

Chapter **2**

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# Procedural Policies



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## Procedural Policies

### 2.1. Definitions

The following definitions apply for the purposes of the policies set forth in this *ALUCP*. In addition, general terms pertaining to airport and land use planning are defined in the *Glossary* (Appendix H).

- 2.1.1. *Actions/Projects/Proposals*: Terms similar in meaning and all referring to the types of airport and land use planning and development activities (permanent or temporary), either publicly or privately sponsored, that are subject to the provisions of this *ALUCP*. Other terms within similar meaning include *Land Use Planning Actions*, *Airport Planning Actions*, *Major Land Use Actions*, *Airport Development Actions*.
- 2.1.2. *Aeronautics Act*: Except as indicated otherwise, the article of the California Public Utilities Code (Section 21670 *et seq.*) pertaining to airport land use commissions and airport land use compatibility plans (also known as the *California State Aeronautics Act*).
- 2.1.3. *Airport*: Auburn Municipal Airport, Blue Canyon Airport, Lincoln Regional Airport or any new public-use or military airport that may be created within the western Placer County area under jurisdiction of the Placer County *ALUC*.
- 2.1.4. *Airport Influence Area/Referral Area*: An area, as delineated herein, in which current or future airport-related noise, overflight, safety, or airspace protection factors may significantly affect land uses or necessitate restrictions on those uses. The *Airport Influence Area* constitutes the *Referral Area* within which certain *Airport Actions* and *Land Use Actions* are subject to *ALUC* review to determine consistency with the policies herein.
- 2.1.5. *Airport Land Use Commission (ALUC)*: The Placer County Transportation Planning Agency (PCTPA) or a legally established successor agency acting in its capacity as the *Airport Land Use Commission* for the western portion of Placer County.
- 2.1.6. *Airport Land Use Commission Secretary*: The Executive Director of PCTPA or a person designated by the Executive Director with the concurrence of the PCTPA Chairperson.
- 2.1.7. *Airport Proximity Disclosure*: A form of buyer awareness documentation required by California state law and applicable to many transactions involving residential real estate including previously occupied dwellings. The disclosure notifies a prospective purchaser that the property is located in proximity to an *Airport* and may be subject to annoyances and inconveniences associated with the flight of aircraft to, from, and around the *Airport*. See Policy 3.6.2 for applicability. Also see Policy 2.1.28 for a related buyer awareness tool, *Recorded Overflight Notification*.

- 2.1.8. *Airspace Protection Surfaces/Plans/Zones*: Imaginary surfaces in the airspace surrounding the *Airport* defined in accordance with criteria set forth in Federal Aviation Regulations (FAR) Part 77.<sup>1</sup> These surfaces establish the maximum height that objects on the ground can reach without potentially creating constraints or hazards to the use of the airspace by aircraft approaching, departing, or maneuvering in the vicinity of the *Airport*. The *Airspace Protection Surfaces* are depicted in the *Airspace Protection Plans* for each *Airport* addressed by this *ALUCP* and are presented in Chapters 4, 5, and 6.
- 2.1.9. *ALUCP/Compatibility Plan*: This document, the *Placer County Airport Land Use Compatibility Plan*, which includes the individual *ALUCPs* for Auburn Municipal Airport, Blue Canyon Airport and Lincoln Regional Airport.
- 2.1.10. *Aviation-Related Use*: Any facility or activity directly associated with the air transportation of persons or cargo or the operation, storage, or maintenance of aircraft at an airport or heliport. Such uses specifically include, but are not limited to, runways, taxiways, and their associated protection areas defined by the Federal Aviation Administration, together with aircraft aprons, hangars, fixed base operations facilities, terminal buildings, etc. Hotels or other commercial/industrial facilities on airport property do not qualify as an *Aviation-Related Use*.
- 2.1.11. *Avigation Easement*: An easement that conveys rights associated with aircraft overflight of a property, including but not limited to creation of noise and limits on the height of structures and trees, etc. (see Policy 3.7.1).
- 2.1.12. *Community Noise Equivalent Level (CNEL)*: The noise metric adopted by the State of California for land use planning purposes, including describing airport noise impacts. The noise impacts are typically depicted by a set of contours, each of which represents points having the same *CNEL* value.
- 2.1.13. *Compatibility Zone*: Any of the zones depicted in the *Compatibility Policy Map* for each *Airport* in Chapters 4, 5, and 6 for the purposes of assessing land use compatibility within an *Airport Influence Area* defined herein (See Policy 3.2.3).
- 2.1.14. *Density*: The number of dwelling units per acre. *Density* is used in this *ALUCP* as the measure by which proposed residential development is evaluated for compliance with noise and safety compatibility criteria (compare *Intensity*). *Density* is calculated on the basis of the overall site size (i.e., gross acreage of the site).
- 2.1.15. *Existing Land Use*: A land use that either physically exists or for which *Local Agency* commitments to the proposal have been obtained entitling the project to move forward (see Policy 2.7.3).
- 2.1.16. *Existing Nonconforming Use*: An *Existing Land Use* that does not comply with the compatibility criteria set forth in this *ALUCP*. See Policies 2.7.3(d) and 3.7.3 for criteria applicable to *Land Use Actions* involving *Nonconforming Uses*.

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<sup>1</sup> Federal Aviation Regulations that deals with objects affecting navigable airspace in the vicinity of airports. Objects that exceed the FAR Part 77 height limits constitute airspace obstructions. FAR Part 77 establishes standards for identifying obstructions to navigable airspace, sets forth requirements for notice to the FAA of certain proposed construction or alteration, and provides for aeronautical studies of obstructions to determine their effect on the safe and efficient use of airspace. (See Appendix B for a copy of the FAR Part 77)

- 2.1.17. *Federal Aviation Regulations Part 77 (FAR 77)*: The part of Federal Aviation Regulations that deals with objects affecting navigable airspace in the vicinity of airports. Objects that exceed the Part 77 height limits constitute airspace obstructions (see Section 3.5). FAR Part 77 establishes standards for identifying obstructions to navigable airspace, sets forth requirements for notice to the FAA of certain proposed construction or alteration, and provides for aeronautical studies of obstructions to determine their effect on the safe and efficient use of airspace. (See Appendix C of this *ALUCP* for the text of FAR Part 77; also see *Glossary*).
- 2.1.18. *Handbook*: The *California Airport Land Use Planning Handbook (Handbook)* published by California Department of Transportation (Caltrans), Division of Aeronautics in October 2011. The *Handbook* provides guidance to *ALUCs* for the preparation, adoption, and amendment of *ALUCPs*.
- 2.1.19. *Height Review Overlay Zone*: Areas of land in the vicinity of an *Airport* where the ground lies above the *FAR 77* surfaces or less than 35 feet beneath such surface.
- 2.1.20. *Infill*: Development of vacant or underutilized land (e.g., redevelopment or expansion of existing facilities) within areas that are already largely developed or used more intensively. See Policy 3.7.2 for criteria used to identify *Infill* areas for the purposes of this *ALUCP*.
- 2.1.21. *Intensity*: The number of people per acre. *Intensity* is used in this *ALUCP* as the measure by which most proposed *Nonresidential Development* is evaluated for compliance with safety compatibility criteria (compare *Density*). Sitewide average *Intensity* is calculated on the basis of the overall site size (i.e., gross acreage of the site).
- 2.1.22. *Local Agency*: Any county, city, or other local governmental entity such as a special district, school district, or community college district—including any future city or district—having any jurisdictional territory lying within an *Airport Influence Area* as defined herein for the three *Airports* covered by this *ALUCP*. These entities are subject to the provisions of this *ALUCP* (see Policy 2.2.6).
- 2.1.23. *Major Land Use Action*: *Actions* related to proposed land uses for which compatibility with *Airport* activity is a particular concern, but for which *ALUC* review is not always mandatory under state law. These types of *Actions* are listed in Policy 2.5.2.
- 2.1.24. *Noise-Sensitive Land Uses*: Land uses for which the associated primary activities, whether indoor or outdoor, are susceptible to disruption by loud noise events. The most common types of noise sensitive land uses include, but are not limited to: residential, hospitals, nursing facilities, intermediate care facilities, educational facilities, libraries, museums, places of worship, child-care facilities, and certain types of passive recreational parks and open space.
- 2.1.25. *Object Free Area (OFA)*: An area on the ground surrounding an airport runway within which the Federal Aviation Administration (FAA) prohibits all objects except certain ones necessary for aircraft navigation or maneuvering. The *OFA* dimensions to be applied for the purposes of this *ALUCP* are as established by the FAA.
- 2.1.26. *Overrule*: An *Action* that a *Local Agency* can take in accordance with provisions of state law if the *Local Agency* wishes to proceed with adoption or amendment of a general plan or specific plan, adoption or approval of a zoning ordinance or building regulation, approval or

