Naval Air Station North Island

Final Environmental Impact Report for the Naval Air Station North Island Airport Land Use Compatibility Plan

Appendices - Volume 2 of 2

Prepared for:
Airport Land Use Commission,
San Diego County Regional Airport Authority

Prepared by:
RICONDO

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February 18, 2020

Dear Members of the San Diego County Airport Authority,

The community of Coronado wishes to respectfully voice our opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue.

The Airport Land Use Compatibility Plan exceeds the authority of the San Diego County Airport Authority (“SDCRAA”).

The guidelines that the SDCRAA must follow in preparing the Airport Land Use Compatibility Plan (“ALUCP”) require that the plan only apply to undeveloped land that is currently not in conflict with the airport. The SDCRAA’s plan is based on the premise that Coronado is encroaching into NASNI. However, Coronado is built out and was incorporated prior to the establishment of NASNI. Coronado has land uses existing decades before North Island was built. Therefore, the premise that Coronado is encroaching into North Island is a misinterpretation by the Airport Authority.

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Included in the AICUZ is a 2020 “future” scenario, developed ten years ago and based on data from 20 years ago. The results are no longer accurate because of outdated noise simulation models, changes in flight paths since 2011, an inaccurate mix of aircraft fleet mix (e.g. Osprey aircrafts are not included) and underestimated evening and night flights, etc.

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For these reasons above, we request the SDCRAA Board Members reject the proposed plan as it exceeds the authority of the San Diego County Regional Airport Authority.

bob michaels
909 Ocean Blvd
bob.michaels90@gmail.com
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LuAnn Miller
142. I Ave
Coronado CA 92118
lj49@msn.com
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LYNN MISHKY
1040 ALAMEDA BLVD
Coronado CA 92118
junklfm@gmail.com
February 18, 2020

Dear Members of the San Diego County Airport Authority,

The community of Coronado wishes to respectfully voice our opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue.

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Peter Mishky
1040 Alameda Blvd
pmishky@gmail.com
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Kelly Montague
170 Alder Street
nadokelly@att.net
February 18, 2020

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Kathy Moore
300 GLORIETTA PL
CORONADO California 92118
ktm623@gmail.com
February 18, 2020

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Dino Morabito
939 Orange Avenue
Dino@themorabitogroup.com
February 18, 2020

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Michael Morgan
53 Tunapuna Lane
mwmutep77@icloud.com
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Maureen Moriarty
376 J Ave
moriarty.maureen@yahoo.com
February 18, 2020

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Edgar Morris
43 Sandpiper Strand
CORONADO CA 92118
nadoedmorris@gmail.com
February 18, 2020

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Greg Munning
225 H AVE
CORONADO California 92118
gregmunning@gmail.com
February 18, 2020

Dear Members of the San Diego County Airport Authority,

The community of Coronado wishes to respectfully voice our opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue.

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Sheryl Munning
225 H AVE
CORONADO California 92118
sherylsmun@gmail.com
February 18, 2020

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Larry Murnane  
133 F Avenue  
Coronado CA 92118  
Larry@CRES-LLC.com
February 18, 2020

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Jessica Mushovic
421 Eighth St
Coronado California 92118
jessicamushovic@gmail.com
February 18, 2020

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Alison Newhall
637 J Avenue
coronadoalison@yahoo.com
February 18, 2020

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Jim Newhall
637 J Avenue
newhall@san.rr.com
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Janice Nierenhausen
17 Montego Court
Coronado California 92118
jnplus11@hotmail.com
February 18, 2020

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Carrie OBrien
1014 Coronado Ave
Coronado CA 92118
cobrien@flagg.com
February 18, 2020

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Colette O’Brien
1140 Coronado Ave
Coronado California 92118
coco.obrien@my.wheaton.edu
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John OBrien
1140 Coronado
Coronado CA 92118
jobrien@flagg.com
February 18, 2020

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Marian O’Brien
931 Coronado Ave
Coronado CA 92118
obnomads5@earthlink.net
February 18, 2020

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918 10th St. Unit 3
Apt 5
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Joan Okeefe
950 Coronado Ave
Coronado CA 92118
Msebarrett@hotmail.com
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Monica Olivares
337 Glorietta place
monicaolivaressouza@gmail.com
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Eduardo Osio
1820 ave del mundo
macosio@hotmail.com
February 18, 2020

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Therese Pallares
16 Sixpence Way
Coronado CA 92118
Therese92118@gmail.com
February 18, 2020

Dear Members of the San Diego County Airport Authority,

The community of Coronado wishes to respectfully voice our opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue.

The Airport Land Use Compatibility Plan exceeds the authority of the San Diego County Airport Authority (“SDCRAA”).

The guidelines that the SDCRAA must follow in preparing the Airport Land Use Compatibility Plan (“ALUCP”) require that the plan only apply to undeveloped land that is currently not in conflict with the airport. The SDCRAA’s plan is based on the premise that Coronado is encroaching into NASNI. However, Coronado is built out and was incorporated prior to the establishment of NASNI. Coronado has land uses existing decades before North Island was built. Therefore, the premise that Coronado is encroaching into North Island is a misinterpretation by the Airport Authority.

SDCRAA’s limited scope to plan for undeveloped areas with incompatible uses for an airport zone does not apply to Coronado.

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Jon Palmieri
1107 F Avenue
Coronado California 92118
jon@jonpalmieri.com
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Donna Perkins
1128 1st St
Coronado
claricep@mac.com
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Nancy Peterson
936 H Ave
nancipeterson@msn.com
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David Piearcy
150 I Ave
fiu@sbcglobal.net
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William Piper
Coronado CA 92118
wpiper14@gmail.com
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Matthew Pontes
901 I Ave
matthew.pontes@gmail.com
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Jennie Portelli
814 glorietta
Jengazelle@aol.com
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Ruth Porter
671 Alameda Blvd
671 Alameda Blvd
Coronado CA 92118
ruthmp@sbcglobal.net
February 18, 2020

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Lisa Portnoff
1810 Avenida del Mundo
707
llportnoff@hotmail.com
February 18, 2020

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Michael Poynter
110 Acacia Way
poyntnorth@icloud.com
February 18, 2020

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Steve Prats
536 G Ave
Unit 2
steve.prats@gmail.com
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Mark Pugh
854 H Avenue
Coronado Ca 92118
davispugh@san.rr.com
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Kelly Purvis
560 C Ave
Coronado CA
kellygpurvus@gmail.com
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Aleene Queen
241 G Avenue
hilokona1965@san.rr.com
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Kristina Quesada
40 Ocean Ct
Coronado CA 92118
kristina.quesada@elliman.com
February 18, 2020

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Kerri Ramirez  
325 D Ave.  
Coronado CA 92118  
mhkerri@aol.com
February 18, 2020

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Patricia Rauber
382 Glorietta Blvd
corocruiser@gmail.com
February 18, 2020

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Douglas Reavie
42 Green Turtle Road
Coronado CA 92118
dreavie@gmail.com
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betty reynolds
1020 Pine St.
Coronado
bmottreyolds@yahoo.com
February 18, 2020

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Nancy Reynolds
436 A Avenue
coro436nado@gmail.com
February 18, 2020

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james reopelle
73 Antigua Ct
Coronado CA 92118
jreopelle@htk.com
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Neville Rich
12 Sixpence Way
Coronado CA 92118
poorneville@yahoo.com
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Doris Ricks  
275 Alameda Blvd  
Coronado California 92118  
kuuipodr@gmail.com
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Edward Robitaille
69 Catspaw Cpe
edrobitaille48@gmail.com
February 18, 2020

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gail rogers  
511 first st  
coronado CA 92118  
gailwrogers@att.net
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Smith Rogers
707 Orange Ave
Condo Unit E1
smithsaero@aol.com
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99 Tunapuna Lane
janiesrood@gmail.com
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michael rothschild
22 green turtle rd
mdrsenior714@gmail.com
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daniel runyon
1320 Glorietta Blvd
Coronado CA 92118
runyonrealestate@yahoo.com
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Richard Sadlier
30 Bridgetown Bend
ricksadlier@gmail.com
February 18, 2020

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Elizabeth Saffer
695 Guadalupe
elizabethsaffer@yahoo.com
February 18, 2020

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Edith Salas
1208 10th Street
Coronado CA 92118
ediths2020@gmail.com
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Daniel Sanchez Thielen
730 Alameda Blvd
Coronado CA 92118
sanchezilo@yahoo.com
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Eduardo Sanchez
450 Country Club Lane
Coronado CA 92118
pmailo@yahoo.com
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Jim Scanlon
325 Alameda Blvd.
Coronado CA 92118
nadojimmy@gmail.com
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Barbara Scannell
1710 Avenida Del Mundo #1507
Coronado CA 92118
Barbara@Scannell.net
February 18, 2020

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For these reasons above, we request the SDCRAA Board Members reject the proposed plan as it exceeds the authority of the San Diego County Regional Airport Authority.

Barbara Schmelzer
1099 First st. Unit 404
barbschmelzer@san.rr.com
Dear Members of the San Diego County Airport Authority,

The community of Coronado wishes to respectfully voice our opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue.

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Ann Marie Schmidt
961 Coronado Avenue
Coronado CA 92118
Cupaniopsis@hotmail.com
February 18, 2020

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Brian Schmidt
961 CORONADO AVE
CORONADO California 92118
Treehousemafia@gmail.com
February 18, 2020

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Maria Schmidt
740 Coronado Ave
mariaschm@aol.com
February 18, 2020

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Mark Schmidt
740 Coronado Ave
markschmi@aol.com
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Lynne Scott
morg723@aol.com
February 18, 2020

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Mary Scyocurka
744 I Avenue
Coronado CA 92118
mscyocurka@hotmail.com
February 18, 2020

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Richard Shaughnessy
610 Balboa Ave
Coronado CA 92118
rick@coronadopacific.com
February 18, 2020

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John Sheehan
1401 3rd Street
john_6688@hotmail.com
February 18, 2020

Dear Members of the San Diego County Airport Authority,

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Robert Shugert
43 Blue Anchor Cay Road
Coronado CA 92118
reshugert@aol.com
February 18, 2020

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Brian Smith
847 H Ave
bcsinvest2@gmail.com
February 18, 2020

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Howard Somers
234 A Ave
Coronado California 92118
urodoc79@gmail.com
February 18, 2020

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Coronado California 92118
jean_mom@yahoo.com
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Ann Sonne
1107 pine st
asonne@san.rr.com
February 18, 2020

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Carl Spier
302 STILLWELL DR
ARROYO GRANDE CA 934203444
kcmorganranch@sbcglobal.net
February 18, 2020

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Kandy Spier
685
Ocean Blvd
kcmorganranch@sbcglobal.net
February 18, 2020

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Rose Sporleder
660 1/2 I Avenue
rosesporleder@gmail.com
February 18, 2020

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Stephen Steinfeldt
2 Gingertree Ln
Coronado CA 92118
srsteinfeldt@earthlink.net
February 18, 2020

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Ann Steinwender
752 C Ave
Apt. C
Coronado CA
linsue.as@gmail.com
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Sue Steven  
14 The Point  
Coronado CA 92118  
sue_e_steven@hotmail.com
February 18, 2020

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Amy Steward
149 E Avenue
asteward1@ma.com
February 18, 2020

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Wayne Strickland
854 I Avenue
nadowayne@yahoo.com
February 18, 2020

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Anne Taylor
701 Adella Lane
pitocin1@gmail.com
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Mary Taylor  
1532 Glorietta Blvd  
Coronado CA 92118  
marymungertaylor@gmail.com
February 18, 2020

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Mary Ellen Teeter
531 I Avenue
sandmet@att.net
February 18, 2020

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Shelby Teeter
1517 2nd Street
B-210
shelbsca@hotmail.com
February 18, 2020

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Harry Thaete
1109 F Ave
Coronado CA 92118
hthaete@aol.com
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Ingeborg Thielen-Sanchez
450 Country Club Lane
Coronado CA 92118
ithielen@yahoo.com
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Shanna Thomas
160 F Avenue
ssth53@gmail.com
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Claudia Todaro
41 Ocean Ct
Coronado CA 92118
cmtodaro@aol.com
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For these reasons above, we request the SDCRAA Board Members reject the proposed plan as it exceeds the authority of the San Diego County Regional Airport Authority.

Victor Todaro
41 Ocean Ct
Coronado CA 92118
VCTODARO@AOL.COM
February 18, 2020

Dear Members of the San Diego County Airport Authority,

The community of Coronado wishes to respectfully voice our opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue.

The Airport Land Use Compatibility Plan exceeds the authority of the San Diego County Airport Authority (“SDCRAA”). The guidelines that the SDCRAA must follow in preparing the Airport Land Use Compatibility Plan (“ALUCP”) require that the plan only apply to undeveloped land that is currently not in conflict with the airport. The SDCRAA’s plan is based on the premise that Coronado is encroaching into NASNI. However, Coronado is built out and was incorporated prior to the establishment of NASNI. Coronado has land uses existing decades before North Island was built. Therefore, the premise that Coronado is encroaching into North Island is a misinterpretation by the Airport Authority.

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Zach Todaro
41 Ocean Ct.
ztodaro@gmail.com
February 18, 2020

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Jill Tortosa
83 kingston ct w
C
tortosa24@gmsil.com
February 18, 2020

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Stephen Toth
76 Half Moon Bend
Coronado Ca 92118
stoth45138@aol.com
February 18, 2020

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Richard Townsend
626 Margarita Avenue
Coronado CA 92118
drtownsend@aol.com
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Sandra Tredwell
1129 G Avenue
sandra.tredwell@gmail.com
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Carolynn Trepaso
327 I Ave
trepas1@san.rr.com
February 18, 2020

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Stephanie Tuckey
449 B Ave
schooldiva101@yahoo.com
February 18, 2020

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Candace Tyler
1427 5th St
Coronado CA 92118
missc65@san.rr.com
February 18, 2020

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Jennifer Vandenakker
370 I Avenue
jenniewv@gmail.com
February 18, 2020

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Aaron Vernallis
415 Alameda Boulevard
Coronado CA 92118
A.Vernallis@gmail.com
February 18, 2020

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Kevin Vienna
1820 Avenida del Mundo
#1501
Coronado CA 92118
KVienna@gmail.com
February 18, 2020

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Julia Viera
563 Alameda Blvd.
jjjav@aol.com
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Daniel Vinocur
411 6th street
Coronado CA 92118
vinocur@gmail.com
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Stephen Wampler
924 D Ave.
Coronado CA 92118
steve@wamplerfoundation.org
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Suzanne Ware
971 Cabrillo Ave
Coronado Ca 92118
susanware@gmail.com
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William Ware
971 Cabrillo Ave
willieware@aol.com
February 18, 2020

Dear Members of the San Diego County Airport Authority,

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kim warriner
havtrvl@aol.com
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Gerald White
417 10th Street
geraldawhite@cs.com
February 18, 2020

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Polly White
417 10th Street
polly@san.rr.com
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Louise Wicarius
711 2nd Street
loubelle@pacbell.net
February 18, 2020

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Heather Williams
110 Alder St
heatherwilliamsrn@yahoo.com
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Jane Williams
1100 ADELLA AVE UNIT 29
CORONADO CA 92118
kittwilliams@hotmail.com
February 18, 2020

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Kerri Wilson
10 Admiralty Cross
Coronado CA 92118
sdkerri@gmail.com
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Rosemary Wolanin
3124 Dusty Trail
Encinitas CA 92024
rwolanin@gmail.com
February 18, 2020

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Angela Yates
1130 Coronado Avenue
Coronado CA 92118
amyates@san.rr.com
February 18, 2020

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Pamela Young
921 9TH ST
Coronado CA 92118
scullypoodle@yahoo.com
February 18, 2020

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835 E Ave Unit E
Danyzaragoza75@gmail.com
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Bernardo Zavala
567 F Avenue
bzavala@me.com
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Dawn Zittel
212 F Avenue
dawnzittel4@gmail.com
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Jim Zortman
1010 E Avenue
jimzortman@aol.com
February 18, 2020

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The AICUZ did not require public review or comment, but is the foundation of the ALUCP. If the outcome of the ALUCP has already been pre-determined, and everyone’s “hands are tied,” there is a question as to the legitimacy of the public review and comment of the ALUCP.

For these reasons above, we request the SDCRAA Board Members reject the proposed plan as it exceeds the authority of the San Diego County Regional Airport Authority.

Nicole Zuckerman-Morris
1025 F Avenue
nicolezuckerman79@gmail.com
Please note our objection to the proposal.

Marion and Robert Scire
1036 Encino Row
Coronado, CA 92118
Good morning:
Thank you for providing the details regarding the above.
We can see from the mapping that our home at 1020 E Avenue, Coronado, lies within the research boundaries and have the following comments:

This ALUCP is arbitrary and does not consider the aircraft safety history impacting residential housing in Coronado. Researching the history of NASNI found NO aircraft accidents impacting housing in the non-NASNI areas of Coronado.

The City Council can take non-approval action of the ALUCP. The impact to the City is the Navy (U.S. Government) would not be liable for injuries and damages resulting from an aircraft impacting in the housing area addressed in the ALUCP.

I particularly object to:
1. Imposing height limitations below the 35 ft limit that currently exists.
2. Requiring home owners bear the cost of "sound mitigation" measures. The FAA provides funds to the San Diego Airport for sound mitigation measures in sound-impacted areas west of the Airport.
3. Limiting the square footage of single family residences beyond existing City zoning requirements. How does further limiting square footage of Single Family Residences contribute to safety?

Would you kindly reply to his message and acknowledge receipt? I'd like for these comments to be included in your records and further consideration. Being a real estate broker, I am very aware of the negative impact that this will have on our property rights and future values.

Thank you in advance.

Suzanne Volkman
(916) 847-1446
San Diego County Regional Airport Authority

Ralph Redman,

I am Rick Libenson, Trustee of the Libenson Family Trust (09/04/91). Our address is 1132 Isabella Avenue. Our lot consists of 28,415 square feet. Our family has a long term plan to create a second lot via a tentative and final map subdivision.

We expect to complete the tentative map approvals in advance of adoption of ALUCP. Will a tentative map approval qualify for receipt of a final map and be exempt from ALUCP?

Sincerely,
--

Rick Libenson
(619) 861-3084
rlibenson@costco.com

CC: John OBrien
January 17, 2020

IMPORTANT DOCUMENTS THAT WILL AFFECT YOUR PROPERTY ARE AVAILABLE FOR REVIEW

The San Diego County Regional Airport Authority has released an Environmental Impact Report (EIR) related to the creation of the Naval Air Station North Island Draft Airport Land Use Compatibility Plan (ALUCP). This proposed ALUCP will have implications on over 1,000 existing residential units in Coronado that will impact how your property can be developed in the future. If adopted, the ALUCP would impose new development restrictions on properties located in the Clear Zone, Accident Potential Zone I, and Accident Potential Zone II, including new limits on height, density, allowable land uses, a prohibition of new subdivisions, and requirements for noise attenuation measures in new construction. The back of this notice includes the map of affected areas that outlines the Clear Zone, Accident Potential Zone I, and Accident Potential Zone II.

The EIR concluded that there would be significant and unavoidable impacts to Land Use/Planning in the City of Coronado.

We encourage you as an affected property owner to review and comment on the EIR by FEBRUARY 7, 2020. The EIR can be found online at www.san.org/hasni as well as the Coronado Library; 640 Orange Avenue.

Comments should be addressed to the San Diego County Regional Airport Authority, Attention: Ralph Redman. Comments may be submitted by:

- Mail to the Authority offices at SDCRAA, P.O. Box 82776, San Diego, CA 92138-2776 (these comments must be postmarked by Friday, February 7, 2020).
- Hand delivery to the Authority offices at San Diego International Airport, 3225 N. Harbor Drive, 3rd Floor, San Diego, CA 92101 by 5:00 p.m. on Friday, February 7, 2020.
- E-mail to the Authority offices at alucpcomments@san.org. The Airport Authority will accept comments to this notice via e-mail received by 5:00 p.m. on Friday, February 7, 2020.

Please contact Ralph Redman, Manager, Airport Planning, at (619) 400-2464 if you have any questions.
LOCATION
Property Address 1132 Isabella Ave
Coronado, CA 92118-2832
Subdivision Coronado Beach South Island
Carrier Route C019
County San Diego County, CA
Map Code 1288H7

GENERAL PARCEL INFORMATION
APN/Tax ID 537-522-12-00
Alt. APN
City Coronado
Tax Area 02002
2010 Census Tract/Blok 219/1
Assessor Roll Year 2019

PROPERTY SUMMARY
Property Type Residential
Land Use Single Family Residential
Improvement Type Single Family Residential
Square Feet 6731
# of Buildings 1

CURRENT OWNER
Name Libenson Family Trust 09-04-91
Mailing Address Po Box 181887
Coronado, CA 92178-1887
Owner Occupied Yes
Owner Right Vesting

SALES HISTORY THROUGH 01/07/2020
Settlement Date Date Recorded Amount

TAX ASSESSMENT
Tax Assessment 2019 Change (%) 2018 Change (%) 2017
Assessed Land $2,331,253.00 $45,710.00 (2.0%) $2,285,543.00 $44,814.00 (2.0%) $2,240,729.00
Assessed Improvements $848,548.00 $16,038.00 (2.0%) $831,510.00 $16,311.00 (2.0%) $815,599.00
Total Assessment $3,179,801.00 $62,748.00 (2.0%) $3,117,453.00 $61,125.00 (2.0%) $3,056,328.00
Exempt Reason Homeowners Exemption
% Improved 27%

TAXES
Tax Year City Taxes County Taxes Total Taxes
2019

https://sdmls.cradata.com/MLS/Property/itU6ZG1y12laacm44V1s9W-crij774tc-O7znhmK8jF9-gkJpJao3hintbIVjJ3107-QMAGCEek4wpzBhl1
1/14/2020

CRS Data - Property Report for Parcel/Tax ID 537-522-12-00

<table>
<thead>
<tr>
<th>Year</th>
<th>Value</th>
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<tbody>
<tr>
<td>2018</td>
<td>$34,123.64</td>
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<tr>
<td>2017</td>
<td>$33,499.66</td>
</tr>
<tr>
<td>2016</td>
<td>$32,467.08</td>
</tr>
<tr>
<td>2015</td>
<td>$31,948.28</td>
</tr>
<tr>
<td>2014</td>
<td>$31,174.04</td>
</tr>
<tr>
<td>2013</td>
<td>$30,994.78</td>
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MORTGAGE HISTORY
No mortgages were found for this parcel.

FORECLOSURE HISTORY
No foreclosures were found for this parcel.

PROPERTY CHARACTERISTICS: BUILDING

Building # 1

<table>
<thead>
<tr>
<th>Type</th>
<th>Single Family Residential</th>
<th>Condition</th>
<th>Units</th>
<th>2</th>
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<tbody>
<tr>
<td>Effective Year Built</td>
<td>1935</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>BRs</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Sq. Ft.</td>
<td>6,731</td>
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Building Square Feet (Living Space)

- CONSTRUCTION

<table>
<thead>
<tr>
<th>Quality</th>
<th>Roof Framing</th>
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</thead>
<tbody>
<tr>
<td>Shape</td>
<td>Roof Cover Deck</td>
</tr>
<tr>
<td>Partitions</td>
<td>Cabinet Millwork</td>
</tr>
<tr>
<td>Common Wall</td>
<td>Floor Finish</td>
</tr>
<tr>
<td>Foundation</td>
<td>Interior Finish</td>
</tr>
<tr>
<td>Floor System</td>
<td>Air Conditioning</td>
</tr>
<tr>
<td>Exterior Wall</td>
<td>Heat Type</td>
</tr>
<tr>
<td>Structural Framing</td>
<td>Bathroom Tile</td>
</tr>
<tr>
<td>Fireplace</td>
<td>Plumbing Fixtures</td>
</tr>
</tbody>
</table>

- OTHER

| Occupancy          | Building Data Source       |

PROPERTY CHARACTERISTICS: EXTRA FEATURES

Feature | Size or Description | Year Built | Condition |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Pool</td>
<td></td>
<td></td>
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</tbody>
</table>

PROPERTY CHARACTERISTICS: LOT

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Single Family Residential</th>
<th>Lot Dimensions</th>
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<tbody>
<tr>
<td>Block/Lot</td>
<td>19/7,11</td>
<td>Lot Square Feet</td>
</tr>
<tr>
<td>Latitude/Longitude</td>
<td>32.684774°/-117.183472°</td>
<td>Acreage</td>
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</table>

PROPERTY CHARACTERISTICS: UTILITIES/AREA

<table>
<thead>
<tr>
<th>Gas Source</th>
<th>Road Type</th>
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</thead>
<tbody>
<tr>
<td>Electric Source</td>
<td>Topography</td>
</tr>
<tr>
<td>Water Source</td>
<td>District Trend</td>
</tr>
<tr>
<td>Sewer Source</td>
<td>School District</td>
</tr>
<tr>
<td>Zoning Code</td>
<td>R-1: Single Fam-Res</td>
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<tr>
<td>Owner Type</td>
<td>Coronado</td>
</tr>
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</table>

LEGAL DESCRIPTION

<table>
<thead>
<tr>
<th>Subdivision</th>
<th>Coronado Beach South Island</th>
<th>Plat Book/Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Block/Lot</td>
<td>19/7,11</td>
<td>Tax Area</td>
</tr>
</tbody>
</table>

https://sdmls.crsdata.com/mls/Property/4U6ZG1y12iiaacn4YK8W-CrgjT74tc-OQxnhmKN8iP9-gkJoelmThUJ3I07-QMAQCEek4wpzBht1
Tract Number: 000376
Description: Tr 376 Blk 19 Lot 11 0.65 Ac Ml In Lots 7 Thru

FEMA FLOOD ZONES

<table>
<thead>
<tr>
<th>Zone Code</th>
<th>Flood Risk</th>
<th>BFE</th>
<th>Description</th>
<th>FIRM Panel ID</th>
<th>FIRM Panel Eff. Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td>Minimal</td>
<td></td>
<td>Area of minimal flood hazard, usually depicted on FIRMs as above the 500-year flood level.</td>
<td>06073C1891H</td>
<td>12/20/2019</td>
</tr>
</tbody>
</table>

LISTING ARCHIVE
No Listings found for this parcel.

© 2020 Courthouse Retrieval System. All Rights Reserved. Information Deemed Reliable But Not Guaranteed.
Dear Ralph Redman,

This letter shall serve as a written comment to ALUCP Draft Plan........... specifically the new proposed sound standards. Our company retained an acoustical engineer to analyze sound attenuation measures that we incorporated in a recently completed home in APZ-2 zone. The Acoustic Engineer’s Report was prepared by Sound Solutions Acoustical Consulting, Bill Holiday, P.E. regarding Sound Transmission Attenuation for residential single family homes.

In 2017, Flagg Coastal Homes constructed a single family home at 1111 Pine Street which is located in Zone-2. Flagg submitted the City-approved construction plans (for a sound attenuation analysis) with additional accompanying information such as the proposed exterior wall sections, roofing/attic sections and door and window STL ratings for the Sierra Pacific aluminum clad double-paned wooden doors and windows.

This information was evaluated by a licensed Acoustic Engineering Firm, Sound Solutions, using US Department of Housing and Urban Development Sound Transmission Classification and Assessment Tool (STraCAT). The home was designed by Flagg Coastal Homes, incorporating the details, specifications and material selections of a custom Flagg Coronado home. We designed the house to exceed typical sound attenuation standards primarily because of its location near North Island. Our design met the exacting standards of STraCAT. and I'm pleased to report that the home passed the STraCAT test.

As a previous active member of the Naval Air Station North Island Working Group, I respectfully request that STraCAT certification be utilized as the "Standard" measurement for future projects and new home construction in the affected areas. Both the City of Coronado, and the homeowners in the affected APZ’s are interested in meeting a measurable standard rather than an unknown subjective measurement by another agency (with a much-different agenda) outside of Coronado.

I would be pleased to share the STraCAT analysis from our 1111 Pine experience.

Just so you know, our company both builds and designs homes situated in the ALCUP zone. Our efforts form the basic family income for a number of small subcontractors, suppliers and residents of our town. We take your possible restrictions quite seriously.

Sincerely,
To Ralph Redman,

I am a real estate agent representing the owners on the sale of the property at 685 Ocean Boulevard, Coronado. The house is 3,700 sf with a 2nd story over a portion of the house. The buyers are planning to add approximately 1,000-1,300 sf to the house which will result in an **allowed** two-story house under current Coronado standards. The property is surrounded by 2 & 3 story houses on three side and the ocean on the 4th side. There is a 3 story lifeguard stand on the beach in front of them.

The buyers will need to demolish the current house and build a new home and garage. It is likely that the home will require a "Ministerial" building permit.....all under current Coronado zoning. The owner is also cognizant of the sound requirements of ALUCP and will meet those requirements. Will this project be allowed under the new ALUCP?

Time and again through the AICUA/ALUCP process, we have been told that as long as the use of the property didn’t change and we complied with current Coronado Zoning, that a house could be rebuilt. An article in the Eagle Newspaper quoted Angie Jamison as saying the following:

“People can knock a house down and rebuild it; they can add a room or a deck. An owner can do pretty much whatever he wants with his property as long as it complies with local zoning laws and the use of the property doesn’t change, for example you can’t tear down a single-family home and put up a condominium,” Jamison explained. (See attached article)

How will the process for this particular home be handled after the plan is adopted?

Thank you,
Carrie

Carrie O'Brien
CalDRE Lic #01144127
Flagship Properties, Inc.
1014 Ninth Street
Coronado, CA 92118
619-847-3524
fax: 619-435-1610
cobrien@flagg.com

---

From: cobrien@flagg.com
To: alucpcomments
Cc: jbrown@coronado.ca.us; bking@coronado.ca.us; rbailey@coronado.ca.us
Subject: ALUCP draft
Date: Wednesday, January 29, 2020 3:40:43 PM
Attachments: sigimg0
sigimg1
From: cobrien@flagg.com  
Sent: Wednesday, January 29, 2020 4:23 PM  
To: alucpcomments  
Cc: jbrown@coronado.ca.us; bking@coornado.ca.us; rbailey@coronado.ca.us  
Subject: RE: ALUCP draft  
Attachments: Coronado Times AlCUZ.pdf

To Ralph Redman,
Attached is the article which I mean to attach to the last email.
Thank you!
Carrie

Carrie O'Brien
CalDRE Lic #01144127
Flagship Properties, Inc.
1014 Ninth Street
Coronado, CA 92118
619-847-3524
fax: 619-435-1610
cobrien@flagg.com

--------- Original Message ---------
Subject: ALUCP draft  
From: <cobrien@flagg.com>
Date: Wed, January 29, 2020 3:40 pm  
To: "alucpcomments" <alucpcomments@san.org>  
Cc: "jbrown@coronado.ca.us" <jbrown@coronado.ca.us>,
"bking@coornado.ca.us" <bking@coornado.ca.us>, "rbailey@coronado.ca.us"
<rbailey@coronado.ca.us>

To Ralph Redman,

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The buyers will need to demolish the current house and build a new home and garage. It is likely that the home will require a "Ministerial" building permit......all under current Coronado zoning.
The owner is also cognizant of the sound requirements of ALUCP and will meet those requirements. Will this project be allowed under the new ALUCP?

Time and again through the AICUA/ALUCP process, we have been told that as long as the use of the property didn’t change and we complied with current Coronado Zoning, that a house could be rebuilt. An article in the Eagle Newspaper quoted Angie Jamison as saying the following: “People can knock a house down and rebuild it; they can add a room or a deck. An owner can do pretty much whatever he wants with his property as long as it complies with local zoning laws and the use of the property doesn’t change, for example you can’t tear down a single-family home and put up a condominium,” Jamison explained. (See attached article)

How will the process for this particular home be handled after the plan is adopted?

Thank you,
Carrie

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fax: 619-435-1610
cobrien@flagg.com

Download Homes in Coronado

CORONADO

App

Google Play

HomeStock

FLAGSHIP PROPERTIES, INC.
When the Navy issued its Air Installations Compatible Use Zones (AICUZ) updated report in 2011, city officials went into panic mode. The report designated the runway approach to Naval Air Station North Island a crash zone and set noise and safety regulations that many in the city believed threatened the economy of the city.

After the report was issued many in the city thought that it would prevent people from remodeling or rebuilding their homes in the zone, which includes 415 homes, several businesses and 14 hotels, including the city's most iconic structure, the Hotel del Coronado.
It turns out that this is not the case. "The new rules only apply to new development," said Angie Jamison, Manager of Airport Planning.
It was a point she would return to over and over again at the three workshops the Airport Authority, acting as the Airport Land Use Commission, held at the Coronado Cays Yacht Club on Tuesday, March 22.

"People can knock a house down and rebuild it; they can add a room or a deck. An owner can do pretty much whatever he wants with his property as long as it complies with local zoning laws and the use of the property doesn’t change, for example you can’t tear down a single-family home and put up a condominium," Jamison explained.

The workshop at the Cays was the first of nine planned to help draw the public into the creation of an Airport Land Use Compatibility Plan (ALUCP) for North Island Naval Air Station. Under state law it must be compatible with the ALUCP.

That is why city officials panicked when the report was issued in 2011. At meetings held with the Navy and the airport commission at the time, stakeholders were told that homeowners would not be able to make any changes to their property.

"A nonconforming use cannot be expanded. This means that new homes could not be built on these 1,000 properties, except to replace in-kind current homes," Mayor Casey Tanaka told the Union-Tribune at the time.

During the intervening years a new interpretation or understanding appears to have emerged.
"When I went to the early stakeholder meetings, the information was different from what we were told several years ago," Councilwoman Carrie Downey said.

An ALUCP is not unlike a city's general plan or zoning ordinances that determine character of a neighborhood, be it single-family homes, apartment complexes, commercial enterprises or all three.

An ALUCP sets these standards for land around airports to prevent noise- and risk-sensitive uses (hospitals and schools for example) from airport operations and to protect airports from encroachments that might interfere or restrict airport operations.

The San Diego Airport Land Use Commission will be prepare the plan with input from local elected officials, a working-group that includes representatives from various stakeholders, including representatives the Navy, the City of Coronado, the Coronado Chamber of Commerce, and property owners in the crash zone. The general public will also have a voice in the process.
The commission has already set up public workshops to go over every aspect of the plan. The next workshop will be held on Wednesday, April 27 and focus on safety, for example. All subsequent workshops will be held in the Winn Room of the Coronado Public Library from 5:30 pm to 6:30 pm.

Attendance at the first meeting on March 22 was scanty. Only 36 people attended. There were three one-hour presentations starting at 4 pm. The numbers dwindled from 16 to 9 as the evening wore on. This may have been due to the location and the time of day. Driving to the Cays during rush hour would be a disincentive for most people, Downey pointed out. She attended all three sessions.

"I wanted to make sure I understood what information the Airport Land Use Commission was telling our residents. I also wanted to understand our residents' concerns," she wrote in an e-mail following the meeting.

Once the plan is drafted, it will be subject to an environmental review. Again, public comments will be taken. Finally, the Coronado City Council will review the plan. The whole process should be completed by mid-2018.

For more information on the ALUCP and the workshop schedule go to san.org/NASNI
(http://www.san.org/NASNI)
To Whom It May Concern,

I received the letter informing us that our property will be affected in the new Airport Land Use Agreement.
I certainly hope that this draft does not pass.
It is unfair to tell the citizens, who have paid A LOT of money to own property by the beach, how we can/can not use our property. It is ours.
I have lived in this property since 1973, and do not see any reason why changes need to be made.
I lost my father to the horrible Vietnam War, therefore have the utmost respect for our military, and actually enjoy hearing the planes, to me, that is the sound of freedom.

There should be no reason for the path to change, esp if this impacts so many others.
I hope you can see this side of the argument, and vote to leave the residents alone.
The sentence, "The EIR concluded that there would be significant and unavoidable impacts to Land Use/Planning in the City of Coronado," should be enough to stop your plans.

Thank you, Lisa Thompson
I am a long time resident of the Shores. I find the noise level of the helicopters and jets almost unbearable- a reason I am thinking of moving away from this area. You need to make every effort to move the flight paths farther away from our residences!

Donna Manning
1820 Avenida del Mundo, apt 107
Coronado, CA
Hello,

We have a single-story, single family residence in the Clear Zone on Coronado Avenue. Houses on both sides and across the street are taller 2 story houses. We are concerned with a great loss of property value if any future development or remodeling of this home were limited to the current height.

I have read through the draft ALUCP and cannot determine if the building height of a future home on our lot would be limited to the current height. Can you please clear that up for us?

