

## System Questions and Responses

Organization	1. What should a land use system do or provide for Hawaii?	2. What are the State's interests in land use?	3. What are the Counties' interests in land use?	4. What models or best practices do you know of could help us achieve the outcomes desired from an effective land use system?
<b>County of Maui</b>	<p>I take the question to be in terms of a generic land use system, not necessarily specific to Hawaii. It should provide for the following:</p> <ul style="list-style-type: none"> <li>• A predictable, efficient, non-duplicative and cost-effective review process for both the applicant and public agencies</li> <li>• Opportunities for meaningful public involvement</li> <li>• A transparent decision-making process</li> <li>• Decisions that are informed by good data, such as forecasts and needs assessments.</li> <li>• Protection of environmental, natural and cultural resources and important agricultural lands</li> <li>• Facilitation of a resilient and enduring economy</li> <li>• An adequate supply of lands to meet housing, commercial, recreational and other community needs</li> <li>• Consideration of the location and scale of projects with regard to infrastructure planning</li> <li>• Compact and mixed land uses that support the efficient development and operation of infrastructure</li> <li>• Incentives for desirable development.</li> <li>• Possibly disincentives for undesirable development which could include areas that are susceptible to natural hazards or have /significant natural or cultural resources.</li> </ul>	<p>In the context of a nonspecific land use system, the State's has a role or interest in:</p> <ul style="list-style-type: none"> <li>• Maintaining a statewide population and economic projections</li> <li>• Having at least some regulatory oversight for lands that have great concentrations of natural resources such as native forests, scenic resources, etc. Our current conservation lands have this emphasis.</li> <li>• Providing for an adequate supply of lands to meet housing, commercial, recreational and other community needs</li> <li>• Having direct input in land use matters which involves State functions or facilities. Funding and maintaining would be facilities such as transportation systems or schools. The State provides direct oversight in areas such as water systems, wastewater, landfills, nearshore water quality, and cultural resources.</li> <li>• The State has an interest in the preservation of agricultural lands</li> <li>• Coordinate infrastructure planning and development (highways, public schools, prisons, airports, etc.) with the County as applied to our current system, the State's role could be changed to: delegate the regulation of lands in the Rural District to the Counties; develop a new process whereby county-level changes to general plans will trigger automatic changes in state district boundaries, but where environmental impact and other review is still required in the entitlement process for County zoning or other entitlements; assuming review of petitions continues, the State should consider increasing the minimum size for LUC review from 15 acres to a larger size such as 50 acres; and limit State involvement to determine what classification land should have, and limit conditions to those areas that are of State level importance.</li> </ul>	<p>The Counties' have an interest in all of the items listed above in No. 1.</p> <p>The Counties' role in an effective land use system should include:</p> <ul style="list-style-type: none"> <li>• Prepare, update and implement comprehensive land use plans</li> <li>• Monitor plan implementation</li> <li>• Prepare and update technical studies (socioeconomic, land use, infrastructure and public facility capacity) with help data developed by the state or other sources..</li> <li>• Regulate lands within the urban and rural districts</li> <li>• Joint State/County regulation of lands in the Agricultural District</li> <li>• Have a zoning and environmental regulatory system that suits the particular needs of that county and unique circumstances as required</li> <li>• Enforcement of land use regulations</li> <li>• Assist with infrastructure planning in coordination with the State</li> </ul>	<p>The following three states may be thought of by some for best practice in comprehensive planning. Notable components include: 1. mandatory comprehensive plan elements and criteria; 2. review of County plans for consistency with State planning policy/criteria; Incentive programs; and no zoning at the State level.</p> <ul style="list-style-type: none"> <li>• State of California - <a href="http://opr.ca.gov/s_generalplanguidelines.php">http://opr.ca.gov/s_generalplanguidelines.php</a> and <a href="http://opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf">http://opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf</a></li> <li>• State of Washington - <a href="http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A">http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A</a> and <a href="http://www.commerce.wa.gov/Services/localgovernment/GrowthManagement/Pages/LawsRules.aspx">http://www.commerce.wa.gov/Services/localgovernment/GrowthManagement/Pages/LawsRules.aspx</a></li> <li>• State of Maryland - <a href="http://www.mdp.state.md.us/OurWork/smartgrowth.shtml">http://www.mdp.state.md.us/OurWork/smartgrowth.shtml</a></li> </ul>
<b>Dept of Transportation- Highways Div</b>	<p>The land use system should provide for an efficient and safe roadway system. Outcomes for an effective system could be the use of thresholds on the operations and safety of roadways and/ or multi-modal transportation.</p>			

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<b>Dept of Transportation- Statewide Transportation Planning Office</b>	That no human action, be it building, city, condominium or park, adversely impact the "living (sustainability) of the land". We need to conform and be in harmony with the ecology of the environment and not compete against it.	Determine and regulate the suitability of a proposed use in terms of topography, geology, vegetation, waterways, wildlife, and other natural and necessary (for sustainability purposes) features and attributes of a site.	To be able to assess the availability and impact of the developments infrastructure to assure that the use of resources (water, power, etc.) will not be detrimental and jeopardize the ecosystem.	Don't know.