- modification of a facility master plan, or modification of an airport master plan<sup>2</sup> or, under conditions specified in Policy 2.5.1, a *Major Land Use Action*<sup>3</sup> affecting the *Airport Influence Area* in spite of an *ALUC* finding that the *Land Use Action* is inconsistent with this *ALUCP*. See Section 2.12 for process required to *Overrule* the *ALUC*. Similar *Overrule* provisions are also available to the agency owning an *Airport* if the *ALUC* were to find a proposed airport master plan inconsistent with the *ALUCP*.
- 2.1.27. *Reconstruction*: The rebuilding of an *Existing Nonconforming* structure that has been fully or partially destroyed as a result of a calamity (not planned *Reconstruction* or *Redevelopment*). See Policy 3.7.4.
- 2.1.28. *Recorded Overflight Notification*: A form of buyer awareness documentation recorded in the chain of title of a property stating that the property may be subject to annoyances and inconveniences associated with the flight of aircraft to, from, and around a nearby airport. Unlike an *Avigation Easement* (see Policy 2.1.11), a *Recorded Overflight Notification* does not convey property rights from the property owner to the *Airport* and does not restrict the height of objects. See Policy 3.6.1 for applicability. Also see Policy 3.6.2 for a related buyer awareness tool, *Airport Proximity Disclosure*.
- 2.1.29. *Redevelopment*: Any new construction that replaces the existing use of a site, particularly at a *Density* or *Intensity* greater than that of the *Existing Land Use*. *Redevelopment* projects are subject to the provisions of this *ALUCP* to the same extent as other forms of proposed development.
- 2.1.30. *Risk-Sensitive Land Uses*: Land uses that represent special safety concerns irrespective of the number of people associated with the use (see Policy 3.4.9). Specifically: uses with vulnerable occupants; hazardous materials storage; or critical community infrastructure.

## 2.2. General Applicability

- 2.2.1. *ALUC*: The Placer County Transportation Planning Agency (PCTPA) is designated as the *ALUC* for Placer County in accordance with the provisions of California State law.<sup>4</sup>
- 2.2.2. *ALUCPs for Individual Airports in Placer County*: With limited exceptions, California law requires an *ALUCP* for each public-use and military airport in the state. This document, the *Placer County Airport Land Use Compatibility Plan (ALUCP)* contains the individual *ALUCP* for each of the three public-use airports currently located on the western slope of Placer County.
- (a) The three general aviation airports covered by this *ALUCP* are:
- (1) Auburn Municipal Airport owned and operated by the City of Auburn, Department of Public Works.
  - (2) Blue Canyon Airport owned and operated by the County of Placer County, Department of Public Works.
  - (3) Lincoln Regional Airport owned and operated by the City of Lincoln.

<sup>2</sup> *Public Utilities Code Sections 21676(a), (b), and (c).*

<sup>3</sup> *Public Utilities Code Section 21676.5(a).*

<sup>4</sup> *Public Utilities Code Sections 21670 and 21670.1.*

- (b) The policies in this document are divided into five chapters. The policies in Chapters 2 and 3 together with the respective airport-specific policies in Chapters 4, 5, and 6 comprise the *ALUCP* for each airport.
- (1) Chapter 2 prescribes the procedures by which local agencies within Placer County will follow in addressing airport land use compatibility matters.
  - (2) Chapter 3 contains compatibility criteria and policies applicable uniformly to each of the three airports.
  - (3) Chapter 4 provides airport-specific land use compatibility policies for Auburn Municipal Airport; Chapter 5 provides airport-specific land use compatibility policies for Blue Canyon Airport; and Chapter 6 provides airport-specific land use compatibility policies for Lincoln Regional Airport. The policies in each of these chapters consist of two maps plus compatibility criteria unique to that particular airport.
- (c) This *ALUCP* also provides procedures by which the *ALUC* shall review proposals for new airports or heliports (see Policies 2.11 and 3.9)
- (d) There are no military airports in the county.
- 2.2.3. *Basic Purpose:* The basic purpose of this *ALUCP* is to establish procedures and criteria applicable to airport land use planning in the vicinity of the airports under jurisdiction of the *ALUC*. The *ALUCP* is prepared in accordance with the requirements of the *Aeronautics Act* and guidance provided in the *Handbook* published by the California Department of Transportation Division of Aeronautics in October 2011.<sup>5</sup>
- 2.2.4. *Effective Date:* The policies herein are effective as of the date that the *ALUC* adopts the *ALUCP* for each airport.
- (a) The effective date of the respective *ALUCP* for each airport is:
    - (1) Auburn Municipal Airport – February 26, 2014
    - (2) Blue Canyon Airport – February 26, 2014
    - (3) Lincoln Regional Airport – February 26, 2014
  - (b) The previous *ALUCPs* for the three airports addressed by this *ALUCP* —also referred to as the *Placer County Airport Land Use Compatibility Plan*—were adopted by the *ALUC* on October 25, 2000.
    - (1) The 2000 *ALUCP* shall remain in effect for each airport until the *ALUC* adopts the respective *ALUCP* for each airport covered by this document.
    - (2) If the present *ALUCP* for one or more individual airports should be invalidated by court action, the earlier plan for the affected airport(s) shall again become effective. The *ALUCP* for each unaffected airport, as contained within this document, shall remain in effect.
  - (c) Any project or phase of a project that has received *Local Agency* approvals sufficient to qualify it as an *Existing Land Use* (see Policies 2.1.15 and 2.7.3) prior to the date of the *ALUC's* adoption of the respective *ALUCPs* shall not be required to comply with the policies herein. Rather, the policies of the earlier plans (2000 *ALUCP*) shall apply.

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<sup>5</sup> *Public Utilities Code Section 21670 et seq.*

2.2.5. *Use by ALUC:* The *ALUC* shall:

- (a) Formally adopt this *ALUCP*.<sup>6</sup>
- (b) When a *Land Use Action* or *Airport Action* is referred for review as provided by Section 2.4, make a determination as to whether such *Action* is consistent with the criteria set forth in this *ALUCP*.

