

REVISED 12/15/10



**SAN DIEGO COUNTY
REGIONAL AIRPORT AUTHORITY
STAFF REPORT**

Item No.

5

Meeting Date: **DECEMBER 20, 2010**

Subject:

Adoption of an Amendment to the Marine Corps Air Station Miramar Airport Land Use Compatibility Plan and Addendum to the Previously Certified Environmental Impact Report

Recommendation:

Adopt Resolution No. 2010-0061 ALUC, approving an amendment to the Marine Corps Air Station Miramar Airport Land Use Compatibility Plan and adopting an Addendum to the previously certified Environmental Impact Report for the Marine Corps Air Station Miramar Airport Land Use Compatibility Plan and/or other appropriate action as determined by the ALUC.

Background/Justification:

The Airport Authority was designated as the Airport Land Use Commission (ALUC) for San Diego County, effective January 1, 2003 (Pub. Util. Code §21670.3(a)). Acting in its capacity as the ALUC, the Airport Authority is required to prepare and adopt an Airport Land Use Compatibility Plan (ALUCP) for each of the public use and military airports within its jurisdiction (Pub. Util. Code §21674(c)).

The purpose of the proposed ALUCP is to protect the public health, safety and welfare by ensuring the orderly expansion of airports and the adoption of land use policies that minimize the public's exposure to excessive noise and safety hazards within areas around airports located in the county that are not already devoted to incompatible land uses (Pub. Util. Code §21674).

In accordance with this mandate, the ALUC adopted an ALUCP for Marine Corps Air Station (MCAS) Miramar at a regular meeting on October 2, 2008. This ALUCP replaced one adopted in 1977 and amended in 1990 and 1992 as a Comprehensive Land Use Plan (CLUP) by the San Diego Association of Governments (SANDAG) in its predecessor role as the ALUC. In 2004, the Airport Authority, acting as the ALUC, made minor technical revisions to the CLUP and renamed the CLUP an ALUCP, consistent with revisions to State law.

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Since the adoption of the MCAS Miramar ALUCP on January 25, 2010, ALUC staff, as well as staff at affected local agencies, have encountered processing issues when applying the ALUCP to land use projects requiring consistency determination review.

At the November 4, 2010 meeting, the ALUC directed ALUC staff to pursue several proposed revisions to the ALUCP and bring a proposed amendment reflecting these revisions to the ALUC for consideration at its next meeting. ALUC staff has accordingly prepared an amendment to the ALUCP which revises the affected policies for ALUC consideration. It is important to note that amending the MCAS Miramar ALUCP before the end of 2010 will preserve the opportunity to amend the ALUCP in 2011. The ALUC is restricted to amending an ALUCP only once per calendar year (Pub. Util. Code §21675(a)).

As part of preparing the amendment, ALUC staff hosted a meeting on November 9, 2010, with staff from the affected local agencies to inform them about the proposed revisions to the ALUCP and solicit their input to the revisions. Written comments were received from the City of San Diego and are noted below. An additional meeting was held on December 9, 2010 with City of San Diego Development Services staff to discuss the proposed amendments as they relate to the City's draft implementation plan. The discussion resulted in City staff expressing no ongoing concerns with the proposed amendments.

Policy Issues and Staff Recommendations:

1. Revise the policy language for Indoor Small Assembly Rooms to accord with the people per acre limitations already included in the ALUCP.

The policy language for Indoor Small Assembly Rooms is currently worded with a 300 people per acre limit applied for that use in both the Transition Zone (TZ) and Accident Potential Zone (APZ) II. The matrix, which is referenced in the policy language, clearly shows that all uses within the TZ are limited to 300 people per acre, but APZ II uses are limited to 50 people per acre.

Staff Recommendation:

Correct the policy language for Indoor Small Assembly Uses to be congruent with the limitations per applicable zone, which are uniform for all uses.