<b>Dept of Agriculture</b>	With respect to agricultural lands, the outcome of an effective county-level land use system would be to minimize the effect of the "impermanence syndrome" on agricultural lands resulting from landowner anticipation of urbanization or subdivision. Urbanization should only be allowed when it is in full accordance with the phasing and magnitude described in a land use plan. The land use plan should also have a state/county infrastructure component to ensure reasonable coincidence of their availability and sufficient capacity when planned urbanization moves forward. Urban development proposals that are on the plan but seek premature implementation, or not part of the plan and requires an amendment to the land use plan may be considered at a later date under specific and limited circumstances.	Codify in HRS a uniform county land use planning system that has the attributes described in item 1 and that links with the State's planning responsibilities described below. The State role should be maintain its control over existing functions such as natural resources (use and quality of ground and surface waters, management of conservation lands and certain agricultural lands); transportation infrastructure (certain roadways, airports, etc.), other public facilities (certain parks, schools, libraries). State should be required to develop plans and phasing of implementation to match county land use planning and phasing. Policies promoting this already exist.	Counties should have primary role as described in 1.	Other simple economy, resource-limited island states/nations such as Guam (not necessarily to improve ours but what to be wary of...)
<b>Dept of Land &amp; Natural Resources</b>	A land use system should provide a fair and open process for determining how communities should be built and laid out for the public's health, safety, and general well-being. The system should allow for orderly changes to meet current and future built and natural environmental challenges, while providing specific, reliable milestones that set short term and long term investment backed expectations.	The State should provide frameworks that ensure that the public's health, safety, and general well-being are accounted for in public and private sector decision-making through a framework that implements my response to Question 1, supra. State decision-making regarding resources under the State's jurisdiction (e.g., its management of public trust resources and the ability to direct development patterns through transportation planning), should be firmly tied to a planning framework. The planning framework should be respected by the legislative, executive, and administrative branches of government with State Constitutional provisions that firmly set the State's planning policies.	As the level of government closest to the community, counties should work within the system described above, to make specific, strategic investments in built and natural infrastructure based on community level planning. The State should establish funding sources and frameworks based on need that support long range CIP investment by counties that are consistent with the statewide planning framework.	A good framework is the State of Washington's Comprehensive Planning and Growth Management framework, which is further described at <a href="http://www.mrsc.org/subjects/planning/compplan.aspx">http://www.mrsc.org/subjects/planning/compplan.aspx</a> . Washington's Growth Management Act (GMA) is similar in many ways to Hawaii's State Planning Act, the important difference being that the Washington GMA has teeth and Hawaii's Planning Act does not.

