

Responses to CALTRANS Letter Dated October 26, 2018

Comment 1: According to the Handbook, the essential elements of land use compatibility planning in the vicinity of airports are noise, overflight, safety, and airspace protection. To ensure implementation of these essential elements, local agencies must be engaged in the airport land use compatibility planning process. It is also important for the ALUC and the local agencies to understand the overall value of the airports in Fresno County. This ensures that the objectives of the State Aeronautics Act can be fully implemented.

Response: Comment noted.

Comment 2: PUC section 21674(d) provides the powers and duties of an ALUC to review all local agency plans. Many times, master or development plans prepared by school districts, water purveyors, wastewater treatment operators, power suppliers, etc. are not consistent with a local agency's general plan. ALUCP policies pertaining to responsibilities of local agencies and ALUC review of local actions should consider the long-range plans of the local agencies, as defined by the statute.

Response: Section 2.3 Local Agencies and Stakeholders Subject to this ALUCP states: Local agency refers to Fresno County and any municipality with land use regulatory and permitting authority. It also includes school districts, community college districts, and special districts. Local agencies must incorporate compatibility policies and standards into their land use plans and regulations or overrule the ALUCP, in whole or in part.

Comment 3 Draft ALUCP section 1.5.1 discusses affected local agencies. The ALUCP should list each local agency affected by the ALUCP, including school districts, water purveyors, wastewater treatment operators, power suppliers, etc. according to PUC section 21670 (b)(2)(f). Identifying and notifying local agencies assists in avoiding conflicts between their master plans and the ALUCP. These local agencies must also update their master plans to be consistent with the ALUCP.

Response: Comment noted. Please see response to Comment 2.

Comment 4: Draft ALUCP section 2.1 lists previously used but not statutorily supported airport land use planning documents. The local agencies prepared such documents for their local airports and these documents do not meet the criteria established in PUC sections 21670(b) and 21675(a). Subsequently and pursuant to PUC section 21676 (a), each local agency shall submit their general or specific plans to the ALUC for a consistency determination with the current ALUC's airport land use plan. If the local agencies' general and specific plans are not consistent with the current ALUC's airport land use plan, the ALUC may require local agencies to submit all land use planning actions, in accordance with PUC section 21675.5(a).

Response: Comment noted. The ALUCP Update addresses ALUC consistency review before and after local agency consistency findings in Section 2.6, 2.7, and 2.8.

Comment 5: Similarly, draft ALUCP section 2.5.1 and 2.5.2 is only appropriate if the ALUC has made a consistency determination based on a valid ALUCP, adopted by the ALUC. These sections should note that any consistency determination made based on previously used but not statutorily supported airport land use planning documents may be subject to review by the ALUC.

Response: Comment noted. The ALUCP Update addresses ALUC consistency review before and after agency consistency findings in Section 2.6, 2.7, and 2.8.

Comment 6: Draft ALUCP section 2.3.2 accurately states that the ALUCP has no authority over airport operations but this limitation does not extend to land uses on the airport. PUC section 21674(d) provides an ALUC with the powers and duties to review plans, regulations, and other actions of airport operators. Airport operations and airport land use are distinct functions of an airport. Handbook section 6.2.3 provides guidance to ALUCs in addressing non-aviation development of airport property. State law authorizes ALUCs to review airport plans and does not prohibit an ALUC from making consistency determinations regarding airport development and plans. Since the ALUC is comprised of multi-jurisdictional members, it is appropriate to adopt a specific policy that allows ALUCs to make consistency determinations for airport development projects.

Response: Section 2.9 ALUC Review of Proposed Airport Plans and Projects addresses non-aviation development on airport property.

Comment 7: Draft ALUCP section 2.4.1 presents a policy regarding existing land use. This policy is a lenient application of the guidance provided in Handbook section 3.5.1. The draft ALUCP defines existing land use as parcels that are vested. Handbook section 3.5.1 presents three status categories of land use based on case law: (1) development rights established, (2) development rights uncertain, and (3) development rights not established.

Response: Comment noted.

Comment 8: Draft ALUCP section 2.4.4 states that construction of a single-family residence and secondary dwelling units are allowed on a legal lot of record. The Division's concern is that allowing secondary dwelling units within certain safety zones may exacerbate noise and safety incompatibilities. The Division recommends that the ALUC adopt a policy that limits secondary dwelling units, consistent with the Handbook's density and intensity criteria, in safety zones to minimize new noise and safety incompatibilities. Though local agencies implement secondary dwelling unit statutes through ordinances, these ordinances need to be consistent with the policy.

Response: Section 2.4.4 provides the following conditions for a single-family residence:

1. The property is located outside of Safety Zone 1 – Runway Protection Zone (RPZ)
2. The project is permitted by the local agency
3. The project is reviewed by the ALUC for consistency with this plan

Comment 9: Draft ALUCP Exhibit 2A may be mis-interpreted because the flow graphic shows the project or regulation sponsor proceeding with implementing the project or regulation, regardless of the ALUC’s consistency determination. If the ALUC determines that a project or regulation is inconsistent with the ALUCP, and if the project sponsor does not amend the project or regulation, or overrule the ALUC’s consistency determination, then the project sponsor cannot proceed with implementation of the project or regulation. The graphic should clearly show this matter.

Response: Comment noted. Exhibit 2A and Exhibit 2C have been modified to clearly show the project sponsor cannot proceed with implementation unless they take one of two actions: 1) modify the project to be consistent with the ALUCP, or 2) overrule the ALUC’s determination of inconsistency.