Thank you,
Marcia Banks
To San Diego County Regional Airport Authority,
Attention: Ralph Redman

I am responding your Naval Air Station North Island Draft Airport Land Use Compatibility Plan (ALUCP) proposal. As a home owner within the impacted area near NASNI, my property rights, along with the other 1000 residential home owners, will be significantly diminished by the proposed ALUCP. Our home has been in owned by our family since first purchased in 1970. The severe restrictions that would be put in place, if the proposed ALUCP is implemented, is grossly unfair to my family and the other property owners within the affected areas. The premise that ALUCP is trying to increase safety, by preventing encroachment (next to NASNI) doesn’t fit the Coronado model. The city, as I was told, was laid out in 1887 and we have been consistent in our land use since. A significant buffer between civilians and the military was essentially gone by the time the Navy developed NASNI, in 1917. To come back more than 100 years later and attempt to retroactively put in place these limits on what land owners can do with their properties, along with noise attenuation requirements, is inherently unfair and wrong. It will have a significant negative impact on land owners and the Coronado economy as well, as housing pricings will drop due to the severe restrictions that would be put in place. More importantly, the impacted area will not make the civilians or Navy any safer, as the zoned area has already been developed.

Sincerely,
Tom Herman
Please attached letter. Thank you.
February 4, 2020

VIA U.S. MAIL AND EMAIL

Ralph Redman
Manager, Airport Planning
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, California 92138-2776

Re: NASNI – ALUCP DEIR-19-02; SCH No. 2019049125

Dear Mr. Redman:

We represent BSK Del Partners, LLC, owner of the Hotel del Coronado in the City of Coronado. Please accept these comments on the Draft Environmental Impact Report referenced above ("DEIR") on behalf of the Hotel del Coronado and its owner (collectively, "the Del").

The Del, a National Historic Resource, has existed since 1881 and pre-dates flight. The Del is also one of the nation’s top tourism destinations with an international reputation. Our goal throughout this process has been to ensure the Del’s continued ability to thrive and change as needed to continue its history of success.

As noted in the DEIR, representatives of the Del participated extensively in preparation of the draft Airport Land Use Compatibility Plan for Naval Air Station North Island now dated December 2019 ("ALUCP"). That effort included participation in the ALUCP Working Group as well as extensive negotiations with staff and representatives of the Airport Land Use Commission of the San Diego County Regional Airport Authority ("ALUC").

At its meeting of November 2, 2017, the ALUC directed its staff to proceed with preparation of a DEIR based on the proposed draft ALUCP presented at that meeting, now dated December 2019, and analyzed in the DEIR. At the ALUC meeting of October 5, 2017, I expressed the Del’s acceptance of the draft ALUCP and the Del’s support for the compromise language in that document. For the record, we note that the proposed ALUCP does the following:
1. The ALUCP and its appendices recognize the Del’s status as an existing resort – as does the Navy’s 2011 Air Installations Compatible Use Zones (“AICUZ”) study.

2. The ALUCP exempts development pursuant to vested rights from ALUC review.

3. The ALUCP allows for reconstruction of less than 50 percent of an existing development without ALUC review and allows full reconstruction at the same square footage with ALUC review – even if the reconstructed buildings were originally constructed per vested rights.

4. The ALUCP list of exemptions from ALUC review includes temporary uses and activities, repair, maintenance and remodeling within existing square footage.

5. The ALUCP acknowledges that Coronado is fully developed and therefore its existing general plan and zoning designations for existing development, including the Del, are not required to change – thus avoiding creation of non-conforming uses.

In other words, the draft ALUCP now adequately addresses the Del’s main concerns we identified when this process began. The ALUCP does not designate the Hotel del Coronado as a non-conforming use and it allows reconstruction in the event of a catastrophic event and build out and reconstruction of its vested rights per its master plan and development agreement.

Although no property owner appreciates a new layer of regulation and bureaucracy, we realize the State Aeronautics Act imposes certain mandates on the ALUC. Because the City of Coronado is fully developed with existing uses, we believe that act and its accompanying Caltrans handbook provide the ALUC flexibility to adjust its ALUCP accordingly. We believe the policies included in this draft ALUCP are consistent with the State Aeronautics Act and Caltrans handbook provisions applicable to fully developed areas of existing uses.

As a result, we encourage the ALUC to adopt the ALUCP in a form that includes and maintains all the important language addressing the issues addressed above and as set forth in the December 2019 draft ALUCP. The Del reserves any and all rights it may have to contest or challenge any version of the ALUCP that does not include this language or address these vital issues in the same manner as the December 2019 draft ALUCP.

As for the DEIR itself, the Del appreciates the Appendix B “Revised Analysis of Potentially Displaced Development – Hotel del Coronado.” Appendix B correctly describes the Del’s vested rights under its approved master plan.

The DEIR concludes it is too speculative to discuss or analyze the potential impacts resulting from potential development in new locations to accommodate the displaced residential, commercial and hotel development. However, the city of Coronado is relatively small, the areas for the relocated displaced development are limited, and the amount of potential displaced development is easily quantified. As a result, it seems possible to have done at least some preliminary analysis of the potential impacts of development in potential new locations for the
displaced development, particularly in the topics of traffic circulation, air quality, aesthetics and greenhouse gas emissions, among other CEQA mandated topics.

We appreciate the opportunity to comment on the DEIR. We encourage the ALUC to maintain the provisions of the December 2019 ALUCP as they pertain to the Del’s future development.

Very truly yours,

David E. Watson

cc: Hotel del Coronado

DM210910163.1
San Diego County Regional Airport Authority  
alucpcomments@san.org  
Attn: Ralph Redman  

Ref: Environmental Impact Report  

Dear Mr. Redman  

Thank you for soliciting comments on the EIR. My wife and I own a house that is within the Accident Potential Zone. We specifically want to go on the record concerning the proposed ALUCP.  

North Island Naval Air Station began in service over 100 years ago. Aircraft have been using this base much longer than we have been coming to Coronado. All of us who reside in the area, have moved here by choice. We are well aware of the take-off and landing routines plus the variable noise levels that are commensurate with an active air field.  

No doubt your goal is to reduce our risk of exposure to potential hazards and excessive noise issues caused by flight operations. In our view, adding new rules, restrictions, and approval layers is totally uncalled for. Here is why.  

Last year approximately 257 people around the world were killed in plane crashes. The odds of dying in a plane crash are estimated at 1 in 5 million. At the same time approximately 37,000 people were killed in car crashes, just in America. The odds of being killed in a motor vehicle accident are about 1 in 103.  

The maximum aircraft noise that you project within the APZ is 75 dB while the noise level of legal street motorcycle is 80 dB.  

At a time when states are searching for ways to make housing more affordable, adding unnecessary regulations or diminishing what land is available for residential use would seem to be very counterproductive.  

No one wants accidents to happen but there is also no way to totally eliminate all risk. If you have extra time and money to reduce risk for Coronado residents, logic would suggest that the focus be on automobiles rather than on aircraft.
Sincerely

Jon & Janie Pollock
716 Tolita Avenue
Coronado, CA 92118
jonp@trioltd.com

Author of “Questions for Kids” now available at http://www.amazon.com/dp/1547153121
The City of Coronado was established long before NASNI. There is no reason that Coronado citizens and property owners should continue to allow Navy aircraft to encroach on the long established city boundaries.

We support the armed forces, and have family members who have served in both WWII and Vietnam. The flight paths for the air operations at NASNI need to be rerouted so as not to encroach on the airspace over the city of Coronado, or the busy San Diego Bay.

Navy aircraft can fly out over the ocean and approach the base from the beach side.

As residents and property owners for many years, we constantly put up with Navy aircraft noise, pollution, and the worry of a potential crash over part of our city.

The proposed ALUCP will further rob us all.

Thank you,
The Kennedy Family
Hello,

If the “ALUCP does not prohibit expansion or reconstruction of an existing residential use and if it has no authority to impose structural height restrictions” as you note below, then the exemptions to ALUC Review noted in Section 3 regarding “alterations to existing residential uses” needs to be revised to reflect that. Table 3 (2 of 2) should not include an increase in height as a requirement for review by ALUC. There are many situations where a residential property may request to increase a portion of its height in a way that is allowed by the City’s height restrictions and FAA requirements. All 3 points should be corrected with the removal of “with no increase in height” since it is extremely limiting. Residential use properties which are requesting an increase in height that is permitted by City codes and either, 1) do not require a special review by the FAA or 2) have received FAA approval; should not be automatically subject to ALUC review.

It is the City’s responsibility to make sure that it’s residential use height restrictions meets the FAA Requirements. If, as you say, the “ALUCP has no input into whatever the FAA may advise regarding structural heights” then the sections noted above which state “with no increase in height” should be removed from the draft.

Sincerely,

Carrie O’Brien
CalDRE Lic #01144127
Flagship Properties, Inc.
1014 Ninth Street
Coronado, CA 92118
619-847-3524
fax: 619-435-1610
cobrien@flagg.com
Hello-

We are in receipt of your email and it will be included in the formal record of all comments received on the NASNI EIR. Airport Land Use Commission (ALUC) staff will respond to all comments received as part of the final EIR when it is posted online at a future date (TBD). In the meantime, below is a response to your comment.

The ALUCP does not prohibit the expansion or reconstruction of an existing residential home. The ALUCP would require sound attenuation for additions that are more than 50% of the existing square footage of an existing home or completely new homes on vacant lots or replacing demolished ones. The ALUCP sound attenuation standards are congruent with the City’s own existing standards. Typical construction practices to meet State energy conservation standards required for building permitting will normally provide the necessary levels of sound reduction in most noise contours without extraordinary measures.

With respect to the height of new structures, the ALUCP has no authority to impose structural height limits. The ALUCP only reinforces existing requirements to notify the Federal Aviation Administration (FAA) for its review of proposed construction within airport vicinities. The ALUCP has no input into whatever the FAA may advise regarding structural heights, but the City holds ultimate permit authority over construction.

Thank you.

From: cobrien@flagg.com <cobrien@flagg.com>
Sent: Wednesday, January 29, 2020 4:23 PM
To: alucpcomments <alucpcomments@san.org>
Cc: jbrown@coronado.ca.us; bking@coornado.ca.us; rbailey@coronado.ca.us
Subject: RE: ALUCP draft

To Ralph Redman,

Attached is the article which I mean to attach to the last email.
Thank you!
Carrie

Carrie O’Brien
CalDRE Lic #01144127
Flagship Properties, Inc.
1014 Ninth Street
Coronado, CA 92118
619-847-3524
fax: 619-435-1610
cobrien@flagg.com

------ Original Message -------
Subject: ALUCP draft
From: <cobrien@flagg.com>
To Ralph Redman,

I am a real estate agent representing the owners on the sale of the property at 685 Ocean Boulevard, Coronado. The house is 3,700 sf with a 2nd story over a portion of the house. The buyers are planning to add approximately 1,000-1,300 sf to the house which will result in an allowed two-story house under current Coronado standards. The property is surrounded by 2 & 3 story houses on three side and the ocean on the 4th side. There is a 3 story lifeguard stand on the beach in front of them.

The buyers will need to demolish the current house and build a new home and garage. It is likely that the home will require a "Ministerial" building permit.....all under current Coronado zoning. The owner is also cognizant of the sound requirements of ALUCP and will meet those requirements. Will this project be allowed under the new ALUCP?

Time and again through the AICUA/ALUCP process, we have been told that as long as the use of the property didn't change and we complied with current Coronado Zoning, that a house could be rebuilt. An article in the Eagle Newspaper quoted Angie Jamison as saying the following: “People can knock a house down and rebuild it; they can add a room or a deck. An owner can do pretty much whatever he wants with his property as long as it complies with local zoning laws and the use of the property doesn’t change, for example you can’t tear down a single-family home and put up a condominium,” Jamison explained. (See attached article)

How will the process for this particular home be handled after the plan is adopted?

Thank you,
Carrie

Carrie O'Brien
CalDRE Lic #01144127
Flagship Properties, Inc.
1014 Ninth Street
Coronado, CA 92118
619-847-3524
fax: 619-435-1610
cobrien@flagg.com
TO: San Diego County Regional Airport Authority  att: Ralph Redman
CC: Coronado Mayor, Richard Bailey, City Manager, Blair King

My wife and I have owned our home in Coronado at 1118 Loma Lane for over 15 years. It was designated historic over 16 years ago. We love our home and the Coronado community. We have received the information on the EIR for the ALUCP and it concerns us.

We have made modifications to our historic home in the past and have always abided by the historic resource commission regulations. We are concerned that the new proposals by the ALUCP may affect the authority of the historic resource commission to issue their historic alteration permits. We do not think this would be appropriate. Between the historic commission and the city regulations we believe this is adequate over site for construction in Coronado and we do not need additional regulations. For instance we are considering adding a guest house to our property since our house is only 1,120 sf on a 4,000 sf lot. Would the proposed 50% limit on increase in size (Table 3, page 10) result in us being allowed to add only 560 sf or less (which is much lower than the current Coronado code). Since our house is historically designated, does the new restriction also mean that we wouldn't be allowed to add a guest house/ADU at all even if approved by the Historic Resource Commission?

thank you for your response

Milt and Cindy McColl
1118 Loma Lane
Coronado, CA

Milt McColl MD
650-520-7284
I have owned my home in Coronado for more than 15 years. I speak also as a licensed pilot who has made hundreds and hundreds of landings at FAA regulated airports. My home is currently 2 bedrooms and both of the bedrooms are on the second story. I am constantly considering upgrading to a larger home in Coronado to better serve my family’s needs as it grows. I am concerned that the new proposals by the ALUCP may affect the ability to alter a new home unfairly that I may want to purchase. I see no reason the ALUPC should have authority over heights and other restrictions on Coronado other that what the Coronado code currently allows or limits. These regulations are adequate and safe. As a pilot I can see no reason to limit the height of a home when the home next door is already two stories; or many of the neighborhood homes are that height. I believe the current height regulations are safe and adequate as written in the city code. I believe that any new regulations would seriously limit both the ability to sell my home and the ability to alter any home I am interested in purchasing in the future that would be so regulated.

thank you in advance for your response

Milt McColl MD

1118 Loma Lane

Coronado, CA
Please see the attached.

Thank you.
Mark / KC Spring
February 6, 2020

San Diego County Regional Airport Authority (SDCRAA)
Via email

Dear Committee Members:

Comments regarding the December 2019 Draft Airport Land Use Compatibility Plan

We are current, full-time residential property owners at 1105 Pine Street in Coronado, California. Our property, a single-family residence, is located in the declared Accident Potential Zone 1 per the 2011 Air Installations Compatible Use Zones (AICUZ) study.

The draft Airport Land Use Compatibility Plan (ALUCP) states in Section 1 that its objective is to prevent an increase in the level of incompatibility, beyond that described in the AICUZ study. The ALUCP, however, does not adequately respect the rights of the existing property owners in achieving this objective. Most glaringly, it ignores the obvious way to:

1) reduce noise
2) reduce pollution
3) increase safety

by reducing and/or redirecting the flight traffic at Naval Air Station North Island (NASNI).

We request respectfully that any final ALUCP obtain commitments from NASNI to explicitly ensure a decrease in incompatibility, rather than placing the responsibility for maintaining the current level of incompatibility on current property owners.

We have reviewed the draft ALUCP and object on multiple points:

- The application of the ALUCP to Coronado represents an inappropriately broad, redundant, and bureaucratic process applied to an area uniquely different from all other San Diego airport sites.
  - The land in the declared Clear Zone, Accident Potential Zone 1, and Accident Potential Zone 2 areas has been fully developed for decades; the City of Coronado and residential development in these areas long preceded NASNI operations.
• The City of Coronado has strict zoning regulations already in place that govern the size, height, and density of residential and commercial structures.
  o The proposed overlay of additional restrictions on property use will eliminate or materially reduce opportunities for property owners to improve or enhance their properties, including the addition of Additional Dwelling Units for family members.
  o Proposed new residential projects should not be subjected to ALUC review and approval. Such a requirement would be redundant over existing zoning requirements, add needless delays to project approval processes, and add incremental costs.

• Proposed ALUCP limits on property will potentially impair property values permanently, and may lead property owners to seek recourse and compensation through legal actions.

Only property owners who are submitting applications for proposed projects are defined as “stakeholders” in Table 2 of the draft report. Every current property owner should be considered a stakeholder. This intentional exclusion of approximately 1,000 private property owners is restrictive and reductive.

A significant step towards achieving the ALUCP’s stated goal of increased safety would come from consistent use of over-ocean approaches to Runway 29. The long-standing practice of following Coronado’s heavily populated beach as the flight approach for the majority of helicopters and fixed wing aircraft landings at NASNI needs to be eliminated, except in unusual circumstances.

We are calling on the SDCRAA to respect Coronado’s existing zoning regulations, and protect the freedoms and rights of the current property owners by modifying Exemptions from ALCU Review (Table 3) in the draft report to permit changes or additions to existing residential uses within the current and future Coronado zoning regulations, which already impose strict control over height, density, and usage.

Respectfully yours,

Mark Spring

K.C. Spring
To:
Whom It May Concern
San Diego County Regional Airport Authority
RE: the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP)

From:
Jerald Wallace Mitchell
431 Ocean Blvd.
Coronado, CA 92118

CC: Coronado City Mayor and Council

February 6, 2020

We received the letter in the mail from the City of Coronado notifying us of “the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP) that will have implications on over 1000 existing residential units in Coronado that will impact how your property can be developed in the future. IF adopted, the ALUCP would impose new development restrictions on properties located...”

My property at 431 Ocean Blvd. was built in 1962 by my parents (my father was a 30-year Navy veteran stationed mostly at NASNI). It will be directly impacted. The question is, exactly, how? I have read through much of the report which is very detailed and sometimes unclear or has gray areas. Here is a list of questions/concerns/comments that I would want addressed/answered.

1. When the letter says “IF ADOPTED” does that mean there is a chance it will not be adopted? Can the City of Coronado (and other cities) not agree to the ALUCP and is it possible it would not? If so, what would that mean?

2. Is the USN/FAA etc. working with the City (and other cities) to be good neighbors, while understanding we appreciate the “Sound of Freedom” from the airplanes etc.... we just want our freedoms and a good balance of reasonable steps for ownership freedom and public safety. What is the motivation of the new regulations? Is it that there is going to be more Navy traffic or is it the type of aircraft flying in and out of NASNI? Is this opening the door to possibly commercial flights, as 737 passenger jets are among the aircraft?

3. Why are the home owners responsible for reducing the impact of the sound rather than the USN responsible for reducing the sound through their landing protocol/air strip/landing zones etc. ?

4. I am also a realtor, these new regulations, if adopted, would have to be disclosed. This could have an impact on property values as an owner, and for other owners and potential buyers.
5. If it is adopted, what exactly will change from what exists now for my property and those in the affected area?

6. What part of the house needs to meet the DB criteria and when? When it talks about being required, for example, to come from 65 DBs to 45 DBs, at what point would that be required? If I do a “remodel”? And is that of the whole house or what if it’s just a bathroom or something on the interior? Does filing for a permit for anything “trigger” these new criteria be met for the rest of the home or is it just if there’s an addition that would then need to meet the requirement? And is it for just that part of the house or the whole house, meaning ALL the windows and insulation etc. would have to be replaced/brought up to the new standard? Who does the testing?

7. Why should the government need to control the DB of my home in the first place? What if I wanted a home without windows, or an open floor plan that is a non-traditional home? Is this going to require me to have the “inside” of my home “quiet” at 45 DB and mean I can’t have an unconventional home on my property? (assuming it meets basic city code.)

8. What’s the difference between a “remodel” and “rebuild”?

9. This all seems like it would be extremely burdensome on the property owners in the whole affected area... and

10. Because these new requirements are being proposed due to the increase in military air traffic at NASNI, is there funding to off-set the required sound/window/insulation rules for potential changes to the house/property? It’s my understanding there is some through the Airport Authority. Will this house and other be eligible for that and if so, how much/credit would be due per home/household etc.?

11. How is the Coronado City’s General Plan affected by this proposal?

12. Is DECIBAL REDUCTION the only thing that would have to be adhered to if it is approved? If not, what else would a property owner be required to do, and when and why?

13. What is the timeline of this? It appears the military air traffic increase is already set to begin in 2020.

Thank you for your time and review. I look forward to hearing from your office and knowing my concerns and questions were considered and factored into the process.

Jerald Wallace Mitchell
Please confirm receipt of this email.

To:
Whom It May Concern
San Diego County Regional Airport Authority
RE: the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP)

From:
Ann Glick Mitchell
421 Ocean Blvd.
Coronado, CA 92118
Annventure1@gmail.com

CC: Coronado City Mayor and Council
To:
Whom It May Concern
San Diego County Regional Airport Authority
RE: the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP)

From:
Ann Glick Mitchell
421 Ocean Blvd.
Coronado, CA 92118
Annventure1@gmail.com

CC: Coronado City Mayor and Council

February 6, 2020

My husband and I first built 431 Ocean Blvd. in 1962 (he was a Lt. Commander in the Navy and the lot cost $15,000) and we remodeled 421 Ocean Blvd. in 1988 and included double paned windows to have a great view of the beach, ocean and airplanes, and also to block out a lot of sound. My husband passed away of ALS in our home in 1994 and I, 95 ¾ years old, still live at 421 and co-own 431. My late husband retired at North Island and we loved the Navy. However, I have concerns about these new proposed regulations for the Accident Potential Zone and how they might impact my home now and in the future. With the help of two of my children, we have read through much of the report which is very detailed and sometimes unclear or has gray areas. Here is a list of questions/concerns/comments that I would want addressed/answered.

1. When the letter says “IF ADOPTED” does that mean there is a chance it will not be adopted? Can the City of Coronado (and other cities) not agree to the ALUCP and is it possible it would not? If so, what would that mean?

2. Is the USN/FAA etc. working with the City (and other cities) to be good neighbors, while understanding we appreciate the “Sound of Freedom” from the airplanes etc…. we just want our freedoms and a good balance of reasonable steps for ownership freedom and public safety. What is the motivation of the new regulations? Is it that there is going to be more Navy traffic or is it the type of aircraft flying in and out of NASNI? Is this opening the door to possibly commercial flights, as 737 passenger jets are among the aircraft?

3. Why are the home owners responsible for reducing the impact of the sound rather than the USN responsible for reducing the sound through their landing protocol/air strip/landing zones etc.?

4. If it IS adopted, what exactly will change from what exists now for my property and those in the affected area?

5. What part of the house needs to meet the DB criteria and when? When it talks about being required, for example, to come from 65 DBs to 45 DBs, at what point would that be required? If I do a “remodel”? And is that of the whole house or what if it’s just a
bathroom or something on the interior? Does filing for a permit for anything “trigger” this new criterion be met for the rest of the home or is it just if there’s an addition that would then need to meet the requirement? And is it for just that part of the house or the whole house, meaning ALL the windows and insulation etc. would have to be replaced/brought up to the new standard? **Who does the testing?**

6. **Why should the government need to control the DB of my home in the first place?** What if I wanted a home without windows, or an open floor plan that is a non-traditional home? Is this going to require me to have the “inside” of my home “quiet” at 45 DB and mean I can’t have an unconventional home on my property? (assuming it meets basic city code.)

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10. **How is the Coronado City’s General Plan affected by this proposal?**

11. Is **DECIBAL REDUCTION** the only thing that would have to be adhered to if it is approved? If not, what else would a property owner be required to do, and when and why?

12. **What is the timeline of this?** It appears the military air traffic increase is already set to begin in 2020.

Thank you for your time and review. I look forward to hearing from your office and knowing my concerns and questions were considered and factored into the process.

Ann Mitchell
Please confirm receipt of this email.

To:
Whom It May Concern
San Diego County Regional Airport Authority
RE: the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP)

From:
Jane Mitchell
431 Ocean Blvd.
Coronado, CA 92118
NoPlainJane2000@gmail.com

CC: Coronado City Mayor and Council
To:
Whom It May Concern
San Diego County Regional Airport Authority
RE: the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP)

From:
Jane Mitchell
431 Ocean Blvd.
Coronado, CA 92118
NoPlainJane2000@gmail.com

CC: Coronado City Mayor and Council

February 6, 2020

We received the letter in the mail from the City of Coronado notifying us of “the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP) that will have implications on over 1000 existing residential units in Coronado that will impact how your property can be developed in the future. IF adopted, the ALUCP would impose new development restrictions on properties located…”

My property at 431 Ocean Blvd. was built in 1962 by my parents (my father was a 30-year Navy veteran stationed mostly at NASNI). It will be directly impacted. The question is, exactly, how? I have read through much of the report which is very detailed and sometimes unclear or has gray areas. Here is a list of questions/concerns/comments that I would want addressed/answered.

1. When the letter says “IF ADOPTED” does that mean there is a chance it will not be adopted? Can the City of Coronado (and other cities) not agree to the ALUCP and is it possible it would not? If so, what would that mean?
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3. Why are the home owners responsible for reducing the impact of the sound rather than the USN responsible for reducing the sound through their landing protocol/airport/running zones etc.?
4. If it IS adopted, what exactly will change from what exists now for my property and those in the affected area?
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10. **How is the Coronado City’s General Plan affected by this proposal?**

11. Is **DECIBAL REDUCTION** the only thing that would have to be adhered to if it is **approved**? If not, what else would a property owner be required to do, and when and why?

12. **What is the timeline of this?** It appears the military air traffic increase is already set to begin in 2020.

Thank you for your review. I look forward to hearing the response from your office and how my questions and concerns were factored into the overall process and consideration of the proposal.

Jane Mitchell
Thank you. Please advise me of upcoming meetings or release of information as it becomes available.

On Fri, Feb 7, 2020 at 8:54 AM alucpcomments <alucpcomments@san.org> wrote:

Hello-

We are in receipt of your email and it will be included in the formal record of all comments received on the NASNI EIR. Airport Land Use Commission (ALUC) staff will respond to all comments received as part of the final EIR when it is posted online at a future date (TBD).

Thank you.

From: Jane Mitchell <noplainjane2000@gmail.com>
Sent: Thursday, February 6, 2020 8:14 PM
To: alucpcomments <alucpcomments@san.org>
Cc: Richard Bailey <richard.patrick.bailey@gmail.com>
Subject: EIR comments - Coronado resident

Please confirm receipt of this email.

To:

Whom It May Concern

San Diego County Regional Airport Authority

RE: the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP)

From:

Jane Mitchell
We received the letter in the mail from the City of Coronado notifying us of “the EIR related to the creation of the NASNI Draft Airport Land Use Compatibility Plan (ALUCP) that will have implications on over 1000 existing residential units in Coronado that will impact how your property can be developed in the future. IF adopted, the ALUCP would impose new development restrictions on properties located...”

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7. What’s the difference between a “remodel” and “rebuild”?

8. This all seems like it would be extremely burdensome on the property owners in the whole affected area... and

9. Because these new requirements are being proposed due to the increase in military air traffic at NASNI, is there funding to off-set the required sound/window/insulation rules for potential changes to the house/property? It’s my understanding there is some through the Airport Authority. Will this house and other be eligible for that and if so, how much/credit would be due per home/household etc.?

10. How is the Coronado City’s General Plan affected by this proposal?

11. Is DECIBAL REDUCTION the only thing that would have to be adhered to if it is approved? If not, what else would a property owner be required to do, and when and why?

12. What is the timeline of this? It appears the military air traffic increase is already set to begin in 2020.
Thank you for your review. I look forward to hearing the response from your office and how my questions and concerns were factored into the overall process and consideration of the proposal.

Jane Mitchell

Click my sites to see what I'm up to... and how I can help you tell Your Story.
JaneMitchellOneOnOne.com
February 7, 2020

SDCRAA
P O Box 82776
San Diego, California
92138-2776

Ref Comments on NASNI
ALUCP DEIR
Dated February 108, 2020

Gentlemen

I have in the past several years attended and participated in the drafting of two ALUCP documents, one for Imperial Beach, the other for the City of Coronado. I have reviewed the above new document in its entirety and have the following General Comments.

DRAWING OF FLIGHT PATHS BY THE USN IS STRICTLY A ONE SIDED AFFAIR

Without any impute from the City of Coronado and the public at large the USN creates a flight path that is optimum for them. The result of this one sided direction by the USN causes extreme distress to the parties below the flight path and penalizes them in other ways including financial impacts in the way of reduced property values and excessive remodeling costs. The emotional and financial impact of allowing the USN to independently select their own flight paths is immeasurable.

DISREGARD OF USN FLYING OUTSIDE OF THE FLIGHT PATHS

Contrary to what the USN states the pilots do not stay within the designated flight paths. Numerous instants have been cited by residents and then denied by the USN. They reserve the right to fly anywhere and at any altitude they so deem necessary to complete their mission. This is especially pronounced when we get visiting Reserve units from a different geographical area that are going through mandatory training. Often this typically happens in the summer when windows are open for ventilating reasons.

FREQUENCY OF FLIGHTS AND THE ABUSE OF TRAINING EFFORT OVER CORONADO

I speak from 30 years of experience of living in one location in Coronado and can say the USN flight noise and pollution have increased dramatically over the past 7 year period. I understand that there are now over 275 helicopters stationed at North Island. All of these pilots have to monthly qualify for instrument landing status, thus causing a dramatic increase in the name of training flights in and around Coronado. Now the USN is suggesting that 22 more helicopters join the training effort and that the citizens of Coronado just suck it up!
CURRENT NATIONAL AND MILITARY HISTORY OF CATASTROPHIC AIR CRASHES

Every day in the news we hear about Military aircraft crashing, often close to a military landing field. The risk to the lives of the Citizens of Coronado cannot, and should not, be understated. Should such an event happen the USN would probably be denied the utility and use of the air field in the future. Better to plan for a safe landing and training area now and preserve the use of the North Island airfield for future operations. One possible solution that would benefit all parties would be to move the training effort for pilots and air traffic controllers to a less densely populated area such as San Clemente Island or Camp Pendleton.

Now I would like to turn my comments to the as cited Draft EIR with specific observations and suggestions.

Paragraph 1 4, Summary of Proposed Project clearly calls for the purposes of the EIR with a bold statement “it is the purpose of the article to protect public health, safety and welfare by ensuring the orderly expansion of airports” I think all of us can agree on this important goal, however putting 22 helicopters in the air to join the 275 currently based in North Island certainly does not protect the public health, safety and welfare of Coronado Residents. Undoubtedly we are at a breaking point already!

Table 1 1 on Page 1-8 is a statistically a joke. To have only three gradients for evaluating each important line item would fail any student’s first year Statistics course final. A more productive presentation would have a scale of 1 to 5 or 1 to 7. In addition, a separate column should be provided for appropriate comments and notes.

Table 1 2 on page 1-10, Note 1, states that “85 percent of the single-family zoned area, 96 percent of the multiple family-zoned area, and 96 percent of the commercial-zoned area in Coronado is outside the safety zone.” Obviously the author has not done a field study where one can observe every day the air traffic of North Island flying outside their granted flight paths endangering all the residences below. Finally this report makes no mention of the mandate the City of Coronado is under to build 1,900 housing units by the State of California. Undoubtedly most of these units if constructed would be midrise apartments and condos and pose large safety and environmental issues for USN flights.

Paragraph 1 6 2 on Page 1-13 addresses what would happen if there was a project alternative, which I am sure would be the preferred alternative for most Coronado residents. The final paragraph under this citation states that the “Adoption of AICUZ land use compatibility guidelines was considered infeasible because it would result in virtually existing development in the Coronado portion of safety zone and noise contours being incompatible.” This is the right answer to the question at hand, continued and increased use of the proposed flight paths by the USN is incompatible with sensible, sane safety and environmental impacts to the public at large.

Paragraph 1 7, Page 1-15 & 1-16 Topics of Know Concern/Areas of Controversy outlines some of the areas of concerns of the Coronado Citizens but leaves out the most important item aircraft safety. There has been a rash of military aircraft crashes all over the United States with fatal results. Coronado is densely populated and an aircraft accident event anywhere on the flight path would be devastating.
Finally in addition subparagraph two, under the same heading referenced in the paragraph above “Indirect effects of the proposed ALUCP on air quality greenhouse gas emissions, street traffic volumes, energy efficiency, water use efficiency and disaster preparedness.” The reality and concern is real and direct, not indirect as stated by the EIR consultant. However it is well know that all of the maladies mentioned are the direct result of intensive USN use of air space over and around the City of Coronado.

Over many decades the City of Coronado and North Island Air Base have coexisted and thrived with their physical adjacency. When the United States foreign policy shifted emphasis and engagement towards Asia instead of Europe, the intensity of the use of the air space and USN staffing increased dramatically around the USN North Island Base. The citizens of Coronado have suffered enough and their tolerance for adding more aircraft is moot. The time has come for the USN to consider moving pilot training entirely to either Camp Pendleton and/or San Clemente Island. One could not deny that Coronado residents have done their part in tolerating the current air traffic noise, road congestion and pollution.

Regards,

Robert F. Dilworth
We are homeowners of a single family residence located on Sunset Park, in the 70-75 dB CNEL noise contour and in the Clear Zone, as delineated in the ALUCP. The ALUCP will have a significant adverse impact on our property, if it prohibits or imposes conditions that are extremely difficult or excessively expensive on reconstruction or renovations to our property. Our comments follow in this and subsequent messages.

Exemption from ALUCP Review and Noise Standards and Policies: In Appendix E2, Section E2.8.10.1, in all three bullet points, and in Table 3 of the ALUCP, we request that the language, “with no increase in height” be changed to “no increase in height beyond 30 feet”. To the extent that the City of Coronado permits a residence to be built, remodeled or reconstructed to that height, ALUC review should not be required, and the increased costs and design effects of the ALUCP’s noise standards should not be imposed. Also, there is no reason to restrict an increase in height when there are two-story houses nearby in the same zone.

Angela Yates
John Julius
We are homeowners of a single family residence located on Sunset Park, in the 70-75 dB CNEL noise contour and in the Clear Zone, as delineated in the ALUCP. The ALUCP will have a significant adverse impact on our property, if it prohibits or imposes conditions that are extremely difficult or excessively expensive on reconstruction or renovations to our property.

Comments re Discontinuance of Incompatible Uses.

Appendix E2, Section 8.11. There should be no right of the ALUC, at any time, to prohibit rebuilding of a residence, even if reconstruction on the land has taken more than 24 months. In the event of a fire, earthquake or other natural or manmade disaster that affects more than one residence in the area, it may not be possible for the landowners to clear the land, get plans drawn, reviewed and approved, permits issued, and contractors working on vertical construction in that period of time.

It is not clear what is meant by “If property is abandoned for more than 24 months, they should not resume or be re-established except in conformity with the ALUCP.” Does this mean, if a property in the Clear Zone is destroyed or demolished and not rebuilt within 24 months, that a replacement residence is not permitted? Or only prohibited for a density greater than 2 du/acre? This would destroy the value of the property and should be a taking. If that is what is meant, then this provision and all that refer to it should be stricken from the ALUCP and its Appendices. This provision is also inconsistent with Appendix E3, Section E3.7.6, which gives reasons why reconstruction of homes and accessory buildings in the CZ should be considered compatible with the safety policies.

Angela Yates
John Julius
Goals and Objectives (Table 1) seeks to “Protect public safety by: Limiting new risk-sensitive land uses within the safety zones, and Avoiding an increase in existing land use incompatible within the safety zones.” The ALUCP should address increasing organized sports usage of Sunset Park, squarely within the Clear Zone, in contravention of existing land use restrictions. Current Coronado regulations prohibit organized sports activities within Sunset Park. Council Resolution 6253 (6/7/1983), amended by Resolution 6803 (12/6/1988). Despite those existing land use restrictions, organized sporting activities have increased from zero participant-hours/year to over 100 participants actively engaged in organized sports activities for over 1,000 hours per year (43 full 24-hour days). Those participants are in danger every minute of their games and practices. Placing youth in the Clear Zone for a thousand hours per year should be curtailed.

John Julius

Angela Yates
We are homeowners of a single family residence located on Sunset Park, in the 70-75 dB CNEL noise contour and in the Clear Zone, as delineated in the ALUCP. The ALUCP will have a significant adverse impact on our property, if it prohibits or imposes conditions that are extremely difficult or excessively expensive on reconstruction or renovations to our property. Throughout the ALUCP and its Appendices, there are requirements that a residential use may not be remodeled, expanded or reconstructed without being subject to ALUC review, if any expansion or reconstruction increases the original habitable area of the building (at the time of ALUCP adoption) by more than 50%. As long as the residential building, after an increase in the original habitable area of 50% or more is within the size permitted by the City of Coronado, then this requirement should not apply.

Additionally, Section E3.7.7 in Appendix E3, last sentence, should be revised to delete “airspace, and overflight”, because ALUC review of these matters should not be necessary if the FAA has approved the expansion or reconstruction. There are no standards given for what the ALUC could impose as to airspace or overflight.

Angela Yates
John Julius
I respectfully request that US Department of Housing and Urban Development Sound Transmission Classification and Assessment Tool (STraCAT) certification be utilized as the "Standard" measurement for future projects and new home construction in the affected areas. Homeowners in the affected APZ's are interested in meeting a measurable standard rather than an unknown subjective measurement by another agency (with a much-different agenda) outside of Coronado.

