



Chapter **3**

ALUC REVIEW PROCESS

ALUC Review Process

3.1. General Requirements

3.1.1. *Timing of Referral:* The appropriate time for local agencies to refer proposed land use or airport actions to the ALUC for review depends 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 considered by the local agency prior to when the agency formalizes its actions. Depending upon the type of plan or project and the normal scheduling of meetings, ALUC review can be completed before, after, or concurrently with review by the local planning commission and other advisory bodies. The only requirement is that ALUC review of land use and airport plans and projects *must* be accomplished before final action by the local agency.
- (b) The 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 to the ALUC. A project applicant may request, and the local agency may refer, a proposed land use action to the ALUC for 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 by Policy 3.1.2(b) of this *ALUCP*.

3.1.2. *Required Submittal Information for Land Use Actions:* The information to be submitted to the ALUC depends on the type of action being referred for review.

- (a) **Actions Involving General Plans, Specific Plans, Zoning Ordinance, and Building Regulations:** Copies of the complete text and maps of the plan, ordinance, or regulation proposed for adoption or amendment must be submitted to the ALUC. Any supporting material documenting that the proposal is consistent with the *ALUCP* should be included. If the amendment is required as part of a proposed development project, then the information listed in Paragraph (b) of this policy shall also be included to the extent applicable.
- (b) **Major Land Use Actions:** A proposed Major Land Use Action referred for ALUC review in accordance with Policies 2.4.3 or 2.4.4 must, to the extent applicable, include the following information, as identified on the ALUC application (Appendix H). This information shall be submitted to the ALUC as part of the referral application.
 - (1) Property location data (assessor's parcel number, street address, subdivision name, lot number).
 - (2) An accurately scaled map depicting the project site location in relationship to the airport boundary and runways.

- (3) A description of the proposed use(s), current general plan and zoning designations, and the type of land use action being sought from the local agency (e.g., zoning variance, special use permit, building permit).
- (4) When applicable, 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:
 - For residential uses, an indication of the potential or proposed number of dwelling units per acre (excluding any secondary units).
 - For nonresidential uses, the total floor area for each type of proposed use, the number of auto parking spaces, and, if known, the number of people expected to occupy the total site or portions thereof at any one time during busiest periods.
- (5) Identification of features, during or following construction, that would increase the attraction of birds or cause other wildlife hazards to aircraft operations on the airport or in its environs (see Policy 4.4.3(a)(6)). Such features include, but are not limited to the following:
 - Open water areas.
 - Sediment ponds, retention basins.
 - Detention basins that hold water for more than 48 hours.
 - Artificial wetlands.
 - Conservation areas.
- (6) Identification of characteristics that could create electrical interference, confusing or bright lights, glare, smoke, or other electrical or visual hazards to aircraft flight.
- (7) Staff reports regarding the project that may have been presented to local agency decision makers.
- (8) Other relevant information that the ALUC or ALUC Executive Director determine to be necessary to enable a comprehensive review of the proposed action.

3.1.3. *Required Submittal Information for Airport Development Actions:* An airport master plan or development plan submitted 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 that has been reviewed by the ALUC should be indicated—specifically, whether the proposed development implements an adopted/approved plan or represents an addition or change to any such previous plan.
- (c) For either airport master plans or airport/heliport 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 surfaces as defined by Federal Aviation Regulations Part 77 if the proposal would result in changes to these surfaces. The current configuration of the airspace protection surfaces for each airport is provided in Chapter 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 airport-related development on the forecast airport usage indicated in the background data chapter for each airport, as presented in Chapters 7 through 9 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 7 through 9 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 maps presented in Chapters 7 through 9.

3.1.4. *Submittal of Environmental Documents:* The ALUC does not have a formal responsibility to review the environmental document associated with land use or airport actions referred to it for review. However, if an environmental document has been prepared at the time that the action is referred for review and contains information pertinent to the review, then a copy must be included with the referral.

3.1.5. *Date of Referral:* The date of referral for land use and airport actions is deemed to be the date on which all applicable project information as specified in Policy 3.1.2 or 3.1.3 is received by the ALUC Executive Director and the ALUC Executive Director determines that the application for a consistency determination is complete.

3.1.6. *Fees:* Applicable ALUC review fees shall be paid to and accompany the referral of actions to the ALUC.

3.1.7. *Responsibilities for Consistency Analysis:* Both the ALUC and local agencies are responsible for analyzing a project proposal for compliance with the compatibility criteria set forth in this *ALUCP*.