2.2.6. *Use by Affected Local Agencies:*

- (a) The policies of this *ALUCP* shall apply to each of the following affected *Local Agencies* (see Policy 2.1.22) in western Placer County having jurisdiction over lands within all or parts of an *Airport Influence Area* defined by this *ALUCP*; specifically:
  - (1) County of Placer.
  - (2) City of Auburn.
  - (3) City of Lincoln.
  - (4) Any future city within Placer County that may be incorporated within an *Airport Influence Area*.
  - (5) Any existing or future special districts, school districts or community college districts within Placer County to the extent that the district boundaries extend into an *Airport Influence Area*.
- (b) The County of Placer, each of the affected cities and any future city shall:
  - (1) Modify its respective general plan, applicable specific plan(s), zoning ordinance and building regulations to be consistent with the policies in the *ALUCP*.<sup>7</sup>
  - (2) Utilize the *ALUCP*, either directly or as reflected in the appropriately modified general plan, specific plan and zoning ordinance, when making planning decisions regarding proposed development of lands with an *Airport Influence Area*.
  - (3) Refer proposed *Land Use Actions* for review by the *ALUC* as specified by Policies 2.4.1 and 2.5.1 herein.
  - (4) As the *Airport* owner, refer proposed airport master plans, airport layout plans and other airport improvement plans to the *ALUC* for review (see Policy 2.4.1(b)).
- (c) Special districts, school districts, and community college districts shall:
  - (1) Apply the policies of this *ALUCP* when creating facility master plans and making other planning decisions regarding the proposed development of lands under their control with an *Airport Influence Area*.
  - (2) Refer proposed *Land Use Actions* for review by the *ALUC* as specified by Policies 2.4.1 and 2.5.1 herein.
- (d) Entities proposing construction of a new public or private airport or heliport for which a State Airport Permit is required must submit the proposed plans to the *ALUC* for land use compatibility review (see Policy 2.4.1(b)(3)).<sup>8</sup>

<sup>6</sup> In accordance with *Public Utilities Code Section 21674(c)*.

<sup>7</sup> *Public Utilities Code Section 21676(a)* specifically requires general plan consistency. Because specific plans and zoning ordinances are also subject to *ALUC* review, the consistency requirement also extends to them.

<sup>8</sup> Required by *Public Utilities Code Sections 21661.5, 21664.5, and 21676(c)*.

- (e) All affected *Local Agencies* preparing an environmental document for any project within an *Airport Influence Area* shall address the compatibility criteria contained in this *ALUCP* in addition to referencing guidance from the *Handbook*.<sup>9</sup>
- 2.2.7. *Fees*: Fees shall be established by the *ALUC* for the purpose of defraying costs of providing *ALUC* services.<sup>10</sup> Any fees established by the *ALUC* shall be reviewed annually by the *ALUC* or upon recommendation of the *ALUC Secretary*, and adjusted as necessary.
- 2.2.8. *Examples*: Where an example is used in this *ALUCP*, such example or examples are provided for purposes of illustration only and any such example or set of examples are not intended nor shall such be construed as an exhaustive list of the subject matter to which it corresponds.
- 2.2.9. *Inter-Agency Coordination in Placer County*: The *ALUC* encourages the local agencies in Placer County to coordinate with each other on airport land use compatibility matters. Specifically:
- (a) The entity owning an airport in Placer County is advised to notify the *ALUC* and affected jurisdictions of Placer County when preparing or amending airport plans and development activities.
  - (b) The jurisdictions of Placer County are advised to notify the *ALUC* and the entity owning the airport regarding *Land Use Actions* that may impact airport operations.
  - (c) The *ALUC* shall notify the affected agencies of Placer County when updating the *ALUCP*.
- 2.2.10. *Impacts on Nevada County*: A small portion of the *Airport Influence Area* for Blue Canyon Airport extends into Nevada County. The authority of the Placer County *ALUC* does not extend into Nevada County as airport land use compatibility matters are the responsibility of the Nevada County Transportation Commission (NCTC) which serves as the *ALUC* for Nevada County. Therefore, the policies of this *ALUCP* are strictly advisory with respect to lands in Nevada County. In the spirit of airport land use compatibility planning, the Placer County *ALUC* encourages inter-agency coordination amongst the County of Nevada, Nevada County *ALUC*, Placer County *ALUC*, and the County of Placer, as the owner of the Blue Canyon Airport. Specifically:
- (a) The County of Placer, as the owner of Blue Canyon Airport, is advised to coordinate with the County of Nevada and Nevada County *ALUC*, as well as the Placer County *ALUC*, when preparing or amending airport plans and development activities (see Policy 2.4.1(b)).
  - (b) The Placer County *ALUC* agrees to coordinate with the Nevada County *ALUC* and County of Nevada when preparing or amending the *ALUCP*.
  - (c) The County of Nevada is requested to address airport impacts from Blue Canyon Airport in its general plan, specific plan or other policy document and to use the airport's

<sup>9</sup> The California Environmental Quality Act (CEQA) requires environmental documents for projects situated within an *Airport Influence Area* to evaluate whether the project would expose people residing or working in the project area to excessive levels of airport-related noise or to airport-related safety hazards (Public Resources Code Section 21096). In the preparation of such environmental documents, the law specifically requires that the *California Airport Land Use Planning Handbook* published by the California Division of Aeronautics be utilized as a technical resource.

<sup>10</sup> *Public Utilities Code Section 21671.5(f)* allows for *ALUCs* to charge fees for project reviews.

*ALUCP* as a reference. The County is also requested to consult with the manager of the Blue Canyon Airport and the Placer County *ALUC* regarding *Land Use Actions* that may impact *Airport* operations.

2.2.11. *Impacts from Neighboring Airports*: This *ALUCP* acknowledges that airport impacts from airports in neighboring counties extend into and affect jurisdictions of Placer County.

- (a) **Table 2A** below identifies each of the neighboring airports, the entity owning the airport, the associated *ALUC*, the airport impacts which extend into Placer County and the *Local Agencies* of Placer County impacted by operations at the airport.

Table 2A: Impacts from Neighboring Airports				
Airport	Airport Owner	Associated ALUC	Airport Impact	Affected Placer County Jurisdiction
Beale Air Force Base	U.S. Air Force	SACOG <sup>11</sup>	Airspace, Overflight	Placer County, Lincoln
McClellan Field	Sacramento County	SACOG	Airspace, Overflight	Placer County, Roseville
Sacramento International Airport	Sacramento County	SACOG	Overflight	Placer County, Roseville
Truckee Tahoe Airport	Truckee Tahoe Airport District	Truckee Tahoe ALUC <sup>12</sup>	Noise, Safety, Airspace, Overflight	Placer County

- (b) In the spirit of airport land use compatibility planning, the Placer County *ALUC* encourages these agencies to coordinate with each other on airport land use compatibility matters. Specifically:
  - (1) The entity owning a public-use or military airport in a neighboring county is requested to coordinate with the affected jurisdictions of Placer County when preparing or amending airport plans and development activities.
  - (2) The entity serving as the *ALUC* for a neighboring airport is requested to coordinate with the Placer County *ALUC* and affected jurisdictions of Placer County when preparing or amending an *ALUCP*.
  - (3) Each affected jurisdiction in Placer County is advised to address airport impacts from a neighboring airport in its general plan, specific plan or other policy document and to use the airport’s *ALUCP* as a reference. The jurisdictions of Placer County are also advised to consult with the manager of the airport regarding *Land Use Actions* that may impact the airport operations.

<sup>11</sup> The Sacramento Area Council of Governments (SACOG) functions as the *ALUC* for Sacramento, Sutter, Yolo and Yuba counties. Sacramento International Airport and McClellan Field are located in Sacramento County and Beale Air Force Base is located in Yuba County.

<sup>12</sup> Airport land use compatibility planning matters for the Truckee Tahoe Airport, which straddles the Placer and Nevada County boundary, is the responsibility of the Truckee Tahoe Airport Land Use Commission, a special two-county *ALUC*. The Nevada County Transportation Commission (NCTC) serves as the *ALUC* staff.

## 2.3. Geographic Scope

2.3.1. *Airport Influence Area*: The influence area of each airport addressed by this *ALUCP* encompasses all lands on which the uses could be negatively affected by current or future aircraft operations at the *Airport* as well as lands on which the uses could negatively affect airport usage and thus necessitate restriction on those uses.<sup>13</sup>

(a) In delineating the *Airport Influence Area* for each airport, the geographic extents of four types of compatibility concerns are considered. The *Compatibility Zones* depicted in the *Compatibility Policy Map* presented in Chapters 4, 5, and 6 for Auburn Municipal Airport, Blue Canyon Airport, and Lincoln Regional Airport, respectively, consider all four compatibility factors in a composite manner.