- (d) **Assembly Facilities Criteria:** Assembly facilities are uses in which 50 or more people are concentrated in a confined space. Structural elements of indoor assembly rooms may partially protect occupants from accidents involving aircraft or helicopters. However, the ability of large numbers of occupants to exit the indoor assembly room is a primary compatibility consideration. Outdoor assembly facilities do not protect the occupants from accidents involving aircraft or helicopters. Assembly facilities are restricted as follows:

- (5) Indoor Small Assembly Rooms (capacity of 50 to 299 people) are not compatible in the CZ or APZ I. In APZ II and the TZ, these uses are conditionally compatible provided that they do not exceed the FAR limits as indicated in Table MIR-2 and are restricted to a maximum intensity of 50 people/acre in APZ II or 300 people/acre in the TZ.

Local Agency Comment:

The City of San Diego staff has not expressed any ongoing concerns regarding this amendment. MCAS Miramar supports this change.

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

The ALUCP does not allow for any increase in FAR or height for nonconforming structures under any circumstances, including upgrades to structures in order to comply with life safety requirements (e.g., ADA accessibility such as elevators).

Staff Recommendation:

ALUC staff proposes to modify the language to permit changes for life safety code upgrades or accessibility requirements that would still allow the uses to retain nonconforming status, provided that any necessary height increase would not be deemed a hazard by the FAA. Policy language would clarify that such upgrades can only be made for that purpose and only to the extent necessary. These revisions would still allow the nonconforming uses to retain nonconforming status from an ALUC perspective.

- 2.11.2 *Nonconforming Uses:* Existing uses (including a parcel or building) not in conformance with this *Compatibility Plan* are subject to the following restrictions:

- (d) ALUC review is required for any proposed expansion of a nonconforming use that would increase the site size, the floor area of the structure, the number of dwelling units, increase the number of people on the site for nonresidential uses, or increase the height of the structure such that it would be deemed a hazard by the FAA.

Local Agency Comment:

The City of San Diego recommended changes to this amendment in a memo dated December 1, 2010. ALUC staff concurs with their changes. MCAS Miramar supports this change. MCAS Miramar expressed concern about rare though potential instances of conflict between Federal statutes that provide for accessibility on one hand but protect airspace on another.

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

The ALUCP defines an ancillary use, when proposed as part of a mixed-use project, as occupying no more than 10 percent of the floor area of a given project. Other local agencies use anywhere from 10 to 49 percent as a figure for such uses, alternatively called accessory uses by some agencies.

Staff Recommendation:

ALUC staff proposes to remove this element from consideration due to variations in how local agencies define and quantify ancillary use.

Local Agency Comment:

The City of San Diego staff supports removing this amendment from consideration.

4. Clarify the method of calculating maximum use of a site for projects with a mixture of nonresidential uses.

The ALUCP, as adopted, requires projects with a mixture of nonresidential uses to calculate its floor area ratio (FAR) for each component use as a proportionate share of the entire project site area. Such calculations do not yield meaningful maximum FARs.

Staff Recommendation:

The proposed revision would specify that each use would be allotted a proportionate share of that use's allowed FAR, as depicted in the Safety Matrix.

3.4.7 *Mixed-Use Development:* Where a combination of land use types listed separately in Table MIR-2 are proposed for a single project, the following policies apply:

(b) Where proposed development will contain a mixture of the nonresidential uses listed separately in Table MIR-2, each use must comply with the criteria specified for that use.

- (1) The FAR for each component use shall be calculated as a proportion of the FAR specified for that use. For example, if 70% of a project's total square footage is office and 30% is retail, the allowable FAR for the office component would be 70% of the office FAR in Table MIR-2 and the allowable FAR for the retail component would be 30% of the retail FAR in Table MIR-2. Each component use must not exceed the proportionate FAR limit applicable to that use in order for the use to be allowed as part of the project. The nonresidential intensity of each use shall be calculated as being equal to the FAR for the total project. That is, each use shall be calculated as occupying a share of the total project site equal to its share of the total floor area in the project. Each use must meet the FAR limit applicable to that use in order for the use to be allowed as part of the project.

Local Agency Comment:

The City of San Diego staff has not expressed any ongoing concerns regarding this amendment. MCAS Miramar does not oppose this revision.

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

Existing uses are not subject to ALUC review, but there is no guidance in the ALUCP on how new uses within existing structures are to be treated. Because tenants change often within office and commercial buildings, there should be some means of addressing the compatibility of uses while still respecting the existing structure status.

