35.090 by January 1, 2020; except class III lighting fixtures that were legally installed before January 25, 2007 shall be exempt from section 20.35.090.], except for neon fixtures, must be fully shielded. Use of metal halide or neon fixtures between 11:00 p.m. and sunrise is prohibited, except when business or recreational activities are occurring and use of the fixtures ends no later than one hour after conclusion of activities.”**

Thank you for the opportunity to respond to your questions. Should you have any questions, please do not hesitate to contact me at Ext. 7845.

Sincerely,



JORDAN MOLINA  
Director of Public Works

JM:pn  
Attachment  
cc: Development Services Administration  
Engineering Division  
Highways Division  
Keola Whitaker, Deputy Corporation Counsel  
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## CARE Committee

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**From:** Michelle Santos <Michelle.Santos@co.maui.hi.us>  
**Sent:** Tuesday, August 30, 2022 3:59 PM  
**To:** CARE Committee  
**Cc:** Gary Ambrose; Jordan Molina; Josiah Nishita; Kayla Ueshiro; Pili Nahooikaika; Sandy Baz; Stacy Takahashi; Tyson Miyake; Zeke Kalua  
**Subject:** MT#9855 Bill 21, CD1, FD1 Seabird and Biodiversity Protection  
**Attachments:** MT#9855-CARE Committee.pdf

As Directed by Council Services, a hard copy will not be sent to your committee.

Aloha,  
Michelle

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*Michelle L. Santos*

### Office Operations Assistant

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