(1) Noise: Locations exposed to potentially disruptive levels of aircraft noise.

(2) Safety: Areas where the risk of an aircraft accident poses heightened safety concerns for people and property on the ground.

(3) Airspace Protection: Places where height and various other land use characteristics need to be restricted in order to prevent creation of physical, visual, or electronic hazards to flight within the airspace required for operation of aircraft to and from the *Airport*.

(4) Overflight: Locations where aircraft overflying can be intrusive and annoying to many people.

(b) Other impacts sometimes created by airports (e.g., air pollution, automobile traffic, etc.) are not addressed herein and are not factors that the *ALUC* shall consider in reviewing land use projects.

2.3.2. *Airport Growth Assumptions*: The *Airport Influence Area* for each *Airport* covered by this *ALUCP* reflects the existing configuration of the *Airport*, planned airfield improvements and projected aircraft activity covering the requisite 20-year planning horizon.<sup>14</sup> Chapters 7 through 9 document the aeronautical assumptions for each *Airport* upon which this *ALUCP* is based.

2.3.3. *Referral Areas*: The *Airport Influence Area* for each *Airport* covered by this *ALUCP* constitutes the *Referral Area* within which certain *Land Use Actions* and *Airport Actions* are subject to *ALUC* review to determine consistency with the *ALUCP*. See Section 2.4 for the types of *Actions* subject to *ALUC* review.

## 2.4. Actions Always Subject to ALUC Review

2.4.1. *Mandatory Referral of Local Agency Planning Actions*: Prior to approving the types of *Planning Actions* indicated in Paragraphs (a) and (b), the *Local Agency* always must refer the *Planning Action* to the *ALUC* for determination of consistency with this *ALUCP*:<sup>15</sup>

(a) *Land Use Planning Actions* always requiring *ALUC* review include:

<sup>13</sup> The basis for delineating the *Airport Influence Area* is set by state law in *Business and Professions Code Section 11010*.

<sup>14</sup> See *Public Utilities Code Section 21675(a)*.

<sup>15</sup> *Public Utilities Code Section 21676(b)*.

- (1) *Local Agency* adoption or approval of any new general plan, specific plan, or facility master plan or any amendment thereto that affects lands within an *Airport Influence Area*.
  - (2) *Local Agency* adoption or approval of a zoning ordinance or building regulation, including any proposed change or variance to any such ordinance or regulation, that (1) affects land within an *Airport Influence Area* and (2) involves the types of airport impact concerns listed in Policy 2.3.1(a).
  - (3) Amendments to general plans, specific plans, zoning ordinance or building regulation that have general applicability throughout the community or specifically to lands within the *Airport Influence Area* require review by the *ALUC*. The *ALUC Secretary* is authorized on behalf of the *ALUC* to provide comments on *Land Use Planning Actions* involving parcel-specific amendments (e.g., zoning variance associated with a development proposal).
- (b) *Airport Planning Actions* always requiring *ALUC* Review:
- (1) Adoption or modification of a master plan (see Sections 2.11 and 3.8).<sup>16</sup>
  - (2) Any proposal for “expansion” of an *Airport* covered by this *ALUCP* if such expansion will require an amended Airport Permit from the State of California (see Sections 2.11 and 3.8). As used in the statutes, “expansion” primarily includes construction of a new runway, extension or realignment of an existing runway, or related acquisition of land.<sup>17</sup>
  - (3) Any proposal for a new *Airport* or heliport whether for public use or private use must be submitted for *ALUC* review if the facility requires a State Airport Permit (see Sections 2.11 and 3.9).<sup>18</sup>

## 2.5. Actions Subject to ALUC Review Before Local Agency Attains General Plan Consistency

2.5.1. *Interim Mandatory Referral of Major Land Use Actions*: Before a *Local Agency* either makes its general plan, specific plans, zoning ordinance or district facilities master plan consistent with the *ALUCP* or *Overrules* the *ALUC* as provided by law, the *Local Agency* must refer all *Major Land Use Actions* (see list in Policy 2.5.2) to the *ALUC* for review.

2.5.2. *Major Land Use Actions*: Under the conditions indicated in Policy 2.5.1, state law allows *ALUCs* to require *Local Agencies* to refer all actions, regulations, and permits involving land within an *Airport Influence Area* to the *ALUC* for review.<sup>19</sup> Rather than reviewing “all actions, regulations and permits,” the *ALUC* has opted to review a select list of *Major Land Use Actions*. They are:

- (a) Any proposed expansion of the sphere of influence of a city or special district.
- (b) Proposed pre-zoning associated with future annexation of land to a city.

<sup>16</sup> *Public Utilities Code Section 21676(c)*.

<sup>17</sup> *Public Utilities Code Section 21664.5*.

<sup>18</sup> Required by *Public Utilities Code Section 21661.5*. *Airports* and heliports requiring state permits are defined in *California Code of Regulations Title 21 Sections 3525 through 3560*.

<sup>19</sup> *Public Utilities Code Section 21676.5(a)*.

- (c) Major infrastructure or other capital improvements (e.g., water, sewer, or roads) that would promote urban uses in undeveloped or agricultural areas to the extent that such uses are not reflected in a previously reviewed general plan or specific plan.
- (d) Proposed land acquisition by a *Local Agency* for any building intended to accommodate the public (for example, a school or hospital).
- (e) Proposed development agreements or amendments to such agreements.
- (f) Any proposal for nonaviation uses of land within *Compatibility Zone A* (see Policy 2.1.10 for definition of an *Aviation-Related Use*).
- (g) Proposed residential development, including land divisions, consisting of 5 or more dwelling units or parcels.
- (h) Proposed nonresidential development having a building floor area of 10,000 square feet or greater.
- (i) Any development proposal for projects (temporary or permanent) expected to attract a congregation of people (including employees, customers/visitors) to outdoor activities at the project site. For the purposes of this policy, a congregation of people is deemed to occur if, during a typical busy period, there would be more people present than the number of people allowed in 1.0 acre in accordance with the maximum sitewide average intensity (people/acre) established for each *Compatibility Zone* at each airport (see Basic Compatibility Criteria **Tables AUB-4A, BLU-5A and LIN-6A**).
- (j) Any proposed object (including buildings, antennas, and other structures) that receives a determination of anything other than “not a hazard to air navigation” by the Federal Aviation Administration in accordance with Part 77 of the Federal Aviation Regulations (See Appendix B).
- (k) Any proposed object having a height of more than:
  - (1) 35 feet within *Compatibility Zone B1 or B2, Zone C1* for Blue Canyon Airport, or a *Height Review Overlay Zone* for Auburn Municipal Airport;
  - (2) 70 feet within *Compatibility Zone C1* or inner portions of *Zone D* for Blue Canyon Airport; or
  - (3) 150 feet within *Compatibility Zones C2 or D*.
- (l) Any project having the potential to create electrical or visual hazards to aircraft in flight, including:
  - (1) Electrical interference with radio communications or navigational signals;
  - (2) Lighting which could be mistaken for *Airport* lighting;
  - (3) Glare in the eyes of pilots of aircraft using the *Airport*; and
  - (4) Impaired visibility near the *Airport*.
- (m) Any project having the potential to create a thermal plume extending to an altitude where aircraft fly.
- (n) Any project (e.g., water treatment facilities, waste transfer or disposal facilities, parks with open water areas) or plan (e.g., Habitat Conservation Plan) having the potential to cause an increase in the attraction of birds or other wildlife that can be hazardous to aircraft operations in the vicinity of an airport.