Staff Recommendation:

Proposed revisions to the ALUCP would treat proposed uses as "existing land uses" provided they remain within the same or reduced level of occupancy as the most recent use that occurred on site. Such a change would not require ALUC review. Changes from one occupancy to a wholly different one (e.g., a religious assembly or day care facility replacing a former retail suite) would be subject to review to ensure compatibility with applicable ALUCP compatibility factors.

2.2.18 *Existing Land Use:* A project shall be considered an "existing land use" when ~~a "vested right" is obtained, as follows:~~

(a) A "vested right" is obtained, as follows:

~~(1)~~ (1) A vesting tentative map has been approved pursuant to Government Code section 66498.1 and has not expired; or

~~(b)(2)~~ (2) A development agreement has been executed pursuant to Government Code section 65866 and remains in effect; or

~~(e)(3)~~ (3) A valid building permit has been issued, substantial work has been performed, and substantial liabilities have been incurred in good faith reliance on the permit, pursuant to the California Supreme Court decision in *Avro Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 791, and its progeny.

~~(4)~~ (4) A proposed modification to an *existing land use* that will result in an increase in height, a change of use, or an increase in density or intensity of use which is not in substantial conformance with the development project entitled by the *local agency* shall be subject to this *Compatibility Plan*. (See Policy 2.10.4.)

~~(2ii)~~ (ii) The determination of whether a project meets the criteria of an "existing land use" shall be made by the *local agency* and the *ALUC*.

(b) A new occupancy of an existing building, provided the new occupancy remains within the same or reduced level of occupancy as the most recent one. A new occupancy which increases intensity shall not qualify as an existing land use.

Local Agency Comment:

The City of San Diego staff has not expressed any ongoing concerns regarding this amendment. MCAS Miramar has no comment on this revision.

6. Clarify that only projects which actually trigger airspace protection or overflight notification issues require ALUC review.

The ALUCP currently requires ALUC review of all structures which are located within the notification areas for Federal Aviation Administration (FAA) airspace protection surfaces or overflight notification, even if those structures are deemed not to be a hazard to air navigation by the FAA or do not meet the criteria for overflight notification.

Staff Recommendation:

Clarify that only projects in the AIA which are actually determined to be a hazard by the FAA require ALUC review. Those projects requiring overflight notification would automatically be reviewed by the ALUC if located within Review Area 1, while those in Review Area 2 would receive ALUC review only if deemed a hazard by the FAA. Review Area 2 projects which meet overflight notification requirements only but are not deemed hazards could be reviewed by staff alone (see Policy Issue 9 below).

2.6.1 *Actions that Always Require ALUC Review:* As required by state law, the following types of actions shall be referred to the ALUC for determination of consistency with this *Compatibility Plan* prior to their approval by the *local agency*.

- (a) The adoption or approval of any new general or specific plan, or any amendment thereto (*see* Pub. Util. Code, §21676(b)) that affects lands within the *ALA* and involves:
 - (1) Noise, ~~or safety, airspace protection or overflight~~ concerns within Review Area 1; or
 - (2) ~~Land use actions that have been determined to be a hazard by the FAA in accordance with Part 77 Airspace protection or overflight concerns within Review Area 2~~ the ALA.
- (b) The adoption or approval of a zoning ordinance or building regulation (or any other policy document or implementing ordinance), including any proposed change or variance to any such ordinance or regulation (Pub. Util. Code, §21676(b)) that affects lands within the *ALA* and involves:
 - (1) Noise, safety, airspace protection or overflight concerns within Review Area 1; or
 - (2) Airspace protection or overflight concerns within Review Area 2.

