



SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
Airport Land Use Commission
STAFF REPORT

Item No.
4

Meeting Date: **NOVEMBER 4, 2010**

Subject:

Request for Policy Direction on Possible Amendments to the Airport Land Use Compatibility Plans for Brown Field Municipal Airport, Gillespie Field, Marine Corps Air Station Miramar, Montgomery Field, and Oceanside Municipal Airport

Recommendation:

Direct staff to prepare amendments to Airport Land Use Compatibility Plans along with associated environmental documentation for future consideration.

Background/Justification:

It is customary for agencies with land use jurisdiction to periodically revise regulations to address matters requiring clarification or correction. Since ALUC adoption of the Airport Land Use Compatibility Plans (ALUCPs) for Marine Corps Air Station (MCAS) Miramar in 2008 and Brown Field Municipal Airport, Gillespie Field, Montgomery Field, and Oceanside Municipal Airport on January 25, 2010, ALUC staff has encountered several issues when applying the ALUCPs to land use projects requiring consistency determination review. Other issues have been brought to staff's attention from other agencies that are in the process of implementing the ALUCPs.

In an effort to address these issues consistent with the intended policies of the ALUC, as well as ensure that the intended meanings are in effect before any affected local agencies complete ALUCP implementation through their codes, ordinances, and General Plans, staff is seeking ALUC policy direction. Staff will then craft ALUCP amendment language and prepare appropriate CEQA documentation, in order to codify the intended policies of the ALUC.

Governing State statute allows an ALUC to amend ALUCPs only once within a calendar year (Cal. Pub. Util. Code §21675(a)). Therefore, the ALUCP for McClellan-Palomar Airport is not included in this request because it was amended on March 3, 2010, and thus cannot be amended again until 2011.

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ALUCP Issues Needing ALUC Policy Direction

1. Clarify the safety matrix definition of shopping centers regarding eating and drinking establishments and correct the categories for bed and breakfast and small indoor assembly to correspond to adopted policy language.

At present, the ALUCPs define shopping centers as including eating and drinking establishments. Staff proposes to clarify that shopping centers may or may not include eating and drinking establishments. Staff review has also identified two errors in either how the information is graphically depicted in a matrix or described in text, with respect to small indoor assembly and bed and breakfast uses. Staff proposes to correct the matrix and text.

2. Clarify that existing non-conforming uses would be allowed to make alterations to comply with life/safety code upgrades, including accessibility requirements, without having to upgrade the entire site to reach conformity.

The ALUCPs currently do not allow non-conforming structures to be upgraded to meet current life/safety codes, including accessibility (i.e. ADA) requirements, without losing their non-conforming status. Staff proposes to modify the language to permit changes for life/safety code upgrades or accessibility requirements that would still allow the uses to retain non-conforming status, provided that any necessary height increase would not be deemed a hazard by the FAA.

3. Quantify ancillary uses to be consistent with other local agencies' definition.

The ALUCPs presently define an ancillary use as occupying no more than 10 percent of the floor area of a given use. This threshold is often too low for legitimately accessory uses. Further, other agencies, including the City of San Diego, define ancillary uses as 25 percent of the floor area. Staff proposes to increase the threshold to 25 percent to grant greater flexibility for uses to be classified as accessory and to be consistent with other agencies.

4. Clarify the method of calculating maximum use of a site for mixed-use projects.

The ALUCPs currently require that the maximum use of mixed-use projects be determined by assuming a proportionate share of a total building area to a proportionate share of the subject property. This does not yield a meaningful result. Staff proposes that the ALUCPs specify that maximum use be determined by using a proportional share of the floor area ratio limit as specified for each given use in the ALUCP.

5. Clarify the applicability of the ALUCPs to existing buildings that have a change in use (e.g., tenant improvements).

Vast portions of the urban Airport Influence Areas (AIAs) are occupied by existing buildings which are frequently adapted in whole or in part to new uses. Yet because the ALUC does not have jurisdiction over existing uses, there is no guidance on how new uses within existing structures are to be treated. Tenants change often within office and commercial buildings and there should be some means of addressing the compatibility of uses while still respecting the existing structure status.