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<p><b>Representative C. Evans</b></p>	<p>The goal of a land use system is to encourage better and informed decision making recognizing that land use is driven by economic factors. Land use patterns reflect the direct and indirect impacts of the physical, cultural, social, and economical environments of the area. In addition, land use patterns incorporate growth of population and impacts on resources. A land use system should have objectives, policies, and cumulative analysis. I particularly like the Hawaii State plans goals and objectives. I personally do not think we need state functional plans.</p> <p>To be informed, one needs data to be collected, which includes environmental and social indicators. The system should have a centralized location for collecting and storing data. Environmental indicators include water pollution, air pollution, noise pollution, net wetland change, net forest change, net farmland change, climate change, ozone depletion, non-renewable resource depletion, personal pollution abatement, and submerged coastal systems loss. Social indicators include age demographics, suicide, crime, drug abuse, school dropout, obesity, and homelessness. We should use these indicators along with economic impacts to aid in our macro and micro decision making. I think a good land use system in Hawaii would clearly recognize what we need in a rural versus urban environment and agricultural versus conservation environment, for example, we have to use our GIS layering data to guide our decision making.</p>	<p>To protect natural resources, to promote the health of the economy, to build great communities balancing work and play, to execute the State Constitution, to grow food, and to assist in the basics which include food, clothing, shelter, and healthcare.</p>	<p>To minimize risks, ensure adequate infrastructure, protect the environment, regulate for health, safety and welfare, improve the economy to balance community desires with impacts of development.</p>	<p>Environmental Impact Statements (E.I.S.). Community Development Plans Baseline data to measure impacts State Building Code Council Flood Zone Mapping Public Participation</p>
<p><b>Sierra Club 1</b></p>	<p>Protect natural and cultural resources (including views, open space, burial sites, wetlands, coastal water etc. etc.) from both direct AND indirect impacts of development. Protect property from hazards (including from flooding, sea-level rise, boulders falling). Protect the character of our communities. Ensure that tax payers do not wind up subsidizing the development (unless genuine affordable -- not "workforce" -- housing). Protect agriculture, which means growing food. Provide housing and communities for existing residents.</p>	<p>Natural resources. Cultural resources. Infrastructure (including, highways, schools, civil defense, hospitals). Wastewater, solid waste are state interests as well energy.</p>	<p>Same as the state's interests. Remember the old saw: measure twice, cut once.</p>	<p>We have the best land use system in the country.</p>

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<p><b>Sierra Club 2</b></p>	<ul style="list-style-type: none"> <li>• Direct development to appropriate areas : these would be areas that avoid/minimize risk to acknowledged agricultural, natural or cultural resources (including wetlands, reefs, view planes, burial areas and traditional subsistence or ceremonial gathering areas); avoid natural or manmade hazards (floodplains, unstable lands, steep slopes/ ridgelines or areas susceptible to sea level rise); and keep public infrastructure costs manageable.</li> <li>• Offer more certainty in the development process and follow the state laws protecting natural resources: screen out lands that are not appropriate for large scale developments from the Urban boundaries; encourage Counties/Cities to do the same.</li> <li>• Identify and protect agricultural lands; utilize land use classification and public/private farm trusts to protect viable agricultural lands for large and small scale farming, orchard and livestock operations.</li> <li>• Provide genuine opportunities for Hawaii residents to have housing they can afford; utilize and enforce conditions or incentives given to proposed development projects.</li> <li>• Give a second layer of scrutiny to County zoning/land use decisions; County land use decisions often based more on immediate political and financial interests; and realistic evaluation of the public cost, project viability and environmental impacts of the proposed project should be part of the land use review process, just as our legislatures have two bodies to review laws.</li> <li>• Allow public input on land use decisions that affect public trust resources, public and traditional access and publicly funded infrastructure service and maintenance costs.</li> </ul>	<ul style="list-style-type: none"> <li>• Compliance with the State's Constitutional duties to act as a trustee of public trust resources affected by any land use decision (land, water, ocean/coastal and cultural resources.)</li> <li>• Compliance with the State's Constitutional duties to protect native Hawaiian traditional and customary practices as they may be affected by proposed land uses.</li> <li>• Capacity and safety of state funded or state regulated infrastructure and services: schools, roads, hospitals, civil defense, landfills, stormwater, drinking water and wastewater systems</li> <li>• Protection of agricultural lands with the goal of enhancing Hawaii's food/energy security</li> <li>• Sufficient housing that is affordable to Hawaii residents based on actual pay scales, not HUD figures</li> </ul>	<ul style="list-style-type: none"> <li>• Compliance with the State constitution, HRS, HAR and their own County Charters.</li> <li>• Protection of open space, natural and cultural resources while planning for needed housing, infrastructure and economic activity to maintain quality of life.</li> <li>• Implementing the policies found in State and County long-range planning documents.</li> <li>• Making efficient use of existing infrastructure and public services and keeping public expenditures on infrastructure expansion, infrastructure maintenance and expanded public services at sustainable levels.</li> <li>• Planning to protect the character of existing communities.</li> <li>• Planning for complete range of vehicle and non-vehicle transportation systems to minimize local traffic and save on transportation costs.