Angela Yates
John Julius
To: The Airport Authority  
From: Susan Heavilin  
RE: ALUCP  

Friday, February 7, 2020  

Dear Airport Authority,  

Though the letter from the City of Coronado was dated January 17, 2020, I just received it yesterday. I notice that your email deadline is 5PM TODAY so I have less than 30 minutes to voice my concerns.  

Upon viewing the map shown as Exhibit 4, Safety Zones and Noise Contours, I cannot help but notice the large berth of area in a residential area dedicated as an Accident Potential Zone. With the immense vastness of the Pacific Ocean bordering this APZ, I cannot imagine your logic in pushing this dangerous zone into a Coronado residential area.  

The majority of homes in the City of Coronado have a 30-foot height restriction. I am informing you right now that my home is in the middle of this APZ and rises 55 feet into your flight plan. I live in the historical Baby Del, built in 1887 and moved to Coronado in 1983. With that move came an exception to the 30-foot height regulation.  

More times than I care to remember, military planes have drifted off the beach "runway" to the Ocean Boulevard "runway" and dangerously close to the three-story turret on the west side of my home. I believe these pilots were as surprised as I was when this giant home appeared out of the fog like an iceberg headed for the Titanic.  

I ask that you revisit your plan and move it back over the Pacific Ocean. I pray that an accident never happens but an ocean accident would take the lives of the pilot and crew, not an entire neighborhood.  

Please call me if you would like further details. Thank you for your consideration.  

Sincerely,  

Susan Heavilin
Dear Airport Authority,

I have lived in Coronado since 1994. First off, I am a retired Navy Captain and support the mission of the Fleet. In fact, along with most of my neighbors, we felt that the Navy had a long compatible relationship with Coronado, that is, until the 2012 repositioning of North Island’s APZ within the 2012 ALCUZ to include the Hotel Del Coronado and hundreds of homes within their boundaries. This also turned Ocean Boulevard into a runway for North Island.

This move demonstrated an absolute disregard for the health and safety for people of this town. Prior to this change, aircraft regularly flew an approach pattern closer to the shoreline, well away from the homes now in the APZ path. In fact, I have regularly observed helicopters and other aircraft still occasionally using this flight path with ease and showing a clearly more respectful use of the airspace. My point is that they don't have to fly down Ocean Boulevard. In increasingly more frequent forays by large Air Force jets (C-5 Galaxy and the C-17 Globemaster to name a few) directly over our houses, making a frightening intrusion to an otherwise residential neighborhood. Navy helicopters regularly fly within a hundred yards of the neighborhood in 10-15 minute intervals, several nights a week often until 10:00 p.m. We cannot imagine what if will be like when V-22 Ospreys get assigned to North Island.

I promise that if you were to visit this area of Coronado to see the impact on the health (air and noise pollution), safety (hundreds of homes in harm’s way), damage to our property from aircraft soot and vibrations, you would, as reasonable people, want to do something to make all this better. Just one catastrophic accident in this residential zone would be a nightmare for our town, the Navy and the Airport Authority. In addition, the affect on home values is significant. Those living in the Coronado Shores, Coronado Cays, First Street along the bay and those visiting at the Hotel Del are also heavily impacted. Helicopters intrude on their neighborhoods as well.

Some of the concerns about this change can be found on the Safer and Quieter website https://saferandquieter.com/ developed by a group of Coronado citizens. With this new opportunity to revisit the EIR, the ALCUZ and the North Island APZ, I respectfully request that the Airport Authority and Navy consider a compromise. Together we can find a solution that will not affect the Navy’s operational readiness AND decrease the impact on the homes and businesses placed in the APZ in the 2012 ALCUZ.

I propose we all take one more look at where the pre-2012 footprint for landing at North Island was, as we reconsider the EIR/APZ/ALCUZ going forward. From 1984 to 2012 that approach footprint had just a few homes in harms way. Perhaps we can look to move back closer to that former footprint, towards the ocean. In that world, both Coronado and the Navy had a win/win situation. Please consider putting the interests of thousands of Coronado residents on the same level of importance as our neighbors on North Island.
You have smart people working with and for you. We have smart people too and together, we ought to be able to find a truly COMPATIBLE solution. I would be happy to serve in any way to make this happen. And, thanks in advance for taking these concerns seriously.

Best Regards,

Andy Koczon

1141 Isabella Ave.
Coronado
619-985-9576
Hello to All:

Just a small correction to my email of yesterday. In my quest to meet the deadline, I transposed letters in the acronyms ALUCP and AICUZ (not ALCUZ) with respect to the upcoming review. I have been an Associate Athletic Director for the last 9 years and am out of practice keeping up with acronyms, so please accept my humble apology for the mix-up!

Best,

Andy Koczon

On Fri, Feb 7, 2020 at 1:12 PM Andy Koczon <salmo@san.rr.com> wrote:

Dear Airport Authority,

I have lived in Coronado since 1994. First off, I am a retired Navy Captain and support the mission of the Fleet. In fact, along with most of my neighbors, we felt that the Navy had a long compatible relationship with Coronado, that is, until the 2012 repositioning of North Island's APZ within the 2012 ALCUZ to include the Hotel Del Coronado and hundreds of homes within their boundaries. This also turned Ocean Boulevard into a runway for North Island.

This move demonstrated an absolute disregard for the health and safety for people of this town. Prior to this change, aircraft regularly flew an approach pattern closer to the shoreline, well away from the homes now in the APZ path. In fact, I have regularly observed helicopters and other aircraft still occasionally using this flight path with ease and showing a clearly more respectful use of the airspace. My point is that they don't have to fly down Ocean Boulevard. In increasingly more frequent forays by large Air Force jets (C-5 Galaxy and the C-17 Globemaster to name a few) directly over our houses, making a frightening intrusion to an otherwise residential neighborhood. Navy helicopters regularly fly within a hundred yards of the neighborhood in 10-15 minute intervals, several nights a week often until 10:00 p.m. We cannot imagine what if will be like when V-22 Ospreys get assigned to North Island.

I promise that if you were to visit this area of Coronado to see the impact on the health (air and noise pollution), safety (hundreds of homes in harm's way), damage to our property from aircraft soot and vibrations, you would, as reasonable people, want to do something to make all this better. Just one catastrophic accident in this residential zone would be a nightmare for our town, the Navy and the Airport Authority. In addition, the affect on home values is significant. Those living in the Coronado Shores, Coronado Cays, First Street along the bay and those visiting at the Hotel Del are also heavily impacted. Helicopters intrude on their neighborhoods as well.
Some of the concerns about this change can be found on the Safer and Quieter website https://saferandquieter.com/ developed by a group of Coronado citizens. With this new opportunity to revisit the EIR, the AICUZ and the North Island APZ, I respectfully request that the Airport Authority and Navy consider a compromise. Together we can find a solution that will not affect the Navy's operational readiness AND decrease the impact on the homes and businesses placed in the APZ in the 2012 ALCUZ.

I propose we all take one more look at where the pre-2012 footprint for landing at North Island was, as we reconsider the EIR/APZ/AICUZ going forward. From 1984 to 2012 that approach footprint had just a few homes in harms way. Perhaps we can look to move back closer to that former footprint, towards the ocean. In that world, both Coronado and the Navy had a win/win situation. Please consider putting the interests of thousands of Coronado residents on the same level of importance as our neighbors on North Island.

You have smart people working with and for you. We have smart people too and together, we ought to be able to find a truly COMPATIBLE solution. I would be happy to serve in any way to make this happen. And, thanks in advance for taking these concerns seriously.

Best Regards,

Andy Koczon

1141 Isabella Ave.
Coronado
619-985-9576
Dear ALUCP Comments:

In light of yesterday's San Diego Union Article, "Bankers Hill Project Jeopardized by Density Rules" which reported that the San Diego Airport Land Use Commission denied the apartment Building in Banker's Hill on a technical interpretation of San Diego Zoning. It appears to me, (a builder that specializes in Coronado's coastal zone) and a participant in the AICUZ and now ALUCP process, The City of Coronado, as well as Coronado Residents, Architects, Builders and Designers cannot be too vigilant in regard to the current DRAFT report.

A couple of my comments and requests are offered below:

The City of Coronado must have the right to overturn such actions by the Commission without the delays, notices and other sundry roadblocks that are described in the Draft.

Simply stated:

**The City may overturn the Commission's determination by a two-third majority.**

Please strike and additional reference to notices and delays.

Along the same theme of warriness and distrust......... and for clarity, I would recommend the the following two sections in the APPENDIX be modified as outlined below:

Appendix E3.7.7 Expansion of Residential Uses

Last sentence should strike airspace and overflight and replace with conditioned upon FAA approval

Appendix E3.7.6

Sentence 5
Strike "incompatibility situation worse" and insert........ would not make the remodeling, expansion and/or reconstruction “incompatible”

My general frustration is this:
The City of San Diego incorporates a density bonus, within the approved zoning and it is denied.

The State of California requires all municipalities to allow ADU's and they are automatically exempted from comment by the Airport Land Use Commission.

A homeowner in Del Mar, Encinitas or La Jolla wishes to protect his residence by fortifying his cliffs adjacent to the ocean and is PROHIBITED.

The Santa Fe Railroad experiences some soil erosion in Del Mar and equipment is on the beach fortifying the cliffs the next day....probably without any permit or oversight.

The heavy hand of The State of California and out of area bureaucracies are quickly replacing a long-standing tradition of local zoning and planning.

Our company has designed and built 16 homes in the affected Coronado area over a 19 year period under straightforward zoning and planning. Our subcontractors and suppliers are partners in these endeavours. The added delay.... the added uncertainty....... the added costs, the additional permits required, (FAA, ALUCP, Sound Engineering) are all new and expensive. The proposed new rules also are both subjective and unclear.

Please consider these changes and recommendations in the final draft.

Sincerely,

John M. O'Brien
Flagg Coastal Homes
1014 Ninth Street,
Coronado, CA 92118
Cell: 619 227 1499 Office: 619 435 1800
www.flagg.com
San Diego County Regional Airport Authority  
c/o SDCRAA  
P.O. Box 82776  
San Diego, CA 92138-2776

February 8, 2020

ATTN: Ralph Redman
RE: Air Installations Compatible Use Zone II in the City of Coronado

After having read about the ALUCP in the Coronado Eagle & Journal Jan. 22, 2020 and reviewed the said report, I, an affected property owner have the following comments:

1. After hearing of the possible ALUCP for many years I am appalled I was given so little time to comment on the final draft. A standard review time is 30 days. This rush for comment intake is a deliberate attempt to silence response.

2. We purchased our home in 1980 and have now lived in it for 40 years. During this time frame we have never had any airplane or helicopter fly above us. The flight zone has been one block towards the beach for as long as I can remember. Enlarging the flight zone to now include our block is nothing more than a land grab.

3. Regarding the sound issue, during the past 40 years there have been noisy times and not so noisy times. But the louder planes were very rare, certainly not where they, or the overall airplane or helicopter noise would bring the noise level up to 65 decibels! In my location it is unusual for the noise level to even necessitate closing the windows, let alone going through the extra expense of replacing them, especially since they are historical windows built with the house in 1920. However, it is not necessary for another governmental review to ensure any new windows will address sound mitigation because windows built to the current energy efficient regulation also reduce sound.

4. On the height issue I am confused. In Coronado’s current zoning code the “Zone II” in the study is designated as Residential 1-A, and as such has a 30’ height limit. There are no empty lots in the area, so the reduction to the scope of homes affected by not allowing any more residences to be constructed is zero. Most of the homes are 2 story and have a ridge line at the 30’ mark. To deny the few remaining one story homes to remain single story is spot zoning, something which is strongly discouraged in city planning. Furthermore, if the home went from one the two stories it would still be shielded from an incoming airplane by his adjacent neighbor. We do not need another governmental agency to overlook our City to be sure no homes are built above the height limit. We do not need a Checkerboard zone. At 5,000 square feet per lot the R-1A area in Zone II is already the most restrictive in regards to growth for the City.
out in 1888, when North Island was a sand spit. The only area the navy could not have
anticipated is known as Country Club. Zone II is not in the Country Club area. Zone II is part of
the original city plan, laid out as residences, with some of them already build before the navy
came to North Island. Therefore, when the navy developed the North Island airbase they knew
they were going to be close to homes, and have always tried to have a good relationship with
the City and the citizens of Coronado. The Navy being the newcomer, not the other way
around.

Thank you,

Victoria Cristilli
Dear members of the Airport Authority:

We have been in Coronado since the mid-1980’s, first at the Coronado Shores and now on Ocean Blvd since 1993. Over the years we have delighted in watching the military aircraft approach NASNI on final approach over the ocean just off the shore. First the A-6 Intruders (which we nicknamed “The Burpies” because of the “errrup, errrup” sound they made on approach and we didn’t now what they were); then the F-14 Tomcats came screeching in, and now 25 plus years later, all kinds of new jets and aircraft that I cannot even identify. Over that period of time, it seems that the planes have come nearer and nearer our homes—no longer on flight plans just off-shore. The close proximity to homes has become more and more alarming. Now, I believe the Navy is asking for legitimate, legalized flight and final approach patterns (along with “accident potential zones”) directly over our residential homes with increased danger potential of crashes, noise and everything else within the realm of being on an airport approach pattern.

Q: WHY CAN YOU NOT USE APPROACH AND FLIGHT PATTERNS LIKE YOU DID IN THE 1990’S—COMING IN OVER THE WATER NEAR THE BEACH?

We have always had black jet soot on our decks, fruit trees, etc, which we have always lived with and good-naturedly washed off. But if jets and helicopters (plus an additional 275 helicopters more than what are currently calling NASNI home), are planning to fly directly above our homes with all of the danger, noise, traffic and inconvenience that entails, then we wholeheartedly OPPOSE YOUR PLAN and respectfully request that you look back to when your planes came in on the edge of the ocean and and everyone was proud of our “Boys” in the air—my father was Navy Air in WW II. Please don’t turn your patriotic citizenry against you over an ill-thought out and dangerous plan when there are other better solutions.

Sincerely,

Lorie Michaels
909 Ocean Blvd
Coronado, CA 92118
619-435-3358
Dear Members of the Airport Authority,

As a Coronado home owner, I urge you to rethink any proposals to make the space over the homes on Ocean Blvd. part of the Navy’s flight plan. I live at 901 Ocean Blvd. and am a huge supporter of our military and love watching the planes come in at night. I do, however, fear that if they come any closer to our homes on Ocean Blvd. it would be detrimental to our safety and well-being.

We already live with the black soot/chemicals that are dropped from the jets. It covers our house, trees and plants. It covers our beach too and it can’t be healthy. Noise is also a factor. As it is, when the jets pass by it’s deafening and I can only imagine what it would be like if they flew directly over. Lastly, please don’t risk our lives by flying directly over our homes. If there was a crash it would be catastrophic. Remember the military crash over Miramar in 2008 (see photo below). Please don’t take the risk in Coronado.

Sincerely,

Jenifer Burger
901 Ocean Blvd.
Coronado, CA 91362
1888: the city of coronado was subdivided
1888: residential development commenced and was
   well underway before rockwell field on north island
1917: the first air field, rockwell, was established

the SDCRAA criteria do no apply to coronado.

john morton, m.d.
824 g Ave, Coronado, Ca 92118
6194356438
--
Juan coronado
To Whom It May Concern:

I would like to express my objection and concerns with the ALUCP and the restrictions on existing residential and commercial units within Coronado. We recently purchased a home in the designated area (1025 F Avenue, Coronado, CA 92118) before this plan was made public and believe that if this plan is enacted we will incur significant economic harm and financial damages to our property and home valuation that will need to be remedied. These plans are intended for undeveloped land, not for Coronado.

Ken Morris, CFA, CFP®
First Vice President
Wealth Management Advisor / Resident Director
NMLS ID: 10953831

Merrill Lynch Wealth Management
The MUA Group
Merrill Lynch, Pierce, Fenner & Smith Inc.
4365 Executive Drive, Suite 650, San Diego, CA 92121
T 858 677 1326 F 520 226 0162
ken.morris@ml.com

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I am a resident of Coronado and will be negatively affected by the passage of this plan. My residence is within the zone as are residential and commercial properties which I own. In the strongest terms I do not support the Compatibility Plan. It is a typical example of bureaucratic overreach.

FYI – I have been a resident of Coronado since 1954.

William C. Green
Mr. Ralph Redman, Manager, Airport Planning Department  
San Diego County Regional Airport Authority  
P.O. Box 82776  
San Diego, CA. 92138-2776

SUBJECT: North Island Naval Air Station (NASNI) Draft 2019 Airport Land Use Compatibility Plan (ALUCP) and the ALUCP Draft Environmental Impact Report (DEIR)

Dear Mr. Redman:

We are writing to you to strongly urge SDCRAA to no longer pursue its efforts to adopt the Draft ALUCP as the adoption will have a significant harmful impact on the financial welfare and quality of life of our family for many years to come.

Our family moved to Coronado years ago, before the bridge was even built, because my father-in-law was stationed at North Island Naval Air Station. He and my mother-in-law purchased our house at 170 Alder Street in 1969. They raised my husband and his siblings in our home and lived there until they died. We moved in with my father-in-law to care for him over 20 years ago when he became elderly and eventually inherited the house. We raised our two children here and also hope to live in our home until we die.

We live a very modest lifestyle. We are not wealthy, as many who live in Coronado now are. My husband stayed home to raise our children while I worked to provide for our family. We worked hard, had some lean years, saved enough to help our children with college and some for our retirement. But our home is by far our largest asset. If ALUCP were to be adopted, our home’s devaluation would result in a substantial negative affect not only our own financial wellbeing, but that of our children and grandchildren.

Coronado is a wonderful small town to raise a family. We have longstanding ties and traditions in the community and have always planned for one or both of our children to return to our home with their families so they too can raise their children here. They simply cannot afford the cost of housing in Coronado so when the time comes, we must expand the current 1754 square footage of our home to accommodate us all. If ALUCP were to be adopted, we would be prohibited from doing this. Instead of being able to grow old in our home being cared for by our children, the adoption of ALUCP will force us to sell the home and move. As you can see, the adoption of ALUCP would completely destroy the future hopes and dreams of our family.

Our family has always lived right next to NASNI and have been good neighbors. We strongly support
our military and believe we can continue to co-exist as good neighbors well into the future without the adoption of ALUCP.

In addition to the terrible affects the adoption of ALUCP would have on my own family and others in the designated zones, the loss of business and tax revenue would negatively affect the entire City of Coronado and all its residents.

I have read the comments the City of Coronado will be making to persuade you to abandon efforts to adopt the ALUCP and support them wholeheartedly. They are completely legitimate points and I hope you will seriously consider them all and find them to be valid.

However, I am asking you to also recognize and care about the real-world life changing damage the adoption of this plan will have on the many families living in the affected zones and the rest of Coronado. I especially hope you will see that the most drastic negative effects will be for families who have lived in Coronado for many years and have limited financial resources.

Thank you for your consideration.

Sincerely,

Kelly Montague
170 Alder Street
Coronado CA 92118
nadokelly@att.net
I write to object to the proposed plan and the restrictions it would place on property owners in Coronado. I am a resident of Coronado but do not live in the affected area. However, I believe it is unfair, if not illegal, to apply restrictions to land which was developed many years before the naval base was established. The proposed restrictions would cause a significant negative impact on the value of these properties.

Pat Escher
Mr. Ralph Redman, Manager
Airport Planning
619-400-2464

> After reviewing what The Navy is proposing to do along Coronado flight patterns into NASNI, we are more alarmed than ever. Thousands of houses are in “Accident Potential Zones” (including mine) and noise decibels are going way up. Coronado is a rather unique beach resort type of town with a relaxed low-key personality. That has been co-existing for years with NASNI because the approaches used to come in off the water near the edge of the beaches and for some reason the last few years they have come closer and closer to the houses. Please see the note below. Again: WHY CANNOT THE NAVY USE APPROACH AND FLIGHT PATTERNS LIKE THEY DID PREVIOUSLY—APPROACHING FROM OVER THE WATER NEAR THE BEACH? Please don’t let these proposals change the nature of Coronado and the quiet beauty of its beach. There are better solutions.

> Dear members of the Airport Authority:
>
> We have been in Coronado since the mid-1980’s, first at the Coronado Shores and now on Ocean Blvd since 1993. Over the years we have delighted in watching the military aircraft approach NASNI on final approach over the ocean just off the shore. First the A-6 Intruders (which we nicknamed “The Burpies” because of the “errrup, errrup” sound they made on approach and we didn’t now what they were); then the F-14 Tomcats came screeching in, and now 25 plus years later, all kinds of new jets and aircraft that I cannot even identify. Over that period of time, it seems that the planes have come nearer and nearer our homes—no longer on flight plans just off-shore. The close proximity to homes has become more and more alarming. Now, I believe the Navy is asking for legitimate, legalized flight and final approach patterns (along with “accident potential zones”) directly over our residential homes with increased danger potential of crashes, noise and everything else within the realm of being on an airport approach pattern.

> Q: WHY CAN YOU NOT USE APPROACH AND FLIGHT PATTERNS LIKE YOU DID IN THE 1990’S—COMING IN OVER THE WATER NEAR THE BEACH?
>
> We have always had black jet soot on our decks, fruit trees, etc, which we have always lived with and good-naturedly washed off. But if jets and helicopters (plus an additional 275 helicopters more than what are currently calling NASNI home), are planning to fly directly above our homes with all of the danger, noise, traffic and inconvenience that entails, then we wholeheartedly OPPOSE YOUR PLAN and respectfully request that you look back to when your planes came in on the edge of the ocean and and everyone was proud of our “Boys” in the air—my father was Navy Air in WW II. Please don’t turn your patriotic citizenry against you over an ill-thought out and dangerous plan when there are other better solutions.

> Sincerely,
>
> Lorie Michaels
> 909 Ocean Blvd
> Coronado, CA 92118
> 619-435-3358
I have lived in the corridor on final approach to R29 at North Island since 1978. Over the last 42 years, I have personally witnessed and experienced the increase in air traffic and the introduction of many different types of military aircraft that use this runway. I have, also, witnessed the gradual encroachment by these aircraft into the airspace above our heads. Flight patterns on approach to R29 used to be routinely along the beach and to the left/ocean side of the current offset. Now, they are routinely to the right of the offset/Ocean Blvd. as they land.

The current offset/landing pattern was documented and displayed in the 2011 AICUZ because over time, North Island encroached into Coronado City airspace. Was this because pilots were increasingly on visual; because of the increase in air traffic; because different types of aircraft were introduced and could not
follow the previous path to land without encroaching into Coronado community airspace, because the Military "can", "does, and "will" in the name of mission fly above without regard to those below who have lived over 50 years?

Coronado is a built out community and has been for decades. Our City was incorporated prior to the establishment of NASI. Land uses in Coronado existed years before North Island. Anyone who has studied Coronado History is aware of Babcock and Story and Spreckels documented plans for Coronado zoning and uses.

NASNI is encroaching into Coronado and not the other way around as represented and interpreted by the Airport Authority.

The ALUCP has as its premise that Coronado is the problem for North Island and must be managed. This premise is a direct result of the 2011 AICUZ that was completely Department of Defense driven to evaluate land uses around military airfields without public review or
comment. It was simply a study of their action and policies over time without recognition or consideration of the existing land use below.

NASNI has and has had available alternatives to reduce the impact in our community such as modified flight paths, changes in runway use, realignment of R29 as suggested by Senators Boxer and Feinstein, restriction of aircraft not suitable to land on R29, Tower Control, training at other facilities, and many others, no doubt. If any of the above were considered and/or implemented, today's result would be different.

The proposed ACLUP will have serious consequences for homeowners and businesses in the affected corridor. Notwithstanding the most important loss of value to property, other restrictions will apply.

The ALUCP is based on a flawed assumption/foundation with regard to "airport zones and conflict with airport." We have "no
undeveloped land" and the airport zone/airport grew exponentially as a result/outcome of the Navy's actions and policies over the years encroaching into Coronado airspace.

The Coronado community and its 1000 homes and businesses in this proposed plan that have existed over many decades would not be "incompatible uses for an airport zone" if the Navy had not overstepped and encroached into our airspace.

Paula Bingham Couture
Coronado Resident

--
Paula Couture
The Draft plan is out of touch with reality.

The SDCRAA’s plan is based on the premise that Coronado is encroaching into NASNI. However, Coronado is built out and was incorporated prior to the establishment of NASNI. Coronado has land uses existing decades before North Island was built. Therefore, the premise that Coronado is encroaching into North Island is a misinterpretation by the Airport Authority.

SDCRAA’s limited scope to plan for undeveloped areas with incompatible uses for an airport zone does not apply to Coronado.

The ALUCP draft environmental impact report (“DEIR”) only considers the impacts to hotel/resort uses as significant and the impacts to other land uses, such as residential or commercial, as not significant. The DEIR failed to evaluate the resulting substantial loss in property value over the next fifty years for owners in the areas constrained by the ALUCP compared to those in Coronado that are not within the area.

The ALUCP DEIR does not include an analysis of the urban decay impacts caused by development restrictions and reduced investment in the area. Permitting for certain activities, e.g. adding residential square footage, would be negatively impacted and may not allow owners to make desired improvements to their properties.

I therefore implore the SDCRAA to reject the DEIR as currently proposed.

John M. Julius
619.203.6251
jjulius@san.rr.com
As a Coronado resident I wish to respectfully voice my opposition to the proposed Airport Land Use Compatibility Plan (“ALUCP”) as it will have implications on over 1,000 existing residential units and existing commercial enterprise in Coronado that combine to generate 26% of the City’s annual tax revenue. The Airport Land Use Compatibility Plan also exceeds the authority of the San Diego County Airport Authority (“SDCRAA”).

The guidelines that the San Diego County Regional Airport Authority (SDCRAA) must follow in preparing the Airport Land Use Compatibility Plan (ALUCP) require that the plan only apply to undeveloped land that is currently not in conflict with the airport. The SDCRAA’s plan is based on the premise that Coronado is encroaching into NASNI. However, Coronado is built out and was incorporated prior to the establishment of NASNI. Coronado has land uses existing decades before North Island was built. Therefore, the premise that Coronado is encroaching into North Island is a misinterpretation by the Airport Authority.

SDCRAA’s limited scope to plan for undeveloped areas with incompatible uses for an airport zone does not apply to Coronado.

Sincerely,

Suzanne Metz

14 St. Christopher's Lance
Coronado CA 92118
Sent from my iPhone. We have never complained about airport noise at North Island. It’s the sound of freedom but commercial planes are an entirely different matter. We bought a home in Coronado because it is a peaceful neighborhood. What gives anyone the right to take that away plus devaluation our home and property. My
To whom it may concern,

I will be brief. My wife and I own more than one property in Coronado, including but not limited to a residence at 951 J Avenue, Coronado, CA 92118. The above-mentioned property is extremely close to the proposed zones that will, if adopted, restrict owners uses and impose building requirements on many, many properties that were built before North Island Naval Air Station. The proposed plan will significantly adversely affect our property’s neighborhood and damage our enjoyment of the property and the property’s value. Our other properties, including another residence and a share of a medical office building, will also be adversely affected.

I am in complete agreement with the City of Coronado letter that will be submitted to the Airport Authority today, February 18, 2020.

I vigorously oppose the proposed Airport Land Use Compatibly Plan and will support all legal action to defeat it as it is currently stated. Count me as a resounding “NO WAY ARE YOU ADOPTING THIS PLAN WITHOUT A BIG, BIG FIGHT!”

Sincerely,
David J. Francis, M.D.
NASNI is NOT a Civilian airport. It is a Navy Base.

Neither the State of California, nor the City of San Diego have any jurisdiction over its Land use, or its compatibility with adjacent land.

How dare you draw arbitrary lines over my house imposing restrictions on my property. Where were you 30 years ago when I bought my property?

Sincerely,
Richard Smith
To whom it may concern,

We would like to add our objection to the proposed ALCUP plan and specifically, to note our agreement with our longtime neighbors on Ocean Blvd over the concerns they have already raised with you on safety, noise, and pollution that impacts our Coronado community. We have been residents of Isabella Avenue (across from the Baby Del) for ten years, which although not as long as our neighbors, is long enough to have noticed an increase in air traffic to NASNI, with final approaches to the air station directly over our homes. When we first moved to Coronado, the approach was mostly further out over the beach and water, which in terms of safety, noise and pollution seems to make much more sense. We hope you will seriously consider the thoughtful viewpoints being raised to you by so many residents of our beautiful island.

Thank you for your time.

Jack and Dawn Vresics
1121 Isabella Ave
Coronado, CA 92118
My name is James Zehentbauer. I reside at 1037 Loma Ave. Coronado. I have reviewed the ALUCP and have discussed with a number of my neighbors. I have yet to discuss with anyone who does not have serious concerns, including those expressed by the City of Coronado. I share those concerns and believe the ALUCP is deeply flawed and will have an unnecessary negative impact on a number of the residents in our City. I urge the Airport Authority to resist this plan.

Sincerely,

James Zehentbauer
Dear ALUCP,

This is a comment regarding Process...procedure:

Each municipality has a different process or procedure for permitting and therefore, to add clarity to the interim San Diego Airport Authority process for Coronado, please note that the proper sequence for permitting new or revised residential permits in the zone for Design Review and Historic Alteration Permits should be as follows:

Historic Review
Applicant submits to Historic Review Commission and receives approval
Applicant submits approved Historic Plans to San Diego Airport Authority
Upon receipt of SDAA permission, Applicant submits to City for Building Permit

Design Review
Since Design Review is mostly about aesthetics, roof decks etc. the process should proceed as follows
Applicant submits plans to Design Review and receives approval
Applicant submits approved Design Review plans to San Diego Airport Authority
Upon receipt of SDAA permission, Applicant submits to City for Building Permit

Thank you for incorporating clarity to the process.

Sincerely,

Flagg Coastal Homes
1014 Ninth Street,
Coronado, CA 92118
Cell: 619 227 1499 Office: 619 435 1800
www.flagg.com
Dear Members of the San Diego County Airport Authority,

I have lived in Coronado since 1969 and on Isabella Ave. since the 1980s. The noise and airplane pollution (black powder on leaves and patio furniture) have increased for some years now. My family and I have noticed that the airplane noise has caused us to pause our conversation, set off car alarms, and even rattled our windows. I even witness a baby start to cry while in their stroller when a loud plane went overhead. We knew we lived near a military airport when we moved here but the noise has increased and with the new proposed change the problem WILL only get worse. Please consider all this information and the concerns from the people writing these letters. We depend on you members to be our voice. Thank you for your time.

Sincerely,
Dr. and Mrs. Erskine
To Whom It May Concern:

The ALUCP is based on the false premise that Coronado residences are starting to encroach on the NASNI flight landing path. The opposite is true. The study formulators should have done their due diligence and looked at aerial photos of the area in question, which has been completely built out with residences for decades.

In my case, my ocean front home was constructed starting in 1917, and predated the regular use of jets by the Navy. My parents bought the house in 1946, and it has been in the family ever since. I know from my own experience since childhood that Naval air traffic has increased exponentially in volume and noise. (My father, brother, and uncles were all naval aviators.) I have been involved in past efforts to encourage the Navy to lessen noise impact on our neighborhood by using different flight approaches.

If the ACLUP is adopted, the new requirements would substantially affect the value of my property, and that of others, by limiting future changes. This would constitute an unlawful “taking” of property by the government, so compensation to every affected homeowner would be required. There are few, if any, properties in Coronado valued at less than one million dollars, and the properties nearest to the beach are valued at many millions.

I understand that there are approximately 1000 residences in the zone under consideration. The cost of compensation could be staggering. By way of illustration, if compensations averaged 25% of property value, the total amount could theoretically reach as high as one billion dollars.

The residents along the flight approach are in no more danger than they have always been. Tinkering with percentages of prohibited structural additions will have little or no impact on residential density or safety.

Our city is united on opposing this ill considered plan.

The residents were here first, and the landing approach is encroaching on us!

Thank you for your consideration,

Jean Gazzo

Sent from my iPad
APPENDIX 3

Documentation in Support of Responses to Comments

3.A | EMAIL FROM RALPH REDMAN, MANAGER, AIRPORT PLANNING, SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, TO JESSE BROWN, SENIOR PLANNER, CITY OF CORONADO, FEBRUARY 13, 2020

3.B | LETTER FROM C. APRIL BOLING, CHAIR, AIRPORT LAND USE COMMISSION, SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY TO BLAIR KING, CITY MANAGER, CITY OF CORONADO, SEPTEMBER 6, 2017

3.C | LETTERS FROM COMMANDING OFFICER, NAVAL BASE CORONADO, TO DIRECTOR, PLANNING AND ENVIRONMENTAL AFFAIRS, SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

3.D | CORRESPONDENCES FROM CALTRANS DIVISION OF AVIATION, OFFICE OF AVIATION PLANNING TO AIRPORT LAND USE COMMISSION, SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

3.E | CORRESPONDENCE FROM CALIFORNIA DEPARTMENT OF FINANCE TO LEGISLATIVE DIRECTOR, LEAGUE OF CALIFORNIA CITIES, JUNE 28, 2016

3.F | COMMISSION OF STATE MANDATES, STATE OF CALIFORNIA, STATEMENT OF DECISION CASE NO. 03-TC-12 AND 08-TC-05, MARCH 26, 2010
Email from Ralph Redman, Manager, Airport Planning, San Diego County Regional Airport Authority, to Jesse Brown, Senior Planner, City of Coronado

February 13, 2020
From: Redman Ralph
Sent: Thursday, February 13, 2020 12:04 PM
To: Jesse Brown <jbrown@coronado.ca.us>
Subject: RE: NASNI ALUCP

Jesse – attached is the requested information that compares portions (e.g. review exemptions and policies) of the 2017 Draft NASNI ALUCP to the current version that has been published for public review and comment.

Sincerely,
Ralph

Ralph Redman, ENV SP
Manager | Airport Planning
T 619.400.2464
M 619.380.7792
rredman@san.org

From: Jesse Brown <jbrown@coronado.ca.us>
Sent: Monday, February 3, 2020 11:08 AM
To: Redman Ralph <rredman@san.org>
Cc: Sheredy, Kim <ksheredy@san.org>
Subject: NASNI ALUCP

Good morning Ralph and Kim,

I am reaching out to see if you have a redline version of the ALUCP that was released with the EIR at the end of 2019 compared to the last version that we saw a year or two back. I don’t think much of substance has changed, but having a redline version will help us see that.

Thanks,

Jesse Brown | Senior Planner
City of Coronado
Community Development Department
1825 Strand Way
Coronado, CA 92118
P: 619.522.2415
### Purpose and Scope of the Plan

**August 2017 Draft NASNI ALUCP**

This Airport Land Use Compatibility Plan (ALUCP) for Naval Air Station North Island (the Airport or NASNI) has been prepared by the San Diego County Regional Airport Authority (SDCAA), acting in its capacity as the San Diego County Airport Land Use Commission (ALUC), in fulfillment of the State mandate to prepare ALUCPs. This ALUCP promotes compatibility between NASNI and surrounding land uses in order to protect public health, safety and welfare in areas around the Airport, to the extent that these areas are not already devoted to incompatible uses. This ALUCP becomes effective on the date of its adoption by the ALUC. If any portion of this ALUCP or another San Diego County ALUCP is invalidated by court action, all other portions of this ALUCP remain unaffected and in full force. The adoption of this ALUCP by the ALUC is not a “development” as defined by the California Coastal Act.

As required by State law, this ALUCP is consistent with the safety and noise standards of the 2011 Air Installations Compatibility Use Zones (AICUZ) study prepared by the United States Department of Defense for NASNI.

The ALUC is responsible for administering and applying the policies of this ALUCP unless local agencies take steps to implement or overrule the plan. See Appendix B, Implementation Tools and Documents, for details on implementation.

**December 2019 Draft NASNI ALUCP**

This Airport Land Use Compatibility Plan (ALUCP) for Naval Air Station North Island (the Airport or NASNI) has been prepared by the San Diego County Regional Airport Authority (SDCAA), acting in its capacity as the San Diego County Airport Land Use Commission (ALUC), in fulfillment of the state mandate to prepare ALUCPs. This ALUCP promotes compatibility between NASNI and surrounding land uses to protect public health, safety and welfare in areas around the Airport, to the extent that these areas are not already devoted to incompatible uses. As required by state law, this ALUCP is consistent with the safety and noise standards of the 2011 Air Installations Compatibility Use Zones (AICUZ) study prepared by the United States Navy for NASNI. The AICUZ study recognizes that various land uses that are incompatible based on AICUZ guidance have already been developed within the noise contours and safety zones. In this situation, the AICUZ study advises that local agencies “not take actions that would make an existing land use compatibility (or incompatibility) situation worse (for example, by allowing increased densities in the redevelopment of currently low density incompatible land uses).” The policies of this ALUCP ensure that these existing incompatible land uses can be continued, maintained, and modified, subject to specified standards that would prevent an increase in the level of incompatibility.