Staff proposes that the ALUCPs treat uses within the same building code occupancy classification as substantially the same and thus not require ALUC review. Changes to a more intense classification (e.g., a religious assembly or day care facility replacing a former retail suite) would be subject to review.

6. Clarify which projects within an AIA's Review Area 2 require staff review.

Review Area 2 consists of those areas within FAA airspace or overflight notification areas, but outside of all noise contours and safety zones. The urban airport ALUCPs require ALUC review, by staff only, of all projects located within Review Area 2. The ALUCPs for the rural airports and MCAS Miramar only require ALUC review of projects within Review Area 2 when certain circumstances are met, such as structures which penetrate FAA airspace or which feature glare, bright light, wildlife attractants, etc.

Staff proposes to require ALUC review for projects within a Review Area 2 only when a project triggers ALUCP compatibility factors or includes circumstances of potential concern. This would be consistent with the ALUCPs for rural airports and MCAS Miramar. This action would eliminate unessential referral to ALUC staff by local agencies of most Review Area 2 projects.

7. Quantify how much change to a project is considered to be "substantive," requiring new ALUC review.

The ALUCPs do not include a definition of what constitutes a "substantive" change in a project such that new ALUC review may be required. Staff proposes to use a standard threshold increase of 10 percent above the original project attributes (area, lot coverage, floor area ratio) as a measure of "substantive" change. Project changes which do not increase more than 10 percent would not be subject to new ALUC review. This measure is used by both the City of San Diego and the County of San Diego.

8. Clarify which version of an ALUCP governs when a project with a "substantive" change comes back to ALUC for additional review.

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As currently written, the ALUCPs are unclear which ALUCP should be used to review a project that has been changed--the ALUCP in effect at the time of the original project or the ALUCP in effect at the time of the project amendment. Staff proposes to specify that changed projects would be reviewed using the ALUCP in effect at the time that the amended permit application was deemed complete. However, if the project is a "long-term project," staff would use the ALUCP in effect at the time of the prior ALUC review.

9. Clarify whether staff review alone is sufficient for projects which comply with all ALUCP consistency factors and no conditions are required.

At present the ALUCPs require ALUC review for all projects located within an AIA, even when all compliance factors are consistent. Because the ALUC convenes only once a month, applicants with ministerial projects that have short turnaround schedules often experience undue hardship, based on investments in employment, equipment, or property leases and acquisitions. Staff proposes that projects which are entirely consistent with all compatibility factors should proceed with staff review alone. This is the policy of many other California ALUCs.

Amendment Consideration

As with the initial development of the ALUCPs, ALUC staff would coordinate with affected local agencies to secure input on any proposed amendments which may result from ALUC policy direction. Staff can then present proposed ALUCP text changes and accompanying CEQA documents for ALUC consideration at its December 2, 2010 meeting, thus preserving opportunity for amendment of the ALUCPs in 2011.

Fiscal Impact:

Not applicable.

Environmental Review:

- A. ALUC direction to its staff is not a "project" as defined by the California Environmental Quality Act (CEQA). Cal. Pub. Res. Code §21065.
- B. ALUC direction to its staff is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

Equal Opportunity Program:

Not applicable.

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Item #4



**Request for Policy
Direction on Possible
Amendments to ALUCPs
for Brown Field Municipal
Airport, Gillespie Field,
MCAS Miramar,
Montgomery Field, and
Oceanside Municipal
Airport**

November 4, 2010



Purpose of Requested Amendments

- As staff of Airport Authority and other local agencies begin to implement urban ALUCPs, they have identified nine technical and process-related issues that either:
 - ✓ Unnecessarily hinders review and approval of consistency determinations
 - ✓ Are unclear or inconsistent
- Unless otherwise noted, all amendments would apply to all urban ALUCPs (except McClellan-Palomar, which was previously amended in CY2010)
- Initial review shows no CEQA impacts of proposed amendments
- Staff is coordinating with local agencies
- Seeking direction today; will request approval in December
- Maintains ability to amend in CY2011



1. Safety Clarifications for Three Land Uses

ISSUE: 1) *Shopping Centers* are described as always including eating/drinking establishments; 2) *Bed and Breakfasts* and *Small Indoor Assembly* uses are sometimes inconsistent regarding the matrix / text and policy language (see table on following slide)