- (a) Local agency staff may choose to initially evaluate proposed projects and work with the project applicant to bring the proposal into compliance with *ALUCP* criteria. ALUC staff will provide informal input at this stage if requested.

- (b) When a proposed project is formally referred to the ALUC, ALUC staff shall review the proposal to determine if it is consistent with the *ALUCP* policies. Projects of a type that requires a formal consistency determination by the ALUC will be placed on the 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. ALUC staff will provide informal input if requested or the local agency can submit the action to the ALUC for a consistency determination on an advisory basis.
- (d) 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.

3.1.8. *Public Input:* The ALUC shall provide public notice and obtain public input before acting on any plan, regulation, or other land use proposal under consideration.²⁵

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

3.2.1. *Initial ALUC Review of General Plan Consistency:* In conjunction with adoption or amendment of this *ALUCP*, the ALUC shall review the general plans, specific plans, zoning ordinances, and building regulations of affected local jurisdictions to determine their consistency with the *ALUCP*.

- (a) 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 to be consistent with the *ALUCP* or, alternatively, provide required notice, adopt findings, and overrule the ALUC.²⁶
- (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 refer a draft of the proposal to the ALUC for review and for a determination of consistency with this *ALUCP*.²⁷
- (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) of this policy, a local agency must identify areas that it requests the ALUC to consider as existing development or infill in accordance with Policies 2.3.3 and 4.6.2, respectively, if it wishes to take advantage of the these policy provisions. The ALUC will include a determination regarding these requests as part of its action on the consistency of the general plan and specific plans.

3.2.2. *Subsequent Reviews of Related Land Use Development Proposals:* Once a local agency's general plan and applicable specific plans have been made consistent with this *ALUCP*, or the

²⁵ In accordance with *Public Utilities Code Section 21675.2(d)*.

²⁶ The requirements that a general plan and applicable specific plans be amended for consistency with the *ALUCP* are set forth in *Government Code Section 65302.3*. The steps that the local agency must follow to overrule the ALUC with regard to a general plan, specific plan, zoning ordinance, or building regulation are defined in *Public Utilities Code Section 21676(b)*.

²⁷ Required by *Public Utilities Code Section 21676*.

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 *not* subject to formal ALUC review. Only under the conditions indicated in Policies 2.4.3 and 3.3.5 are these proposals referred to the ALUC for formal review.

3.2.3. *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 2.5 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 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.

3.2.4. *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 as established by Policy 3.1.5.²⁸

- (a) If the ALUC fails to make a determination within the 60-day period, the proposed action shall be deemed consistent with the *ALUCP*.
- (b) The 60-day review period may be extended if requested by the ALUC and the referring agency or project applicant agrees in writing or so states at an ALUC public hearing on the action.
- (c) Regardless of ALUC action or failure to act, the proposed action must comply with other applicable local, state, and federal regulations and laws.
- (d) The referring agency shall be notified of the ALUC's action in writing as soon as practicable after the action has been taken.

3.3. Review Process for Major Land Use Actions

3.3.1. *Review by ALUC Executive Director:* The ALUC delegates to the ALUC Executive Director the review and consistency determination of Major Land Use Actions referred on a mandatory basis under Policy 2.4.3. The ALUC also delegates to the ALUC Executive Director the authority to review and comment upon Major Land Use Actions voluntarily submitted under Policy 2.4.4.

- (a) In reviewing these actions, the ALUC Executive Director shall consult with the manager of the affected airport.

²⁸ The 60-day limit is set by *Public Utilities Code Section 21676(d)*.

- (b) The ALUC Executive Director has two choices of action with regard to the consistency determination of actions referred on a mandatory basis:
 - (1) Find that the proposed project does not contain characteristics likely to result in inconsistencies with the compatibility criteria set forth in this *ALUCP*. Upon said finding, the Executive Director is authorized to approve such projects on behalf of the ALUC. The Executive Director shall provide to the ALUC, at its next regular meeting, a list of all projects reviewed and the determination made.
 - (2) Find that the proposed project may be inconsistent with the *ALUCP*. The Executive Director shall forward any such project to the ALUC for a consistency determination.