2.6.2 *Other Land Use Actions Subject to ALUC Review:* Other types of *land use actions* are subject to review under the following circumstances:

- (a) Until such time as the ALUC finds that a *local agency's* general plan or specific plan is consistent with this *Compatibility Plan*, or the *local agency* has overruled the ALUC's determination of inconsistency, state law allows ALUCs to require that *local agencies* submit all actions, regulations, and permits involving land within an ALA to the ALUC for review (Pub Util Code, §21676.5(a)). Only those actions that an ALUC elects not to review are exempt from this requirement.
- (1) Within Review Area 1, all actions, regulations, and permits affecting land use are subject to ALUC review, except as provided in Section 2.6.3.
 - (2) Within Review Area 2, only the following actions affecting land uses require ALUC review:
 - (i) Any object which has received a final notice of determination from the FAA that the project will constitute a hazard or obstruction to air navigation to the extent applicable. Any object having a height that requires review by the Federal Aviation Administration in accordance with Federal Aviation Regulations (14 CFR) Part 175, Subpart B.
 - (ii) Any proposed object in a *High Terrain Zone* having a height of greater than 35 feet above ground level.
 - (iii) Any *project* having the potential to create electrical or visual hazards to aircraft in flight, including: electrical interference with radio communications or navigational signals; lighting which could be mistaken for airport lighting; glare or bright lights (including laser lights) in the eyes of pilots of aircraft using the *Airport*; certain colors of neon lights—especially red and white—that can interfere with night vision goggles used by military pilots; and impaired visibility near the *Airport*. The *local agency* should coordinate with the Marine Corps in making this determination.
 - (iv) Any *project* having the potential to cause an increase in the attraction of birds or other wildlife that can be hazardous to aircraft operations in the vicinity of the *Airport*. The *local agency* should coordinate with the airport proprietor in making this determination.

Local Agency Comment:

The City of San Diego staff has not expressed any ongoing concerns regarding this amendment. MCAS Miramar did not comment on this issue.

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

The ALUCP does not provide sufficient detail to measure a "substantive" change to projects.

Staff Recommendation:

Staff proposes to use a threshold of 10 percent above the original project area or lot coverage as a measure of "substantive" change. Cumulative project changes which do not increase 10 percent or greater would not be subject to new or subsequent ALUC review. Both the City of San Diego and the County of San Diego use 10 percent as a measurement for evaluating changes to a project.

2.10.4 *Subsequent Review:* Even after a *project* has been found consistent or conditionally consistent with the *Compatibility Plan*—whether as part of a general plan change, zoning amendment, other mandatory-review action, or as a prior action related to the same *project*—it may still need to be submitted for review at subsequent stages of the planning process if any of the following are true:

- (a) At the time of the original *ALUC* review, the project information available only was sufficient to determine consistency with compatibility criteria at a planning level of detail, not at the project design level. For example, the proposed land use designation indicated in a general plan, specific plan, or zoning amendment may have been found consistent, but information on site layout, maximum intensity limits, building heights, and other such factors that may also affect the consistency determination for a *project* may not have yet been known.
- (b) The design of the *project* subsequently changes in a manner that affects previously considered compatibility issues and could raise questions as to the validity of the earlier finding of consistency. Proposed changes warranting a new review may include, but are not limited to, the following:
 - (1) An increase in the number of dwelling units, or intensity of use (more people on the site), ~~floor-area ratio, or lot coverage;~~
 - (2) Any cumulative increase in the total building area or lot coverage for non-residential uses in excess of 10% of the previous project;
 - (3) An increase in the height of structures which has been deemed a hazard by the FAA or other design features; and/or
 - (3) Major site design changes (such as incorporation of clustering or modifications to the configuration of open land areas proposed for the site).

Local Agency Comment:

The City of San Diego staff has not expressed any ongoing concerns regarding this amendment. MCAS Miramar commented to suggest that subsequent re-evaluation by the FAA be the criteria for airspace issues; however, some projects may not have had original FAA review, and therefore, staff believes that the proposed language is broad enough to encompass projects which may or may not have had prior FAA review.

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

As currently written, the ALUCP is vague about whether the current or preceding ALUCP should apply to a project that has changed.

Staff Recommendation:

ALUC staff proposes to remove this element from consideration due to lack of support by affected agencies.

Local Agency Comment:

The City of San Diego staff supports removing this amendment from consideration.

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

At present, the ALUCP requires ALUC review for all projects that are consistent with all ALUCP compatibility factors.

Staff Recommendation:

Eliminate the need to send projects which are consistent with all ALUCP compatibility factors to the ALUC for review, allowing staff review to suffice. This is the policy of many other California ALUCs, and staff review of consistent projects is already provided for in existing Airport Authority Policy 8.30. A list of projects found to be consistent by ALUC staff would be provided as an information item to the ALUC at each meeting.