The ALUC is responsible for administering and applying the policies of this ALUCP unless local agencies take steps to implement or overrule the plan. See Section 6 Implementation or Overrule of ALUCP and Appendix B, Implementation Tools and Documents, for details on implementation.

### Amendment of ALUCP

**August 2017 Draft NASNI ALUCP**

Amendment of this ALUCP may be made once per calendar year, as provided by law. ALUCP amendments may address any issue deemed appropriate by the ALUC. This limitation does not apply to amendments dealing with format changes or corrections to language. If a new AICUZ for NASNI is issued by the U.S. Navy, the ALUC will amend the ALUCP as needed to reflect the updated noise contours and safety zones of the new AICUZ.

**December 2019 Draft NASNI ALUCP**

Major amendments (revising or adding policies, standards, or maps) to the ALUCP cannot be done more than once per calendar year. Minor amendments (addressing grammatical, typographical, or minor technical errors that do not affect policies or the manner in which those policies are applied) can be done as often as needed. ALUCP amendments may address any issue deemed appropriate by the ALUC. If a new AICUZ for NASNI is issued by the U.S. Navy, the ALUC is required to amend the ALUCP as needed to reflect the updated noise contours and safety zones of the new AICUZ.

### Goals of this ALUCP

**August 2017 Draft NASNI ALUCP**

Promote land use compatibility within noise contours by:
- Limiting new noise-sensitive development within 65 dB CNEL and higher noise contours
- Ensuring that new noise-sensitive development meets interior sound level standards
- Protect public safety by:
  - Limiting new risk-sensitive land uses within safety zones
  - Avoiding increases in existing land use incompatibility with the AICUZ
- Protect NASNI airspace and the safety of flight by:
  - Limiting the height of new structures and objects
  - Preserving the operational ability of the airfield
- Limiting potential hazards to flight
- Provide notice to prospective buyers of new housing within the overflight boundary regarding the potential effects of aircraft overflights

**December 2019 Draft NASNI ALUCP**

Promote the compatibility of land uses within noise contours by:
- Limiting new noise sensitive development within the 65 dB CNEL and higher noise contours to avoid an increase in existing land use incompatibility
- Ensuring that new noise sensitive development within the 65 dB CNEL and higher noise contours meets interior sound level standards
- Protect public safety by:
  - Limiting new risk sensitive land uses within the safety zones
  - Avoiding an increase in existing land use incompatibility within the safety zones
- Protect NASNI airspace and the safety of flight by:
  - Limiting the height of new structures and objects within the airspace protection boundary per FAA standards
- Limiting potential hazards to flight within the airspace protection boundary
- Promote awareness to prospective buyers of new housing regarding the potential effects of aircraft overflights within the AIA
<table>
<thead>
<tr>
<th>August 2017 Draft NASNI ALUCP</th>
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<tbody>
<tr>
<td><strong>1.3 Airport Influence Area</strong> This ALUCP applies within the Airport Influence Area (AIA), as depicted in Exhibit 1, Airport Influence Area, which is “the area in which current and projected future airport-related noise, safety, airspace protection, or overflight factors/layers may significantly affect land use or necessitate restrictions on land use.” This ALUCP provides airport land use compatibility policies related to the four factors of noise, safety, airspace protection, and overflight that apply within the AIA.</td>
<td><strong>1.4 Airport Influence Area</strong> This ALUCP applies within the Airport Influence Area (AIA), as depicted in Exhibit 1, Airport Influence Area, which is “the area in which current and projected future airport-related noise, safety, airspace protection, or overflight factors/layers may significantly affect land use or necessitate restrictions on land use.” This ALUCP provides airport land use compatibility policies related to the four factors of noise, safety, airspace protection, and overflight that apply within the AIA. The AIA defines the area in which any person who offers residential property for sale or lease is required by state law to disclose the proximity of the airport and the potential for aircraft overflights and annoyances and inconveniences associated with aircraft overflights.</td>
</tr>
<tr>
<td><strong>1.4 Real Estate Disclosure</strong> The AIA defines the area in which any person who offers residential property for sale or lease is required by State law to disclose airport proximity.</td>
<td><strong>1.5 Definitions</strong></td>
</tr>
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<td><strong>2.0 Stakeholders Involved with this ALUCP</strong></td>
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<tr>
<td>ALUC: The SDCRAA Board serves as the ALUC for San Diego County.</td>
<td>ALUC: The SDCRAA Board serves as the ALUC for San Diego County, and its role is to adopt and apply the ALUCP.</td>
</tr>
<tr>
<td>Local Agencies: The term “local agency” means the Cities of Chula Vista, Coronado, Imperial Beach, National City, and San Diego; the County of San Diego; and the Unified Port of San Diego. It also includes school districts, community college districts and special districts with the authority to build and operate public buildings and facilities.</td>
<td>Local Agencies: Any agency with jurisdiction over property within the AIA including the Cities of Chula Vista, Coronado, Imperial Beach, National City, and San Diego; the County of San Diego; and the San Diego Unified Port District. It also includes school districts, community college districts, and special districts with the authority to build and operate public buildings and facilities.</td>
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<td>Project Sponsors: The term “project sponsor” refers to any person or entity having an interest in a property, including a local agency, landowner, landowner’s agent, or nonresidential tenant, who submits an application to a local agency for review of a proposed project.</td>
<td>Project Sponsors: Any person or entity having an interest in a property within the AIA, including a local agency, landowner, landowner’s agent, or nonresidential tenant, who submits an application to a local agency for approval of a proposed project within the AIA.</td>
</tr>
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<td>U.S. Navy: The Navy operates NASNI and prepared the AICUZ Study upon which this ALUCP is based. NASNI officials are resources who may be consulted, at the discretion of the ALUC and local agencies, about the airspace and flight safety implications of proposed land use actions.</td>
<td>U.S. Navy: The Navy operates NASNI and prepared the AICUZ Study upon which this ALUCP is based. NASNI officials are resources who may be consulted, at the discretion of the ALUC and local agencies, about the airspace and flight safety implications of proposed land use actions.</td>
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<td><strong>3.1 Property Not Subject to this ALUCP</strong> This ALUCP does not apply to any property owned by the United States government, the State of California, or any Native American tribe.</td>
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<td><strong>3.2 Naval Air Station North Island Operations and Facilities</strong> The ALUC has no authority over NASNI airport layout, operations, or expansion. Other potential impacts created by NASNI within its environs (e.g., air or water quality, resource impacts, or surface traffic) are addressed by other federal and state laws and are not within the statutory authority for the ALUC to review.</td>
<td><strong>3.2 Naval Air Station North Island Operations and Facilities</strong> The ALUC has no authority over NASNI airport layout, operations, or expansion. Other potential impacts created by NASNI within its environs (e.g., air or water quality, resource impacts, or surface traffic) are addressed by other federal and state laws and are not within the statutory authority for the ALUC to review.</td>
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<td><strong>Existing Land Uses:</strong> Any use lawfully attained and occurring at the time of ALUCP adoption that remains constant without physical change to its gross floor area or height</td>
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<td><strong>Uses with Vested Rights:</strong> A land use is considered existing if a vested right is obtained in any of the following ways:</td>
<td><strong>Uses with Vested Rights:</strong> A land use is considered existing if a vested right is obtained in any of the following ways prior to adoption of this ALUCP:</td>
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<td>• Issuance of a valid building permit or other development permit with substantial work performed and substantial liabilities incurred in good faith reliance on the permit</td>
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<td>• An executed and valid development agreement</td>
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<td>• An approved and unexpired vesting tentative map</td>
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February 13, 2020
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<td>• Repair, maintenance, and remodeling of an existing residential unit with no increase in height</td>
<td>• Repair, maintenance, and remodeling of an existing residential dwelling unit with no increase in height and without the addition of another dwelling unit</td>
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<tr>
<td>• Reconstruction of less than 50% of the existing habitable space of the residential dwelling unit with no increase in height</td>
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<td>• Expansion/addition of less than 50% of the existing habitable space of the residential dwelling unit with no increase in height</td>
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<tr>
<td>• Repair, maintenance, and remodeling within existing gross floor area with no increase in height</td>
<td>• Repair, maintenance, and remodeling within existing gross floor area with no increase in height</td>
</tr>
<tr>
<td>• Tenant changes in an existing structure to another compatible or conditionally compatible use as described in Table 6, Land Use Standards for Noise and Safety Compatibility</td>
<td>• Tenant changes in an existing structure to any use other than an incompatible use, as described in Table 4, Standards for Noise and Safety Compatibility</td>
</tr>
<tr>
<td>• Reconstruction of less than 50 percent of the existing gross floor area of the nonresidential building with no increase in height</td>
<td>• Reconstruction of less than 50 percent of the existing gross floor area of the nonresidential building with no increase in height or gross floor area</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Projects outside Noise &amp; Safety Zones (Exhibit 1) within Airport Influence Area Provided that:</th>
<th>Projects outside Noise and Safety Zones within Airport Influence Area (Exhibit 1): Provided that:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• the project sponsor supplies either of the following to the local agency:</td>
<td>• The project sponsor supplies either of the following to the local agency:</td>
</tr>
<tr>
<td>o FAA determination of no hazard to air navigation with no conditions; or</td>
<td>o FAA Determination of No Hazard to air navigation with no conditions; or</td>
</tr>
<tr>
<td>o Certification by a licensed professional that there is no need to file notice for construction or alteration per 14 CFR §77.9</td>
<td>o Certification by an appropriate licensed professional, in the State of California, that there is no need to file notice for construction or alteration per 14 CFR §77.9(a)(1)</td>
</tr>
<tr>
<td>• the project does not involve any potential hazards to flights, as described in Section 5.2.5</td>
<td>• The project does not involve any potential hazards to flight, as described in Section 5.2.5, Standards for the Protection of Flight Safety</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Unoccupied Residential Accessory Structures</th>
<th><strong>Temporary Uses and Activities:</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Structures not designed as habitable space, such as sheds, garages, decks and patios, and utilities attachments such as solar panels or satellite antennas</td>
<td>Tents, concert stages, participant sports, spectator events, and receptions</td>
</tr>
</tbody>
</table>

| Resumption of a Discontinued Use: Resumption of an existing incompatible land use that has been discontinued for no more than 24 months. | Resumption of a Discontinued Use: Resumption of an existing incompatible land use that has been discontinued for no more than 24 consecutive months. |

<table>
<thead>
<tr>
<th>Table 4: Land Use Plans and Regulations Always Subject to ALUC Review</th>
<th>Table 5: Land Use Projects Subject to ALUC Review until Local Agency Implements or Overrules the ALUCP</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Proposed adoption of or amendment to a General Plan;</td>
<td>A proposal to establish a new land use or modify an existing land use, by any means (ministerial permit, discretionary permit, certificate of occupancy, business license, or sponsorship by a local agency), that involves the following:</td>
</tr>
<tr>
<td>• Proposed adoption of or amendment to a Community/Specific/Precise Plan;</td>
<td>• Construction of a new residence or building, unless exempt per Table 3, Exemptions from ALUC Review;</td>
</tr>
<tr>
<td>• Proposed adoption of or amendment to a Zoning Ordinance, including a Zoning Map Amendment (rezone);</td>
<td>4.1.1 Proposed Land Use Plans and Regulations Always Subject to ALUC Review</td>
</tr>
<tr>
<td>• Proposed adoption of a local building regulation, other than the State Building Code, which would pertain to the land use policies and standards of this ALUCP;</td>
<td>The following proposed land use plans and regulations are always subject to ALUC review for consistency with the ALUCP:</td>
</tr>
<tr>
<td>• Proposed adoption of or amendment to any school district, community college district, or special district master plan</td>
<td>1. Proposed adoption of or amendment to a General Plan</td>
</tr>
<tr>
<td>4.1.2 Proposed Land Use Actions Subject to ALUC Review Until Local Agency Implements or Overrules the ALUCP</td>
<td>2. Proposed adoption of or amendment to a Community/Specific/Precise Plan/Master Plan</td>
</tr>
<tr>
<td>A proposal to establish a new land use or modify an existing land use, by any means (ministerial permit, discretionary permit, certificate of occupancy, business license, or sponsorship by a local agency), that involves the following:</td>
<td>3. Proposed adoption of or amendment to a Zoning Ordinance, including a Zoning Map amendment (rezone)</td>
</tr>
<tr>
<td>The following proposed land use plans and regulations are always subject to ALUC review for consistency with the ALUCP:</td>
<td>4. Proposed adoption of a local building regulation, other than the State Building Code, which would pertain to the land use policies and standards of this ALUCP</td>
</tr>
<tr>
<td>• Construction of a new residence or building, unless exempt per Table 3, Exemptions from ALUC Review;</td>
<td>5. Proposed adoption of or amendment to any school district, community college district, or special district master plan</td>
</tr>
</tbody>
</table>

February 13, 2020
Land use actions that involve the following are subject to ALUC review:

1. Construction of a new residence or building, unless exempt per Table 3, Exemptions from ALUC Review;
2. Reconstruction of or addition to an existing residence, unless exempt per Table 3, Exemptions from ALUC Review;
3. Reconstruction of a building occupied by or proposed for occupancy by a nonresidential use, unless exempt per Table 3, Exemptions from ALUC Review;
4. Reconstruction of an existing building occupied by or proposed for occupancy by a nonresidential use, unless exempt per Table 3, Exemptions from ALUC Review;
5. An addition to an existing building occupied by or proposed for occupancy by a nonresidential use;
6. Land use projects that have obtained an FAA Determination of Hazard (DOH) or a Determination of No Hazard (DNH) to air navigation with conditions (e.g., marking and lighting);
7. Change of use in an existing residence or nonresidential building to an incompatible use per Table 6, Land Use Standards for Noise and Safety Compatibility

Land use actions should be referred to the ALUC at the earliest reasonable time so that the ALUC’s review can be duly considered before final action by the local agency. Depending upon the type of land use action and the normal scheduling of meetings, ALUC review can be completed before or concurrently with the review by the local planning commission and other advisory bodies, but must be accomplished before final action by the local agency.

A consistency determination is transferable to a modified project only if there are no changes as listed in any of the preceding bullets. The previous consistency determination will be rescinded if the ALUC makes a new determination.

4.1 Consistency Determination Review Process

ALUC:
- Determines consistency of land use actions (plans, regulations, and projects) with ALUC
- Does not issue permits, nor does it approve or disapprove development

Local Agency:
- Issues all permits
- Determines if development rights are vested
- Has two options after ALUC inconsistency determination:
  - Disapprove land use action;
  - Overrule the ALUC and approve the land use action

Land use actions should be referred to the ALUC at the earliest reasonable time so that the ALUC’s review can be duly considered before final action by the local agency. Depending upon the type of land use action and the normal scheduling of meetings, ALUC review can be completed before or concurrently with the review by the local planning commission and other advisory bodies, but must be accomplished before final action by the local agency.

4.2 Changes to Land Use Projects with Previous Consistency Determinations

An ALUC consistency determination does not expire, but is limited to the project plans and description as reviewed by the ALUC. Land use projects with ALUC consistency determinations require additional consistency review if any of the following changes occur prior to issuance of permits by a local agency:

- An increase in the proposed residential density (number of dwelling units per acre)
- A proposed change to or addition of a new land use
- An increase in proposed height that results in a hazard determination from the FAA
- A proposed addition of a characteristic that could create a hazard to air navigation (e.g., glare, thermal plumes, wildlife attractants) or adversely impact flight operations (see Section 5.2.4 for information about the characteristics that could create hazards to air navigation)

A consistency determination is transferable to a modified project only if there are no changes as listed in any of the preceding bullets. The previous consistency determination will be rescinded if the ALUC makes a new determination.

4.1.3 Consistency Determination Review Process

ALUC:
- Determines consistency of land use actions (plans, regulations, and projects) with ALUC
- Does not issue permits, nor does it approve or disapprove development

Local Agency:
- Issues all permits
- Determines if development rights are vested
- Has two options after ALUC inconsistency determination:
  - Disapprove land use action;
  - Overrule the ALUC and approve the land use action per state mandated procedures

Land use actions should be referred to the ALUC at the earliest reasonable time so that the ALUC’s review can be duly considered before final action by the local agency. Depending upon the type of land use action and the normal scheduling of meetings, ALUC review can be completed before or concurrently with the review by the local planning commission and other advisory bodies, but must be accomplished before final action by the local agency.

4.2 Changes to Land Use Projects with Previous Consistency Determinations

An ALUC consistency determination does not expire, but is limited to the project plans and description as reviewed by the ALUC. Land use projects with ALUC consistency determinations require additional consistency review if any of the following changes occur prior to issuance of permits (or amended permits) by a local agency:

- An increase in the proposed residential density (number of dwelling units per acre, excluding accessory dwelling units)
- A proposed increase in gross floor area of a nonresidential land use
- A proposed change to or addition of a new land use
- An increase in proposed height that results in either a Determination of Hazard or a Determination of No Hazard subject to marking and lighting requirements from the FAA
- A proposed addition of a characteristic that could create a hazard to air navigation (e.g., glare, thermal plumes, wildlife attractants) or adversely impact flight operations (see Section 5.2.5, Standards for the Protection of Flight Safety, for information about the characteristics that could create hazards to air navigation)

A consistency determination is transferable to a modified project only if there are no changes as listed in any of the preceding bullets.

5.1 Noise and Safety Compatibility
This ALUCP establishes the zones where noise and safety policies and standards apply, as depicted in Exhibit 3, Safety Zones and Noise Contours. As discussed in Appendices E2, Technical Analysis: Noise Compatibility, and E3, Technical Analysis: Safety Compatibility, and acknowledged in the AICUZ, the land that is within the safety zones and noise contours is almost entirely built out with uses that are incompatible with AICUZ guidance. There is also minimal opportunity for development of new land uses within these areas. Therefore, this ALUCP addresses the potential for reconstruction of and changes to existing land uses without increasing the level of existing incompatibility, as advised in the AICUZ study.

### 5.1.1 Noise and Safety Compatibility Standards

Table 4, Standards for Noise and Safety Compatibility, combines noise and safety compatibility standards for redevelopment and the reconstruction of, additions to, or changes in the use of existing residences and nonresidential buildings. Users of Table 4 must refer to Exhibit 4 to determine both the safety zone and the noise contour within which the proposed land use is located. For each land use category row, the ALUCP safety and noise compatibility standards are indicated in the three safety zone columns and a column for the 65 dB CNEL contour outside the safety zones.

Prior to local agency implementation of the ALUCP (see Section 6), when the ALUC receives a request for a consistency determination from the local agency, the ALUC determines the most similar land use for any proposed land use that is not specified in Table 6 based upon the land use definitions and guidance in Appendix A, Land Use Classification Definitions. Once the most similar land use is determined, standards specified for that use in Table 6 apply.

- The degree of concentration of people within a limited area (such as a restaurant compared to a warehouse), because high concentrations of people can impede swift evacuation in the event of an aviation accident
- The degree of openness and coverage of land (such as passive recreational fields compared to offices), which can limit options where aircraft in distress can attempt emergency landings
- The presence of less mobile, vulnerable occupants (such as children, the elderly, or incarcerated individuals) who cannot be readily evacuated in the event of an aviation accident
- The presence of hazardous materials, which could release contained substances and pose danger to people nearby in the event of an aviation accident
- The presence of critical community infrastructure (such as major utilities), which could cause widespread impacts to the public at large beyond just the immediate facility in the event of damage by an aviation accident
- Whether the land use involves sleeping rooms and activities where a quiet indoor environment is needed

### 5.1.2 Land Uses Not Specified in Table 6

Prior to local agency implementation of the ALUCP (see Section 6), when the ALUC receives a request for a consistency determination from the local agency, the ALUC determines the most similar land use for any proposed land use that is not specified in Table 4, Standards for Noise and Safety Compatibility, based upon the land use definitions and guidance in Appendix A, Land Use Classification Definitions. Once the most similar land use is determined, standards specified for that use in Table 6 apply.

### 5.1.3 Accessory Dwelling Unit Development Right

Accessory dwelling units, as defined by state law, are compatible with this ALUCP, subject to the conditions described in Table 6.

### 5.1.4 Multi-Family Residential Density

Properties zoned for multi-family residential use within the safety zones are compatible with this ALUCP up to the maximum density allowed by zoning in effect at the time of ALUCP adoption.

### 5.1.5 Expansion of Existing Nonresidential Uses Incompatible in Safety Zones

**Table 6, Land Use Standards for Noise and Safety Compatibility**

<table>
<thead>
<tr>
<th>Land Use Standards for Noise and Safety Compatibility</th>
<th>Standards for Noise and Safety Compatibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 4, Standards for Noise and Safety Compatibility, combines noise and safety compatibility standards for redevelopment and the reconstruction of, additions to, or changes in the use of existing residences and nonresidential buildings. Users of Table 4 must refer to Exhibit 4 to determine both the safety zone and the noise contour within which the proposed land use action is located. For each land use category row, the ALUCP safety and noise compatibility standards are indicated in the three safety zone columns and a column for the 65 dB CNEL contour outside the safety zones.</td>
<td>The maximum compatible residential densities established in Table 4, Standards for Noise and Safety Compatibility, include any density bonuses that local agencies may provide for affordable housing developed in accordance with state law or local ordinance. Land use projects with density bonuses cannot exceed the maximum compatible densities established in Table 4.</td>
</tr>
</tbody>
</table>

**Table 7, Land Use Standards for Noise and Safety Compatibility**

<table>
<thead>
<tr>
<th>Land Use Standards for Noise and Safety Compatibility</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Table 7, Standards for Noise and Safety Compatibility, combines noise and safety compatibility standards for redevelopment and the reconstruction of, additions to, or changes in the use of existing residences and nonresidential buildings. Users of Table 7 must refer to Exhibit 4 to determine both the safety zone and the noise contour within which the proposed land use action is located. For each land use category row, the ALUCP safety and noise compatibility standards are indicated in the three safety zone columns and a column for the 65 dB CNEL contour outside the safety zones.</td>
<td>The maximum compatible residential densities established in Table 7, Standards for Noise and Safety Compatibility, include any density bonuses that local agencies may provide for affordable housing developed in accordance with state law or local ordinance. Land use projects with density bonuses cannot exceed the maximum compatible densities established in Table 7.</td>
</tr>
</tbody>
</table>

**Table 8, Land Use Standards for Noise and Safety Compatibility**

<table>
<thead>
<tr>
<th>Land Use Standards for Noise and Safety Compatibility</th>
<th>Standards for Noise and Safety Compatibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table 8, Standards for Noise and Safety Compatibility, combines noise and safety compatibility standards for redevelopment and the reconstruction of, additions to, or changes in the use of existing residences and nonresidential buildings. Users of Table 8 must refer to Exhibit 4 to determine both the safety zone and the noise contour within which the proposed land use action is located. For each land use category row, the ALUCP safety and noise compatibility standards are indicated in the three safety zone columns and a column for the 65 dB CNEL contour outside the safety zones.</td>
<td>The maximum compatible residential densities established in Table 8, Standards for Noise and Safety Compatibility, include any density bonuses that local agencies may provide for affordable housing developed in accordance with state law or local ordinance. Land use projects with density bonuses cannot exceed the maximum compatible densities established in Table 8.</td>
</tr>
</tbody>
</table>
Because expansion of existing nonresidential uses would increase the level of existing incompatibility, increases in the gross floor area of buildings occupied by existing nonresidential uses are not compatible within the Clear Zone or Accident Potential Zones I and II.

### 5.1.6 Reconstruction of Existing Nonresidential Uses

Reconstructed non-residential buildings within the safety zones are limited in size to the gross floor area (including the gross floor area of vested development) at the time of adoption of this ALUCP. See Table 6.

### 5.1.7 Consistency of Land Use Plan and Zoning Amendments with ALUCP within the Safety Zones

General Plan, community/specific/purpose plan, (collectively, land use plans) and zoning amendments, including zoning map amendments (rezones), are subject to ALUC review as described in Table 4. The following standards apply to the determination of consistency of land use plan and zoning amendments with this ALUCP.

#### 5.1.7.1 Amendments that would Increase Allowable Residential Density

Land use plan or zoning ordinance amendments (including zoning map amendments or rezones) that would increase the allowable residential density (the number of dwelling units per acre) in the safety zones are incompatible with the safety compatibility policies and standards.

#### 5.1.7.2 Amendments that would Increase Allowable Building Heights

Land use plan or zoning ordinance amendments (including zoning map amendments or rezones) that would increase the maximum allowable height of buildings in the safety zones are incompatible with the airspace compatibility policies and standards.

#### 5.1.7.3 Amendments that would Change Open Space Designations

Land use plan or zoning ordinance amendments that would change the land use designation of, or rezone, area shown as Open Space/Park on Exhibit 3 within the safety zones as of the adoption date of the ALUCP are incompatible with the safety compatibility policies and standards.

#### 5.1.8 Alteration of Historic Resources within the Safety Zones

The reuse of historic resources for incompatible uses, as described in Table 6 is incompatible with the noise and safety compatibility policies and standards.

#### 5.1.9 Parcels Split by a Safety Zone Boundary or a CNEL Noise Contour

New or reconstructed buildings are subject to the conditions of the safety zone or noise contour in which the greatest proportion of habitable space, for a residential building, or gross floor area for a nonresidential building, is located.

### 5.2.1 FAA Notification Requirements

Project sponsors must comply with Federal law that requires notice to the FAA for proposed construction or alteration of objects exceeding certain heights or that could potentially interfere with navigational aids by filing Form 7460-1 with the FAA, if required.

#### 5.2.1.1 Determining Need for FAA Notification

Sponsors of proposed construction or alteration of structures within the boundary depicted on Exhibit 4 must determine whether they are required to file with the FAA a Notice of Proposed Construction or Alteration (FAA Form 7460-1). Project sponsors can refer to the FAA Notice Criteria Tool to determine if they are required to file
<table>
<thead>
<tr>
<th>August 2017 Draft NASNI ALUCP</th>
<th>December 2019 Draft NASNI ALUCP</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>5.2.1.2 Submitting FAA Determination or Certification of Shielding with ALUCP Consistency Application</strong></td>
<td><strong>5.2.1.2 Submitting FAA Determination or Certification of Shielding with ALUCP Consistency Application</strong></td>
</tr>
<tr>
<td>Local agencies must include a copy of the FAA notice of determination letter with its consistency application to the ALUC if FAA review is required. Alternatively, local agencies may submit the project sponsor’s certification that the object proposed for construction will be shielded by existing structures of a permanent nature per Section 5.2.1.1. See Appendix B for the submittal requirements under the ALUCP consistency determination application process.</td>
<td>If FAA review is required, local agencies must include a copy of the FAA notice of determination letter with its consistency application to the ALUC. Alternatively, local agencies may submit the project sponsor’s certification that the object proposed for construction will be shielded by existing structures of a permanent nature per Section 5.2.1.1. Determining Need for FAA Notification.</td>
</tr>
</tbody>
</table>

5.2.2 Compatible Structure or Object

After receiving a Form 7460-1 Notice of Proposed Construction or Alteration, the FAA undertakes an obstruction evaluation and aeronautical study to determine the effect of the proposed structure or object on the use of airspace. The FAA determines if the proposed structure or object would be a hazard to air navigation. A proposed structure or object is compatible with the airspace protection policies if it is not a hazard to air navigation and, if necessary, it is marked and lighted according to FAA recommendations and instructions.

5.2.3 Conditionally Compatible Structure or Object

A proposed structure or object is conditionally compatible with the airspace policies if the FAA issues a Determination of No Hazard to Air Navigation with conditions and is designed to comply with those conditions.

5.2.4 Incompatible Structure or Object

A proposed structure or object is incompatible with the airspace policies if either of the following apply:

1. The FAA has issued a Determination of Hazard to Air Navigation; or
2. NASNI analysis determines that the proposed structure or object would increase the ceiling or visibility minimums for an existing or planned instrument procedure, airway, route, or minimum vectoring altitude or conflict with instrument or visual flight rules airspace.

5.2.5 Standards for the Protection of Flight Safety

This section includes standards for determining when certain conditions may constitute flight safety hazards and be incompatible with the airspace protection and flight safety policies. As part of the local agency’s ALUCP application, the project sponsor must complete the certification statement found in Appendix B, Implementation Tools and Documents, certifying that all of the following characteristics are avoided or, if present with the project, are mitigated below the threshold of a hazard to flight safety to the written concurrence of the commanding officer of NASNI or his or her designee.
## August 2017 Draft NASNI ALUCP

- Bird attractants

This section includes standards for determining when these conditions may constitute flight safety hazards and be incompatible with the airspace protection and flight safety policies.

### 5.2.4.1 Sources of Glare

Expanses of highly reflective materials may cause visual after-images or flash blindness for pilots and air traffic controllers, thus compromising flight safety. Potential problems can be caused by flat walls and roofs composed of reflective materials, such as glass, aluminum, stainless steel, or white-painted surfaces. Concentrating solar power plants that use mirrors to concentrate solar rays on pipes of heat transfer fluids may also create glare. Under certain circumstances, large photovoltaic cell arrays may create unacceptable levels of glare. Note that only expansive installations, such as large office buildings, expansive industrial buildings or warehouses with large amounts of roof space, or industrial-scale solar installations, would potentially cause problems. Rooftop solar installations and roof and wall materials on low-rise housing and commercial buildings would not create potentially severe glare effects.

Highly reflective materials creating the potential for visual after-images or more severe effects for pilots and air traffic controllers are incompatible within the airspace protection boundary depicted on Exhibit 4 unless one of the following conditions applies:

1. The project sponsor has prepared a technical study, certified by a lighting engineer or equivalent expert, demonstrating that the proposed building materials would not create reflections intense enough to create the potential for temporary after-images or more severe effects for air traffic controllers or pilots at any time of day during any season of the year.
2. The FAA has reviewed the land use project and has issued a final Notice of Determination that addresses but raises no objection to the potential glare impacts of the project.

### 5.2.5.1 Sources of Glare/Glint

Highly reflective materials that may cause visual after images or flash blindness in pilot or controller vision are incompatible with the airspace and flight safety policies. An analytical model has been developed to evaluate the potential problems of glare/glint caused by solar energy installations. The tool may also be used to evaluate glare/glint from other highly reflective surfaces. See Appendix B for information about the Solar Glare Hazard Analysis Tool.

### 5.2.5.2 Lighting

#### 5.2.4.2 Lighting

The following lighting systems are incompatible in the airspace protection boundary depicted on Exhibit 4 when casting light upward and within 30 degrees of the extended runway centerlines of each runway at NASNI:

- Searchlights
- Laser lights
- Sequenced flashing lights
- Stroboscopic lights

Any other lighting that produces effects that mimic airport identification lighting, runway end identification lighting or runway approach lighting are incompatible with the airspace and flight safety policies. The following lighting systems, which may be confused with airport lighting systems, are incompatible with this ALUCP when casting light toward the approach paths of aircraft:

- Searchlights
- Laser lights
- Sequenced flashing lights
- Stroboscopic lights

Additionally, outdoor lighting, such as parking lot lights, which are not shielded and directed downward are incompatible with the airspace and flight safety policies.

When potentially problematic lighting systems are proposed, the ALUC will consult with the FAA and the responsible NASNI officials for input and advice on the potential adverse impacts of the lighting systems and potential methods of mitigating potentially severe impacts. These consultations must be accomplished before the ALUC issues an ALUCP consistency determination on the proposed systems.

### 5.2.5.3 Sources of Dust, Water Vapor and Smoke

Land use projects that may create columns of dust, steam, water vapor, or smoke dense enough to impair pilot or controller vision and compromise flight safety are incompatible with the airspace and flight safety policies. If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process and has considered the potential effects of dust, water vapor, or smoke on air navigation and issued a determination indicating no

### December 2019 Draft NASNI ALUCP

### 5.2.4.1 Sources of Glare

Expanses of highly reflective materials may cause visual after-images or flash blindness for pilots and air traffic controllers, thus compromising flight safety. Potential problems can be caused by flat walls and roofs composed of reflective materials, such as glass, aluminum, stainless steel, or white-painted surfaces. Concentrating solar power plants that use mirrors to concentrate solar rays on pipes of heat transfer fluids may also create glare. Under certain circumstances, large photovoltaic cell arrays may create unacceptable levels of glare. Note that only expansive installations, such as large office buildings, expansive industrial buildings or warehouses with large amounts of roof space, or industrial-scale solar installations, would potentially cause problems. Rooftop solar installations and roof and wall materials on low-rise housing and commercial buildings would not create potentially severe glare effects.

Highly reflective materials creating the potential for visual after-images or more severe effects for pilots and air traffic controllers are incompatible within the airspace protection boundary depicted on Exhibit 4 unless one of the following conditions applies:

1. The project sponsor has prepared a technical study, certified by a lighting engineer or equivalent expert, demonstrating that the proposed building materials would not create reflections intense enough to create the potential for temporary after-images or more severe effects for air traffic controllers or pilots at any time of day during any season of the year.
2. The FAA has reviewed the land use project and has issued a final Notice of Determination that addresses but raises no objection to the potential glare impacts of the project.

### 5.2.5.1 Sources of Glare/Glint

Highly reflective materials that may cause visual after images or flash blindness in pilot or controller vision are incompatible with the airspace and flight safety policies. An analytical model has been developed to evaluate the potential problems of glare/glint caused by solar energy installations. The tool may also be used to evaluate glare/glint from other highly reflective surfaces. See Appendix B for information about the Solar Glare Hazard Analysis Tool.

### 5.2.5.2 Lighting

#### 5.2.4.2 Lighting

The following lighting systems are incompatible in the airspace protection boundary depicted on Exhibit 4 when casting light upward and within 30 degrees of the extended runway centerlines of each runway at NASNI:

- Searchlights
- Laser lights
- Sequenced flashing lights
- Stroboscopic lights

Any other lighting that produces effects that mimic airport identification lighting, runway end identification lighting or runway approach lighting are incompatible with the airspace and flight safety policies. The following lighting systems, which may be confused with airport lighting systems, are incompatible with this ALUCP when casting light toward the approach paths of aircraft:

- Searchlights
- Laser lights
- Sequenced flashing lights
- Stroboscopic lights

Additionally, outdoor lighting, such as parking lot lights, which are not shielded and directed downward are incompatible with the airspace and flight safety policies.

When potentially problematic lighting systems are proposed, the ALUC will consult with the FAA and the responsible NASNI officials for input and advice on the potential adverse impacts of the lighting systems and potential methods of mitigating potentially severe impacts. These consultations must be accomplished before the ALUC issues an ALUCP consistency determination on the proposed systems.

### 5.2.5.3 Sources of Dust, Water Vapor and Smoke

Land use projects that may create columns of dust, steam, water vapor, or smoke dense enough to impair pilot or controller vision and compromise flight safety are incompatible with the airspace and flight safety policies. If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process and has considered the potential effects of dust, water vapor, or smoke on air navigation and issued a determination indicating no
objections to those potential effects, that determination can be considered adequate evidence that the project can proceed without creating this hazard.

5.2.4.4 Sources of Thermal Plumes
Land uses that produce thermal plumes that would interfere with the safe control of aircraft are incompatible within the airspace protection safety boundary depicted on Exhibit 4. The California Energy Commission has determined that thermal plumes with upward velocities of 4.3 meters (14.1 feet) per second or greater are capable of jeopardizing the safe control of aircraft. Land uses capable of producing thermal plumes of such velocity at altitudes high enough to interfere with aircraft are rare. They include hydrocarbon-fueled electrical generation plants, concentrating solar power plants, and heavy industrial processing plants.

If the ALUC suspects that a proposed project has the potential to cause hazardous thermal plumes, the burden of proof is on the project sponsor to demonstrate that the proposed project would not create hazardous thermal plumes. Adequate proof can be provided in either of two ways:

- A technical study demonstrating that the proposed project would not create thermal plumes severe enough to compromise the safe control of the smallest aircraft regularly using NASNI.
- If the FAA has reviewed the proposed project through the 14 CFR Part 77 OE/AAA process and considered the potential effects of thermal plumes on aircraft in flight, the FAA’s final Notice of Determination indicates no objections to the potential thermal plume effects of the proposed project.

5.2.4.5 Electromagnetic Interference
Sources of electromagnetic interference with aircraft instrumentation and satellite or ground-based radar and navigational aids are incompatible within the airspace protection boundary depicted on Exhibit 4. Projects of potential concern include microwave towers, cell towers, antenna arrays, and arrays of wind power turbines. If the ALUC suspects that a land use project may result in electromagnetic interference, they must consult with the responsible NASNI officials and the FAA. The project sponsor must modify the land use project to comply with any FAA recommendations and conditions in order to be deemed conditionally compatible with the airspace protection and flight safety policies.

5.2.4.6 Bird Attractants
The following land uses, when they have the potential to attract birds that are a danger to aircraft in flight, are incompatible within the airspace protection boundary depicted on Exhibit 4.