</li> <li>• Planning for resiliency for natural hazard mitigation and climate change impacts.</li> <li>• All the same interests that the state has, as applied to the local terrain.</li> </ul>	<ul style="list-style-type: none"> <li>• Implement and comply with the policies already provided in our land use system</li> <li>• Adopt zoning overlays to actually protect agricultural land as has been done by many counties and states.</li> <li>• Clarify enforcement responsibilities for conditions placed on projects during LUC review for state and county agencies.</li> <li>• Institute a process for a Public Advocate to be part of any LUC DBA proceeding if requested by more than 20 individual residents or organizations in the area. This would be in lieu of a contested case request. The public advocate would be a per diem representative chosen from a qualified pool of applicants similar to the process used by counties for contested case hearings officers. The public advocate would meet with concerned citizens to better present their knowledge of the area being considered for a DBA during the LUC deliberation. The Public Advocate would be allowed to present exhibits; call witnesses and rebut statements of other parties. Fees for the Public Advocate would be reflected in LUC application fees for that particular Docket. The option of having a Public Advocate could lead to fewer citizen interventions and could also encourage landowners applying for DBA to meet with concerned community members and work out differences in advance of LUC proceedings, thus improving projects and avoiding protracted LUC proceedings that are contested by local citizens.</li> </ul>

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<b>Outdoor Circle</b>	<p>a) Encourages those land use choices that protect and even enhance "The Commons," such as natural and cultural resources (e.g. historic sites, habitat for species, view planes, etc.), stream and ocean water resources, open spaces, and public recreational resources (e.g. parks, trails, etc.), while addressing basic societal needs, such as the need for truly affordable housing for existing residents, adequate agricultural land for food production, and healthy urban design models.</p> <p>b) Prevents land use choices that -- either by direct action or indirect or cumulatively consequences -- destroy "The Commons," undermine environmental protection, and/or perpetuate unsustainable development practices (e.g. urban sprawl, high water consumption, dependence on cars, suburban areas located far from existing infrastructure, town centers, etc.).</p>	<p>The State's interest in implementing a good land use regulatory system is protecting "The Commons" and the public's best interests. In Hawaii's Constitution and jurisprudence back to the Kingdom refers to "The Commons" as "public trust resources." The Commons or public trust resources are those resources and qualities of life in the islands that are not owned by any entity, but upon which we all rely on for basic physical, mental, and spiritual health. Without a well-protected commons or a healthy public trust resources, we lack the basic functioning infrastructure to support a healthy economy of any ilk.</p> <p>Land use decisions -- even when exerted on land that is privately owned -- affect the quality of our public trust resources. The State has an obligation -- a duty -- to ensure that any land use decisions protect public trust resources in the best interests of the public, as a whole.</p> <p>To protect The Commons/public trust resources, the State must ensure that our natural resources are protected (clean air, water, ocean, soil), our historic and cultural resources are safeguarded, and that we have adequate agricultural land for local food production, adequate local energy production, and adequate infrastructure to support all residents.</p> <p>To do this well, the State should direct where development is allowed and where it is discouraged based on the public's best interests. Long-term planning is the key to long-term protection of the public's interest and public trust resources. As such, it is counter to the State's interests to have a land use regulatory system that regularly considers site-specific development proposals on a case-by-case basis.</p>	<p>The Counties should be working towards the same goals as the State -- advancing the public's best interests by ensuring public trust resources are well-protected, but at a more local, specific level. The Counties should be implementing specific development and protections plans for their residents that conform to the State's overall direction on where development is allowed, and where it is discouraged. As the local municipal government, the County is the first line of government -- the government closest to the people, so to speak. As such, it is best positioned to gather and reflect the collective will of the people in terms of how they would like their local communities to be designed.</p>	<p>There is a lot of useful information about the history and philosophy behind the concepts of land use designations, zoning, etc. But in terms of comparative systems, it is hard to identify one or two examples. Massachusetts, in particular, Boston, has a good land use system. A lot of what Hawaii has implemented today is rooted in that history (which actually comes over from England). However, Hawaii has a really unique situation -- as a particularly isolated, island-community with a very complex legal and social history -- so we cannot just compare, contrast, and apply cookie-cutter models. This means we have had (and must continue) to adapt the systems we borrowed from other places to make them relevant and useful to us here.</p> <p>I am not sure if it is relevant to this task force's charge -- improving the designation process -- but I do think there are good lessons we could learn from California. Their use of the Planning Commission concept is really effective.</p>