- (o) Proposed nonaviation development of *Airport* property if such development has not previously been included in an airport master plan or community general plan reviewed by the *ALUC*. (See Policy 2.1.10 for definition of *Aviation-Related Use*.)
- (p) Proposed *Redevelopment* (see Policy 2.1.29) if the project is of a type listed in Paragraphs (a) through (o) of this policy.
- (q) Any other proposed *Land Use Action* or *Airport Action*, as determined by the local planning agency, involving a question of compatibility with airport activities.

## 2.6. Referral Process After Local Agency Attains General Plan Consistency

2.6.1. *Voluntary Referral of Major Land Use Actions:* After a *Local Agency* has revised its general plan, specific plans, zoning ordinance or facilities master plan to be consistent with this *ALUCP* or has *Overruled* the *ALUC*, referral of *Major Land Use Actions* for *ALUC* review is voluntary.<sup>20</sup>

- (a) The scope or character of certain *Major Land Use Actions*, as listed above in Policy 2.5.2, is such that their compatibility with *Airport* activity is a potential concern. Even though these *Major Land Use Actions* may be basically consistent with the local general plan or specific plan, sufficient detail may not be known to enable a full airport compatibility evaluation at the time that the general plan or specific plan is reviewed. To enable better assessment of compliance with the compatibility criteria set forth herein, the *ALUC* requests *Local Agencies* to continue to refer *Major Land Use Actions* as listed in Policy 2.5.2 for informal review and comment. *ALUC* review of these types of projects can serve to enhance their compatibility with *Airport* activity.
- (b) Voluntary referral of any proposed *Major Land Use Action*, as determined by the *Local Agency*, involving a question of compatibility with *Airport* activities is optional.
- (c) Minor *Actions* of types not included on the *Major Land Use Actions* list may also be referred on a voluntary basis.
- (d) The *ALUC Secretary* is authorized on behalf of the *ALUC* to provide comments on all *Actions* referred to the *ALUC* on a voluntary basis.
- (e) Because the *ALUC* review of *Actions* referred on a voluntary basis do not represent formal consistency determinations as is the case with *Actions* referred under Policies 2.4.1, 2.5.1, or 2.4.1(b), *Local Agencies* are not required to adhere to the overruling process if they elect to approve a project without incorporating design changes or conditions recommended by the *ALUC* or *ALUC Secretary*.

2.6.2. *Submittal of Environmental Documents:* The *ALUC* does not have a formal responsibility to review the environmental document associated with *Land Use Actions* or *Airport Actions* referred to it for review.

- (a) The *ALUC* authorizes the *ALUC Secretary* to provide comments on environmental documents submitted to the *ALUC* for comment.

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<sup>20</sup> Once a *Local Agency* either makes its general plan, specific plans, zoning ordinance or facilities master plan consistent with the *ALUCP* or *Overrules* the *ALUC* as provided by law, the *ALUC* no longer has authority under state law to require that all actions, regulations, and permits be referred for review. However, the *ALUC* and the local agency can agree that the *ALUC* should continue to receive, review, and comment upon individual projects.

- (b) If an environmental document has been prepared at the time that the *Land Use Action* or *Airport Action* is referred for review and the document contains information pertinent to the review, then a copy should be included with the referral (see Policy 2.9.1).

## 2.7. Limitations of this ALUCP

- 2.7.1. *Airport Operations*: In general, neither the *ALUC* nor this *ALUCP* have authority over the planning and design of on-airport facilities or over *Airport* operations including where and when aircraft fly, the types of aircraft flown, and other aspects of aviation.<sup>21</sup> Exceptions to this limitation are as follows:
- (a) State law requires *ALUC* review of airport master plans and certain development plans to the extent that future *Aviation-Related Uses* (see Policy 2.1.10), facilities or activities could have off-airport land use compatibility implications (see Policy 2.4.1(b)).<sup>22</sup>
  - (b) Nonaviation development of *Airport* property is subject to *ALUC* review in the same manner that *ALUC* review is required for *Land Use Development Actions* off-*Airport* property (see Policy 2.5.2(o)). The review may take place as part of an airport master plan or on an individual development project basis (see Policy 2.4.1(b)).
- 2.7.2. *Federal, State and Tribal Entities*: Lands controlled (i.e., owned, leased, or in trust) by federal or state agencies or by Native American tribes are not subject to the provisions of the state *ALUC* statutes or this *ALUCP*. However, the compatibility criteria included herein are intended as recommendations to these agencies.
- 2.7.3. *Existing Land Uses*: The policies of this *ALUCP* do not apply to *Existing Land Uses*.<sup>23</sup> A land use is considered to be “existing” when one or more of the below conditions has been met prior to the adoption date of this *ALUCP* by the *ALUC*.
- (a) *Qualifying Criteria*: An *Existing Land Use* is one that either physically exists or for which *Local Agency* commitments to the proposal have been obtained in one or more of the following manners and is considered by the *ALUC* to have a vested right:<sup>24</sup>
    - (1) A valid building permit has been issued and not yet expired;
    - (2) A use permit (e.g., conditional use permit) has been approved and not yet expired;
    - (3) Other discretionary entitlement has been approved and not yet expired, including the following:<sup>25</sup>
      - ▶ A tentative parcel, large lot or subdivision map;
      - ▶ A vesting tentative parcel or subdivision map;
      - ▶ A development agreement; and
      - ▶ A recorded final subdivision map.

<sup>21</sup> This is an explicit limitation of state law under *Public Utilities Code Section 21674(e)*.

<sup>22</sup> See *Public Utilities Code Sections 21676(c) and 21664.5*.

<sup>23</sup> This is an explicit limitation of *Public Utilities Code Sections 21670(a) and 21674(a)*.

<sup>24</sup> Vested means “the irrevocable right to complete construction notwithstanding an intervening change in the law that would otherwise preclude it.” ([*McCarthy v. California Tahoe Regional Planning Agency*, (1982) 129 Cal.App.3d 222, 230 (1982)].)

<sup>25</sup> According to the California Supreme Court, the right to develop becomes vested when all discretionary approvals for a project have been obtained and only ministerial (administrative) approvals remain [*AVCO Community Developers, Inc. v. South Coast Commission*, 17 Cal.3d 785, 791 (1976)]. Determination of what is a ministerial action varies by *Local Agency*.

- (b) Expiration of *Local Agency* Commitment: If a *Local Agency's* commitment to a development proposal, as set forth in Paragraph (a) of this policy, expires, the proposal will no longer qualify as an *Existing Land Use*. As such, the proposal shall be subject to the policies of this *ALUCP*.
- (c) Revisions to Approved Development: Filing of a new version of any of the approval documents listed in Paragraph (a) of this policy means that the use no longer qualifies as an *Existing Land Use* and, therefore, is subject to *ALUC* review in accordance with the policies of Section 2.4.
- (d) Existing Nonconforming Uses: The *ALUC* has no ability to reduce or remove *Nonconforming* or otherwise incompatible *Existing Land Uses* from the airport environs. Further, this *ALUCP* is not intended to compel local agency action to reduce or remove nonconforming or otherwise incompatible existing land uses from the airport environs. Proposed changes to uses within existing structures are not subject to *ALUC* review unless the changes would result in an increased nonconformity with the compatibility criteria (see Policy 3.7.3). Proposed *Redevelopment* (see definition in Policy 2.1.29) is, however, subject to *ALUC* review and conformance with the compatibility criteria the same as new development.
- (e) Determination: The *ALUC* shall make the determination as to whether a specific project meets the qualifying criteria set forth in Paragraph (a) of this policy. Once the *ALUC* finds that a *Local Agency's* general plan is consistent with the *ALUCP*, this determination shall be made by the *Local Agency*.