- Waste Disposal Operations, including:
  - Municipal and commercial solid waste landfills
  - Trash transfer stations that handle waste that are not fully enclosed or lack ventilation and air filtration systems adequate to control odors escaping to the outdoors (odor-masking is not acceptable)
  - Commercial or institutional composting operations that accept food waste
- Water Management Facilities
  - Stormwater management facilities and artificial ponds, including water detention, retention, or recharge ponds, that create above-ground standing water, unless required by other provisions of municipal, county, or state law. Where these facilities are necessary and must be allowed, measures must be taken to minimize the risks of attracting birds.
  - Wastewater treatment facilities and associated settling ponds, including any devices or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes and artificial marshes designed for wastewater treatment. Where engineering imperatives or provisions of municipal, county, or state law require the installation of these facilities within the Airspace Protection Boundary, measure must be taken to minimize the risk of attracting birds.
  - Wetlands mitigation projects, unless they provide unique functions that must remain onsite or are otherwise directed by state or federal law, state or federal regulatory decision, or court order.

5.2.5.4 Sources of Thermal Plumes
Land use projects that create thermal plumes with the potential to interfere with the safe control of the smallest aircraft operating at NASNI are incompatible with the airspace and flight safety policies. An analytical model has been developed to evaluate the potential problems for aircraft in flight caused by thermal plumes. See Appendix B for information about the Exhaust Plume Analyzer.

5.2.5.5 Electromagnetic Interference
Sources of electromagnetic interference with pilot and controller communications, aircraft instrumentation, ground-based radar, and navigational aids are incompatible with the airspace and flight safety policies.

5.2.5.6 Wildlife Attractants
The following land uses that have the potential to attract wildlife are incompatible with the airspace and flight safety policies.

1. Agricultural, recreational, open space activities, and facilities that include:
   a. Aquaculture activities conducted outside fully enclosed buildings;
   b. A water feature incorporated into landscaping, open space areas, or golf courses with more than 2,500 square feet of water surface area and without sufficient hazardous wildlife control measures.
2. Waste Management Operations:
   a. Solid waste landfills;
   b. Transfer stations that handle waste outside fully enclosed buildings, or that lack ventilation and air filtration systems adequate to control odors escaping to the outdoors; (odor masking measures are not acceptable);
   c. Commercial or institutional food waste composting operations.
3. Water Management Facilities:
   a. Stormwater management surface detention areas, unless required by other provisions of municipal, county, or state law. Where stormwater detention areas are necessary and must be allowed, measures should be taken to minimize the risk of attracting potentially hazardous wildlife.
   b. Wastewater treatment facilities and associated settling ponds, including any devices and/or systems used to store, treat, recycle, or reclaim municipal sewage or liquid industrial wastes and artificial marshes designed for wastewater treatment. Where engineering imperatives or provisions
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<tr>
<th>August 2017 Draft NASNI ALUCP</th>
<th>December 2019 Draft NASNI ALUCP</th>
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<tr>
<td><strong>5.3 Overflight Notification</strong></td>
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| Exhibit 5, Overflight Area Boundary, depicts the area within which the overflight notification policies of the ALUCP apply. As a condition of the determination of ALUCP consistency of any land use project involving a new or completely reconstructed dwelling unit within the overflight boundary, local agencies must provide a means for the owner of the dwelling unit to be notified of the potential effects of aircraft overflight. Potential methods of implementing overflight notice requirements include, for example:  
• An ordinance requiring a recorded deed agreement (see Appendix B for a sample overflight agreement)  
• Provision of notice to the property owner upon issuance of building permits  
• An overlay zoning ordinance containing overflight notice language  
Alternative methods of providing overflight notification are acceptable if approved by the ALUC. At a minimum, any notice must include the following language. |
| NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport Overflight Area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. |
| **6.1 Local Agency Options after ALUC Adoption of ALUCP** |
| Within 180 calendar days of the ALUC’s adoption or amendment of this ALUCP, each local agency affected by this ALUCP must either:  
• Amend its land use plans and regulations, if necessary, to be consistent with the ALUCP, or  
• Overrule this ALUCP by a two-thirds vote of its governing body after adopting findings describing how the local agency’s current land use plans, regulations, proposed plan or regulatory amendments, or proposed projects achieve the objectives of the State Aeronautics Act and providing notice, as required by law.  
Until the local agency either acts to make its land use plans and regulations consistent with the ALUCP or overrules the ALUCP, the ALUC review procedures described in Section 4 of this ALUCP remain in effect. Refer to Appendix B for documents and tools to assist local agencies in implementing this ALUCP. |
| Refer to Appendix B, Implementation Tools and Documents, for documents and tools to assist local agencies in implementing this ALUCP. |
| **6.2 Local Agency Overrule** |
| Within 180 calendar days of the ALUC’s adoption or amendment of this ALUCP, each local agency subject to this ALUCP must either:  
• Amend its land use plans and regulations, if necessary, to be consistent with the ALUCP, or  
• Overrule all or part of this ALUCP (see Section 6.2 Local Agency Overrule).  
Until the local agency either acts to make its land use plans and regulations consistent with this ALUCP or overrules this ALUCP, the ALUC review procedures described in Section 4.1.2, Proposed Land Use Actions Subject to ALUC Review Until Local Agency Implements or Overrules the ALUCP, remain in effect. If the local agency's land use plans and regulations are consistent with this ALUCP, no action to adopt additional policies or regulations is required. However, only the ALUC can determine whether or not a local agency’s land use plans and regulations are consistent with this ALUCP. If the local agency decides to implement this ALUCP by amending its land use plans and regulations in stages, and if the ALUC has determined that those incremental land use plans and regulatory amendments are consistent with this ALUCP, the ALUC will not need to review proposed land use actions that are covered by those incremental amendments. Refer to Appendix B, Implementation Tools and Documents, for documents and tools to assist local agencies in implementing this ALUCP. |
| **NOTICE OF AIRPORT IN VICINITY:** This property is presently located in the vicinity of an airport, within what is known as an airport Influence Area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you. |
| The state law that requires any person who offers residential property for sale or lease to disclose the proximity of the Airport to the property is adequate to fulfill the overflight notification policy of this ALUCP. For any land use project involving a new or completely reconstructed dwelling unit within the overflight notification area boundary, local agencies should provide a means for the owner of the dwelling unit to be notified of the potential effects of aircraft overflight. Potential methods of implementing overflight notice requirements include:  
• An ordinance requiring a recorded deed agreement (see Appendix B, Implementation Tools and Documents, for a sample overflight agreement)  
• Provision of notice to the property owner upon issuance of building permits  
• An overlay zoning ordinance containing overflight notice language  
Alternative methods of providing overflight notification are acceptable if approved by the ALUC. At a minimum, any notice should include the following language:  
NOTICE OF AIRPORT IN VICINITY: This property is presently located in the vicinity of an airport, within what is known as an airport Influence Area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.  
The state law that requires any person who offers residential property for sale or lease to disclose the proximity of the Airport to the property is adequate to fulfill the overflight notification policy of this ALUCP.  
| **NOTICE OF AIRPORT IN VICINITY:** This property is presently located in the vicinity of an airport, within what is known as an airport Influence Area. For that reason, the property may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. You may wish to consider what airport annoyances, if any, are associated with the property before you complete your purchase and determine whether they are acceptable to you.  
The state law that requires any person who offers residential property for sale or lease to disclose the proximity of the Airport to the property is adequate to fulfill the overflight notification policy of this ALUCP.  
| The state law that requires any person who offers residential property for sale or lease to disclose the proximity of the Airport to the property is adequate to fulfill the overflight notification policy of this ALUCP. |
A local agency can overrule the entire ALUCP, a part of the ALUCP, or any ALUC determination of inconsistency by approval with a two-thirds majority vote of its governing body. The overrule decision must include findings describing how the local agency's current land use plans, regulations, proposed plan or regulatory amendments, or proposed projects achieve the objectives of the State Aeronautics Act. The overrule decision must be provided to Caltrans and the ALUC at least 45 days prior to the decision to overrule the ALUC, to provide those agencies a chance to comment on the proposed overrule decision.

### 6.3 ALUC Review of Proposed Land Use Plans and Regulations
Regardless of whether local agencies have implemented or overruled this ALUCP, local agencies must submit applications for determinations of ALUCP consistency to the ALUC for all proposed land use plans and regulations, as listed in Table 4.

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<th>August 2017 Draft NASNI ALUCP</th>
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<td>A local agency can overrule the entire ALUCP, a part of the ALUCP, or any ALUC determination of inconsistency by approval with a two-thirds majority vote of its governing body. The overrule decision must include findings describing how the local agency’s current land use plans, regulations, proposed plan or regulatory amendments, or proposed projects are consistent with the purposes of the airport land use compatibility planning statute as stated in California Public Utilities Code, Section 21670. The overrule decision must be provided to Caltrans and the ALUC at least 45 days prior to the decision to overrule the ALUC, in order to provide those agencies an opportunity to comment on the proposed overrule decision.</td>
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APPENDIX 3.B

Letter from C. April Boling, Chair, Airport Land Use Commission, San Diego County Regional Airport Authority to Blair King, City of Coronado, September 6, 2017
September 6, 2017

Blair King
City of Coronado
1825 Strand Way
Coronado, California 92118

Dear Mr. King:

Thank you for your letter dated August 21, 2017, reiterating the concerns set forth in your letter dated May 2, 2017 regarding the NAS North Island Airport Land Use Compatibility Plan (NASNI ALUCP).

Please be advised that Airport Land Use Commission (ALUC) staff carefully reviewed the comments and prepared detailed responses to each comment in addressing the City’s concerns (attached). These responses were formally distributed to the NASNI ALUCP Working Group via email on May 24, 2017, which includes two City of Coronado council members and multiple staff. While these detailed responses were provided to the NASNI ALUCP Working Group, I wanted to take this opportunity to forward the responses to you directly in the event the City Council members and City of Coronado staff who sit on the Working Group did not provide them to you. Additionally, I have included a letter from Caltrans Aeronautics which addresses some of the concerns raised in your letter.

The ALUC takes its responsibility to engage in a public collaborative planning process very seriously. As a responsive agency, it is inherent to our mission to have constructive dialogue and input from all stakeholders in all matters of regional aviation, including the ALUCP process. Furthermore, I know that the City of Coronado’s one-on-one meetings with ALUC staff and the City’s participation in the Working Group over the past 16 months has added great value to this process.

We look forward to the City of Coronado’s continued involvement and input to ensure that the NASNI ALUCP can be developed and implemented for the health, safety, and welfare of all citizens and agencies within its jurisdiction. Please feel free to contact me or Commissioner Jim Janney, who has been an active Working Group participant and represents South County concerns as an ALUC member, if you need any further assistance.
Yours truly,

C. April Boling  
Chair, Airport Land Use Commission  
San Diego County Regional Airport Authority

Attachments: Department of Transportation letter

cc: Mayor Richard Bailey, City of Coronado  
Council Member Bill Sandke, City of Coronado  
Council Member Carrie Downey, City of Coronado  
Council Member Whitney Benzian, City of Coronado  
Council Member Mike Donovan, City of Coronado  
Amy Gonzalez, SDCRAA General Counsel  
Ron Bolyard, Caltrans Division of Aeronautics
General Comments and Main Concerns:

1. The SDCRAA draft policy documents need to correctly state that the SDCRAA’s responsibility to conduct airport land use compatibility planning within areas around public airports is limited to the extent that those areas are not already devoted to incompatible uses. The draft policies and plan must demonstrate compliance with this finite scope and authority. In its current form, the draft plan policies exceed SDCRAA’s jurisdiction because it identifies areas already fully developed with land uses that are incompatible with the noise and safety standards of the AICUZ. Existing uses that are consistent with the City’s General Plan and zoning are not subject to SDCRAA’s jurisdiction. Existing uses which remain unchanged are not subject to the ALUCP or ALUC review. However, as defined in the Caltrans Airport Land Use Planning Handbook, "The limitation on ALUC authority over existing land uses applies only to the extent that the use remains constant. Merely because a land use exists on a property does not entitle the owner to expand the use, convert it to a different use, or otherwise redevelop the property if new or increased compatibility conflicts would result. To the extent that such land use changes require ministerial or discretionary approval on the part of the county or city, they may fall within the authority of the ALUC to review.” The consistency of an existing land use with the governing local agency’s general plan and zoning does not automatically ensure that it will be compatible with the ALUCP, and the AICUZ noise and safety standards with which the ALUCP must be consistent, should changes be proposed to that use. Despite the vast majority of existing uses being considered incompatible by the AICUZ, the AICUZ specifically provides (page 7-3) that “local governments should encourage fair disclosure to the public of the noise and APZ situation, and not take actions that would make an existing land use compatibility (or incompatibility) situation worse”. Although ALUCs have no authority over existing land use, compatibility planning boundaries are required to cover all of an airport’s influence area, including portions which are already developed. Existing development which is incompatible with respect to ALUC criteria that seeks to be redeveloped may be subject to ALUC policies. ALUCPs are not adopted for the purpose of addressing a snapshot in time; instead, they are informed by long-range planning documents (e.g., airport layout/master plans/AICUZ) and intended to be considered by local land use agencies when making decisions with long-term ramifications.

2. The State of California suspended the mandate to prepare ALUCPs in 2010. The draft plan policies incorrectly state SDCRAA is under a state mandate to prepare an ALUCP for NASNI. The California Legislature has never repealed the provisions of the State Aeronautics Act which require the establishment of county airport land use commissions and the development, adoption, and administration of the airport land use compatibility plans. Due to budget cycles, grants from Caltrans Aeronautics Division to fund ALUC functions have been periodically suspended in counties where no ALUC existed and such funds were provided for the
establishment and administration of an ALUC. San Diego County has continuously had an ALUC since 1970, originally SANDAG, and, since 2003, SDCRAA, by act of the Legislature. SDCRAA is self-funded and does not receive Caltrans grants to fund its functions as an ALUC, and as such has never been impacted by funding suspensions. Regardless, the statutory mandate has remained in full effect with no action of the Legislature to the contrary.

3. The City’s primary goals are to have an AICUZ that reflects a good faith effort to acknowledge and incorporate the on-the-ground existing pattern of land use and development which supports the important continued operational capabilities of both the City and Navy co-existing for the long-term as compatible neighbors. This comment relates to the development of the AICUZ in which the ALUC is not involved.

4. It is unclear whose “Goals” are articulated on page 1. The City’s goals are not reflected in the box on page 1 nor do they appear to have been considered by SDCRAA through their process and efforts to prepare an ALUCP based on the NASNI AICUZ. As an ALUC-produced document, the goals are those of the ALUC, just as any planning document reflects the goals of its producing agency. The draft has been updated to specify that the goals are those of the ALUC to promote the compatibility of NAS North Island with its environs through standards which address the component compatibility factors of the ALUCP. The goals of affected local agencies are usually given in their respective general plans, which, by statute, must incorporate the policies of the ALUCP into those plans, overrule the ALUCP, or else refer land use actions as designated by the ALUCP for ALUC review.

5. The Draft ALUCP should clearly state that the City of Coronado is fully built out in a manner that is consistent with the underlying general plan land use and zoning designations which embody the City’s long-term land use and development vision. The draft has always acknowledged that the city of Coronado is “almost entirely built out with uses that are incompatible with the AICUZ guidance”. As stated in response to #1, the consistency of existing land uses with a local agency’s general plan and zoning does not necessarily mean that changes to those uses are automatically compatible with the ALUCP and the AICUZ noise and safety standards with which the ALUCP must be consistent.

6. The ALUC review needs to be limited to proposed changes in land use designations as opposed to changes to existing structures not involving a change to the land use itself. The AICUZ and ALUCP should be developed consistent with existing land use and development patterns and based on City input. As stated in #3 above, the AICUZ has been issued and its contents are beyond the purview of the ALUC. The ALUCP is required by statute to be consistent with the noise and safety standards of the AICUZ, and, as stated in #5 above, deference has been made in the draft ALUCP to acknowledging the existing built-out development pattern of existing land uses in the City of Coronado. To the extent allowed by law, the draft policies provide for continued compatibility of existing residential and nonresidential uses when changes are proposed to those uses. As stated in #1 above, so long as an existing use remains constant, it is not subject to the ALUCP or ALUC review.
NASNI DRAFT ALUCP Comments and Responses

7. Based in part on comments made by members of the Working Group on March 3, 2017, and our own experience, the City is concerned that the valuable input provided by the Working Group is being summarily dismissed. The goal of the Working Group, which has now been convened for more than a year, was intended to provide for stakeholder collaboration on the goals, needs, and desired outcomes of the process; however, it appears that most if not all input is being disregarded by the SDCRAA which raises questions about the process and whether it is meaningful or substantive or has a predetermined outcome.

The ALUC is required by state law to "engage in a public collaborative planning process" when preparing an ALUCP. The Authority is engaged in an extensive collaborative planning process consisting of 10 Working Group meetings, 9 Community/Public meetings, and over 12 meetings with City staff. The Authority has included input from this process in the ALUCP to the extent allowed by law. As stated above, the AICUZ establishes the geometry of noise contours and safety zones and the applicable standards of compatibility that must be included in the ALUCP. To the extent that the ALUCP can recognize the existing development pattern, the draft has incorporated the input of the Working Group to preserve the established community character.

8. A fundamental flaw of the ALUCP is that it would have the net effect of super-imposing public safety hazards and noise overlays onto existing patterns of land use and development and would instantly convert a significant number of existing structures and land uses into non-conforming land uses and structures. The SDCRAA lacks authority to create such a condition (when the SDCRAA acknowledges it has no jurisdiction over NASNI) which would result in a significant but unenforceable burden on the City.

As has been stated repeatedly throughout the ALUCP development process and these responses, the ALUC possesses no regulatory land use power over NASNI or property in the City of Coronado. Only those uses shown as red/incompatible in Table 6 of the draft ALUCP would be considered non-conforming, and only after the City implements the ALUCP. The City decides whether and/or how to implement the ALUCP. The adoption of the ALUCP does not confer upon the ALUC any land use jurisdiction over NASNI or areas surrounding NASNI. The ALUCP has no effect on existing property uses or rights - so long as the existing residences and nonresidential structures remain constant, they are not subject to sound attenuation or other ALUCP policies.

9. NASNI has been operating concurrently with existing City land uses for many decades and the AICUZ is now six years old. It is doubtful that the Navy would subject its pilots, crews, residents, and visitors to Coronado to an unacceptable level of risk. Therefore, establishment of an AICUZ with a CZ and APZs that are fully built out with existing structures must not pose a significant threat to Navy personnel. It is the choice of the Navy (and now the SDCRAA vis-à-vis the ALUCP process) to create a situation where overflight operations and existing land uses and structures are viewed as incompatible; it is the Navy that should make necessary modifications to ensure pilot safety and public safety by modifying the flight path either through a landing pattern localizer offset or establishment of a displaced landing threshold since it is a change to Navy operations that is triggering the "incompatibilities."
By statute, an ALUC has no jurisdiction over the operation and facilities of any airport, including military installations. This comment would need to be addressed to the Navy.

10. In addition, the 2011 AICUZ has a stated operational planning horizon year of 2020. Since 2020 is now 2.5 years away, and the draft ALUCP still must undergo CEQA and NEPA review processes which can take a year or more to complete, it is likely that the draft ALUCP would not be completed and available for formal public review and comment until sometime around 2020 or later. By then, the ALUCP would be based on a NASNI AICUZ that is no longer valid from an operational standpoint and would be outdated.

The adoption of an ALUCP is not subject to NEPA, as it is not a federal action. The ALUCP schedule, which has been shared with City staff previously, envisions the ALUCP adoption in late 2017 or early 2018, not 2020. All plans—whether a local agency general plan, a military AICUZ or ALUCP—are benchmarked for a planning year horizon, but this does not mean that such plans are automatically invalid past that date. However, the last AICUZ for NASNI was adopted in 1984, 27 years ago, so the likelihood that operations would change so drastically within the next three years to render the 2011 AICUZ substantially out of date is extremely low.

11. The SDCRAA proposed process will add excessive delay and additional costs (including both processing costs and interior construction-related noise attenuation costs) to City residents, property owners and businesses. Mitigation funds should be provided to offset the additional financial burdens that would occur if the ALUCP were to be implemented.

ALUC review is typically 60 days or less. For projects that only require ALUC staff review, the timeframe is even shorter, typically one week. There are no fees associated with ALUC or staff review. The implementation of ALUCP recommendations is up to the local agency to administer according to the sound performance level standards that it establishes. Local agency permittees are already subject to state and local standards which may accomplish most ALUCP-suggested sound level reductions without extraordinary design elements or additional costs.

12. In a letter to the City from the Navy (dated March 3, 2017), the Navy indicates that it will be conducting an Environmental Assessment (EA) pursuant to NEPA to evaluate the potential environmental impacts associated with transitioning the C-2A Greyhound aircraft to the newer V-22 Osprey aircraft. The Proposed Project in this case includes the establishment of a Navy Fleet Replacement Squadron to train pilots and crew, a school for maintenance personnel and related construction of new facilities, and renovation of existing facilities at NASNI. This is a contemporary example of a planned modification at NASNI which highlights the ability of the Navy to make important facility changes when needed. The City is currently awaiting the results of the EA to determine if this proposed change would trigger a modification to the NASNI AICUZ.

If the findings of the EA would alter the noise contours or safety zones of the AICUZ, the Navy would update the AICUZ and the ALUCP would be amended to correspond to those changes.
13. It appears as though the FAA would have to conduct coordination activities with the Navy for ministerial permits within the City. This is unacceptable, lacks legal support, and amounts to preemption of the City’s land use authority.

Notice of construction or alteration of structures to the FAA is already required under existing federal law whether or not an ALUCP is adopted and whether or not the permitting agency considers such action ministerial or discretionary. Section 21674.4 of the California Public Utilities Code expressly provides that “prior to granting permits for the renovation or remodeling of an existing building, structure, or facility, and before the construction of a new building, it is the intent of the Legislature that local agencies [emphasis added] shall be guided by the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the [Caltrans Aeronautics] division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, [emphasis added] to the extent that the criteria has been incorporated into the [ALUCP].” Consistent with its national security mission working in concert with the use of federally regulated civil airspace, the Navy already possesses the authority to comment on proposed projects through the process of FAA obstruction analysis. The ALUCP incorporates the existing FAA notification requirement to promote its goal of protecting NASNI airspace, and provides that development which would increase ceiling or visibility minimums or conflict with flight rules would not be compatible with airspace protection, unless the NASNI Commander advises otherwise. The ALUCP must include in its plan the framework to protect airspace. In all cases, the ultimate permit authority remains with the local agency regardless of ALUCP guidance and federal law.

Note- the original numbering has been revised to be consecutive to avoid confusion with cross-references to other responses.

Detailed Comments

14. Because it is so critical to the City of Coronado, we would like to verify that the 65 CNEL contour is positioned correctly. This contour is a function of the input data to the computer model outputs. Consequently, with this letter we are requesting a copy of the input/output of the computer model plus any field measurements that were taken.

The geometry of the noise contours in the AICUZ is established by the Navy and is not subject to the purview of the ALUC. Requests for such data must be directed to the Navy.

15. The Clear Zone (CZ), Accident Potential Zone I (APZ), and APZ II encroach on existing land uses and structures in the City. According to Figure 5-3 in the 2011 AICUZ (pages 5-7), the CZ covers an area that is more than 103 acres in size, APZ I covers 344 acres, and APZ II covers 482 acres in size for a combined total of 929 acres or more in size. These encroachment estimates are approximate based on the AICUZ and the handouts provided to date. The full proposed dimensions of these zones as well as the proposed noise contours must be fully quantified and described in the text (in terms of total acreage and number of structures affected) to support the mapping shown in the figures and in the interest of complete public disclosure.
The AICUZ states the information as cited, and the content of the AICUZ, including the geometry of noise contours and safety zones, is strictly the purview of the Navy.

16. Figure 5-3 on Pages 5-7 of the 2011 NASNI AICUZ includes a note that states "Aerial depiction is for planning purposes, specific real estate decisions should be confirmed by normal surveying." The areas proposed to be included in the ALUCP CZ, APZ I and APZ II should be clearly defined by a professional land surveyor and the numbers above should be confirmed or corrected.

The draft ALUCP depicts zones as provided in the Navy AICUZ. The degree to which ALUCP safety policies are applicable to any property bisected by a safety zone boundary are defined in the draft ALUCP: if the greater half of gross floor area of a proposed building or addition on a property so bisected by a zone boundary is located within the safety zone, the ALUCP standards apply.

17. SDCRAA staff provided an example of how to implement their proposed policies (City to adopt ordinance that requires property owner to enter into an agreement with the Navy). While this may be applicable for a public use airport, it is not applicable for a military airport like NASNI. Requiring an agreement between the airport (Navy) and property owner by the jurisdiction (City) is not appropriate since the City is neither the owner nor the operator of NASNI.

Overflight notification applies only to new residential units, and the recorded overflight agreement is just one example of how this notification may be provided. It is an additional disclosure tool that is only signed by the property owner. Other examples are given in the draft ALUCP, such as a notice at time of building permit on the property or broad civic notice through an overlay zone. A local agency is not bound to use the agreement method of notification and may use the other examples or any other it may propose for ALUC concurrence. The Navy is not involved with overflight agreements or any other method a local agency may implement.

18. The list of "Exemptions from ALUC Review" that is provided on page 3 is not exhaustive nor a complete list and contains only a few examples. This list should be more fully thought out and expanded in the next iteration.

The exemptions from ALUC review table is a complete list, with considerable input from the Working Group.

19. It is not clear why "tenant changes" are considered potentially incompatible with NASNI operations. Tenant changes could result in a reduction in development intensity or density. This is an arbitrary distinction and the reference should be removed or evidence of its relevance provided.

The potential for change from one nonresidential use to one that is shown as red/incompatible in Table 6 would increase the degree of incompatibility within AICUZ safety zones. For example, the replacement of a retail sales use with a commercial day care facility (a red/incompatible use) would place vulnerable occupants within a safety zone. The only tenant changes that are subject to ALUC review are those proposing to change to a red/incompatible use per Table 6.
20. A change in land use type (e.g., from residential to industrial or commercial) may trigger a conformity review with NASNI operations; however, it is unclear why changes within an existing structural envelope, or addition of a modest amount of square footage or a modest height increase would be automatically incompatible within the CZ or APZ zones. We disagree that an increase in the presumed safety risk would occur based solely on a tenant change. Please refer to Table 3, exemptions from ALUC review in the draft ALUCP. If the residential addition is less than 50 percent of the habitable space, it is exempt from ALUC review. Changes within an existing structural envelope for residences and nonresidential structures would also be exempt from ALUC review per Table 3. While the AICUZ considers the expansion or intensification of existing nonresidential uses as worsening the degree of already incompatible uses, increases in gross floor area for nonresidential uses would be incompatible with the draft ALUCP per Table 6. Also see response to #6 above addressing tenant changes.

21. The Draft Policies document includes two sets of guidelines: interim guidelines and those that would apply after ALUCP adoption. Clarification should be provided as to who will be subject to the guidelines and who will implement them. In the draft ALUCP, Tables 4 and 5 outline what the ALUC reviews prior to local agency implementation of the ALUCP. Post local agency implementation of the ALUCP, only the items in Table 4 are reviewed by the ALUC. Local agencies are subject to the ALUCP in either scenario.

22. It appears that the ALUCP process would make some currently “ministerial” permits such as building permits “discretionary.” This is legally questionable and unenforceable. The SDCRAA has no authority to change a ministerial permit to a discretionary permit or to impose conditions or request the City to impose conditions on a ministerial permit. The ALUC has no authority to issue, reclassify, approve, or deny any local agency permit. But it does have the statutory authority to review ministerial permits which may establish a new use or modify an existing use in order to assure compatibility with the ALUCP. The ALUCP makes recommendations of compatibility for interior sound performance level for certain uses based upon the AICUZ. Ministerial permits are already subject to compliance with standards in order for approval, including State and local design and engineering standards of building code. Additionally, per the Caltrans Airport Land Use Planning Handbook, the ALUC has the right to review ministerial permits per page 4-41, “To the extent that such land use changes require ministerial or discretionary approval on the part of the county or city, they may fall within the authority of the ALUC to review.”

23. The ALUCP policies may be in conflict with other City policies including historic preservation rules and regulations. Implementation of the ALUCP could result in the loss of historic resource status or the loss of potential for historic resource qualification or designations to occur. Historic preservation policies and programs are a key component of retaining community character within the City and the SDCRAA will need to clearly articulate how the ALUC would review historic properties and assure the City that this process would not be jeopardized or otherwise adversely affected by imposition of an ALUCP.
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The ALUCP in no way affects the status of any historic resource or its qualification for designation. Per draft ALUCP policy 5.1.8, Alteration of Historic Resources, the conversion of a historic structure to any red/incompatible use per Table 6 would be inconsistent with the ALUCP. Conversion to a green or yellow use per Table 6 would be consistent with the ALUCP. However, the ALUC has no land use authority to either prevent or allow any use and the local agency always retains land use authority to overrule any ALUC inconsistent determination.

24. The Draft ALUCP should specify that approval of Accessory Dwelling Units (ADUs) are now ministerial under recently enacted State law (effective 1/1/17) and the City does not have the ability to regulate ADUs or apply additional development standards. The draft ALUCP provides for an increase in density with accessory dwelling units with an interior sound performance level as a condition for any new residential unit, primary or accessory. Also refer to response #22.

25. Post-construction, the City does not regulate existing structures. Further, it is beyond the purview of the City to make a finding that existing legal structures are “non-conforming” if they comply with existing City land use policies, zoning regulations, and development standards. Please refer to response to #8. There is no requirement for a local agency to make any finding that existing structures are nonconforming.

26. The reference to “project sponsors” is misleading. The correct term should be “project applicant.” The City is neither a project sponsor nor a project applicant. Project sponsor is the appropriate term to encompass all who pursue land use actions, and that term has been specifically defined in the draft ALUCP, per Table 2.

27. Table 1 on page 5 of the handout creates confusion as it does not reflect existing City land use/zoning designations but instead uses U.S. Department of Transportation (USDOT) land use categories. This will create opportunity for interpretation and confusion. Table 1 is now Table 6 in the draft ALUCP. In order to be consistent with the AICUZ, the same land use classifications are used in Table 6, with reference to the corresponding Standard Land Use Coding Manual (SLUCM) codes used by the AICUZ. Appendix A, land use classifications definitions further defines and provides examples of uses.

28. The previous comment notwithstanding, according to page 2 of the handout, tenant changes are exempt from review. This is one example of internal inconsistency within the draft materials. Table 3 in the draft ALUCP does not exempt all tenant changes from ALUC review. It exempts those tenant changes that propose another compatible or conditionally compatible use per Table 6.

29. Section 4.1.2.1 is new and has not been previously discussed by the SDCRAA staff with the Working Group. It is unclear where this information is memorialized and what exactly the process entails. A Special Workshop on “Hazards to Air Navigation” and “FAA Notification Requirements” should be conducted for the Working Group and a second corresponding public
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informational meeting should be held to introduce this information to the public and describe the role of the FAA and the FAA review process to the stakeholders.

Section 4.1.2.1 is an airspace protection policy related to FAA notification that was provided at the March 8, 2017 Working Group meeting. It was presented as Policy A.2 at the September 21, 2016 Working Group meeting and the September 29, 2016 public community meeting (presentation link), each of which was devoted entirely to the subject of airspace protection, including presentation and discussion of FAA notification requirements. This policy is now referred to as 5.2.1, FAA Notification Requirements in the draft ALUCP.

30. Section 4.1.2.1 is all about process but no timeline is given. Information shared at the last Working Group meeting indicated the process could take up to 16 weeks or longer. This process is arbitrary and capricious and places an undue burden on the City to administer and an unfair burden for applicants wanting to repair, maintain, or improve their private property.

At a previous Working Group meeting, it was stated that the FAA review process can take up to 8 weeks, not 16 weeks. The ALUC has no control over how long the FAA takes to issue a determination. The requirement to obtain FAA review of proposed construction and alteration of structures exists independent of the ALUCP as existing federal law and applies to local agency permitting by state statute as discussed in response to #13. Any issues with that requirement as a regulatory burden would have to be taken up with the FAA. ALUC staff previously provided information to City of Coronado staff about the City of San Diego's self-certification process as an alternative to submitting 7460s for projects that meet specific requirements. If the City chooses to implement its own self-certification process (this can be done independently of ALUCP implementation), most projects would not require FAA review.

31. All forms that are referenced in the handout (e.g., FAA Form 7460-1 and ALUC Application for Consistency Determination) should be included as part of the materials made available for public review for clear understanding of the paperwork burden that would be generated. These materials should be distributed at the upcoming Working Group and Public Meeting. The Draft ALUCP should include sample copies of all forms that would need to be completed by project applicants in a technical appendix for public review to facilitate a comprehensive and complete informational process for the public.

The FAA Form 7460-1 was reviewed in detail at the September 21, 2016 working group meeting and the September 29, 2016, public community meeting. This is not an ALUC form and is subject to change by the FAA, but a hyperlink has been provided in Appendix B of the draft ALUCP to facilitate project sponsor compliance. The ALUC Application for Determination of Consistency is for the use of the local agency to submit land use actions to the ALUC, and a copy of that form will be provided in Appendix B.

32. The discussion on FAA Notification Requirements (Subsection 4.1.2.1) in Airspace Protection Boundary (Section 4.1.2) should clarify that the notice tool on the FAA website provides an extremely high number of false positives and that project applicants are better served by making notification decisions based on the specific requirements in the Federal Aviation Regulations Part 77 (14 CFR 77).
Project sponsors are required to comply with FAA notification requirements, and the FAA website notice criteria tool is designed to help project sponsors identify if proposed development meets FAA criteria for review based on the location and project attributes. FAA review includes assessing whether proposed development siting may interfere with the signal reception integrity of navigational aids in the vicinity of the project, and that usually accounts for the high volume of projects which the FAA website tool deems subject to FAA review. Also, please refer to response #30.

33. The subsection on Conditionally Compatible Obstructions (Subsection 4.1.2.3) also in Airspace Protection Boundary implies incorrectly that the FAA’s regulatory review under 14 CFR 77 would examine whether or not a construction proposal would affect NASNI operational efficiency and capacity. The regulation relates to height and safety issues for the navigable airspace, rather than for the airfield’s operational integrity. This should be clarified.

This statement has been revised to rely solely on FAA determinations as issued without reference to the fact that NASNI may provide input to the FAA process and makes comments to the FAA as it deems necessary to protect its operations, as discussed in response to #13. Section 4.1.2.3 is now Policy 5.2.3, Conditionally Compatible Obstructions, in the draft ALUCP.

34. The document states under Section 4.1.3 that there are alternative acceptable methods of providing overflight notification that the ALUC may approve; these should be fully enumerated in the next iteration of materials. The examples shown in Section 4.1.3 are inappropriate and impractical. Real estate disclosures are already in place and other options would place an unnecessary burden on the City.

The ALUCP lists numerous methods of providing overflight notification (beyond an overflight agreement), many of which have been exercised by other local agencies. As stated in the ALUCP, the intention is to allow local agencies flexibility to devise other means, with ALUC concurrence, if they believe the same purpose could be fulfilled by some other means not listed in the ALUCP. Disclosure of airport proximity in real estate transactions is not the same as overflight notification, as the former applies to sellers and lessors of property, not local agencies. The Caltrans Handbook applies the requirement for overflight notification to local agencies to ensure new residential units are adequately advised about aircraft overflight and its effects. ALUCs are to be guided by the Caltrans Handbook when developing ALUCPs per the Public Utilities Code.

35. Section 4.2 describes a process that would inappropriately delegate local land use permit review and issuance authority to the FAA and the Navy and impose a significant procedural and substantive burden on the City.

Please refer to Table 3, Exemptions from ALUC Review (projects outside noise & safety zones within airport influence area) in the draft ALUCP. As stated in responses to #13 and 30, a local agency has statutory responsibility to abide by existing federal law with respect to federally regulated airspace in its permitting capacity. Any issues with this burden to a local agency would need to be taken up with federal and state authorities. Policy 5.1.7.2, Amendments that would Increase Allowable Building Heights, and Section 5.2.4 in the draft ALUCP replace Section 4.2 provided at the March 8, 2017 Working Group meeting.
36. Sections 4.1.1 and 4.2 refer to an Appendix; however, the Appendix was not provided for review and comment and should be included with the next iteration. Appendices are now included with the draft ALUCP.

37. Under Section 5.1 of the handout, it is not clear if additional residential square footage would be perceived as a “change in density” and how this scenario would be evaluated by the ALUC staff. It should be clarified that it is not considered a change in density. Adding square footage to an existing residence is not considered to be a “change in density.” An increase in residential density means an increase in the total number of dwelling units (not including accessory dwelling units). Table 3, Exemptions from ALUC Review, includes clarification that additions to residences that are less than 50 percent of the habitable area are exempt from ALUC review.

38. Exhibit 2 uses City land use zoning designations but other information relies on USDOT land use classifications creating confusion for the public and lack of internal consistency. The intent of the exhibit was to memorialize zoning in place at time of ALUCP adoption. Exhibit 3 in the draft ALUCP has been modified to reflect existing use categories and the zoning density limitations rather than actual Coronado zoning.