RECOMMENDATION: Revise text and correct matrices to match policy language in each ALUCP



1. Safety Clarifications for Three Land Uses

Urban ALUCPs Only:

standing building (capacity <300 people)								See Policy 3.4.5(f)(1)
Regional Shopping Centers ≥300,000 s.f. with mixture of uses <u>that could includinginclude</u> eating/drinking establishments [approx. 110 s.f./person]	M		A 0.18	0.33 0.66	0.33 0.66	0.51 1.01		2 - 5: FAR limits as indicated 2, 5: No room with capacity ≥300 people allowed; auto parking preferred See Policy 3.4.5(f)(1)
Community/Neighborhood Shopping Centers <300,000 s.f. with mixture of uses <u>that could includinginclude</u> eating/drinking establishments [approx. 120 s.f./person]	M		A 0.19	0.36 0.72	0.36 0.72	0.55 1.10		2 - 5: FAR limits as indicated 2: Max. 10% of floor area or 3,000 s.f., whichever is less, devoted to eating/ drinking uses 2, 5: No room with capacity ≥300 people allowed; auto parking preferred See Policy 3.4.5(f)(2)
Detail Stores (stand alone buildings <25,000 s.f.)				0.54	0.54	0.78		
Bed & Breakfast Establishments	R-3							<u>2-5</u> : Maximum 5 rooms

MCAS Miramar ALUCP Only:

3.4.6(d)(5): Indoor Small Assembly Rooms are conditionally compatible in APZ II with a maximum of 50 people and in TZ with a maximum of 300 people.



2. Upgrades for Non-Conforming Structures

ISSUE: ALUCPs do not allow non-conforming structures to be upgraded to meet current life/safety codes, including accessibility (ADA) requirements (City of San Diego concern)

RECOMMENDATION: Amend ALUCPs to allow non-conforming structures to be upgraded without losing non-conforming status, *provided any height increase would not be deemed a hazard by the FAA*



2. Upgrades for Non-Conforming Structures

Non-conforming residential 2.11.2 (b)(2):

- (2) A nonconforming multi-family use may be reconstructed in accordance with Policy 2.11.3(b), but not expanded in number of dwelling units, floor area of the building, or height of the previously existing building. The FAR and height can be minimally increased only if necessary to meet current life/safety code standards (e.g., accessibility requirements). Such modifications must not result in an increase in height such that it would be deemed a hazard by the FAA.



2. Upgrades for Non-Conforming Structures

Non-conforming nonresidential 2.11.2 (c)(2):

- (2) Any maintenance, alteration, or reconstruction must not result in expansion of either the portion of the site or the floor area of the building devoted to the nonconforming use in a manner that would increase the maximum intensity limits (number of people per acre) or the *floor area ratios* to levels above those existing at the time of adoption of this *Compatibility Plan*. The FAR and height can be minimally increased only if necessary to meet current life/safety code standards (e.g., accessibility requirements). Such modifications must not result in an increase in height such that it would be deemed a hazard by the FAA.



3. Quantifying “Ancillary” Uses

ISSUE: ALUCPs currently define “ancillary” uses as no more than 10 percent of a project, which is lower than other local agency standards including the City of San Diego (City of San Diego concern)

RECOMMENDATION: Increase “ancillary” uses to no more than 25 percent of a project, consistent with City of San Diego standard