#### 2.7.4. *Development by Right:*

- (a) Nothing in this *ALUCP* prohibits:
  - (1) Construction of a single-family home on a legal lot of record as of the date of adoption of this *ALUCP* provided that the home is not within *Compatibility Zone A* and the use is permitted by local land use regulations.
  - (2) Construction of a secondary unit as defined by state law and local regulations.
  - (3) Lot line adjustments provided that new developable parcels would not be created and the resulting *Density* or *Intensity* of the affected property would not exceed the applicable safety criteria indicated in the *Basic Compatibility Criteria* tables for each airport.
  - (4) Construction or establishment of a family day care home serving 14 or fewer children either in an existing dwelling or in a new dwelling permitted by the policies of this *ALUCP*.

## 2.8. General ALUC Review Process

2.8.1. *Timing of Referral:* The precise timing of the *ALUC's* or *ALUC Secretary's* review of a proposed *Land Use Planning Action*, *Major Land Use Action*, or *Airport Action* may vary depending upon the nature of the specific project.

- (a) Referrals to the *ALUC* should be made at the earliest reasonable point in time so that the *ALUC's* review can be duly considered by the *Local Agency* prior to when the agency formalizes its *Actions*. Depending upon the type of *Action* and the normal scheduling of meetings, *ALUC* review can be completed before, after, or concurrently with re-

view by the local planning commission and other advisory bodies, but *must* be accomplished before final action by the *Local Agency*.

- (b) Completion of a formal application with the *Local Agency* is not required prior to a *Local Agency*'s referral of a proposed *Land Use Action* or *Airport Action* to the *ALUC*. Rather, a project applicant may request, and the *Local Agency* may refer, a proposed *Action* to the *ALUC* for early review, so long as the *Local Agency* is able to provide the *ALUC* with the project submittal information for the proposal, as specified and required in Policies 2.9.1, 2.10.1, and 2.11.1 of this *ALUCP*.

2.8.2. *Responsibilities for Consistency Analysis:* The *ALUC* and *Local Agencies* are each responsible for analyzing a proposed *Land Use Action* or *Airport Action* for compliance with the compatibility criteria set forth in this *ALUCP*.

- (a) *Local Agency* staff may choose to initially evaluate proposed *Actions* and work with the *Local Agency*/project applicant to bring the proposal into compliance with *ALUCP* criteria. The *ALUC Secretary* will provide informal input at this stage if requested.
- (b) When a proposed *Action* is formally referred to the *ALUC*, the *ALUC Secretary* shall review the proposal to determine if it is consistent with the *ALUCP* policies. *Actions* of a type that require a formal consistency determination by the *ALUC* (those listed in Policy 2.4.1) will be placed on the *ALUC* agenda for action.
- (c) Subsequent to when a *Local Agency*'s general plan and applicable specific plans have been determined by the *ALUC* to be consistent with the *ALUCP*, the *Local Agency* and its staff are responsible for the consistency analysis of *Major Land Use Actions*. The *ALUC Secretary* will provide informal input if requested or the *Local Agency* voluntarily refers the *Major Land Use Action* to the *ALUC* for a consistency determination.
- (d) *Land Use and Airport Actions* for which referral to the *ALUC* is mandatory regardless of the general plan and specific plan consistency status (*Actions* listed in Policy 2.4.1 and 2.4.1(b)) must continue to be referred for a formal consistency determination by the *ALUC*.
- (e) The *Local Agency* and its staff are responsible for ensuring that a development continues to comply with *ALUCP* criteria on an on-going basis following completion of the project (i.e., usage *Intensity* and height limitations in particular).

2.8.3. *Public Input:* Where applicable, the *ALUC* shall provide public notice and obtain public input before acting on any plan, regulation, or other land use proposal under consideration.<sup>26</sup>

2.8.4. *Fees:* Any applicable review fees as established by the *ALUC* shall accompany the submittal of *Actions* for *ALUC* or *ALUC Secretary* review.<sup>27</sup> Fees are subject to change at the discretion of the *ALUC* (see Policy 2.2.7).

<sup>26</sup> *Public Utilities Code Section 21675.2(d)*.

<sup>27</sup> *Public Utilities Code Section 21671.5(f)* allows for *ALUCs* to charge fees for project reviews.

## 2.9. Review Process for General Plans, Specific Plans, Zoning Ordinances, and Building Regulations

- 2.9.1. *Required Submittal Information:* Copies of the complete text and maps of the plan, ordinance, or regulation proposed for adoption or amendment shall be submitted to the *ALUC*. Any supporting material, such as environmental documents, assessing the proposal's consistency with the *ALUCP* should be included. If the amendment is required as part of a proposed *Major Land Use Action*, then the information listed in Policy 2.10.1 shall also be included to the extent applicable.
- 2.9.2. *Initial ALUC Review of General Plan Consistency:* In conjunction with adoption or amendment of this *ALUCP*, the *ALUC* shall review the general plans and specific plans of affected *Local Agencies* to determine their consistency with the *ALUC*'s policies.
- (a) State law<sup>28</sup> requires that, within 180 days of the *ALUC*'s adoption or amendment of this *ALUCP*, each *Local Agency* affected by the plan must amend its general plan and any applicable specific plan(s) to be consistent with the *ALUC*'s *ALUCP* or, alternatively, provide required notice, adopt findings, and *Override* the *ALUC* in accordance with statutory requirements.<sup>29</sup>
  - (b) Prior to taking action on a proposed amendment of a general plan or specific plan as necessitated by Paragraph (a) of this policy, the *Local Agency* must submit a draft of the proposal to the *ALUC* for review and approval.
  - (c) In conjunction with its referral of a general plan or specific plan amendment to the *ALUC* in response to the requirements of Paragraphs (a) and (b) above, a *Local Agency* must identify areas that it requests the *ALUC* to consider as *Infill* in accordance with Policy 3.7.2 if it wishes to take advantage of the *Infill* policy provisions. The *ALUC* will include a determination on the *Infill* as part of its action on the consistency of the general plan and/or applicable specific plan(s).
- 2.9.3. *Subsequent Reviews of Related Major Land Use Actions:* Once a *Local Agency*'s general plan and applicable specific plans have been made consistent with this *ALUCP*, or the *Local Agency* has *Overruled* an *ALUC* finding of inconsistency regarding those plans, subsequent *Land Use Development Actions* that are consistent both with those local plans and with any related ordinances and regulations also previously reviewed by the *ALUC* are subject to *ALUC* review only under the conditions indicated in Policies 2.4.1 and 2.5.1.
- 2.9.4. *ALUC Action Choices:* When reviewing a general plan, specific plan, zoning ordinance, or building regulation for consistency with the *ALUCP*, the *ALUC* has three choices of action:
- (a) Find the plan, ordinance, or regulation consistent with the *ALUCP*. To make such a finding with regard to a general plan, the conditions identified in Section 3.1 must be met.
  - (b) Find the plan, ordinance, or regulation consistent with the *ALUCP*, subject to conditions and/or modifications that the *ALUC* may require. Any such conditions should

<sup>28</sup> Government Code Section 65302.3.

<sup>29</sup> Public Utilities Code Section 21676(b).

be limited in scope and described in a manner that allows compliance to be clearly assessed.

- (c) Find the plan, ordinance, or regulation inconsistent with the *ALUCP*. In making a finding of inconsistency, the *ALUC* shall note the specific conflicts or shortcomings upon which its determination is based.