39. Figure 1 on (page 17, not numbered) should be revised to state “Project Applicant” rather than “Project Sponsor.” No, see response to #26.

40. Figure 1 should be revised to clarify if the ALUC box on the process flowchart refers to ALUC staff level review or full ALU Commission review. The Figure should also clearly state what type of project, criteria, thresholds, and findings would trigger an ALUC staff level review versus a full ALU Commission review. The figures have been merged into a single flow chart. See Exhibit 2: ALUCP Consistency Determination Process in the draft ALUCP.

41. Figure 2 (possibly on page 18) should be modified to include overall approximate worst case (or regulatory maximum) timelines for the various processes and paths from start to finish to assist in understanding those processes and for purposes of setting public expectations. See Exhibit 2: ALUCP Consistency Determination Process in the draft ALUCP. Also see response #30.

42. Figure 2 should be revised to also include the “overrule” process that was discussed as an option for the City. The merged figure in the draft ALUCP includes the overrule process, see Exhibit 2: ALUCP Consistency Determination Process.

43. The lack of consistency in formal terms in the handout (i.e., remodel, repair, alter, modify, and reconstruct) creates significant confusion and room for interpretation. The Draft ALUCP will need to include a chapter on definitions if defined terms are to be used in the document.
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Text boxes defining terms have been added to the draft ALUCP. Also refer to Appendix D.

44. The ALUCP should clarify that roof top solar (USDOT category 47, 48) is an allowed/compatible/consistent structure. Utilities such as roof top solar would be exempt from ALUC review per Table 3 in the draft ALUCP because it would be an unoccupied residential accessory structure.

45. Under the “Trade” Category 50 (USDOT) the land use names need to be separated out. All trade categories have the same conditions per the AICUZ and so do not need to be separated and duplicated. Appendix A defines examples within this category.

46. Detailed information regarding parcels split by a noise contour line is provided in the handout. The same level of detail should be provided for lots split by the safety contours. As the title of the section indicates, more than one noise contour on a property is treated in the same manner as multiple safety zones on a property, so there is no need for more detail.

47. Rather than split any parcels, the contours should follow existing streets and parcel lines such that no split parcel conditions are created by the ALUCP. The models are not so advanced or scientific such that any split lots should be created by overlaying graphics of noise or safety contours. As stated in response #7 and 14, the ALUC has no authority to alter the geometry of the noise contours or safety zones as specified by the AICUZ in order to follow parcel, street, or any other boundaries.

48. Due to the small size of most lots, if the entire lot is not within a noise or safety contour, the proposed rules should not apply. If a property is impacted in any way by a noise contour or safety zone, it is reasonable to apply the applicable noise or safety standards only if the greater portion of a proposed building is sited within those contours or zones. To exclude the applicability of standards to properties not wholly within contours or zones effectively alters the boundary of the contour or zone, and, as has been stated in responses #7, 14, and 47, the ALUC has no authority to alter AICUZ contours and zones.

49. The figures on page 7 of the handout are unclear and should be clarified in the next iteration of materials provided for review and comment. These figures have been modified to increase font size to be more legible.

50. The City disagrees with the statement contained in paragraph 3 on page 4 under Section 4.1.1 which reads “Because expansion of non-residential uses would increase the level of existing incompatibility, floor area increases of non-residential structures are not compatible within the CZ or APZ I or II. As stated in response to #20, any expansion of gross floor area for a non-residential building increases the potential occupant intensity, placing more people in a safety zone than already exists, and thus worsens the degree of incompatibility per the AICUZ.
51. It is unclear why Floor Area Ratio (FAR) is a relevant criteria or threshold for compatibility as indicated in Table 3 in the handout. This needs to be substantiated. There was no Table 3 in the handout.

52. We disagree that Commercial land uses should be subject to a different standard for compatibility review when compared to residential land uses. Under the AICUZ and Caltrans Handbook guidance, residential density is measured in dwelling units per acre, and nonresidential intensity is measured in gross floor area. The addition of square footage to a dwelling unit does not change it from being a dwelling unit, but the addition of square footage to a nonresidential use increases the capacity of the building to accommodate more people and thus worsens the degree of incompatibility per the AICUZ (see responses #20 and 50).

53. If ALUC has a review right, they also have veto power or the ability to deny a project. This should be clarified in the interest of full public disclosure. As stated in response #22, the ALUC has no land use authority and cannot approve, deny, or exercise veto power over any project. The local agency retains permitting authority regardless of ALUCP recommendations of consistency, including the ability to overrule any ALUC determination of inconsistency.

54. The term “incompatible” should be included as a defined term in the Draft ALUCP. It should clarify if the incompatibility is related to safety, noise, both, or other criteria. The document should also clarify the distinction between “incompatible” and “inconsistent.” These terms will be defined in Appendix D.

55. The draft document uses the terms “existing uses” and “existing structures” interchangeably. The two terms are not interchangeable. Existing uses relate to the underlying land use designation or category (i.e., residential, commercial, etc.). Existing structures refer specifically to the physical structures in the built environment such as a single family home, resort, restaurant, etc. This should be clarified in the document so that use of appropriate nomenclature is internally consistent. This distinction is correct. The terms are not used interchangeably in the draft ALUCP, nor are they intended to be. Each use of either term accurately reflects its intended meaning in each instance used in the document.

Note- the original numbering has been revised to be consecutive to avoid confusion with cross-references to other responses.

Detailed Questions
56. Why isn’t the U.S. Navy listed as a Stakeholder on page 1 since the NASNI AICUZ is the subject of the ALUCP and the NASNI Commander is proposed to be fully involved with FAA coordination for what appears to be almost every project?
In acknowledgement of its AICUZ as the basis for the ALUCP and its interest in airspace protection, the Navy has been added as a stakeholder to Table 2.

57. The AICUZ was developed in 2010 (seven years ago) and, based upon the previous observations, the estimates of future noise levels may no longer be accurate and valid. Before the ALUCP is finalized, the noise estimates used to develop the 65 dB contour should be updated using the Aviation Environmental Design Tool (AEDT) which has incorporated the best available science and is a more accurate noise model than the FAA’s Integrated Noise Model (INM), and presumably any other noise models available seven years ago. The modeling should reflect current knowledge about estimated prospective future operations at NAS North Island. The modeling should include changed information (since 2010 information was the basis of the AICUZ) about the number of aircraft operations, the type of operation, aircraft fleet mix, flight path/procedures, and day/evening/night mix of operations that would also affect the CNEL noise contours. Without this update, the 65 dB CNEL contour planning area covered by the ALUCP would be out of date and boundaries would not be accurate and valid.

As stated in responses #7, 14, 47, and 48, the ALUCP must be consistent with the noise contours and safety zones as provided in the AICUZ, and the ALUC has no authority to modify them.

58. As indicated in the draft ALUCP materials, the location of the 65 dB CNEL contour line is critical in determining whether noise policies and standards apply to a project. The reliance on the accuracy of the 65 dB CNEL contour is immediately obvious in the example provided in Section 4.1.1 (Noise and Safety Compatibility) of slight shifts in the 65 dB CNEL contour. Slight shifts of the contour line determine whether noise policies and standards would apply to a new or reconstructed building. It is critical that these lines be drawn using the most accurate information. The update of the 65 dB CNEL contour needs to be undertaken in the near term before the ALUCP is finalized.

See responses to #7, 14, 47, 48, and 57.

59. The analysis of total operations should also consider Civilian Aircraft and other cumulative noise generators. Table 3-1 included air carrier and general aviation operations, but these operations are for NASNI and are not included in Table A-3. What were the assumptions for the civilian aircraft in determining the NASNI 65 dB CNEL contours in the 2011 AICUZ? Have those projections been verified recently? Those aircraft operations should be updated in the anticipated update of the 65 dB CNEL projections based on the Navy’s planned aircraft transition (C2-A to the V-22).

This comment relates to the development of the AICUZ by the Navy, in which the ALUC is not involved.

60. What are the criteria that would be used by the NASNI Commander in his/her proposed review capacity and what findings would need to be made? This process needs to be outlined in detail.

See Policy 5.2.4.1, Incompatible Obstructions, in the draft ALUCP. The Commanding Officer would use the following criteria:
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a) An increase in the ceiling or visibility minimums for an existing or planned instrument procedure, airway, route, minimum vectoring altitude

b) Conflict with instrument or visual flight rules airspace

61. Why would the City agree to transfer the burden from the Navy to the property owners for noise attenuation or mitigation for existing structures when it is not the presence of the existing structures that is creating the issue but rather the effect of changing NASNI operations as outlined in the AICUZ (and potentially an ALUCP)?

As stated in response #1 and 6, existing structures which remain unchanged are not subject to the ALUCP. Only new development would possibly be subject to interior sound performance level conditions. Public Utilities Code (PUC) Section 21675(b) states that, “The airport land use compatibility plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport.” To be consistent with the PUC and AICUZ, the ALUCP must require interior sound performance level standards.

62. How were the safety and noise contours developed? Are they based on flights using the loudest or maximum mission aircraft? The methodologies used and assumptions employed should be fully explained. A complete list of the aircraft, including airplanes and helicopters, that were used as the basis of the safety and noise modeling should also be provided for reference.

As stated in responses to #9, 12, 14, 15, 16, 57, and 59, the AICUZ is the sole purview of the Navy, in which the ALUC is not involved.

63. It is not clear on page 2 if a complete teardown and rebuild in place within the existing/previous height and square footage or floor area would be approved by the ALUC or ALUC staff.

The ALUCP provides that most reconstruction, because it is an entirely new structure being built in the presence of known noise exposure, should provide an interior sound performance level for the benefit of the occupants of the new structure. However, reconstruction of less than 50 percent of the habitable space of the existing residence would be exempt from ALUC review per Table 3 in the draft ALUCP. Also, as stated in response #22 and 53, the ALUC and its staff do not possess land use authority to “approve” or “deny” any permit; that authority remains with the local agency.

64. What is the extent of the review of the ALUC and what are the “findings” that need to be made? This must be enumerated in full.

ALUC review is an advisory recommendation of consistency with the applicable ALUCP to the permitting local agency. The findings of consistency relate to each of the four compatibility factors of noise, safety, airspace protection, and overflight. If a land use plan, regulation, or project is compatible with each of those factors, the ALUC will find the land use action consistent with the ALUCP. If the land use plan, regulation, or project is incompatible with one or more of the factors, the ALUC will find the land use action inconsistent with the ALUCP. The ALUC’s finding does not prevent or allow any land use action, rather it is the local agency that...
65. Why are "tenant changes" to existing structures included in Table 1? This distinction is arbitrary and no rationale is provided or indication of why this would be an issue if a tenant change did not result in a land use change. See response #19.

66. A non-compatibility conclusion following the resumption of a discontinued use after 24-months is arbitrary. What is the basis or justification of establishing a time limit? Why not 60 months or 72 months? No evidence or rationale is provided for establishing a time limit whatsoever.
Twenty Four (24) months is a reasonable standard that is consistent with ALUCPs adopted by the ALUC as well as other local agencies in the region.

67. What if a commercial use changes and the business has been operational the entire time but a previous use returns (e.g., restaurant to shopping to restaurant again)? This scenario needs to be described and evaluated.
Per Table 3, Exemptions from ALUC Review, as long as a use changes to a compatible or conditionally compatible (green or yellow) use per Table 6, such changes are exempt from ALUC review. Only changes to an incompatible (red) use require ALUC review.

68. How would parcels that are split by the CZ, or APZ I or APZ II or noise contours be affected or reviewed by the ALUC? As indicated previously, only under a condition where the entire parcel is affected should the ALUCP policies apply. Given the generally small lot sizes in the City, most property owners would not have the ability to move the structure to a different location, beyond the contour, on the same site. Because there are so few “split parcels” in the City, if the parcel is only partially covered it should not be affected by the ALUCP noise or safety regulations.
See responses to #16, 47, and 48.

69. What is required to be submitted in order for an application to be “deemed complete” for processing by ALUC staff? This should be enumerated as a follow up to Figure 2.
All information required for an Application for Determination of Consistency to be deemed complete is in Appendix B.

70. Can the ALUC deem applications complete for processing (e.g., filed) if the Federal Aviation Administration (FAA) is non-responsive on a project review for a hazard determination? Is there a time limit where non-response is deemed concurrence?
The ALUC has no authority over airspace and thus has no independent ability to assess whether or not a project is a hazard to air navigation. Only the FAA can do that, and without that documentation, ALUC staff cannot deem an Application for Determination of Consistency complete. However, as discussed in response #32, in lieu of an FAA determination, a project
sponsor may attest through self-certification that no notice is required to the FAA, and ALUC staff would accept that in place of an FAA determination.

71. Are the ALUCP, and any City action on the ALUCP, subject to review and concurrence by the California Coastal Commission?
Because the ALUC has no land use permitting authority, the ALUCP is not a “development” as defined by the Coastal Act and its adoption and administration by the ALUC is not subject to Coastal Commission review.

72. Where does the California Coastal Commission (CCC) fit into this ALUCP process and what is their role? Did they conduct a Federal Consistency Determination for the NASNI AICUZ in 2011 or 2012? Have they been invited to participate as a key stakeholder in the current ALUCP process?
The Coastal Commission has no role in the process of adopting or administering an ALUCP since it is not a regulatory document and determinations of consistency are advisory recommendations that do not constitute “development” as defined by the Coastal Act. For the same reason, consistency determinations are not projects as defined by CEQA. Since the preparation of an ALUCP is not within the regulatory purview of the Coastal Commission, it is not a stakeholder and has not been invited to participate in the ALUCP process. Any questions about the AICUZ should be directed to the Navy.

73. The CCC has the authority to appeal and/or modify projects that are located within the appealable area (as defined by the Coastal Act) in the City as well as projects within CCC original jurisdiction. Would an applicant be required to start over with the FAA and ALUC if a project approved by the City and the ALUC were to be modified by the CCC? This scenario analysis should be prepared and described by the SDCRAA.
The draft ALUCP has always provided, per current ALUC practice, that any consistency determination does not expire and is transferable to a modified project with prior consistency determination so long as the project does not increase residential density, does not increase the nonresidential gross floor area, does not change or add a land use that is incompatible with the ALUC, does not increase height such that it would be deemed a hazard by the FAA, and does not add any characteristic that would add a hazard to airspace (e.g., glare, thermal plumes, bird attractants) per the airport operator. Should any of these changes occur, a new application for determination of consistency would need to be submitted, regardless of whether these modifications were made in response to City or Coastal Commission conditioning or simply changes of choice made by the project sponsor.

74. How are “bird attractants” defined on page 9 of the handout? Examples should be provided for reference and clarification.
See Policy 5.2.4.6, Bird Attractants, in the draft ALUCP.

75. If “reconstruction” of existing uses is exempt from ALUC review per Section 3 of the handout, why is “reconstruction” in the name of the title of Table I (stand-alone 11x17 compatibility standards table)? This is another example of an internal inconsistency in the
materials. However, since it has not been perfected it appears that ALUCP policies and contents are variable and there is substantial discretion inherent in the process of developing an ALUCP. While the creation of the ALUCP is indeed an iterative and collaborative public planning process, the word “reconstruction” has never previously appeared in the table of exemptions. The newest draft however provides that reconstruction of less than 50 percent of the habitable space of the existing residence is exempt from ALUC review. By default, reconstruction greater than that standard would be conditionally compatible, subject to interior sound performance level.

76. Is “reconstruction” the same as repair, maintenance and/or remodeling, alteration, modification? Each of these terms needs to be clearly defined. Reconstruction is not the same as repair, maintenance or remodeling within the existing footprint. It is defined in the draft ALUCP.

77. What is the nexus between tenant changes and changes to safety risks if they involve no change to height or SF or a reduction in development? This should be clarified in the Draft ALUCP as it seems that tenant changes would be denied by the ALUC but the standards for determining this as well as findings that would have to be made are not specified. See responses #19 and 20.

78. Clarification for the tables in Sections 4.1 and 6.2 needs to be provided and shown how it is consistent with the State Law, which limits ALUC review to amendments of general or specific plans, and for the adoption or approval of a zoning ordinance or building regulation. It should also be clarified that the City adopting the newest iteration of the California Building Code (which comes out from the State of California every three years) is exempt from ALUC review, all General Plan Amendments or zoning code changes would be subject to review by the ALUC if the ALUCP were to be in effect? This scenario needs to be fully explained and evaluated. Please refer to Tables 4 and 5 in the draft ALUCP. These two tables correctly summarize plans and regulations subject to ALUC review under State law. A footnote to the corresponding statute has been added to clarify that the standard for review of building regulations includes those which are local and pertain to the ALUCP, beyond the State Building Code. The other legislative actions remain subject by statute to ALUC review at all times.
August 30, 2017

Ms. C. April Boling, Chair
Airport Land Use Commission
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, CA 92138-2776

Dear Ms. Boling and Members of the Commission:

One of the goals of the California Department of Transportation (Caltrans), Division of Aeronautics (Division), is to assist cities, counties, and Airport Land Use Commissions (ALUC) in the development and implementation of policies that protect the safety and general welfare of their communities in which aeronautical activities take place. We encourage collaboration with our partners in the planning process and appreciate opportunities to fulfill this goal.

It has come to the attention of the Division that the city of Coronado (City) has taken the position that the development and adoption of an Airport Land Use Compatibility Plan (ALUCP) for the Naval Air Station North Island (NASNI) is neither warranted nor required. This is based on the City’s letter of August 21, 2017, and its attachments, which the Division has reviewed. The Division does not concur with the City’s position, and the authority cited in the August 21, 2017, letter violates the State Aeronautics Act. While not controlling, the construction of a statute by the agency charged with its enforcement and interpretation is entitled to great weight, and courts generally will not depart from such an interpretation unless it is clearly erroneous. (Whitcomb Hotel, Inc. v. California Employment Com., (1944) 24 Cal.2d 753, 756-57; Anderson v. State Bd. of Chiropractic Examiners (1970) 11 Cal.App.3d 963, 967.)

First, we would like to point out that an ALUCP for NASNI is statutorily mandated. This mandate is in accordance with the California Public Utilities Code (PUC) sections 21675 (a) and (b), which specifically require that each ALUC shall formulate an ALUCP for each public airport and the area surrounding the airport within the jurisdiction of the ALUC, including areas surrounding any military airport regardless of whether the City is “built-out.” The California Airport Land Use Planning Handbook (Handbook) pages 2-1 and 2-3 state:

Public Utilities Code (PUC), Section 21675(a) requires preparation of an airport land use compatibility plan (ALUCP) for each public use airport in the state. This requirement applies regardless of whether a county chooses to establish and maintain an airport land use commission (ALUC) or to utilize one of the other authorized formation types for airport land use compatibility planning.
Military Airports—Commissions shall include the area surrounding any federal military airport in their ALUCP. The ALUCP shall be consistent with the safety and noise standards in the military’s Air Installation Compatible Use Zone (AICUZ) plan (PUC Section 21675(b)). (See also Muzzy Ranch Co. v. Solano County ALUC (2008) 164 Cal.App.4th 1: [finding that compatibility plan could be more restrictive than the AICUZ and still be consistent with the AICUZ].)

ALUCs are required to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public’s exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses. An area already “built out” devoted to incompatible uses does not relieve the ALUC from its legislatively mandated powers and duties, which also include the preparation and adoption of an ALUCP. ALUCs apply these mandates for areas such as Coronado, which consider all their affected parcels to have been already entirely developed and occupied by existing structures and constitute incompatible uses according to the current Air Installation Compatible Use Zones for NASNI. Please see the following excerpt from the Handbook on page 4-41:

The limitation on ALUC authority over existing land uses applies only to the extent that the use remains constant. Merely because a land use exists on a property does not entitle the owner to expand the use, convert it to a different use, or otherwise redevelop the property if new or increased compatibility conflicts would result. To the extent that such land use changes require ministerial or discretionary approval on the part of the county or city, they fall within the authority of the ALUC to review.

An ALUCP for the NASNI is a mandated requirement, which the ALUC is authorized and required to develop pursuant to the California State Aeronautics Act.

Secondly, all actions, regulations, and permits, within the vicinity of the NASNI shall be submitted to the ALUC for review and approval until there is an adopted ALUCP. This is in accordance with the PUC section 21675.1 (b) which states:

Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, “vicinity” means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated an airport influence area for the airport land use compatibility plan, then “vicinity” means land within two miles of the boundary of a public airport.

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Based on the above, the Division requests that an ALUCP be prepared and adopted for the NASNI in compliance with the State Aeronautics Act and the Handbook.

If you have questions, please contact me at (916) 654-7075 or by email at ron.bolyard@dot.ca.gov.

Sincerely,

Ron Bolyard

RON BOLYARD, Chief
Office of Aviation Planning

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APPENDIX 3.C

Letters from Commanding Officer, Naval Base Coronado, to Director, Planning and Environmental Affairs, San Diego County Regional Airport Authority
March 25, 2020

Mr. Brendan Reed
Director, Planning and Environmental Affairs
San Diego County Regional Airport Authority
PO Box 82776
San Diego CA 92138-2776

Subj: NAVAL BASE CORONADO 2011 AIR INSTALLATION COMPATIBILITY USE ZONE STUDY

Dear Mr. Reed:

Thank you for the opportunity to review the draft Airport Land Use Compatibility Plan (ALUCP) for Naval Air Station North Island (NASNI). This letter is to confirm the validity of the U.S. Navy’s 2011 Air Installation Compatibility Use Zones (AICUZ) Study for Naval Base Coronado (NBC), which informs the draft ALUCP for NASNI.

Navy policy states AICUZ studies should include a future-year forecast of air operations activity levels for a time frame five to 10 years forward, based upon historical trends or projected aircraft base loading and expected mission changes. The 2011 Final AICUZ Study Update for Naval Air Station North Island (NASNI) and Naval Outlying Landing Field Imperial Beach (NOLF IB) accomplished this by forecasting prospective air operations activity levels to the year 2020. This prospective analysis supports long-term compatible land-use near NASNI and NOLF IB by providing local governments with information to plan for changes in air installation activity levels and/or operational procedures. The future year forecast and analysis is not intended to reflect the lifespan or an expiration date of the AICUZ study.

Navy policy emphasizes AICUZ studies are intended for long term planning documents and regular updates are not required. AICUZ studies are reviewed when new requirements are anticipated at an installation, such as basing of a new type of aircraft, significant increases in operational levels, or significant increases in nighttime flying activities. At this time, the Navy is not anticipating new operational requirements at either NASNI or NOLF IB that would require such a review; therefore, the current 2011 AICUZ study is valid.

Please note that the National Environmental Policy Act analysis for the transition from the C2A aircraft to the Navy V22 aircraft at Fleet Logistics Centers, including NASNI, indicate that the proposed operations and noise contours associated with the aircraft transition are within the established parameters of the 2011 AICUZ study and a new study is not required.

Thank you again for your coordination with NBC. If you have any questions or need additional information, my staff point of contact is Ms. Anna Shepherd, AICP, Community Plans and Liaison Officer, NBC. She may be reached at (619) 545-4134 or by e-mail at anna.shepherd1@navy.mil.

Sincerely,

J.W. DePREE
Commanding Officer
Naval Base Coronado
Mr. Brendan Reed  
Director, Planning and Environmental Affairs  
PO Box 82776  
San Diego, California 92138-2776

Dear Mr. Reed:

Thank you for your letter of September 21, 2017, concerning the lifespan of the U.S. Navy’s 2011 Air Installation Compatible Use Zone (AICUZ) study and your request for clarification on the prospective future 2020 scenario references in the AICUZ study.

Navy policy states AICUZ studies should include a future-year forecast of air operations activity levels for a time frame five to 10 years forward, based upon historical trends or projected aircraft base loading and expected mission changes. The 2011 Final AICUZ Study Update for Naval Air Station North Island (NASNI) and Naval Outlying Landing Field Imperial Beach (NOLFIB) accomplished this by forecasting prospective air operations activity levels, or scenarios, out to the year 2020. This prospective analysis supports long-term compatible land use in the vicinity of both NASNI and NOLFIB, thus providing local governments with information to plan for changes in air installation activity levels and/or operational procedures. The future-year forecast and analysis is not intended to reflect the lifespan or an expiration date of the AICUZ study.

Navy policy emphasizes AICUZ studies are intended to be long term planning documents and regular updates are not required. AICUZ studies are reviewed when new requirements are anticipated at an installation, such as basing of a new type of aircraft, significant increases in operational levels, or significant increases in nighttime flying activities. At this time, the Navy is not anticipating new operational requirements at either NASNI or NOLFIB that would require such a review; therefore the current 2011 AICUZ study is valid indefinitely.

Of note, the Navy has provided notice to the San Diego County Regional Airport Authority and local city officials of pending National Environmental Policy Act (NEPA) action associated with the transition from the C-2A aircraft to the Navy V-22 aircraft at Fleet Logistics Centers, to include NASNI. Preliminary review of proposed operations and noise contours associated with the aircraft indicate future operations are within the established parameters of the 2011 AICUZ study, and a new study will not be required.
I appreciate you taking the time to share your concerns on this issue. Please contact Mr. Wes Bomyea, at (619) 545-4134 or by email at wesley.bomyea@navy.mil with questions or other concerns relating to this issue.

Sincerely,

S. T. MULVEHILL
Captain, U.S. Navy
Commanding Officer
Naval Base Coronado

Copy to:
COMNAVREG SW SAN DIEGO
APPENDIX 3.D

Correspondences from Caltrans Division of Aviation, Office of Aviation Planning to Airport Land Use Commission, San Diego County Regional Airport Authority
Ralph Redman,
Good Afternoon. Thank you for providing the information regarding Naval Air Station North Island (NASNI) in support of the airport land use compatibility plan (ALUCP) that your agency will be preparing. The California Public Utilities Code (PUC) section 21675(a) requires and ALUCP to be based on an airport master plan or airport layout plan, as you cited. This provision, however, is for California public use airports. As you accurately noted, PUC section 21675(b) states that an ALUCP for military airports must be consistent with the safety and noise standards in the Air Installation Compatible Use Zone (AICUZ). Since NASNI is a federal installation, the California Department of Transportation, Division of Aeronautics (Division) does not require San Diego County Regional Airport Authority to obtain a determination by the Division regarding airport diagrams and supplemental information as cited in PUC section21675(a). The AICUZ information, however, should provide a good foundation for the ALUCP.

Sincerely,

Bob Fiore
Office of Aviation Planning
Bob – attached is a letter requesting Caltrans written acceptance of the airfield diagram and related information used in the preparation of the Draft Airport Land Use Compatibility Plan (ALUCP) for Naval Air Station North Island. A hard copy of the letter has also been sent to your attention. Please review and let me know if you have any questions or need additional information.

Sincerely,
Ralph

Ralph Redman
Manager | Airport Planning
T 619.400.2464 | M 619.380.7792
rredman@san.org
August 30, 2017

Ms. C. April Boling, Chair
Airport Land Use Commission
San Diego County Regional Airport Authority
P.O. Box 82776
San Diego, CA 92138-2776

Dear Ms. Boling and Members of the Commission:

One of the goals of the California Department of Transportation (Caltrans), Division of Aeronautics (Division), is to assist cities, counties, and Airport Land Use Commissions (ALUC) in the development and implementation of policies that protect the safety and general welfare of their communities in which aeronautical activities take place. We encourage collaboration with our partners in the planning process and appreciate opportunities to fulfill this goal.

It has come to the attention of the Division that the city of Coronado (City) has taken the position that the development and adoption of an Airport Land Use Compatibility Plan (ALUCP) for the Naval Air Station North Island (NASNI) is neither warranted nor required. This is based on the City's letter of August 21, 2017, and its attachments, which the Division has reviewed. The Division does not concur with the City's position, and the authority cited in the August 21, 2017, letter violates the State Aeronautics Act. While not controlling, the construction of a statute by the agency charged with its enforcement and interpretation is entitled to great weight, and courts generally will not depart from such an interpretation unless it is clearly erroneous. (Whitcomb Hotel, Inc. v. California Employment Com., (1944) 24 Cal.2d 753, 756-57; Anderson v. State Bd. of Chiropractic Examiners (1970) 11 Cal.App.3d 963, 967.)

First, we would like to point out that an ALUCP for NASNI is statutorily mandated. This mandate is in accordance with the California Public Utilities Code (PUC) sections 21675 (a) and (b), which specifically require that each ALUC shall formulate an ALUCP for each public airport and the area surrounding the airport within the jurisdiction of the ALUC, including areas surrounding any military airport regardless of whether the City is “built-out.” The California Airport Land Use Planning Handbook (Handbook) pages 2-1 and 2-3 state:

Public Utilities Code (PUC), Section 21675(a) requires preparation of an airport land use compatibility plan (ALUCP) for each public use airport in the state. This requirement applies regardless of whether a county chooses to establish and maintain an airport land use commission (ALUC) or to utilize one of the other authorized formation types for airport land use compatibility planning.

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Military Airports—Commissions shall include the area surrounding any federal military airport in their ALUCP. The ALUCP shall be consistent with the safety and noise standards in the military’s Air Installation Compatible Use Zone (AICUZ) plan (PUC Section 21675(b)). (See also Muzzy Ranch Co. v. Solano County ALUC (2008) 164 Cal.App.4th 1: [finding that compatibility plan could be more restrictive than the AICUZ and still be consistent with the AICUZ].)

ALUCs are required to protect public health, safety, and welfare by ensuring the orderly expansion of airports and the adoption of land use measures that minimize the public's exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses. An area already “built out” devoted to incompatible uses does not relieve the ALUC from its legislatively mandated powers and duties, which also include the preparation and adoption of an ALUCP. ALUCs apply these mandates for areas such as Coronado, which consider all their affected parcels to have been already entirely developed and occupied by existing structures and constitute incompatible uses according to the current Air Installation Compatible Use Zones for NASNI. Please see the following excerpt from the Handbook on page 4-41:

The limitation on ALUC authority over existing land uses applies only to the extent that the use remains constant. Merely because a land use exists on a property does not entitle the owner to expand the use, convert it to a different use, or otherwise redevelop the property if new or increased compatibility conflicts would result. To the extent that such land use changes require ministerial or discretionary approval on the part of the county or city, they fall within the authority of the ALUC to review.

An ALUCP for the NASNI is a mandated requirement, which the ALUC is authorized and required to develop pursuant to the California State Aeronautics Act.

Secondly, all actions, regulations, and permits, within the vicinity of the NASNI shall be submitted to the ALUC for review and approval until there is an adopted ALUCP. This is in accordance with the PUC section 21675.1 (b) which states:

Until a commission adopts an airport land use compatibility plan, a city or county shall first submit all actions, regulations, and permits within the vicinity of a public airport to the commission for review and approval. Before the commission approves or disapproves any actions, regulations, or permits, the commission shall give public notice in the same manner as the city or county is required to give for those actions, regulations, or permits. As used in this section, “vicinity” means land that will be included or reasonably could be included within the airport land use compatibility plan. If the commission has not designated an airport influence area for the airport land use compatibility plan, then “vicinity” means land within two miles of the boundary of a public airport.
Ms. C. April Boling
August 30, 2017
Page 3

Based on the above, the Division requests that an ALUCP be prepared and adopted for the NASNI in compliance with the State Aeronautics Act and the Handbook.

If you have questions, please contact me at (916) 654-7075 or by email at ron.bolyard@dot.ca.gov.

Sincerely,

[Signature]

RON BOLYARD, Chief
Office of Aviation Planning

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APPENDIX 3.E

Correspondence from California Department of Finance to Legislative Director, League of California Cities, June 28, 2016
June 23, 2016

Mr. Dan Carrigg  
Legislative Director  
League of California Cities  
1400 K Street, Suite 400  
Sacramento, CA 95814

Dear Mr. Carrigg:

Under Government Code section 17581, subdivision (b), the Department of Finance must notify local agencies of any statute or executive order, or portion thereof, for which the operation of a mandate is suspended in the Budget Act. This letter serves as that notification.

The enclosed document is a list of the mandates that have been suspended in the 2016 Budget Act. Local agencies are not required to implement or give effect to any mandate that has been suspended. Please note this list remains unchanged from fiscal year 2015-16.

Thank you for sharing this information with your member cities.

If you have any questions regarding this letter, please contact Mary Halterman, Principal Program Budget Analyst, at (916) 445-3274.

Sincerely,

JUSTYN HOWARD  
Program Budget Manager

Enclosure

cc:  Mr. Jay Lal, Manager, Local Reimbursements Section, State Controller's Office  
Ms. Heidi Palchik, Assistant Executive Director, Commission on State Mandates
2016-17 Suspended Mandates

1. Absentee Ballots (Ch. 77, Stats. 1978 and Ch. 1032, Stats. 2002) (CSM-3713)
2. Absentee Ballots-Tabulation by Precinct (Ch. 897, Stats. 1999) (00-TC-08)
3. AIDS/Search Warrant (Ch. 1088, Stats. 1988) (CSM-4392)
4. Airport Land Use Commission/Plans (Ch. 644, Stats. 1994) (CSM-4507)
5. Animal Adoption (Ch. 752, Stats. 1998 and Ch. 313, Stats. 2004) (04-PGA-01, 98-TC-11)
6. Brendon Maguire Act (Ch. 391, Stats. 1988) (CSM-4357)
7. Conservatorship: Developmentally Disabled Adults (Ch. 1304, Stats. 1980) (04-LM-13)
8. Coroners' Costs (Ch. 496, Stats. 1977) (04-LM-07)
9. Crime Statistics Reports for the Department of Justice (Ch. 1172, Stats. 1989; Ch. 1338, Stats. 1992; Ch. 1230, Stats. 1993; Ch. 933, Stats. 1998; Ch. 571, Stats. 1999; and Ch. 626, Stats. 2000) (02-TC-04, 02-TC-11) and Crime Statistics Reports for the Department of Justice Amended (Ch. 700, Stats. 2004) (07-TC-10)
10. Crime Victims' Domestic Violence Incident Reports II (Ch. 483, Stats. 2001; Ch. 833, Stats. 2002) (02-TC-18)
11. Developmentally Disabled Attorneys' Services (Ch. 694, Stats. 1975) (04-LM-03)
12. DNA Database & Amendments to Postmortem Examinations: Unidentified Bodies (Ch. 822, Stats. 2000; Ch. 467, Stats. 2001) (00-TC-27 and 02-TC-39)
13. Domestic Violence Background Checks (Ch. 713, Stats. 2001) (01-TC-29)
14. Domestic Violence Information (Ch. 1609, Stats. and Ch. 668, Stats. 1985) (CSM-4222)
15. Elder Abuse, Law Enforcement Training (Ch. 444, Stats. 1997) (98-TC-12)
16. Extended Commitment, Youth Authority (Ch. 267, Stats. 1998 and Ch. 546, Stats. 1984) (98-TC-13)
17. False Reports of Police Misconduct (Ch. 590, Stats. 1985 and Ch. 289, Stats. 2000) (00-TC-26)
18. Firearm Hearings for Discharged Inpatients (Ch. 578, Stats. 1999) (99-TC-11)
20. Interagency Child Abuse and Neglect (ICAN) Investigation Reports (Ch. 958, Stats. 1977; Ch. 1071, Stats. 1980; Ch. 435, Stats. 1981; Chs. 162 and 905, Stats. 1982; Chs. 1423 and 1613, Stats. 1984; Ch. 1598, Stats. 1985; Chs. 1289 and 1496, Stats. 1986; Chs. 82, 531, and 1459, Stats. 1987; Chs. 269, 1497, and 1580, Stats. 1988; Ch. 163, Stats. 1988; Chs. 650, 1330, 1333, and 1603, Stats. 1990; Chs. 163, 459, and 1338, Stats. 1992; Chs. 219 and 510 Stats. 1993; Chs. 1080 and 1081, Stats. 1996; Chs. 842, 843, and 844, Stats. 1997; Chs. 475 and 1012, Stats. 1999; and Ch. 916, Stats. 2000) (00-TC-22)
21. Identity Theft (Ch. 956, Stats. 2000) (03-TC-08)
22. In-Home Supportive Services II (Ch. 445, Stats., Ch. 90, Stats. 1999) (00-TC-23)
23. Inmate AIDS Testing (Ch. 1579, Stats. 1988 and Ch. 768, Stats. 1991) (CSM-4369 and CSM-4429)
24. Judiciary Proceedings (Ch. 644, Stats. 1980) (CSM-4366)
25. Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993) (97-TC-07)
26. Local Coastal Plans (Ch. 1330, Stats. 1976) (CSM-4431)
28. Mandate Reimbursement Process II (Ch. 890, Stats. 2004) (05-TC-05) (Suspension of Mandate Reimbursement Process I and II includes suspension of the Consolidation of Mandate Reimbursement Process I and II)
29. Mentally Disordered Offenders: Treatment as a Condition of Parole (Ch. 228, Stats. 1989 and Ch. 706, Stats. 1994) (00-TC-28, 05-TC-06)
30. Mentally Disordered Offenders' Extended Commitments Proceedings (Ch. 435, Stats. 1991; Ch. 1418, Stats. 1985; Ch. 858, Stats. 1986; Ch. 687, Stats. 1987; Chs. 657 and 658, Stats. 1988; Ch. 228, Stats. 1989; and Ch. 324, Stats. 2000) (98-TC-09)
31. Mentally Disordered Sex Offenders' Recommitments (Ch. 1036, Stats. 1978) (04-LM-09)
32. Mentally Retarded Defendants Representation (Ch. 1253, Stats. 1980) (04-LM-12)
34. Modified Primary Election (Ch. 898, Stats. 2000) (01-TC-13)
35. Not Guilty by Reason of Insanity (Ch. 1114, Stats. 1979 and Ch. 650, Stats. 1982) (CSM-2753) (05-PGA-35)
37. Pacific Beach Safety: Water Quality and Closures (Ch. 661, Stats. 1992) (CSM-4432)
38. Perinatal Services (Ch. 1603, Stats. 1990) (CSM-4397) (05-PGA-38)
40. Personal Safety Alarm Devices (8 Cal. Code Regs. 3401 (c)) (CSM-4087)
41. Photographic Record of Evidence (Ch. 875, Stats. 1985; Ch. 734, Stats. 1986; and Ch. 382, Stats. 1990) (98-TC-07)
42. Pocket Masks (Ch. 1334, Stats. 1987) (CSM-4291)
43. Post Conviction: DNA Court Proceedings (Ch. 943, Stats. 2001 and Ch. 821, Stats. 2000) (00-TC-21; 01-TC-08)
44. Postmortem Examinations: Unidentified Bodies, Human Remains (Ch. 284, Stats. 2000) (00-TC-18)
45. Prisoner Parental Rights (Ch. 820, Stats. 1991) (CSM-4427)
46. Senior Citizens Property Tax Postponement (Ch. 1242, Stats. 1977; and Ch. 43, Stats. 1978) (CSM-4359)
49. SIDS Autopsies (Ch. 955, Stats. 1889) (CSM-4393)
50. SIDS Contacts by Local Health Officers (Ch. 268, Stats. 1991) (CSM-4424)
51. SIDS Training for Firefighters (Ch. 1111, Stats. 1989) (CSM-4412)
52. Stolen Vehicle Notification (Ch. 337, Stats. 1990) (CSM-4403)
53. Structural and Wildland Firefighter's Safety Clothing and Equipment (Title 8 Cal. Code Regs. 3401 to 3410, incl.) (CSM-4261-4281)
54. Very High Fire Hazard Severity Zones (Ch. 1188, Stats. 1992; Ch. 843, Stats. 1994; and Ch. 333, Stats. 1995) (97-TC-13)
55. Voter Identification Procedures (Ch. 260, Stats. 2000) (03-TC-23)
56. Voter Registration Procedures (Ch. 704, Stats. 1975) (04-LM-04)
APPENDIX 3.F

Commission on State Mandates, State of California, Statement of Decision Case No. 03-TC-12 and 08-TC-05, March 26, 2010
STATEMENT OF DECISION

The Commission on State Mandates (“Commission”) heard and decided this test claim during a regularly scheduled hearing on March 26, 2010. Lizanne Reynolds appeared on behalf of the claimant, County of Santa Clara and Carla Shelton and Donna Ferebee appeared on behalf of Department of Finance.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis to deny this test claim at the hearing by a vote of 4-2.