4. Method of Calculating Maximum Use of Site for Mixed-Use Projects

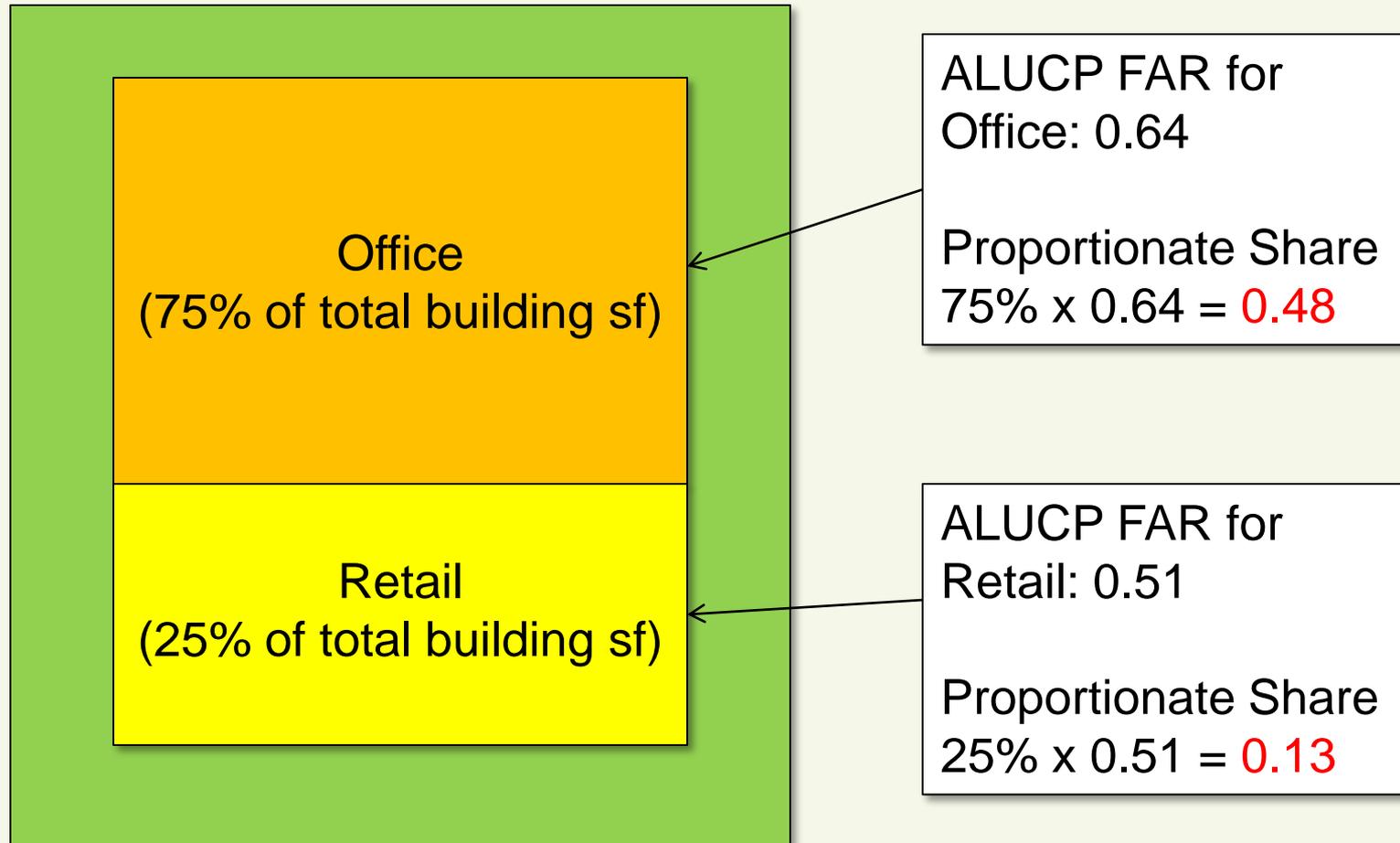
ISSUE: ALUCPs require complex Floor Area Ratio (FAR) calculation by dividing proportions of each use by the proportionate share of project site; does not yield meaningful maximum use result (City of San Diego concern)

RECOMMENDATION: Determine the maximum use of a site by multiplying the proportion of each use by the allowable FAR in the ALUCP (see illustration on following slide)

* *FAR = square feet of building / square feet of entire site*



4. Method of Calculating Maximum Use of Site for Mixed-Use Projects





4. Method of Calculating Maximum Use of Site for Mixed-Use Projects

- (1) The *FAR* for each component use shall be calculated ~~as being equal to the *FAR* for the total project~~ as a proportion of the *FAR* specified for that use. ~~That is, each component use shall be calculated as occupying a proportionate share of the total project site equal to its proportionate share of the total floor area of the project~~ For example, if 75% of a project's total square footage is office and 25% is retail, the allowable *FAR* for the office component would be 75% of the office *FAR* in **Table III-2** and the allowable *FAR* for the retail component would be 15% of the retail *FAR* in **Table III-2**. Each component use must ~~meet the~~ not exceed the proportionate *FAR* limit applicable to that use in order for the use to be allowed as part of the *project*.