2.9.5. *Response Time:* The *ALUC* must respond to a *Local Agency's* request for a consistency determination on a general plan, specific plan, zoning ordinance, or building regulation within 60 days from the date of referral.<sup>30</sup>

- (a) The date of referral is deemed to be the date on which all applicable project information as specified in Policy 2.9.1 is received by the *ALUC Secretary* and the *ALUC Secretary* determines that the application for a consistency determination is complete (see Appendix G for a copy of the *ALUC Review Application*).
- (b) If the *ALUC* fails to make a determination within the 60-day period, the proposed *Land Use Planning Action* shall be deemed consistent with the *ALUCP*.
- (c) The 60-day review period may be extended if the referring *Local Agency* or project applicant agrees in writing or so states at an *ALUC* public hearing on the *Land Use Planning Action*.
- (d) Regardless of *ALUC* action or failure to act, the proposed *Land Use Planning Action* must comply with other applicable local, state, and federal regulations and laws.
- (e) The referring *Local Agency* shall be notified of the *ALUC's* action in writing.

## 2.10. Review Process for Major Land Use Actions

2.10.1. *Required Submittal Information:* A proposed *Major Land Use Action* referred for *ALUC* (or *ALUC Secretary*) review shall include the following information to the extent applicable:

- (a) A completed *ALUC Review Application* as provided in Appendix G of this *ALUCP*.
- (b) Property location data (assessor's parcel number, street address, subdivision lot number).
- (c) An accurately scaled map depicting the project site location in relationship to the airport boundary and runway.
- (d) A description of the proposed use(s), current general plan and zoning designations, and the type of *Major Land Use Action* being sought from the *Local Agency* (e.g., zoning variance, special use permit, building permit).
- (e) A detailed site plan and supporting data showing: site boundaries and size; existing uses that will remain; location of existing and proposed structures, open spaces, and water bodies; ground elevations (above mean sea level) and elevations of tops of structures and trees. Additionally:
  - (1) For residential uses, an indication of the potential or proposed number of dwelling units per acre (excluding any secondary units as defined by state law and local regulations).

<sup>30</sup> *Public Utilities Code Section 21676(d)*.

- (2) For nonresidential uses, the total floor area for each type of proposed use, the number of auto parking spaces, and, if known, the maximum number of people (employees, visitors/customers) potentially occupying the total site or portions thereof at any one time.
  - (f) Identification of any features, during or following construction that would increase the attraction of birds or cause other wildlife hazards to aircraft operations at an *Airport* or in its environs (see Policy 3.5.3). Such features include, but are not limited to the following:
    - (1) Open water areas.
    - (2) Sediment ponds, retention basins.
    - (3) Detention basins that hold water for more than 48 hours.
    - (4) Artificial wetlands.
  - (g) Identification of any characteristics that could create electrical interference, confusing or bright lights, glare, smoke, or other electrical or visual hazards to aircraft flight.
  - (h) Any environmental document (initial study, draft environmental impact report, etc.) that may have been prepared for the project.
  - (i) Staff reports regarding the project.
  - (j) Other relevant information that the *ALUC* or *ALUC Secretary* determine to be necessary to enable a comprehensive review of the proposed *Major Land Use Action*.
- 2.10.2. *Review by ALUC Secretary:* The *ALUC* delegates to the *ALUC Secretary* the review and certain consistency determination of *Major Land Use Actions* referred on an interim mandatory basis under Policy 2.5.1 or on a voluntary basis under Policy 2.6.1. In reviewing these *Actions*, the *ALUC Secretary* shall:
- (a) Consult with the manager of the airport on *Major Land Use Actions* within the *Airport Influence Area*.
  - (b) Forward projects that are controversial or complex to the *ALUC* for a consistency determination.
  - (c) Provide to the *ALUC* a list of all projects reviewed and the determination made by the *ALUC Secretary*.
- 2.10.3. *ALUC Secretary's Action Choices:* The *ALUC Secretary* is authorized, on behalf of the *ALUC*, to make certain consistency determinations on *Major Land Use Actions* reviewed in accordance with Policy 2.5.1. Such determinations shall be made in writing and shall describe the consistency analysis and the basis for the determination. The *ALUC Secretary* has three choices of action:
- (a) Find the project consistent with the *ALUCP*.
  - (b) Find the project consistent with the *ALUCP*, subject to compliance with such conditions as the *ALUC Secretary* may specify. Any such conditions should be limited in scope and described in a manner that allows compliance to be clearly assessed (e.g., the height of a structure).
  - (c) Find that the project may be inconsistent with the *ALUCP* or has certain compatibility complexities requiring review by the *ALUC*. The *ALUC Secretary* shall forward any such project to the *ALUC* for a consistency determination.

- 2.10.4. *Appeal of ALUC Secretary's Action:* The affected *Local Agency*, project applicant, *Airport* owner, or other interested party may appeal to the *ALUC* a consistency determination made by the *ALUC Secretary* on a *Major Land Use Action* reviewed in accordance with Policy 2.5.1. The *ALUC* shall then review the proposed *Major Land Use Action*, the *ALUC Secretary's* determination, and information supporting the appeal and make a final determination regarding the proposed *Major Land Use Action's* consistency with the *ALUCP*. Any appeal of the *ALUC Secretary's* determination must be submitted within 10 days of the date when the determination was issued.
- 2.10.5. *ALUC Action Choices:* The *ALUC* has three choices of action when making consistency determinations on *Major Land Use Actions* reviewed in accordance with Policies 2.5.1 and 2.6.1:
- (a) Find the project consistent with the *ALUCP*.
  - (b) Find the project consistent with the *ALUCP*, subject to compliance with such conditions as the *ALUC* may specify. Any such conditions should be limited in scope and described in a manner that allows compliance to be clearly assessed (e.g., the height of a structure).
  - (c) Find the project inconsistent with the *ALUCP*. In making a finding of inconsistency, the *ALUC* shall note the specific conflicts upon which the determination is based.
- 2.10.6. *Response Time:* In responding to *Major Land Use Actions* referred for review, the policy of the *ALUC* is that:
- (a) When a *Major Land Use Action* is referred for review on a mandatory basis as required by Policy 2.5.1:
    - (1) The date of referral is deemed to be the date on which all applicable project information as specified in Policy 2.10.1 is received by *ALUC Secretary* and the *ALUC Secretary* determines that the application for a consistency determination is complete (see Appendix G for a copy of the *ALUC Review Application*).
    - (2) Reviews by the *ALUC Secretary* shall be completed within 14 days of the date of referral.
    - (3) Reviews of projects forwarded or appealed to the *ALUC* for a consistency determination shall be completed within 60 days of the date of the appeal.<sup>31</sup>
    - (4) If the *ALUC Secretary* or the *ALUC* fail to make a determination within the above time periods, the proposed *Major Land Use Action* shall be deemed consistent with the *ALUCP*.
  - (b) When a *Major Land Use Action* is referred on a voluntary basis in accordance with Policy 2.6.1, review by the *ALUC Secretary* and/or the *ALUC* should be completed in a timely manner enabling the comments to be considered by decision-making bodies of the referring *Local Agency*.

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<sup>31</sup> For *Major Land Use Actions*, this 60-day limit is not a statutory requirement, but is set by the *ALUC* to be consistent with Policy 2.9.5 and *Public Utilities Code Section 21676(d)* regarding general plans, specific plans, zoning ordinances, and building regulations.

- (c) Regardless of action or failure to act on the part of the *ALUC Secretary* or the *ALUC*, the proposed *Major Land Use Action* must comply with other applicable local, state, and federal laws and regulations.
- (d) The referring *Local Agency* shall be notified of the *ALUC Secretary's* and/or the *ALUC's* action in writing.