3.3.2. *Appeal of ALUC Executive Director Action:* The affected local agency, project applicant, the airport owner, or other directly interested party may appeal to the ALUC a consistency determination made by the ALUC Executive Director on a Major Land Use Action reviewed in accordance with Policy 2.4.3. The ALUC shall then review the proposed action, the Executive Director’s determination, and information supporting the appeal and make a final determination regarding the proposed action’s consistency with the *ALUCP*. Any appeal of the ALUC Executive Director determination must be submitted within 30 days of the date the determination was issued.

3.3.3. *ALUC Action Choices:* The ALUC has three choices of action when making consistency determinations on Major Land Use Actions reviewed in accordance with Policies 2.4.3 and 2.4.4:

- (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. (For policies and discussion regarding the overrule process that local agencies must follow if they wish to proceed with a project despite the ALUC’s finding of inconsistency, see Section 2.6 of Chapter 2 and page 1-8 of Chapter 1.)

3.3.4. *Response Time:* In responding to Major Land Use Actions referred for review, the policy of the ALUC is:

- (a) When a Major Land Use Action is referred for review on a mandatory basis as required by Policy 2.4.3:
 - (1) Reviews by the ALUC shall be completed within 60 days of the date of referral as established by Policy 3.1.5.²⁹
 - (2) Reviews of projects appealed to the ALUC for a consistency determination in accordance with Policy 3.3.2 shall be completed within 60 days of the date of the appeal.

²⁹ 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 3.2.4 and *Public Utilities Code Section 21676(d)* regarding general plans, specific plans, zoning ordinances, and building regulations.

- (3) If the ALUC or the ALUC Executive Director fails to make a determination within the above time periods, the proposed action shall be deemed consistent with the *ALUCP*.
 - (b) When a Major Land Use Action is submitted on a voluntary basis in accordance with Policy 2.4.4, review by the ALUC Executive Director and/or the ALUC should be completed in a timely manner enabling the comments to be considered during the local agency's decision-making process.
 - (c) Regardless of action or failure to act on the part of the ALUC, the proposed action must comply with other applicable local, state, and federal laws and regulations.
 - (d) The referring agency shall be notified of the ALUC's action in writing as soon as practicable after the action has been taken.
- 3.3.5. *Subsequent Reviews of Related Land Use Development Proposals:* Once a project has been found consistent with the *ALUCP*, it generally does need not be referred for review at subsequent stages of the planning process. 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) 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).
 - (5) Any new equipment or features that would create electronic hazards or cause interference with aircraft communications or navigation.
 - (6) Additional mitigation measures that could attract wildlife that is potentially hazardous to aircraft operations.
 - (7) Major site design changes (such as incorporation of clustering or modifications to the configuration of open land areas proposed for the site) to the extent that site design was an issue in the initial ALUC project review; and/or

- (8) Any significant change to a proposed project for which a special exception was granted in accordance with Policy 4.6.5(c).
- (c) At the time of original ALUC review, conditions that require subsequent ALUC review were placed on the project.
- (d) The local jurisdiction concludes that further review is warranted.

3.4. Review Process for Airport Master Plans and Development Plans

- 3.4.1. *ALUC Action Choices for Plans of Existing Airport:* 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 Section 5.1 for policies pertaining to the substance of the ALUC review of airport plans):
 - (a) Find the airport plan consistent with the *Airport Land Use ALUCP*.
 - (b) Find the airport plan inconsistent with the *Airport Land Use ALUCP*.
 - (c) Establish the intent to modify the *ALUCP* at a later date to reflect the assumptions and proposals in the airport plan—thereby making the airport plan consistent.
- 3.4.2. *ALUC Action Choices for Plans of New Airports or Heliports:* When reviewing proposals for new airports or heliports, the ALUC has two action choices:
 - (a) Approve the proposal as being consistent with the specific review criteria listed in Section 5.2 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 such a plan if the airport or heliport will be a public-use facility (State Aeronautics Act Section 21675(a)).
 - (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.
- 3.4.3. *Response Time:* The ALUC must respond to the submittal of an airport master plan or development plan within 60 days from the date of submittal.³⁰
 - (a) The date of submittal is deemed to be the date on which all applicable project information as specified in Policy 3.1.3 is received by ALUC Executive Director and the ALUC Executive Director determines that the application for a consistency determination is complete.
 - (b) If the ALUC fails to make a determination within the specified period, the proposed action shall be deemed consistent with the *ALUCP*.
 - (c) Regardless of ALUC action or failure to act, the proposed 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.

³⁰ This is a requirement of *Public Utilities Code Section 21676(d)*.