5. Evaluating New Uses within Existing Structures

ISSUE: ALUCPs do not apply to existing land uses. However, when a new use is proposed inside an existing building (e.g. tenant improvement), ALUCPs do not provide guidance regarding when review is required

RECOMMENDATION: Interior improvements that stay within the *same or lower building code occupancy classification* will not be subject to ALUC review; projects proposing a *higher* classification (e.g. retail to assembly) will be subject to ALUC review



6. ALUC Review for Review Area 2 Projects

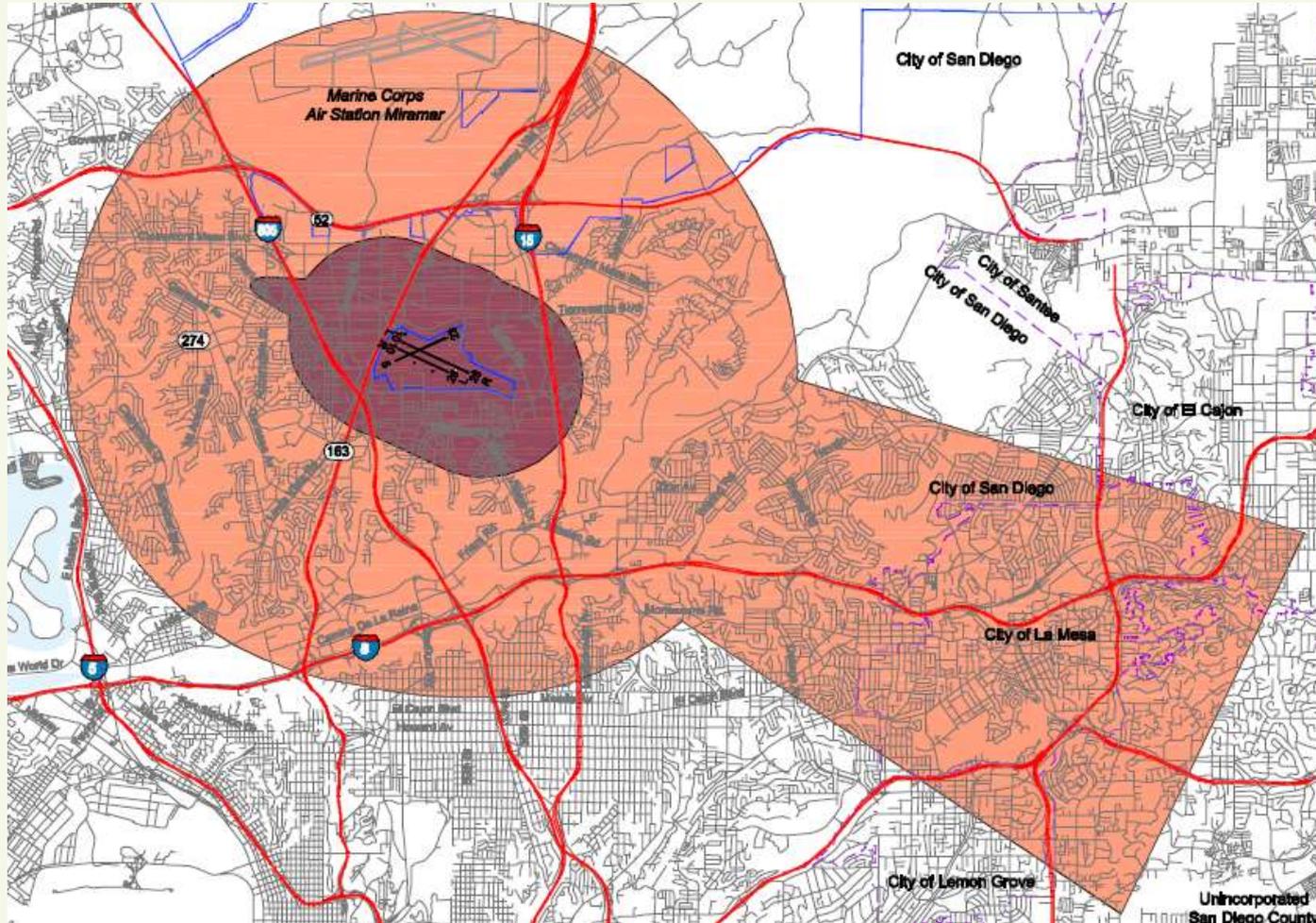
ISSUE: Urban airport ALUCPs require unessential ALUC review of Review Area 2 projects that do not trigger FAA review nor have other unique circumstances of concern, such as bright lights, glare, or wildlife attractants (see following slide for illustration of Review Area 2)