2.10.7. *Subsequent Reviews of Related Major Land Use Actions*: Once a project has been found consistent with the *ALUCP*, it generally need not be referred for review at subsequent stages of the planning process (e.g., for a use permit after a zoning change has been reviewed). However, additional *ALUC* review is required if any of the following are true:

- (a) At the time of the original *ALUC* review, the project information available was only sufficient to determine consistency with compatibility criteria at a planning level of detail, not at the project design level. For example, the proposed land use designation indicated in a general plan, specific plan, or zoning amendment may have been found consistent, but information on site layout, maximum *Intensity* limits, building heights, and other such factors that may also affect the consistency determination for a project may not have yet been known.
- (b) The design of the project subsequently changes in a manner that affects previously considered compatibility issues and could raise questions as to the validity of the earlier finding of consistency. Proposed changes warranting a new review include, but are not limited to, the following:
  - (1) For residential uses, any increase in the number of dwelling units;
  - (2) For nonresidential uses, a change in the types of proposed uses, any increase in the total floor area, and/or a change in the allocation of floor area among different types of uses in a manner that could result in an increase in the *Intensity* of use (more people on the site) to a level exceeding the criteria set forth in this *ALUCP*;
  - (3) Any increase in the height of structures or other design features such that the height limits established herein would be exceeded or exceeded by a greater amount;
  - (4) Major site design changes (such as incorporation of clustering or modifications to the configuration of open land areas proposed for the site) if site design was a factor in the initial project review;
  - (5) Any significant change to a proposed project for which a special exception was granted in accordance with Policy 3.2.4;
  - (6) Any new design features that would create visual hazards (e.g., certain types of lights, sources of glare, and sources of dust, steam, or smoke);
  - (7) Any new equipment or features that would create electronic hazards or cause interference with aircraft communications or navigation; and/or
  - (8) Addition of features that could attract wildlife that is potentially hazardous to aircraft operations.
- (c) At the time of original *ALUC* review, conditions were placed on the project that require subsequent *ALUC* review.
- (d) The local jurisdiction concludes that further review is warranted.

## 2.11. Review Process for Airport Master Plans and Development Plans

2.11.1. *Required Submittal Information for Airport Actions:* An airport master plan or development plan for an existing or new *Airport* or heliport referred to the *ALUC* for review shall contain sufficient information to enable the *ALUC* to adequately assess the noise, safety, airspace protection, and overflight impacts of *Airport* activity upon surrounding land uses.

- (a) When a new or amended master plan is the subject of the *ALUC* review, the noise, safety, airspace protection, and overflight impacts should be addressed in the plan report and/or in an accompanying environmental document. Proposed changes in *Airport* facilities and usage that could have land use compatibility implications should be noted.
- (b) For *Airport* development plans, the relationship to a previously adopted master plan or other approved plan for the *Airport* should be indicated—specifically, whether the proposed development implements an adopted/approved plan or represents an addition or change to any such previous plan. Any environmental document prepared for the project should be included in the submittal.
- (c) For either airport master plans or development plans, the following specific information should be included to the extent applicable:
  - (1) A layout plan drawing of the proposed facility or improvements showing the location of:
    - Property boundaries;
    - Runways or helicopter takeoff and landing areas;
    - Runway or helipad protection zones; and
    - Aircraft or helicopter approach/departure flight routes.
  - (2) A revised map of the *Airspace Protection Surfaces* as defined by Federal Aviation Regulations Part 77 if the proposal would result in changes to these surfaces. Maps reflecting the current and future configurations of the *Airspace Protection Surfaces* for each airport covered by this *ALUCP* are included in Chapters 4, 5, and 6.
  - (3) Updated activity forecasts, including the number of operations by each type of aircraft proposed to use the facility, the percentage of day versus night operations, and the distribution of takeoffs and landings for each runway direction. The effects of the proposed development on the forecast *Airport* usage indicated in Chapters 5 through 7 of this *ALUCP* should be described.
  - (4) Proposed flight track locations and projected noise contours. Differences from the flight track data and noise contours presented in Chapters 5 through 7 of this *ALUCP* should be described.
  - (5) A map showing existing and planned land uses in the areas affected by aircraft activity associated with implementation of the proposed master plan or development plan.
  - (6) Identification and proposed mitigation of impacts on surrounding land uses to the extent that those impacts would be greater than indicated by the compatibility factors depicted in the airport exhibits presented in Chapters 5 through 7.

2.11.2. *ALUC Action Choices for Plans of Existing Airports:* When reviewing a proposed new or revised airport master plan or new development plans for the *Airports* addressed by this

*ALUCP*, the *ALUC* has three action choices (see Policy 3.8.1 for policies pertaining to the substance of the *ALUC* review of plans for existing *Airports*):

- (a) Find the *Airport* plan consistent with the *ALUCP*.
- (b) Find the *Airport* plan consistent with the *ALUCP* with the condition that the *ALUCP* be modified to reflect the assumptions and proposals of the *Airport* plan.
- (c) Find the *Airport* plan inconsistent with the *ALUCP*.

2.11.3. *ALUC Action Choices for Plans of New Airports or Heliports*: When reviewing proposals for new public use or private use airports or heliports, the *ALUC* has two action choices (see Policy 3.9.1 for policies pertaining to the substance of the *ALUC* review of plans for new *Airports*):

- (a) Approve the proposal as being consistent with the specific review criteria listed in Section 3.9 and, if required, either adopt an *ALUCP* for that facility or establish the intent to do so at a later date. State law requires adoption of an *ALUCP* if the airport or heliport will be a public-use facility.<sup>32</sup>
- (b) Disapprove the proposal on the basis that the noise, safety, airspace protection, and overflight impacts it would have on surrounding land uses are not adequately mitigated.

2.11.4. *Response Time*: The *ALUC* must respond to the referral of an airport master plan or development plan within 60 days from the date of referral.<sup>33</sup>

- (a) The date of referral is deemed to be the date on which all applicable project information as specified in Policy 2.11.1 is received by *ALUC Secretary* and the *ALUC Secretary* determines that the application for a consistency determination is complete (see Appendix G for a copy of the *ALUC* Review Application).
- (b) If the *ALUC* fails to make a determination within the specified period, the proposed *Airport Action* shall be deemed consistent with the *ALUCP*.
- (c) Regardless of *ALUC* action or failure to act, the proposed *Airport Action* must comply with other applicable local, state, and federal regulations and laws.
- (d) The *Airport* owner shall be notified of the *ALUC*'s action in writing.

## 2.12. Process for Overruling the ALUC

2.12.1. *ALUC Determination of "Inconsistent"*: If the *ALUC* determines that a proposed *Land Use Action* or *Airport Action* is inconsistent with this *ALUCP*, the *ALUC* must notify the *Local Agency* and shall indicate the reasons for the inconsistency determination.

2.12.2. *Overruling of ALUC by Local Agency*:

- (a) If a *Local Agency* wishes to proceed with a proposed *Land Use Action* or *Airport Action* that the *ALUC* has determined to be inconsistent with the *ALUCP*, or if the *Local*

<sup>32</sup> *Public Utilities Code Section 21675(a)*.

<sup>33</sup> *Public Utilities Code Section 21676(d)*.

*Agency* wishes to ignore a condition for consistency, the *Local Agency* must *Overrule* the *ALUC* determination in accordance with the provisions of state law.<sup>34</sup>

- (b) The overruling process applies only to determinations made by the *ALUC*, not ones made by the *ALUC Secretary* in accordance with Policy 2.10.2. Disagreements over determinations made by the *ALUC Secretary* are first to be appealed to the *ALUC* (see Policy 2.10.4).

2.12.3. *ALUC Comments on Proposed Overruling:* The *ALUC* may provide comments on the proposed overruling decision. The *ALUC* delegates to the *ALUC Secretary* the authority to provide comments.

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<sup>34</sup> See *Public Utilities Code Section 21670(a), 21676 and 21676.5* for specific procedures for overruling the *ALUC*. Further guidance is provided in the *California Airport Land Use Handbook* published by the California Division of Aeronautics (see beginning on page 5-15 of the 2011 edition). Chapter 1 of this *ALUCP* also summarizes the overrule process to be followed by a *Local Agency*.