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<p><b>Building Industry Association</b></p>	<p>We need to start with the enabling legislation, Act 187 enacted in 1961 (Statehood in 1959). It appears to have provided for the following:            Strong central government (Gov. Burns era), Unprecedented population and economic growth, Real estate speculation, Urban sprawl without adequate service facilities, Development on limited prime agricultural lands            Land Use Law's Declaration of Purpose:            "... in order to preserve, protect, and encourage the development of the lands in the State for those uses to which they are best suited, the power to zone should be exercised by the State..." (See L. 1961, c. 187, § 1)            In order to have an effective land use system in Hawaii, there needs to be a "balance" struck between the lands we are preserving and protecting and those lands that we are encouraging development on. The debate will revolve around the issues of sustainability and what we need to exist within our island state.            We may be able to get agreement that we need to preserve and protect "ecosystems" that we need to survive on each island. Preservation of potable water sources and our near shore waters are critical for our own survival. We should also be able to get agreement on the need to preserve and protect important agricultural lands that are and will continue to be economically viable for agricultural production. In both cases, there will be a need for discussion on the areas or acreage that should be protected. Similarly, we should be identifying areas that may be suitable for urbanization, both now and in the future. This would be based on our ability to preserve and protect ecosystems so there is enough potable water to support the planned urban expansion. The debate will focus on the matrix or criteria used to determine the amount of acreage appropriate for preservation, protection, and development.</p>	<p>The State's interest should be focused on natural resource management and constitutional issues such as preserving potable water (Water Commission and sustainable yields), important agricultural lands, etc.</p> <p>The State's interest should also be stated as the counties go thru the development of their General, Development and Sustainable Community plans.</p>	<p>The county functions should be on planning for future growth areas based on certain population growth rates. It should be a sliding scale of the amount of developable lands made available to support the planned growth, either through increased density in urbanized areas or urbanization of rural, conservation or agricultural lands.</p> <p>The counties role is to insure adequate infrastructure is made available to support the planned growth or density in a certain area. The future expansion or redevelopment area should be identified in advance of its need to allow for more competition in the development of all product types. Allowing for small, medium and large home builders to compete for areas of development/redevelopment will encourage more competition and allow for more housing product types at different price points and thereby increase the overall supply of housing in Hawaii.</p>	<p>Not sure any successful model exists of balancing natural resource management and development. It would appear to be more of an art than a science. Perhaps, rather than looking for models, we should instead focus on insuring the supply of potable water and, provide adequate infrastructure as these two issues will be the limiting factors of growth in Hawaii.</p>

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<p><b>American Planning Association, Hawaii Chapter</b></p>	<p>Hawaii's land use system should implement policies set forth in the Hawaii State Plan and the County General Plans and Development plans. It should protect lands that harbor significant natural resources, provide a sufficient inventory of land for the agricultural industry, and designate lands for urban use, including a reserve to accommodate forecast population growth.</p> <p>The process to redesignate lands should be an open process, based upon rational analysis, and provide fair and predictable outcomes.</p>	<p>The State's role in the land use system should be to establish goals, policies, and regulations for areas of statewide concern, and areas for which the State has regulatory authority. This may include, but is not limited to, economic development, food security, resource conservation, and facilities planning such as highways and schools. Goals and policies should be expressed in the Hawaii State Plan, and the State Plan along with the functional plans should be reviewed periodically. State land use regulations can then be one of the tools used to implement State goals and policies.</p> <p>With respect to the counties, the State should establish requirements for county land use plans, require the county plans to be consistent with State planning goals and policies, and delegate the authority to implement the plans to the counties.</p> <p>In addition, the State's capital improvement program should be used as a tool to implement land use policies. State facilities, such as highways and schools, should be budgeted for in growth areas. Funding for land acquisition and conservation easements should be provided for lands identified for protection.</p>	<p>As existing state law mandates that each county prepare a comprehensive general plan, the County's role in the land use system should be to implement goals and policies set forth in their respective General Plans and Development plans. Since county agencies are best positioned to work with the community and respond to local concerns, they should have the authority to establish growth management strategies, as well as permissible land uses, and development standards.</p> <p>The land use system should recognize the counties expertise in land use planning, their familiarity with local issues, and their ability to address concerns of local residents. Each of the counties expertise in land use planning has advanced substantially since the State land use law was enacted in the 1950's. As opposed to the situation in the 1950's, each county now has prepared, or is preparing, community based general plans and development plans and have planning staff with expertise in comprehensive planning. County agencies and elected officials are more likely to be aware of local issues since members of the public, whether residents, landowners, or businesses, will typically contact county agencies or elected officials about land use concerns. Since county general and development plans are prepared by and approved by county planning departments and councils, respectively, the counties should have the authority to implement their plans.</p>	<p>No specific recommendations at this time.</p>