Comment 10: Draft ALUCP section 2.6.7 states, “any parcels less than one acre shall be evaluated for consistency based upon the compatibility zone that covers the majority of the parcel (greater than 50 percent).” Aircraft accidents do not occur along strict compatibility zones. The Handbook advises, “in situations where a parcel is split by two or more safety zones, clustering development can also be an effective means by which to avoid development in a higher risk safety zone. The disadvantage of clustering is that it allows an increased number of people to be in the potential impact area of an uncontrolled crash. Clustering is discouraged in zones 1, 2, and 3.”

Response: Comment noted. Clustering is encouraged per footnote 1 on Table 3A. Density criteria in Table 3A prevents clustering on parcels less than one acre because dwellings are not allowed in Zone 1; only one dwelling is allowed per 10 acres in Zone 2; and only one dwelling is allowed per 2 acres in Zone 3.

Comment 11: Draft ALUCP Table 3A provides generalized safety zone compatibility. Applying the compatibility criteria universally to the many different types of airports in Fresno County does not account for their varied circumstances. Some of the airports in the Fresno County are in rural and urban areas. The density and intensity criteria should be applied accordingly. Table 3A indicates some uses would not be prohibited though the Handbook discourages these types of uses. For example, the Handbook discourages multi-story uses in Safety Zone 2, but the Table prohibits multi-story exceeding three stories. In this case, a two-story building would be allowed but the Handbook advises against multi-story buildings. In more rural areas this policy would be inappropriate, but in more urban areas, it may be appropriate. For ease of use by local planners, a similar Table for each airport would be appropriate or Table 3A should be expanded to alert planners to the differences. Individualized tables would also minimize the burden of the ALUC to interpret the prohibited and allowable uses in Table 3A and how to apply appropriate conditions across several different circumstances.

Response: The safety zones within the Draft ALUCP have been differentiated based on runway length, types of operations, and activity levels using Handbook Figures 3A and 3B. It is Fresno COG's preference to take a uniform approach to establishing compatibility thresholds. The Handbook does not provide detailed objective criteria for differentiating based on the surrounding land uses, which makes it difficult to support adopting separate tables for each airport. The land use criteria included in the Draft ALUCP are consistent with guidance available in the Handbook. In addition, urban density criteria have been added to Table 3A within the City of Fresno to address this issue.

Comment 12: Draft ALUCP Table 3A does not prohibit land uses with vulnerable occupants in Safety Zone 6. The handbook states that there, “are uses for which risk acceptability cannot be measured simply in terms of the number of occupants.

Response: The Handbook does not specifically recommend that hospitals, preschools, schools, and other similar uses be prohibited in Zone 6, so no change to the table will be made.

Comment 13: Draft ALUCP Table 3B provides generalized noise compatibility. Applying the compatibility criteria universally to the many different types of airports in Fresno County does not account for their varied circumstances. Some of the airports in Fresno County are in rural and urban areas. The noise criteria should be applied accordingly. Handbook, Table 4A, lists normalization factors to be applied according to land use characteristics. An ALUCP policy pertaining to normalization would be appropriate in applying these factors to the various land use characteristics in Fresno County.

Response: The 60 CNEL was chosen as the threshold for compatibility. Per the 2011 Handbook, the 60 CNEL is suitable for new development around most airports and is particularly appropriate in mild climates where windows are often open.

Comment 14: Draft ALUCP section 3.4.5 discusses other airspace hazards. It also would be appropriate to include a referral area, consistent with FAA AC 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports, for each airport. This will alert planners to potential airspace hazards and whether a proposed land use requires ALUC review.

Response: The Handbook does not include specific guidance for adopting a boundary for evaluating potential wildlife, visual, electronic, or thermal hazards. The available guidance from FAA regarding wildlife hazards is included in Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants on or Near Airports and states that airports which have received Federal grant-in-aid assistance must comply with the standards. For example, at airports serving turbine-powered aircraft, FAA recommends a separation distance of 10,000 feet between these airports and hazardous wildlife attractants. It is important to note that these responsibilities rest with airport sponsors, rather than the ALUC. There is no other guidance available for establishing review areas for other flight hazards beyond the AIA included in the Draft ALUCP. Therefore, no changes will be made.

Comment 15: Draft ALUCP section 3.4.6 discusses FAA notification requirements per Title 14, Code of Federal Regulations, Part 77, Subpart B, Notice of Proposed Construction or Alteration, and by PUC sections 21658 and 21659. Listing the specific requirements of Federal Aviation Regulations (FAR) Part 77.13 in the ALUCP and in local land use plans or ordinances would assist planners identifying projects that may require FAA notification. This would benefit project sponsors in notifying the FAA during their due diligence or during pre-application processes.

Response: Please see Section 3.4.6 FAA Notification and Appendix M Supporting Materials.

Comment 16: The FAA AC 150/5200-33B identifies land use types that could attract wildlife as:

- Waste Disposal Operations
- Water Management Facilities
- Wetlands
- Dredge and Soil Containment
- Agricultural Activities
- Golf Courses, Landscaping and other uses
- Synergistic effects

The FAA discourages the land uses listed above within 5,000 feet of an airport

Response: See section 3.4.5 Other Flight Hazards (d). Also see response to Comment 15.

Comment 17: Some of the Draft ALUCP Airport Layout Plans (ALP) exhibited in Appendix A are not FAA signed versions. Providing copies of the most recently approved signed ALPs would be consistent with PUC section 21675(a).

Response: A scan of the signed ALP has been requested from the City of Firebaugh. Once received, it will be included in the document.

Comment 18: The PUC requires the ALUCP to be based on the anticipated growth of an airport during at least the next 20 years. Safety and noise compatibility, including safety zones and noise contour diagrams, must be based on 20-year forecasts and illustrated accordingly.

Response: Appendices A through J provide the bases for the ALUCP safety, noise, and airspace compatibility zones and criteria.