Summary of Findings

The Commission finds that the test claim statutes do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution because:
1. The Commission does not have jurisdiction over section 21670 as amended by Statutes 1994, chapter 644 or over the activity of developing the ALUCP required by Section 21675 by June 30, 1991, because these statutes and activities were the subject of a final decision of the Commission in CSM 4507.

2. Any increased costs resulting from the test claim statutes occur as a result of a cost shift between local entities, not a cost shift between the state and county. Thus the test claim statutes do not mandate a new program or higher level of service.

Background
This test claim addresses Airport Land Use Commissions (ALUCs) and Airport Land Use Compatibility Plans (ALUCPs). All further code references are to the Public Utilities Code unless otherwise specified.

In 1967, the California State Legislature required counties with regularly scheduled airlines, to establish ALUCs, to protect the “public health, safety, and welfare by encouraging orderly expansion of airports and the adoption of land use measures that minimize exposure to excessive noise and safety hazards within areas around public airports to the extent that these areas are not already devoted to incompatible uses.” This requirement was extended in 1984 to counties having only general aviation airports. Generally, each county’s ALUC prepares an ALUCP with a twenty-year planning horizon focused on broadly defined noise and safety impacts. In addition, ALUCs make compatibility determinations for proposed amendments to airport master plans, general plans, specific plans, zoning ordinances and building regulations within the planning boundary established by the ALUC. ALUCPs were originally known as “Airport Comprehensive Land Use Plans” until Statutes 2002, chapter 438 and Statutes 2004, chapter 615 renamed ALUCPs in the several code sections in which they are mentioned to provide for the use of uniform terminology in airport land use planning law and publications. The acronym ALUCP will be used throughout this analysis.

Establishment of an ALUC
In 1967, the Legislature adopted Statutes 1967, chapter 852 which added Article 3.5 (sections 21670-21674) to require every county containing one or more airports for the benefit of the general public served by a regularly scheduled airline to establish an ALUC. The original Article 3.5 included, among other provisions: section 21670, which contains findings and provides for the establishment of ALUCs including membership selection; and section 21671, which addresses the situation where an airport is owned by city, district or county and provides for the appointment of certain members by cities and counties. Section 21670 was not pled in the amended test claim.

Article 3.5 was subsequently amended by Statutes 1970, chapter 1182, which added: section 21670.1 allowing for action by designated body instead of the ALUC and requiring two members with expertise in aviation; and, section 21670.2 regarding applicability to the County

1 Statutes 1967, chapter 852.
2 Senate Floor Analysis of Assembly Bill No. (AB) 3026 and Senate Transportation Committee Analysis of Senate Bill No. (SB) 1233.
of Los Angeles.\(^3\) This statute also added sections 21675 and 21676 which required ALUCs to prepare an ALUCP and imposed the requirement for local land use plans to be submitted to the ALUC for a compatibility review.

These initial statutes applied to all counties having an airport served by a regularly scheduled airline and the ALUCs in those counties. The planning requirement imposed on the ALUCs applied to the entire county area, including all airports in the county, even though all airports in the county may not have been served by the scheduled airline. The counties exempted from the requirement to establish an ALUC were those without an airport served by a scheduled airline.

The applicability of the requirements of article 3.5 was expanded by Statutes 1984, chapter 1117 to include counties having only general aviation airports.\(^4\) Several statutes have since amended the provisions relating to membership of the ALUC.

In 1993, the Legislature made the establishment of an ALUC discretionary. In 1994, the Legislature made the establishment of an ALUC mandatory again and provided several new alternatives to forming an ALUC, including designating an alternative planning entity to fulfill the duties of an ALUC or contracting out for the preparation of the ALUCP.

Section 21670 provides for the membership of the ALUC. Regarding ALUC membership, section 21670, subdivision (b) provides in pertinent part:

Each commission shall consist of seven members to be selected as follows:

1. Two representing the cities in the county, appointed by a city selection committee comprised of the mayors of all the cities within that county, except that if there are any cities contiguous or adjacent to the qualifying airport, at least one representative shall be appointed therefrom. If there are no cities within a county, the number of representatives provided for by paragraphs (2) and (3) shall each be increased by one.

2. Two representing the county, appointed by the board of supervisors.

3. Two having expertise in aviation, appointed by a selection committee comprised of the managers of all of the public airports within that county.

4. One representing the general public, appointed by the other six members of the commission.

Section 21674 provides the ALUC with the following powers and duties:

The commission has the following powers and duties, subject to the limitations upon its jurisdiction set forth in Section 21676:

\(^3\) Note that sections 21670 and 21670.1 do not apply to the counties of Los Angeles or San Diego. The Los Angeles Regional Planning Commission and the San Diego County Regional Airport Authority have the responsibility for preparing, reviewing and amending their respective ALUCPs. (See §§ 21670.2 and 21670.3.)

\(^4\) A general aviation airport is an airport not served by a scheduled airline but operated for the benefit of the general public.
(a) To assist local agencies in ensuring compatible land uses in the vicinity of all new airports and in the vicinity of existing airports to the extent that the land in the vicinity of those airports is not already devoted to incompatible uses.

(b) To coordinate planning at the state, regional, and local levels so as to provide for the orderly development of air transportation, while at the same time protecting the public health, safety, and welfare.

(c) To prepare and adopt an airport land use compatibility plan pursuant to Section 21675.

(d) To review the plans, regulations, and other actions of local agencies and airport operators pursuant to Section 21676.

(e) The powers of the commission shall in no way be construed to give the commission jurisdiction over the operation of any airport.

(f) In order to carry out its responsibilities, the commission may adopt rules and regulations consistent with this article.

The Role of the Counties

The counties were charged with the responsibility for establishing an ALUC or alternative body/process. (§§ 21670 and 21670.1.) The board of supervisors was also made responsible for providing for the staffing and contracting decisions and the operational expenses of the ALUC. Thus counties have substantial control over the ALUC budgets. (§ 21671.5)

The original Article 3.5, enacted by Statutes 1967, chapter 852, included section 21671.5 which provided for: terms of office; removal of members; filling vacancies; compensation of commission members; ALUC meetings; and required counties to provide staff assistance to the ALUC including “the mailing of notices and the keeping of minutes.” Section 21671.5 was later amended by Statutes 1972, chapter 419 to specify that “[t]he usual and necessary operating expenses of the [ALUC] shall be a county charge.” In addition, Statutes 1967, chapter 852 and Statutes 1972, chapter 419 provided the counties with significant budgetary controls over ALUCs which are also contained in section 21671.5. Specifically, counties determine:

- ALUC member “compensation, if any.” (Added by Statutes 1967, chapter 852.)
- Whether to approve the ALUCs decision to employ any personnel as employees or independent contractors. (Added by Statutes 1972, chapter 419.)

ALUCPs

ALUCs must prepare an ALUCP to provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the ALUC, and to safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. (§ 21675.) The original ALUCP preparation was required to be completed by June 30, 1991. (§ 21674.5.) Later amendments to the statutes, however, require that the ALUCP “be reviewed as often as necessary in order to accomplish its purposes” and restrict amendments of the ALUCP to “no more than once in any calendar year.” (§ 21675.)

The contents of the ALUCP must be based on a long-range master plan or airport layout plan, as determined by DOT’s Division of Aeronautics and include, among other things, the area...
within the jurisdiction surrounding any military airport, and be consistent with the safety and noise standards in the Federal Air Installation Compatible Use Zone prepared for that military airport. (§ 21675.)

Local agencies (i.e. cities, counties and special districts) are required to submit their airport master plans, general plans, specific plans, zoning ordinances and building regulations to the ALUC for a determination of consistency with the ALUCP. However, there are procedures by which local agencies can overrule an ALUCP finding of incompatibility. (§ 21676.)

CEQA

The California Environmental Quality Act (CEQA) was enacted in 1970 and is currently contained in Public Resources Code sections 21000-21177. There are also numerous statutory provisions relating to CEQA that are contained in other codes. The amendment to this test claim (08-TC-05) pled Public Resources Code section 21080. Public Resources Code section 21080 specifies that CEQA applies “to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from [CEQA].” Public Resources Code section 21080 also lists the CEQA exemptions.

Generally, CEQA provides a process for evaluating the environmental effects of a project, and includes statutory exemptions, as well as categorical exemptions that can be found in CEQA and the CEQA regulations. If a project is not exempt from CEQA, an initial study is prepared to determine whether a project may have a significant effect on the environment. If the initial study shows that there would not be a significant effect on the environment, the lead agency must prepare a negative declaration (ND). If the initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an environmental impact report (EIR). If the EIR includes a finding of significant environmental impacts, CEQA imposes a substantive requirement to adopt feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of the project.5 The EIR requirement, which effectively accomplishes the above purposes, is “the heart of CEQA.”6

CEQA specifies that the public agency carrying out a project has responsibility for CEQA compliance.7 This is true even when the project is in another agency’s jurisdiction.8 A public agency acting in this capacity would be referred to as the “lead agency.” An ALUC is the lead agency for purposes of CEQA compliance for its ALUCP since it is the public agency that prepares and adopts the ALUCP.9

5 Public Resources Code section 21002.
7 California Code of Regulations, title 14, section 15051, subdivision (a).
8 Id.
9 See generally Muzzy Ranch Co. v. Solano County Airport Land Use Commission (2007) 41 Cal.4th 372, for the propositions that ALUCPs are projects subject to CEQA and that ALUCs are the lead agency for such projects.
The Role of the Division of Aeronautics

ALUCs are required to submit a copy of the ALUCP and each amendment to the ALUCP to DOT's Division of Aeronautics. (§ 21675.) Additionally, DOT provides training and development programs to ALUC staff. (§ 21674.5.)

Fee Authority

Section 21671.5 subdivision (f), as added by Statutes 1990, chapter 1572 provided that “[t]he [ALUC] may establish a schedule of fees for reviewing and processing proposals and for providing the copies of land use plans, as required by subdivision (d) of section 21675. . . .” However, the current law, which has been in effect during the entire potential reimbursement period for this test claim, authorizes the ALUC to “….establish a schedule of fees necessary to comply with this article. . . .” (§ 21671.5, as amended by Stats. 1991, ch.140.)

Prior Test Claim Decisions

The Commission has adopted two prior Statements of Decision on ALUCs. These prior decisions are final, binding decisions which are relevant to the issue of jurisdiction.10 However, they are of no precedential value for purposes of the Commission’s decision on any other test claim, including this test claim. In 1989, the Attorney General’s Office issued an opinion, citing the Weiss case to support the proposition that claims previously approved by the Commission have no precedential value.11 Rather, “[a]n agency may disregard its earlier decision, provided that its action is neither arbitrary nor unreasonable.”12 While opinions of the Attorney General are not binding on the courts, they are entitled to great weight.13 Moreover, agencies that are subject to the Administrative Procedures Act may designate decisions that have precedential value. The Commission is not subject to the Administrative Procedures Act.14

CSM 4231, Airport Land Use, Statutes 1984, Chapter 1117

In CSM 4231, the Commission found Chapter 1117, Statutes 1984 imposed a reimbursable state mandate on counties with only general aviation airports to form an ALUC and for the ALUC to develop an ALUCP. Counties with regularly scheduled airlines, such as Santa Clara County, were not eligible for reimbursement under CSM 4231 because they were required to establish an ALUC and those ALUCs have been required to develop an ALUCP since 1970. The CSM 4231 mandate was suspended under the provisions of Government Code section 17581 from 1990 through 1993. The mandate to establish a commission was then eliminated

14 See Government Code section 17533.
by Statutes 1993, chapter 59, which made the establishment of an ALUC pursuant to sections 21670 and 21670.1 discretionary.


The Commission, in CSM 4507, found that Statutes 1993, chapter 59 “caused a gap in the continuity” of the state requirement to establish an ALUC, by changing the word “shall” to “may,” and therefore, Statutes 1994, chapter 644, which replaced the word “may” with “shall,” imposed a new requirement on counties which had disbanded their ALUCs, or alternative bodies, to reestablish such commissions or bodies. The Commission also found that Statutes 1994, chapter 644 provided a new alternative process that a county could choose to implement rather than forming an ALUC or designating an alternative body, and that the choice by a county to establish this alternative process instead of reestablishing a commission or alternative body was also reimbursable. However, the Commission found that the development of the ALUCP was not a new state-mandated program or activity, because those plans had long been required by section 21675, and were to have been completed by June 30, 1991 (or June 30, 1992, under specified circumstances), pursuant to section 21671.5, subdivision (a).

Eligible claimants under CSM 4507 included counties, cities, cities and counties, or other appropriately designated local government entities, except as provided by Public Utilities Code section 21670.2. The CSM 4507 period of reimbursement began January 1, 1995 and the parameters and guidelines adopted on December 17, 1998 authorize reimbursement for the following activities:

A. For each eligible Claimant, the direct and indirect costs of the following activities are eligible for reimbursement on a one-time basis:

1. Selection of the Method of Compliance:
   a. Analyze the enacted legislation and alternatives.
   b. Coordinate positions of the county and affected cities within the county, providing information, and resolving issues.

2. Establishment of one of the following methods:
   METHOD 1 - Set up or restore an airport land use commission.
   a. Establish and appoint the members.
   b. Establish proxies of the members.
   METHOD 2 - Determination of a designated body, pursuant to Public Utilities Code section 21670.1, subdivisions (a) and (b).
   a. Conduct hearing(s) to designate the appropriate body.


b. Augment the body, with two members with expertise in aviation.

METHOD 3 – Establishment of an alternative process, pursuant to Public Utilities Code section 21670.1, subdivision (c).

a. Develop, adopt and implement the specified processes.

b. Submit and obtain approval of the processes or alternatives from the Department of Transportation, Division of Aeronautics.

METHOD 4 - Establishment of an exemption, pursuant to Public Utilities Code sections 21670 (b) or 21670.1, subdivisions (d) and (e).

a. Determine that a commission need not be formed and meet the specified conditions.

If an eligible claimant, which has selected and established an exemption as specified under 21670 (b) or 21670.1, subdivisions (d) or (e), determines that the exemption no longer complies with the purposes of Public Utilities Code section 21670 (a), activities to select the Method of Compliance and to establish Method 1, 2 or 3 are eligible for reimbursement.

B. For each eligible claimant, per diem for Commission members of up to $100 for each day actually spent in the discharge of official duties and any actual and necessary expenses incurred in connection with the performance of duties as a member of the Commission.

The parameters and guidelines adopted on December 17, 1998 also specifically state: “the airport land use planning process described in Public Utilities Code section 21675 is not reimbursable.”

Claimant’s Position

In its test claim filing (03-TC-12) claimant states that test claim CSM 4507 filed by San Bernardino County on the 1994 and 1995 amendments “did not address several points incumbent within the newly mandated establishment of airport land use commissions.” Claimant maintains that these points remain “unreviewed and unconsidered by the Commission” and that this test claim “seeks to correct that oversight.” Specifically, because only sections 21670 and 21670.1 were pled and analyzed in CSM 4507, that test claim “did not examine the effect the creation of the mandate would have on other statutes closely associated with it that were heretofore voluntary.” With regard to section 21675, the claimant admits that this section pre-dates 1975, but states that it was amended several times between 1980 and 2002 and did not mention amending the comprehensive plan until the enactment of Statutes 1984, chapter 117. Claimant also states that Statutes 1987, chapter

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17 Test Claim, page 1.
18 Test Claim, page 3.
19 Test Claim, page 4.
1018 first set forth the requirement in section 21675 to review ALUCPs as often as necessary. Claimant states that section 21675 was not part of the CSM 4507 test claim, though it should have been because Statutes 1993, chapter 59 made the activities under section 21675 optional and Statutes 1994, chapter 644 made them mandatory again. Claimant argues that this is true because immediately prior to the enactment of 1994, chapter 644, ALUCs were not required to exist and Statutes 1994, chapter 644 establishment of an ALUC or alternate body/process, and hence the requirements of 21675, mandatory. Finally, regarding section 21676, claimant states that though it was added in 1970, there was no requirement for ALUCs to review general plans, specific plans, zoning ordinances or building regulations within 60 days before they are approved or adopted until the enactment of Statutes 1982, chapter 1041.20


In addition to the arguments presented by claimant in the test claim filing (03-TC-12), the test claim amendment (08-TC-05) adds the following new points:

Regarding Public Utilities Code section 21675:

An [ALUCP] must comply with the statutory criteria in Section 21675, including that it be based on a long-range master plan or airport layout plan. These airport plans are amended from time to time by the airport operators, thereby triggering the [ALUCP] amendments. (Muzzy Ranch Co. v Solano County Airport Land Use Comm’n (2007) 41 Cal.4th 372, 378.)

If an ALUC determines that it is necessary or appropriate to amend its [ALUCP], then the county is obligated to provide assistance for this effort pursuant to Section 21671.5, subdivision (c). The county of Santa Clara has provided substantive and procedural assistance from planners, GIS technicians, county counsel, and clerks for these [ALUCP] amendments.

The mandate to assist an ALUC with revising its [ALUCP] is impacted by the California Environmental Quality Act (“CEQA”), Public Resources Code Section 21000 et seq., because [ALUCP] amendments are subject to compliance with CEQA. (Pub. Res. Code § 21080; Muzzy Ranch, 41 Cal.4th at p. 385.) Thus, as a result of the ALUC mandate, counties must also bear the costs associated with the environmental review of [ALUCP] amendments required by CEQA. (Stats. 1970, c. 1433.)

20 Ibid.
Regarding Public Utilities Code section 21671.5, claimant quotes subdivision (c)\(^{21}\) which provides:

Staff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment and supplies shall be provided by the county. The usual and necessary operating expenses of the commission shall be a county charge.

Claimant argues:

This mandate, insofar as it relates to the county resources required to assist an ALUC in the review and update of its [ALUCP] (including environmental review under CEQA) and the processing of referrals related to the review of local agencies’ amendments of their general plans, specific plans, and adoption or approval of zoning ordinances or building regulations within a 60-day time period, was not considered as part of the San Bernardino County test claim.\(^{22}\) The staff time and other resources that a county must absorb in relation to these mandated activities are significant. For example, individuals in various County of Santa Clara departments are responsible for providing services to the ALUC, including the Planning Office, County Counsel, and Clerk of the Board. Thus the total costs of this program are reimbursable.

Claimant asserts that section “21671.5, subdivision (c) requires counties to provide staff assistance and other ‘usual and necessary’ services to ALUCs.”\(^{23}\) Moreover, claimant argues that because the Commission determined that section 21670, as amended by Statutes 1994, chapter 644, requiring the creation of ALUCs, imposed a new program when compared to the law in effect immediately prior (i.e. 21670, as amended by Statutes 1993, chapter 59), “all of the activities associated with ALUCs constitute new mandates, not modified mandates.”

For fiscal year 2002/2003 claimant asserts its “actual increased costs” were “approximately $72,000.”\(^{24}\) Claimant provides no accounting for these costs. In addition, under the heading “Estimated Annual Costs Incurred by Claimant for Fiscal Year 2003/2004,” claimant asserts that “[t]he actual increased costs incurred by the County of Santa Clara for fiscal year 2002/2003 [sic] are approximately $75,000.”\(^{25}\)

\(^{21}\) Test Claim Amendment, p. 5. Claimant cites to “section 21670, subdivision (b)” but then quotes the language of Section 21671.5, subdivision (c). Given the context and the arguments presented, staff assumes that claimant meant to cite Section 21671.5, subdivision (c).

\(^{22}\) Claimant is referring to CSM 4507.

\(^{23}\) The plain language of section 21671.5 requires counties to pay for the “usual and necessary operating expenses” (emphasis added) not to provide usual and necessary services.

\(^{24}\) Test Claim Amendment, supra, p. 5.

\(^{25}\) Test Claim Amendment, supra, p. 6.
With regard to a statewide cost estimate, Allan Burdick, an employee of Maximus, states in his declaration that based on a survey of nine counties and internet research for the fiscal year 2003-2004 the statewide cost estimate is between $2.1 and $2.6 million.

Claimant further asserts that section 21671.5 provides an ALUC with discretionary fee authority but does not mandate them to adopt fees and thus “the county providing services to that ALUC has no mechanism for recovering its ALUC-related costs.” Once established, claimant states, “an ALUC is an independent body and is not subject to the direct control of any other public agency.”

In its test claim amendment, claimant alleges that the following activities are required by the test claim statutes:

- Review and revise ALUCPs which includes CEQA compliance. [§ 21675 (a) and Pub. Resources Code § 21080.]
- Review and act on referrals [§ 21676.]
- Provide staff assistance and other resources [§ 21671.5]

Claimant’s comments on the draft staff analysis can be summarized as follows:

- The draft staff analysis too narrowly interprets the county duties under section 21671.5.
- The mandated activities are not pre-1975.
- These issues (i.e. the activities pled in this test claim) were not considered in prior test claim decisions.

Department of Finance’s (DOF’s) Position

DOF, in its comments on the test claim, concludes that “a reimbursable State mandate has not been created by the amendments specified” in the test claim because ALUCs have the authority to charge fees to cover their costs associated with the new activities specified. In support of this argument DOF cites to section 21671.5. Additionally, DOF states that the mandated activities of including the area within the ALUC’s jurisdiction which surrounds a military airport in the ALUCP and ensuring that the ALUCP is consistent with the safety and noise standards in the federal Air Installation Compatible Use Zone prepared for that military airport.

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26 Test Claim Amendment, supra, Declaration of Allan P. Burdick, p. 13.

27 Test Claim Amendment, supra, p. 7.

28 Test Claim Amendment, supra, p. 8.

29 Test Claim Amendment, supra, p. 2.

30 Test Claim Amendment, supra, p. 3. Note that this activity includes reviewing local agency amendments to general plans and specific plans and adoption of or approval of zoning ordinances or building regulations within a 60-day time period. The Santa Clara County ALUC also receives “voluntary” referrals for major and minor projects within the ALUCP area.

31 Claimant’s comments on the draft staff analysis, dated January 22, 2010.

32 DOF comments on the Test Claim, p. 1.
airport are not reimbursable because, based on the language of the statute (Stats. 2002, ch. 971), the mandate is contingent upon federal funding being made available through an agreement with the Governor’s Office of Planning and Research (OPR). \(^{33}\)

DOF submitted comments on the test claim amendment 08-TC-05. \(^{34}\) DOF states:

DOF believes that the [Public Utility Code] statutes cited do not directly impose requirements on the claimant. The commissions are independent bodies, separate from the counties, and have fee authority to carry out the specified activities, including reviewing and amending the [ALUCPs]. Providing staff assistance, as well as coverage of usual and necessary operating expenses of commissions, are not state mandates because legislation establishing the expenses as county obligations predates January [1,]1975. These are not new programs or increased levels of service imposed on the counties, and claims for reimbursement activities do not meet the statute of limitations pursuant to the Government Code. \(^{35}\)

Additionally, DOF asserts that because neither the claimant nor the ALUCs are authorized to be a lead agency for purposes of CEQA, the performance of environmental reviews pursuant to CEQA is not a reimbursable mandate. \(^{36}\)

Moreover, DOF adds, the “claims for reimbursement activities do not meet the statute of limitations pursuant to the Government Code.” \(^{37}\)

DOF also submitted comments which concur with the draft staff analysis for the following reasons:

- Several statutes pled in the test claim predate January 1, 1975.
- The statutes pled were the subject of a previous decision in CSM 4507.
- No new activities were required of counties since 1972.
- Increased costs of the test claim statutes resulted from a shift between local agencies; not between the state and local agencies. \(^{38}\)

**Department of Transportation’s (DOT’s) Position**

DOT, in its comments dated October 22, 2003, states that section 21671.5, subdivision (c) requires that all expenses and costs by the ALUC be provided by its county and reimbursement

\(^{33}\) Ibid.

\(^{34}\) DOF Comments on the Test Claim Amendment, dated July 17, 2009.

\(^{35}\) *Id*, p. 1.

\(^{36}\) *Id*.

\(^{37}\) *Id.* Staff interprets this statement to mean that DOF believes that the additional statutes pled in the test claim amendment (08-TC-05) were not pled within the statute of limitations provided in Government Code section 17551.

\(^{38}\) DOF comments on the draft staff analysis, January 22, 2010, p. 1.
of the test claim is thus prohibited by statute.\textsuperscript{39} DOT also submitted comments on the test claim amendment on December 10, 2009, in which it states:

- “Many of the issues raised by the claimant regarding . . . sections 21670 and 21675 are jurisdictionally barred as the Commission already ruled on these issues in a final decision issued in CSM 4507.”\textsuperscript{40}
- “The Department concurs with the staff that none of the activities claimed under 21675 and 21676 are to be performed by the claimant.”\textsuperscript{41}
- “Of importance is the staff’s distinction between the creation of the [ALUC] and the activities of an [ALUC].”\textsuperscript{42}
- “The Department concurs with the staff that even though the county may have increased costs as a result of the duties imposed by an [ALUC], increased costs alone do not result in a state mandate.”\textsuperscript{43}
- Section 21682, authorizes Aeronautics Fund money to be paid to public entities that own and operate an airport and such public entities may include ALUCs and that money may be used for updating ALUCPs pursuant to section 21675.\textsuperscript{44}
- Section 21675 pre-dates 1975.\textsuperscript{45}

**COMMISSION FINDINGS**

The courts have found that article XIII B, section 6, of the California Constitution recognizes the state constitutional restrictions on the powers of local government to tax and spend. “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”\textsuperscript{46} A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.\textsuperscript{47} In addition, the required activity or task must be new, constituting a “new

\textsuperscript{39} DOT comments on the Test Claim, October 22, 2003, p. 3.
\textsuperscript{40} DOT comments on the Test Claim Amendment, December 8, 2009, p. 1.
\textsuperscript{41} Id, p. 2.
\textsuperscript{42} Id.
\textsuperscript{43} Id.
\textsuperscript{44} Id.
\textsuperscript{45} Id, p. 3.
\textsuperscript{46} County of San Diego v. State of California (1997) 15 Cal.4th 68, 81.
program,” or it must create a “higher level of service” over the previously required level of service.\textsuperscript{48}

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local entities or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.\textsuperscript{49} To determine if the program is new or imposes a higher level of service, the test claim statutes and executive orders must be compared with the legal requirements in effect immediately before the enactment.\textsuperscript{50} A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”\textsuperscript{51} Finally, the newly required activity or increased level of service must impose costs mandated by the state.\textsuperscript{52}

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.\textsuperscript{53} In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”\textsuperscript{54}

The analysis addresses the following issues:

- **Does the Commission have jurisdiction to address statutes or issues that have already been addressed in a final decision of the Commission?**
- **Do the test claim statutes mandate a new program or higher level of service within the meaning of Article XIII B, section 6 of the California Constitution?**

There are five statutory sections pled in this test claim, Public Utilities Code sections 21670, 21671.5, 21675 and 21676 and Public Resources Code section 21080. The claimant alleges that the following activities are required by the test claim statutes:


\textsuperscript{49} San Diego Unified School Dist., supra, 33 Cal.4th 859, 874-875 (reaffirming the test set out in County of Los Angeles v. State of California (1987) 43 Cal.3d 46, 56; see also Lucia Mar, supra.

\textsuperscript{50} San Diego Unified School Dist., supra, 33 Cal.4th 859, 878; Lucia Mar, supra, 44 Cal.3d 830, 835.

\textsuperscript{51} San Diego Unified School Dist., supra, 33 Cal.4th 859, 878.

\textsuperscript{52} County of Fresno v. State of California (1991) 53 Cal.3d 482, 487; County of Sonoma v. Commission on State Mandates (2000) 84 Cal.App.4th 1265, 1284 (County of Sonoma); Government Code sections 17514 and 17556.


• Review and revise ALUCPs which includes CEQA compliance. (§ 21675, subd. (a) and Pub. Resources Code, § 21080.055
• Review and act on referrals, (§ 21676.)
• Provide staff assistance and other resources. (§ 21671.5)

**Issue 1:** The Commission does not have jurisdiction to address section 21670 as amended by Statutes 1994, chapter 644 or to address the activity of developing the ALUCP by June 30, 1991 as required by section 21675, because these statutes and activities were the subject of a final decision of the Commission in CSM 4507.

As discussed above, CSM 4507 is an approved test claim, which is a final adjudication of the Commission acting in its quasi-judicial capacity, awarding reimbursement for duties imposed on counties pursuant to section 21670. Specifically, the Commission found that the reimbursable activities imposed by sections 21670 and 21670.1 were limited to the following:

> Those costs incurred after January 1, 1995, the operative date of the test claim legislation, for the establishment or re-establishment of an airport land use commission, or one of the alternative approaches, pursuant to sections 21670 and 21670.1 of the Public Utilities Code.58

The Commission also found in CSM 4507 that the development of the ALUCP was not a new state-mandated program or activity, because those plans had long been required by section 21675, and were to have been completed by June 30, 1991 (or June 30, 1992, under specified circumstances), pursuant to section 21671.5, subdivision (a). These code sections have been pled again in this test claim (03-TC-12 and 08-TC-05). An administrative agency does not have jurisdiction to rehear a decision that has become final.59 A party to a final adjudication of an administrative agency is collaterally estopped from relitigating the issues if (1) the agency acted in a judicial capacity, (2) it resolved the disputed issues, and (3) all parties had the opportunity to fully and fairly litigate the issues.60 Each of these elements was met for CSM 4507.

Claimant states that “the draft staff analysis erroneously asserts that the mandates imposed by section 21670 were conclusively addressed in CSM 4507.” Claimant explains that CSM 4507 failed to “address the newly-imposed requirement in the last section of section 21675,

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55 Test Claim Amendment, 08-TC-05, p. 2.
56 Id., p. 3. Note that this activity includes reviewing local agency amendments to general plans and specific plans and adoption of or approval of zoning ordinances or building regulations within a 60-day time period.
57 Id.
subdivision (a) to amend and update the [ALUCP].”  However, the requirements of section 21670 only address the establishment of the ALUC, while the requirements of section 21675 address the preparation and review of and amendments to an ALUCP.  Although the activity imposed by section 21675, subdivision (a), to require that the ALUCP “be reviewed as often as necessary to accomplish its purposes, but shall not be amended more than once in any calendar year” was not addressed in CSM 4507, the draft staff analysis and this final staff analysis specifically address this activity.  All of the activities imposed by section 21670, as amended by Statutes 1994, chapter 644, were conclusively addressed in CSM 4507, and therefore, the Commission does not have jurisdiction to make findings on that statute.

Claimant also states that it was not a party to CSM 4507.  However, test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.  “‘Test claim’ means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state.”  Part 7 of division 4 of title 2 of the Government Code, “State Mandated Costs” establishes a test-claim procedure to expeditiously resolve disputes affecting multiple agencies. . .  Thus, a test claim is like a class action.  Claimant had the opportunity to participate in CSM 4507 but did not avail itself of that opportunity.  When CSM 4507 was filed in December 1995, section 1182.2 of the Commission’s regulations was in place and provided that “any person may submit comments in writing on any agenda item.”  Moreover, pursuant to the Bagley-Keene Open Meeting Act of 1967, claimant had the opportunity to attend and provide written or oral comments at the Commission meetings on CSM 4507.  Government Code section 17500 explicitly states that the test claim procedure is designed to avoid a multiplicity of proceedings to address the same issue.  Once a decision of the Commission becomes final and has not been

61 Claimant’s comments on the draft staff analysis, supra, p. 3.
62 The requirement in section 21675 to prepare an ALUCP was imposed by Statutes 1970, chapter 1182.  A deadline of July 1, 1991 for adopting the ALUCP was added to section 21675.1, subdivision (a) by Statutes 1989, chapter 306, since some ALUCs had not prepared one over the 20-year period that it had been required.  Note also that section 21675 has been amended a number of times since 1975, including by Statutes 1987, chapter 1018, which required ALUCs to review their ALUCPs.
63 Draft staff analysis, 03-TC-12 and 08-TC-05, p. 23.
65 Claimant’s comments on the draft staff analysis, supra, p. 4.
67 Government Code section 17521.
68 See San Diego Unified School Dist. v. Commission on State Mandates (2004) 33 Cal.4th 859, 872, Fn. 10, where the court agrees with the California School Boards Association that a test claim is like a class action.
set aside by a court pursuant to a petition for writ of administrative mandamus (Code Civ. Proc., § 1094.5), it is not subject to collateral attack.\(^69\) Thus, Claimant is bound by the findings in CSM 4507. The Commission may not address issues that were conclusively addressed in that test claim.

Therefore, the Commission finds that it does not have jurisdiction over section 21670 as amended by Statutes 1994, chapter 644 or over section 21675, with regard to the activity of developing the ALUCP by June 30, 1991, as required by sections 21675 and 21675.1, because these statutes and activities were the subject of a final decision of the Commission in CSM 4507.

**Issue 2:** The remaining test claim statutes do not mandate a new program or higher level of service within the meaning of Article XIII B, Section 6 of the California Constitution.

A. There are legal arguments on both sides of the issue of whether the activities that counties are required to perform are newly mandated by the test claim statutes. However, no finding is required on this point because any increased costs resulting from the test claim statutes occur as a result of a cost shift between local entities, not a cost shift between the state and county. Thus the test claim statutes do not mandate a new program or higher level of service.