RECOMMENDATION: Revise urban airport ALUCPs to reflect that ALUC review is only required for Review Area 2 projects that trigger FAA review or have other unique circumstances of concern

(ALUCPs for MCAS Miramar and the rural airports already contain this recommended policy)



6. ALUC Review for Review Area 2 Projects





6. ALUC Review for Review Area 2 Projects

(1) Within Review Area 1, all *land use actions* are subject to *ALUC* review.

(2) Within Review Area 2, only the following *land use actions* require *ALUC* review:

(i) Any object having a height that requires review by the FAA in accordance with Federal Aviation Regulations (FAR) Part 77, Subpart B.

(ii) Any proposed object in a *High Terrain Zone* or in an area of terrain penetration to airspace surfaces which has a height greater than 35 feet above ground level.

(iii) Any project having the potential to create electrical or visual hazards to aircraft in flight, including: electrical interference with radio communications or navigational signals; lighting which could be mistaken for airport lighting; glare or bright lights (including laser lights) in the eyes of pilots or aircraft using the *Airport*; certain colors of neon lights- especially red and white- that can interfere with night vision goggles; and impaired visibility near the *Airport*. The local agency should coordinate with the airport operator in making this determination.

(iv) Any project 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 the *Airport*. The local agency should coordinate with the airport operator in making this decision.



7. Threshold of Change for ALUC Review

ISSUE: ALUCPs require ALUC review of projects when substantive changes are made, without quantifying what “substantive” means

RECOMMENDATION: Adopt 10 percent (of total building area, lot coverage, or floor area ratio) as a measurable threshold above which projects would be subject to ALUC review; this is the standard used by City of San Diego & County of San Diego



7. Threshold of Change for ALUC Review

(2) Any increase in the total building area, FAR, or lot coverage in excess of 10% of the previous project.



8. ALUCP Applicability to Amended Projects

ISSUE: For projects that changed “substantively” after local agency approval, ALUCPs provide no guidance on which version of an ALUCP would govern for subsequent reviews

RECOMMENDATION: Add policy language to specify review requirements, per tables in following slide



8. ALUCP Applicability to Amended Projects

Scenario	ALUC Review <u>Not</u> Required	ALUC Review Required
Prior ALUC Review/Amended Project	If < 10% change	<ul style="list-style-type: none"> • If >10% , use ALUCP in effect per the deemed complete date of the amended permit application <ul style="list-style-type: none"> ○ If meets definition of long-term project, use ALUCP in effect at the time of the prior ALUC review • If it doesn't meet long-term project definition, subject to ALUCP in effect per the deemed complete date of the amended permit application

Scenario	ALUC Review <u>Not</u> Required	ALUC Review Required
No prior ALUC Review/Amended Project	<ul style="list-style-type: none"> • If meets long-term project definition and/or • If < 10% change 	<ul style="list-style-type: none"> • If doesn't meet long-term project definition • Subject to ALUCP in effect per the deemed complete date of the amended permit application



9. ALUC Review of Projects that are Entirely Consistent

ISSUE: Applicants for projects that are entirely consistent must wait for monthly ALUC hearing to reaffirm staff findings; presents hardship for some applicants

RECOMMENDATION: Staff review is sufficient for projects that are consistent with all ALUCP compatibility factors (same as other California ALUCs)



Next Steps

- 1. Continue coordination with local agencies**
- 2. Complete CEQA documentation**
- 3. Present proposed amendments in December for ALUC consideration**