In 1987, the California Supreme Court in *County of Los Angeles v. State of California* expressly stated that the term “higher level of service” must be read in conjunction with the phrase “new program.” Both are directed at *state-mandated increases in the services* provided by local agencies.\(^70\) In 1990, the Second District Court of Appeal decided the *Long Beach Unified School District* case, which challenged a test claim filed with the Board of Control on executive orders issued by the Department of Education to alleviate racial and ethnic segregation in schools.\(^71\) The court determined that the executive orders did not constitute a “new program” since schools had an existing constitutional obligation to alleviate racial segregation.\(^72\) However, the court found that the executive orders constituted a “higher level of service” because the requirements imposed by the state went beyond constitutional and case law requirements. The court stated in relevant part the following:

> The phrase “higher level of service” is not defined in article XIII B or in the ballot materials. [Citation omitted.] A mere increase in the cost of providing a service which is the result of a requirement mandated by the state is not tantamount to a higher level of service. [Citation omitted.] However, a review of the Executive Order and guidelines shows that a higher level of service is mandated because the requirements go beyond constitutional and case law requirements. . . .While these steps fit within the “reasonably feasible” description of [case law], the point is that these steps are no longer merely


\(^70\) *County of Los Angeles, supra*, 43 Cal.3d at page 56.


\(^72\) *Id*, p. 173.
being suggested as options which the local school district may wish to consider but are required acts. These requirements constitute a higher level of service. We are supported in our conclusion by the report of the Board to the Legislature regarding its decision that the Claim is reimbursable: “Only those costs that are above and beyond the regular level of service for like pupils in the district are reimbursable.”

Thus, in order for the test claim statutes to impose a new program or higher level of service, the Commission must find that the state is imposing new required acts or activities on counties beyond those already required by law.

1. Sections 21675, 21676, post-1975 amendments to section 21671.5, and Public Resources Code section 21080 do not require counties to perform any activities

Section 21675

With respect to section 21675, claimant requests reimbursement to review and amend comprehensive land use plans (i.e. ALUCPs). However, based on the plain language of section 21675, ALUCs are required to perform these activities, but counties are not. Section 21675 provides:

(a) Each commission shall formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general. The commission's airport land use compatibility plan shall include and shall be based on a long-range master plan or an airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years. In formulating an airport land use compatibility plan, the commission may develop height restrictions on buildings, specify use of land, and determine building standards, including soundproofing adjacent to airports, within the airport influence area. The airport land use compatibility plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

(b) The commission shall include, within its airport land use compatibility plan formulated pursuant to subdivision (a), the area within the jurisdiction of the commission surrounding any military airport for all of the purposes specified in subdivision (a). The airport land use compatibility plan shall be consistent with the safety and noise standards in the Air Installation Compatible Use Zone.

73 Ibid, emphasis added. See also, County of Los Angeles v. Commission on State Mandates (2003) 110 Cal.App.4th 1176, 1193-1194, where the Second District Court of Appeal followed the earlier rulings and held that in the case of an existing program, reimbursement is required only when the state is divesting itself of its responsibility to provide fiscal support for a program, or is forcing a new program on a locality for which it is ill-equipped to allocate funding.

74 Test Claim, page 6.
prepared for that military airport. This subdivision does not give the commission any jurisdiction or authority over the territory or operations of any military airport.

(c) The airport influence area shall be established by the commission after hearing and consultation with the involved agencies.

(d) The commission shall submit to the Division of Aeronautics of the department one copy of the airport land use compatibility plan and each amendment to the plan.

(e) If an airport land use compatibility plan does not include the matters required to be included pursuant to this article, the Division of Aeronautics of the department shall notify the commission responsible for the plan. (Emphasis added.)

Thus the ALUC is required by section 21675 to perform the following activities:

- Formulate an airport land use compatibility plan that will provide for the orderly growth of each public airport and the area surrounding the airport within the jurisdiction of the commission, including the area surrounding any military airport, and will safeguard the general welfare of the inhabitants within the vicinity of the airport and the public in general.

- The plan shall include and be based on a long-range master plan or airport layout plan, as determined by the Division of Aeronautics of the Department of Transportation, that reflects the anticipated growth of the airport during at least the next 20 years.

- The plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

- Establish the airport influence area after hearing and consultation with involved agencies.

- Submit to the Division of Aeronautics of the Department of Transportation one copy of the plan and each amendment to the plan.

Section 21676

With respect to section 21676, claimant requests reimbursement “to review and act on referrals”75 which includes:

- Review local agencies’ amendments of general plans and specific plans within a 60-day time period.

- Review local agencies’ adoption of or approval of zoning ordinances or building regulations within a 60-day time period.

Section 21676 provides:

(a) Each local agency whose general plan includes areas covered by an airport land use compatibility plan shall, by July 1, 1983, submit a copy of its plan or

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75 Test Claim Amendment, 08-TC-05, p.3.
specific plans to the airport land use commission. The commission shall determine by August 31, 1983, whether the plan or plans are consistent or inconsistent with the airport land use compatibility plan. If the plan or plans are inconsistent with the airport land use compatibility plan, the local agency shall be notified and that local agency shall have another hearing to reconsider its airport land use compatibility plans. The local agency may propose to overrule the commission after the hearing by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the final record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(b) Prior to the amendment of a general plan or specific plan, or the adoption or approval of a zoning ordinance or building regulation within the planning boundary established by the airport land use commission pursuant to Section 21675, the local agency shall first refer the proposed action to the commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The local agency may, after a public hearing, propose to overrule the commission by a two-thirds vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the local agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the local agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division's comments are not available within this time limit, the local agency governing body may act without them. The comments by the division or the commission are advisory to the local agency governing body. The local agency governing body shall include comments from the commission and the division in the public record of any final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(c) Each public agency owning any airport within the boundaries of an airport land use compatibility plan shall, prior to modification of its airport master plan, refer any proposed change to the airport land use commission. If the commission determines that the proposed action is inconsistent with the commission's plan, the referring agency shall be notified. The public agency may, after a public hearing, propose to overrule the commission by a two-thirds
vote of its governing body if it makes specific findings that the proposed action is consistent with the purposes of this article stated in Section 21670. At least 45 days prior to the decision to overrule the commission, the public agency governing body shall provide the commission and the division a copy of the proposed decision and findings. The commission and the division may provide comments to the public agency governing body within 30 days of receiving the proposed decision and findings. If the commission or the division’s comments are not available within this time limit, the public agency governing body may act without them. The comments by the division or the commission are advisory to the public agency governing body. The public agency governing body shall include comments from the commission and the division in the final decision to overrule the commission, which may only be adopted by a two-thirds vote of the governing body.

(d) Each commission determination pursuant to subdivision (b) or (c) shall be made within 60 days from the date of referral of the proposed action. If a commission fails to make the determination within that period, the proposed action shall be deemed consistent with the airport land use compatibility plan.

Section 21676 requires the ALUC to review amendments to the general or specific plans, and proposed zoning ordinances or building regulations of local agencies within the planning boundary established by the ALUC within 60 days from the date of referral of the proposed action. In addition, the ALUC is required to review any proposed changes to an airport master plan of any public agency owning an airport within the boundaries of the ALUC within 60 days from the date of referral of the proposed action.

Section 21676 does require local agencies to submit their general plans, specific plans, zoning ordinances and building regulations to the ALUC, but those activities have not been pled in this test claim. However, even if those activities had been pled, they would not be reimbursable because local agencies have authority to impose fees on projects within their jurisdiction which may be imposed for purposes of updating general plans and other planning documents pursuant to Government Code section 66014, and pursuant to their police power under article XI, section 7 of the California Constitution. Based on the plain language of section 21676, counties are not required to “review and act on referrals” which is the only section 21676 activity pled.

Based on a plain meaning reading of sections 21675 and 21676 the following activities are imposed on ALUCs, not counties:

- The plan shall be reviewed as often as necessary in order to accomplish its purposes, but shall not be amended more than once in any calendar year.

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• The ALUCP must include the area within the jurisdiction of the ALUC surrounding any military airport and be consistent with the safety and noise standards in the Air Installation Compatible Use Zone prepared for that military airport.77

• Submit to the Division of Aeronautics of the Department of Transportation one copy of the plan and each amendment to the plan.

• Review amendments to the general or specific plans, and proposed zoning ordinances or building regulations of local agencies within the planning boundary established by the ALUC within 60 days from the date of referral of the proposed action.

• Review any proposed changes to an airport master plan of any public agency owning an airport within the boundaries of the ALUC within 60 days from the date of referral of the proposed action.

Therefore, sections 21675 and 21676 do not mandate a new program or higher level of service on counties.

Section 21671.5

Section 21671.5; as amended by Statutes 1989, chapter 306, Statutes 1990, chapter 1572, Statutes 1991, chapter 140, and Statutes 2002, chapter 438, though pertaining to counties, does not require counties to perform any activities for the following reasons:

• Statutes 1989, chapter 306 amended the language concerning meetings to specify that “a majority of the [ALUC] shall constitute a quorum for the transaction of business” and added the requirement that “no action shall be taken by the [ALUC] except by a recorded vote of a majority of the full membership.”78 Statutes 1989, chapter 306 also added subdivision (f), authorizing ALUCs to establish a schedule of fees for reviewing and processing proposals and for providing copies of ALUCPs. However, Statutes 1989, chapter 306 did not impose any new required activities on counties.

• Statutes 1990, chapter 1572 amended section 21671.5, subdivision (f) to require the ALUC to follow the procedures laid out in Government Code section 66016 when adopting a fee and to prohibit an ALUC from imposing such fees if, after June 30, 1991, it has not adopted an ALUCP. The Statutes 1990, chapter 1572 requirements are imposed on ALUCs and do not require counties to perform any activities.

77 DOF argued in its comments that unless federal funding is provided, these activities are not mandated. Statutes 2002, chapter 971, which added the requirements regarding military airports, added an uncodified provision, section 8 of Senate Bill 1233 (Knight), which states with regard to amendments to the Government Code: “[a] city or county shall not be required to comply with the amendments made by this act to sections 65302, 65302.3, 65560, and 65583 of the Government Code, relating to military readiness activities, military personnel, military airports, and military installations. . .” until an agreement is entered into between the federal government and OPR to fully reimburse all claims approved by the Commission on State Mandates and the city or county undertakes its next general plan revision. However, the Commission does not need to reach this issue.

78 Section 21671.5, subdivision (e), as amended by Statutes 1989, chapter 306.
• Statutes 1991, chapter 140 amended section 21671.5 to limit an ALUCs ability to impose fees pursuant to subdivision (f) to those ALUCs that have undertaken preparation of their ALUCPs and after 1992, to those ALUCs that have completed their ALUCPs. Statutes 1991, chapter 140 did not impose any new activities on counties.

• Statutes 2002, chapter 438 expanded the fee authority under subdivision (f) and added subdivision (g) to authorize the continued imposition of the subdivision (f) fees by ALUCs that have yet to complete their ALUCP if specified requirements have been met. Statutes 2002, chapter 438 did not impose any new activities on counties.

None of these post-1975 amendments require counties to perform activities. Based upon the above legislative history and plain meaning of the relevant test claim statutes, the Commission finds that section 21671.5 as amended by Statutes 1989, chapter 306, Statutes 1990, chapter 1572, Statutes 1991, chapter 140 and Statutes 2002, chapter 438 do not mandate a new program or higher level of service on counties.

Public Resources Code Section 21080

Public Resources Code section 21080 specifies which projects are subject to CEQA and lists exemptions to CEQA. It does not direct any action. The Commission finds that the plain language of Public Resources Code section 21080 does not require counties to perform any activities. Public Resources Code section 21080 provides:

Except as otherwise provided in this division, this division shall apply to discretionary projects proposed to be carried out or approved by public agencies, including, but not limited to, the enactment and amendment of zoning ordinances, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps unless the project is exempt from this division. . . .[List of CEQA exemptions omitted.]

The Commission only has jurisdiction to make findings on statutes and executive orders pled in a test claim or an amendment thereto. The statutes and executive orders pled for any given test claim are required to be listed in box 4 of the test claim form and are then included in the caption on page one of the Notice Complete Test Claim Filing, draft staff analysis, final staff analysis and Statement of Decision, as well as on the notice and agenda. Statutes and executive orders not included in box 4 are not pled. \(^{79}\) Since only Public Resources Code section 21080 was pled, the Commission may only make a finding on that Public Resources Code section.


\(^{79}\) See Government Code section 17553; sections 1183, subdivision (d) and 1183.02, subdivision (c) of the Commission’s regulations; and, Commission on State Mandates Test Claim Form adopted pursuant to Government Code section 17553, box 4.
Statutes 1996, chapter 547, do not require claimant to perform any of the activities pled, and thus do not mandate a new program or higher level of service on counties. Therefore, the costs claimed by the county under these statutes are not reimbursable. With regard to claimant’s assertion that 21671.5, subdivision (c) effectively makes counties responsible for the activities ALUCs are required to perform pursuant to sections 21675 and 21676, that issue is addressed under “3.” below, which addresses activities imposed by section 21671.5, subdivision (c).

2. **ALUCs are not eligible to claim reimbursement under article XIII B, section 6 of the California Constitution.**

As claimant argues, an ALUC is an independent body, separate from the county. The ALUC, has several powers and duties listed in section 21674. Since 1975, several statutes have imposed new or expanded requirements on ALUCs. However, the ALUC is not an eligible claimant and cannot seek reimbursement under article XIII B, section 6 of the California Constitution.

Article XIII B, section 6 requires reimbursement only to local entities that are subject to the tax and spend limitations of article XIII A and B of the California Constitution. Article XIII B, section 6 requires, with exceptions not relevant to this issue, that whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse the local government for the costs of the new program or higher level of service. In *County of San Diego*, the Supreme Court explained that section 6 represents a recognition that together articles XIII A and XIII B severely restrict the taxing and spending powers of local agencies. The purpose of section 6 is to preclude the state from shifting financial responsibility for governmental functions to local agencies, which are ill equipped to undertake increased financial responsibilities because they are subject to taxing and spending limitations under articles XIII A and XIII B.

As determined by the courts, article XIII B, section 6 does not require reimbursement when the expenses incurred by the local entity are recoverable from sources other than tax revenue; i.e., service charges, fees, or assessments. A local entity cannot accept the benefits of an exemption from article XIII B’s spending limit while asserting an entitlement to reimbursement under article XIII B, section 6. Thus, a local entity must be subject to the tax and spend limitations of articles XIII A and XIII B to be eligible for reimbursement of costs.

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80 Test Claim Amendment, supra, p. 8.

81 *County of San Diego* supra, 15 Cal.4th at page 81.


84 *City of El Monte*, supra, at p. 282.
incurred to implement a “program” under section 6.85 Reimbursement is required only when the costs in question can be recovered solely from “proceeds of taxes,” or tax revenues.86 ALUCs do not have the power to levy tax revenues to pay for their expenses. Rather, section 21671.5, subdivision (f) authorizes ALUCs to impose fees on proponents of actions, regulations or permits sufficient to cover the costs of complying with division 3.5 which includes all of the mandatory activities imposed by the test claim statutes on ALUCs. Section 21671.5, subdivision (f) provides:

The commission may establish a schedule of fees necessary to comply with this article. Those fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.87 (Emphasis added.)

In addition, the “usual and necessary operating expenses” of an ALUC are paid by the county served by the ALUC.88 Therefore, the Commission finds ALUCs cannot be reimbursed (nor can reimbursement be claimed on their behalf) because ALUCs are not subject to the tax and spend limitations of articles XIII A and XIII B and thus, they are not eligible for reimbursement of costs incurred to implement a “program” under article XIII B, section 6 of the California Constitution.

3. The plain language of section 21671.5 requires counties to perform some activities; however, the costs of those activities have been shifted between two local entities and not from the state to the county

a. The plain language of section 21671.5 requires counties to perform some activities

Claimant argues:

This mandate [i.e. § 21671.5, subd. (c).],89 insofar as it relates to the county resources required to assist an ALUC in the review and update of its [ALUCP] (including environmental review under CEQA) and the processing of referrals related to the review of local agencies’ amendments of their general plans, specific plans, and adoption or approval of zoning ordinances or building

87 Section 66016 requires that the fees must be adopted by ordinance or resolution, after providing notice and holding a public hearing.
88 Section 21671.5, subdivision (c).
89 See Test Claim Amendment, 08-TC-05, p. 5. Note that claimant cites to section 21670, subdivision (b) but it is clear from context and from the quoted language that claimant intends to cite to section 21671.5, subdivision (c).
regulations within a 60-day time period, was not considered as part of the
San Bernardino County test claim. The staff time and other resources that a
county must absorb in relation to these mandated activities are significant. For
example, individuals in various County of Santa Clara departments are
responsible for providing services to the ALUC, including the Planning Office,
County Counsel, and Clerk of the Board. Thus the total costs of this program
are reimbursable.

Section 21671.5 provides:

(a) Except for the terms of office of the members of the first commission, the
term of office of each member shall be four years and until the appointment and
qualification of his or her successor. The members of the first commission shall
classify themselves by lot so that the term of office of one member is one year,
of two members is two years, of two members is three years, and of two
members is four years. The body that originally appointed a member whose
term has expired shall appoint his or her successor for a full term of four years.
Any member may be removed at any time and without cause by the body
appointing that member. The expiration date of the term of office of each
member shall be the first Monday in May in the year in which that member's
term is to expire. Any vacancy in the membership of the commission shall be
filled for the unexpired term by appointment by the body which originally
appointed the member whose office has become vacant. The chairperson of the
commission shall be selected by the members thereof.

(b) Compensation, if any, shall be determined by the board of supervisors.

(c) Staff assistance, including the mailing of notices and the keeping of minutes
and necessary quarters, equipment, and supplies shall be provided by the
county. The usual and necessary operating expenses of the commission shall be
a county charge.

(d) Notwithstanding any other provisions of this article, the commission shall
not employ any personnel either as employees or independent contractors
without the prior approval of the board of supervisors.

(e) The commission shall meet at the call of the commission chairperson or at
the request of the majority of the commission members. A majority of the
commission members shall constitute a quorum for the transaction of business.
No action shall be taken by the commission except by the recorded vote of a
majority of the full membership.

(f) The commission may establish a schedule of fees necessary to comply with
this article. Those fees shall be charged to the proponents of actions,
regulations, or permits, shall not exceed the estimated reasonable cost of
providing the service, and shall be imposed pursuant to Section 66016 of the
Government Code. Except as provided in subdivision (g), after June 30, 1991, a
commission that has not adopted the airport land use compatibility plan

90 Claimant is referring to CSM 4507.
required by Section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan.

(g) In any county that has undertaken by contract or otherwise completed airport land use compatibility plans for at least one-half of all public use airports in the county, the commission may continue to charge fees necessary to comply with this article until June 30, 1992, and, if the airport land use compatibility plans are complete by that date, may continue charging fees after June 30, 1992. If the airport land use compatibility plans are not complete by June 30, 1992, the commission shall not charge fees pursuant to subdivision (f) until the commission adopts the land use plans.

Section 21671.5, subdivision (a) specifies terms of office for ALUC members. Subdivision (e) dictates how meetings shall be called and the number of votes needed for the ALUC to take action. Subdivisions (f) and (g) provide fee authority to the ALUC and set limits on that authority. Based on the plain language of section 21671.5, subdivisions (b), (c) and (d), staff finds that section 21671.5 requires counties to perform only the following activities:

- Determine compensation of ALUC members, “if any”. (§ 21671.5 subd. (b).)
- Provide staff assistance, including the mailing of notices and keeping of minutes. (§ 21671.5 subd. (c).)
- Provide necessary quarters. (§ 21671.5 subd. (c).)
- Provide equipment. (§ 21671.5 subd. (c).)
- Provide supplies. (§ 21671.5 subd. (c).)
- The usual and necessary operating expenses of the commission shall be a county charge. (§ 21671.5 subd. (c).)

One of the above requirements is that the county is to “provide staff assistance, including the mailing of notices and keeping of minutes.” Claimant asserts that this requirement includes providing substantive and procedural assistance from planners, GIS technicians, county counsel and the costs associated with ALUCP amendments and the environmental review of ALUCP amendments required by CEQA. However, the doctrine of *ejusdem generis* provides “that if the Legislature intends a general word to be used in its unrestricted sense, it does not also offer as examples peculiar things or classes of things since those descriptions then would be surplusage.”

*Ejusdem generis* applies whether specific words follow general words in a statute or vice versa. In either event, the general term or category is ‘restricted to those things that are similar to those which are enumerated specifically.” Although “the phrase ‘including, but not limited to’ is a phrase of enlargement,” the use of this phrase does not conclusively demonstrate that the Legislature intended a category to be without limits. In *Dyna-Med*, the California Supreme Court held that, despite the phrase “including, but not

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limited to,” the California Fair Employment and Housing Act (Gov. Code, § 12900 et seq.) does not authorize the Fair Employment and Housing Commission to award punitive damages, because punitive damages are different in kind from the corrective and equitable remedies provided.94

Because “mailing of notices” and “keeping of minutes” are the typical tasks of a local entity secretary, other typically secretarial activities might also be included in the requirement to “provide staff assistance including the mailing of notices and the keeping of minutes.” However, professional services, such as the services of planners and attorneys are of a different kind, and there is no evidence that the Legislature intended for counties to be required to provide them. In fact, with regard to planners, there is very clear legislative intent for ALUCs to impose fees to cover the costs of all of the airport land use planning activities. Therefore, the Commission finds that, with regard to the claimed requirement to “provide staff assistance and other resources,” this activity does not include providing “substantive and procedural assistance from planners, GIS technicians, county counsel. . . for . . . [ALUCP] amendments” or “the costs associated with the environmental review of [ALUCP] amendments required by CEQA” beyond “the mailing of notices and the keeping of minutes” and possibly other related secretarial activities.”

Finally, the Commission has not found any requirement in the law for the county to “assist an ALUC in the review and update of its [ALUCP] (including environmental review under CEQA) and the processing of referrals related to the review of local agencies’ amendments of their general plans, specific plans, and adoption or approval of zoning ordinances or building regulations within a 60-day time period.” As stated above, these are activities imposed solely on the ALUC pursuant to sections 21675 and 21676 and there is no language in those statutes, or any of the other test claim statutes, which requires counties to perform these activities. Likewise, as discussed above, ALUCs have sufficient fee authority under section 21671.5, subdivision (f) to cover all of the expenses related to those 21675 and 21676 activities, including costs for any county staff that they may wish to utilize pursuant to a voluntary agreement with the county. To the extent that the county performs activities beyond those required by state law, those activities are not state mandated and not reimbursable. The Commission finds that the only activities related to ALUCs that the state requires counties to perform are the following activities required by section 21671.5:

- Determine compensation of ALUC members, “if any”. (§ 21671.5 subd. (b).)
- Provide staff assistance, including the mailing of notices and the keeping of minutes (§ 21671.5 subd. (c).) This does not include providing substantive and procedural assistance from planners, GIS technicians, county counsel or the costs associated with ALUCP amendments or the environmental review of ALUCP amendments required by CEQA beyond the mailing of notices and the keeping of minutes and related secretarial activities.
- Provide necessary quarters. (§ 21671.5 subd. (c).)
- Provide equipment. (§ 21671.5 subd. (c).)
- Provide supplies. (§ 21671.5 subd. (c).)

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94 Id at pp. 1387-1389.
The usual and necessary operating expenses of the commission shall be a county charge. (§ 21671.5 subd. (c).)\(^95\)

b. The activities required of the counties by section 21671.5 were enacted before January 1, 1975.

The activities required of the counties by section 21671.5, subdivisions (b) and (c) were enacted before January 1, 1975. Specifically:

- The requirement for counties to provide “[s]taff assistance, including the mailing of notices and the keeping of minutes and necessary quarters, equipment. . . .” was enacted by Statutes 1967, chapter 852.
- The requirement that “[t]he usual and necessary operating expenses of the commission shall be a county charge” was enacted by Statutes 1972, chapter 419.
- The requirement for the County Board of Supervisors to determine ALUC member “compensation, if any” was added by Statutes 1967, chapter 852.
- The requirement for the County Board of Supervisors to determine whether to approve the ALUCs decision to employ any personnel as employees or independent contractors was added by Statutes 1972, chapter 419.

The relevant portion of Article XIII B, section 6, subdivision (a) of the California Constitution provides:

(a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not provide a subvention of funds for the following mandates: . . . .

(3) Legislative mandates enacted prior to January 1, 1975. . . .

Claimant, however, argues Statutes 1993, chapter 59 made the establishment of an ALUC discretionary. Thus, all related statutes would have been down-stream activities triggered by an underlying discretionary decision to establish an ALUC, until the Legislature passed Statutes 1994, chapter 644, mandating the establishing of ALUCs, making all of the requirements imposed on ALUCs mandatory. Based on this line of reasoning, claimant argues that all activities required by the test claim statutes, including those imposed by pre-1975 statutes, would impose a new program or higher level of service because of the 1994 statute.

From January 1, 1994 to January 1, 1995, there was no requirement in law to establish an ALUC. Statutes 1993, chapter 59 made the establishment of an ALUC (and several other unrelated state-mandated local programs) discretionary. With regard to the establishment of ALUCs, it did so by changing the word “shall” to the word “may” in three sentences in section 21670, subdivision (b). The following is the language of relevant portion of section 21670,

\(^{95}\) Even if the Commission were to adopt claimant’s expansive interpretation of section 21671.5, subdivision (c), it would not make the pre-1975 requirements of section 21671.5, subdivision (c) reimbursable, because the requirements of section 21671.5 were enacted prior to January 1, 1975.
(b) In order to achieve the purposes of this article, every county in which there is located an airport which is served by a scheduled airline shall may establish an airport land use commission. Every county in which there is located an airport which is not served by a scheduled airline, but is operated for the benefit of the general public, shall may establish an airport land use commission, except that the board of supervisors of the county may, after consultation with the appropriate airport operators and affected local entities and after a public hearing, adopt a resolution finding that there are no noise, public safety, or land use issues affecting any airport in the county which require the creation of a commission and declaring the county exempt from the requirement. The board shall may, in this event, transmit a copy of the resolution to the Director of Transportation.

Prior to the enactment of Statutes 1993, chapter 59, the establishment of ALUCs was required by section 21670. By changing the word “shall” to the word “may,” the Legislature eliminated the requirement to establish an ALUC. However, the Legislature did not make any changes to section 21675, 21676 or 21671.5—those sections remained intact. Nor did the Legislature eliminate the existing ALUCs or give counties authority to do so on their own. In fact, many ALUCs, including the Santa Clara County ALUC remained in place during 1994 (the one year gap in the requirement to establish an ALUC) and did not disband. The argument can be made that requirements imposed on counties by section 21671.5 are not new. They were required by pre-1975 law and pursuant to Article XIII B, subdivision (a)(3), are not reimbursable.

However, even if claimant’s arguments are legally correct on this point, reimbursement is still not required. There has been no shift in costs from the state to the counties. Rather, the costs of the county-required activities have been shifted to the county from the ALUC—another local entity. Pursuant to City of San Jose v. State of California, reimbursement is not required.

c. Any increased costs resulting from the test claim statutes occur as a result of a cost shift between local entities, not a cost shift between the state and county.

96 See County of Santa Clara Board of Supervisors June 8, 2004 Agenda, Item 65 and Attachments A-D, adopting ALUC fees pursuant to section 21671.5, subdivision (f). Note that according to DOT’s Division of Aeronautics: “a county board of supervisors [on its own] does not have the authority to unilaterally eliminate an ALUC.” In order “[t]o disband an ALUC . . . the actions which were taken to create the ALUC in the first place would need to be reversed. For most ALUCs, this would mean that majorities of the board of supervisors of the county (or counties in the case of multi-county ALUCs), the selection committee of city mayors, and the selection committee of public airport managers would each have to terminate their appointments of individual commissioners and the disbanding of the commission itself.” (California Airport Land Use Planning Handbook, State of California, Department of Transportation, Division of Aeronautics (January 2002), p. 1-10.)

97 City of San Jose, supra, 45 Cal.App.4th 1802.
though the test claim statutes do not mandate a new program or higher level of service.

Though the activities required of ALUCs have increased since 1975 thus indirectly increasing the costs that counties are required to incur pursuant to section 21671.5, there has been no shift in fiscal responsibility from the state to the counties. Rather, there has been an increase in activities required of the ALUC and a commensurate expansion of the ALUC’s fee authority sufficient to cover the costs of the ALUC activities. However, to the extent an ALUC decides not to fully exercise its statutory fee authority to cover all of the expenses, it shifts its costs to the county. Therefore, the primary holding of City of San Jose is directly on point for this analysis: “Nothing in article XIII B prohibits the shifting of costs between local governmental entities.”98

In the case of Lucia Mar, the Supreme Court recognized that a “new program or higher level of service” within the meaning of article XIII B, section 6 could include a shift in costs from the state to a local entity for a required program.99 Article XIII B, section 6, subdivision (c) requires reimbursement when the Legislature transfers from the state to local government “complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.”

However, the cost shift here is not from the state to the county but from the ALUC to the county. Moreover, the shift is not new. Since 1967, counties have been responsible for providing the necessary and usual operating expenses of ALUCs.100 The Sixth District Court of Appeal in City of San Jose v. State of California,101 addressed the issue of a cost shift among local entities. In that case, the test claim statutes authorized counties to charge cities and other local entities the costs of booking into county jails persons who had been arrested by employees of the cities or local entities.102 The court rejected the City’s reliance on the holding of Lucia Mar, stating:

The flaw in City’s reliance on Lucia Mar is that in our case the shift in funding is not from the State to the local entity but from county to city. In Lucia Mar, prior to the enactment of the statute in question, the program was funded and operated entirely by the state. Here, however, at the time [the test claim statute] was enacted, and indeed long before that statute, the financial and administrative responsibility associated with the operation of county jails and detention of prisoners was borne entirely by the county.103

The City of San Jose also unsuccessfully argued that, although counties have traditionally borne those expenses, “they do so only in their role as agents of the State.”104 However, the

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98 City of San Jose, supra, 45 Cal.App.4th 1802, 1815.
99 Lucia Mar, supra, 44 Cal.3d 830, 836.
100 Section 21671.5, as adopted by Statutes 1967, chapter 852.
101 City of San Jose, supra, 45 Cal.App.4th 1802.
102 Id., p. 1806.
103 Id. at 1812.
104 Id. at 1814.
court noted that characterizing the county as an agent of the state “is not supported by recent
case authority, nor does it square with definitions particular to subvention analysis.”105  The
court pointed out that fiscal responsibility for the program in question had long rested with the
county and not with the state.106  In the instant case, counties have similarly had sole fiscal
responsibility for the “necessary and usual operating expenses” of the ALUCs since their
inception.107

As discussed above, since ALUCs are not subject to the tax and spend limitations imposed by
the California Constitution, they are not eligible to claim reimbursement under Article XIII B,
section 6 of the California Constitution.  Moreover, as previously noted, the section 21671.5
requirement that the “usual and necessary operating expenses of the commission shall be a
county charge” has long been a county cost.  The cases are clear that increasing costs of
providing services cannot be equated with requiring an increased level of service under a
section 6 analysis.108

Though the activities required to be performed by ALUCs have increased since 1975, thus
increasing the costs that counties are required to incur pursuant to section 21671.5, the
Legislature has also increased ALUC fee authority to cover the costs of compliance with
division 3.5.  The plain meaning of section 21671.5, subdivision (f) demonstrates that ALUCs
have fee authority sufficient to cover the costs of performing the activities imposed on them by
the test claim statutes.

According to the California Supreme Court: “[w]hen interpreting a statute, our primary task is
to determine the Legislature’s intent. [Citation.]  In doing so we turn first to the statutory
language, since the words the Legislature chose are the best indicators of its intent.”109

Further, our Supreme Court has noted: “If the language is clear and unambiguous there is no
need for construction, nor is it necessary to resort to indicia of the intent of the Legislature.. . .”110  Subdivision (f) specifically authorizes the imposition of “fees necessary to comply with
this article”.  “This article” encompasses all of Article 3.5 which includes subdivisions 21675
and 21676 as amended by the test claim statutes. The language is clear and unambiguous.
Thus, 21671.5 as amended by Statutes 1991, chapter 140 provides fee authority for the
mandated activities. Legislative history supports this conclusion.  Section 21671.5,
subdivision (f) was amended by Statutes 1991, chapter 140 (S.B. 532) as follows:

(f) The commission may establish a schedule of fees for reviewing and
processing proposals and for providing the copies of land use plans, as required
by subdivision (d) of section 21675 necessary to comply with this article. Those

105 Ibid.
106 Id. at 1815.
107 Section 21671.5, as adopted by Statutes 1967, chapter 852.
110 Delaney v. Superior Court (1990) 50 Cal.3d 785, 798.
fees shall be charged to the proponents of actions, regulations, or permits, shall not exceed the estimated reasonable cost of providing the service, and shall be imposed pursuant to section 66016 of the Government Code. Except as provided in subdivision (g), after June 30, 1991, a commission that has not adopted the airport land use compatibility plan required by section 21675 shall not charge fees pursuant to this subdivision until the commission adopts the plan. (Deletions in strikeout and additions in underline.)

Prior to this amendment, fees imposed under section 21671.5, subdivision (f) were limited to fees “for reviewing and processing proposals and for providing the copies of land use plans, as required by subdivision (d) of section 21675.”

The language “fees necessary to comply with this article” was proposed by the Assembly Committee on Local Government analysis of SB 532 which says:

SB 1333 (Dills) Chapter 459, Statutes 1990, suspended numerous mandates, including the mandate relating to airport land use planning during 1990-91, and there were no subsequent reimbursements. Because the Legislature also provided fee authority in SB 1333 to cover costs associated with the various suspended mandates, should the existing fee authority in Airport Land Use Planning Law for reviewing and processing proposals be similarly revised to cover all airport land use planning activities?111 (Emphasis in original.)

Similarly, the Senate Floor Analysis states that Assembly amendments “[a]llow[] the schedule of fees adopted by an airport land use commission to be those necessary to carry out the provisions of law relating to its land use planning instead of [just for] reviewing and processing proposals.”112

However, the Santa Clara County ALUC, with the concurrence of both the County Board of Supervisors’ Housing, Land Use, Environment, and Transportation Commission and the full Board of Supervisors have chosen not to impose fees for full cost recovery, based on a policy decision “to avoid deterring jurisdictions from referring projects and thus diminishing appropriate land use planning around the County’s airports.”113 Thus the fact that the ALUC is not imposing fees to fully recover the costs of compliance with Division 3.5 is not based on a lack of sufficient fee authority, but rather a policy decision of the ALUC and the claimant, Santa Clara County, to encourage more submittals than are required under state law.

The claimant has allegedly provided substantial funding to the Santa Clara ALUC during the course of the potential reimbursement period; though there is no evidence in the record regarding what specific activities this funding was provided or used for.114 However, it appears that the county has been providing funding and staffing to the ALUC in excess of the

112 Senate Floor Analysis (Unfinished Business), SB 532 (Bergeson), as amended June 27, 1991, page 1.
113 Santa Clara County Board of Supervisors Agenda Item 65, June 8, 2004, p. 3.
114 See Test Claim Amendment (08-TC-05), p. 5 and p. 12.
“basic level” or what is required by state law. With regard to the Santa Clara County Board of Supervisors’ adoption of ALUC fees pursuant to section 21671.5, subdivision (f), its agenda dated June 8, 2004 states: “if project referral fees are not adopted, ALUC staffing may or may not be supported by General Fund and may require reduction to a basic level of support such as posting meeting agenda, preparing meeting minutes, and county counsel consultation only when necessary.”  Thus claimant has voluntarily chosen to provide funds and services to its ALUC in excess of what is required according to claimant’s own interpretation of state law.

Additionally, Appendix (D) of the same agenda, which lays out four different options with regard to the adoption of fees, lists ALUCP amendments (called CLUP revisions in that document), “GIS support, workshop staffing and reproduction etc.” as “other ‘voluntary’ activities” which may or may not be funded with county General Fund dollars. This language implies that the funding provided by the county prior to the adoption of the fees in 2004 was in excess of the “basic level of support” (i.e. the level of support required by state law). It is within the county’s discretion to provide such additional funding and services to the ALUC, if it determines that the provision of such funding and services is in the interests of the county and its residents. However, such non-mandated costs are not reimbursable by the state. It is well-established that local entities are not entitled to reimbursement for all increased costs, but only those costs resulting from a new program or higher level of service imposed on them by the state.

Based on the above analysis, the Commission finds that any increased costs resulting from the test claim statutes occur as a result of a cost shift between local entities, not a cost shift between the state and county. Thus the test claim statutes do not mandate a new program or higher level of service.

**CONCLUSION**

The Commission concludes that the test claim statutes do not constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution because:

1. The Commission does not have jurisdiction over section 21670 as amended by Statutes 1994, chapter 644 or over the activity of developing the ALUCP required by Section 21675 by June 30, 1991, because these statutes and activities were the subject of a final decision of the Commission in CSM 4507.

2. Any increased costs resulting from the test claim statutes occur as a result of a cost shift between local entities, not a cost shift between the state and county. Thus the test claim statutes do not mandate a new program or higher level of service.

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115 See Santa Clara Board of Supervisors Agenda Item 65, June 8, 2004, p. 3.