2.6.3 Land Use Actions Subject to Discretionary ALUC Staff Review. ALUC staff has the authority and discretion to make a consistency determination without formal ALUC review of the project if the land use action:

- (a) Is "compatible" with both noise and safety compatibility policies;
- (b) Has received a final notice of determination from the FAA that the project will not constitute a hazard or obstruction to air navigation, to the extent applicable; and
- (c) Has been conditioned by the local agency to require an overflight notification consistent with the requirements of Policy 3.6.2, to the extent applicable.

Local Agency Comment:

The City of San Diego staff has not expressed any ongoing concerns regarding this amendment.

Fiscal Impact:

This program is funded through the Airport Planning FY11 operating budget.

Environmental Review:

- A. CEQA Review: In accordance with CEQA, the ALUC certified an Environmental Impact Report (EIR) for the MCAS Miramar ALUCP on October 2, 2008, pursuant to Resolution No. 2008-0091 ALUC. For the proposed amendment to the adopted MCAS Miramar ALUCP, an Addendum to the previously certified EIR has been prepared for ALUC consideration.
- B. California Coastal Act Review: This Board action does not constitute a "development," as defined by the California Coastal Act. (Pub. Res. Code §30106)

Equal Opportunity Program:

Not applicable.

Prepared by:

KEITH WILSCHETZ
DIRECTOR, AIRPORT PLANNING

RESOLUTION NO. 2010-0061 ALUC

A RESOLUTION OF THE AIRPORT LAND USE COMMISSION FOR SAN DIEGO COUNTY APPROVING AN AMENDMENT TO THE MARINE CORPS AIR STATION MIRAMAR AIRPORT LAND USE COMPATIBILITY PLAN AND ADOPTING AN ADDENDUM TO THE PREVIOUSLY CERTIFIED ENVIRONMENTAL IMPACT REPORT

WHEREAS, on October 2, 2008, the Board of the San Diego County Regional Airport Authority, acting in its capacity as the Airport Land Use Commission (ALUC) for the San Diego County, pursuant to Section 21670.3 of the Public Utilities Code, adopted an Airport Land Use Compatibility Plan (ALUCP) for Marine Corps Air Station (MCAS) Miramar; and

WHEREAS, the ALUC concurrently certified the Environmental Impact Report (EIR) (State Clearinghouse No. 2005031148) prepared for the adopted MCAS Miramar ALUCP, which concluded that there was substantial evidence that the ALUCP would have a significant and unavoidable impact on the environment, which was deemed acceptable in light of the benefits identified in the Statement of Overriding Considerations (Resolution No. 2008-091 ALUC); and

WHEREAS, the ALUC is required to prepare, adopt, and amend (as necessary) an ALUCP for each of the airports in its jurisdiction (Public Utilities Code, §§21674, subd. (c); 21675, subd. (a)); and

WHEREAS, the amendment to the adopted MCAS Miramar ALUCP is consistent with the primary objectives of the State Aeronautics Act (Cal. Pub. Util. Code §§21001, et seq.), the Air Installations Compatible Use Zones study for MCAS Miramar, the California Airport Land Use Planning Handbook and does not diminish the protection provided by the previously adopted ALUCP for MCAS Miramar; and

WHEREAS, on November 4, 2010, ALUC staff presented a list of issues and concerns to the ALUC that have been encountered when applying the MCAS Miramar ALUCP to land use projects requiring consistency determination review; and

WHEREAS, on November 9, 2010, ALUC staff held a meeting with all of the affected local agencies to inform them about the proposed revisions to the MCAS Miramar ALUCP as well as to solicit their input; and

WHEREAS, the ALUC finds it appropriate to amend the adopted MCAS Miramar ALUCP, as requested by ALUC staff, so as to provide clarity on the following: 1) correct an error in the safety policy language for indoor small assembly rooms; 2) clarify the applicability of the MCAS Miramar ALUCP to nonconforming structures for upgrades that are necessary in order to comply with life/safety requirements; 3) clarify how to calculate Floor Area Ratio (FAR) for mixed-use projects; 4) clarify how to evaluate new uses within existing structures for compatibility with the MCAS Miramar ALUCP; 5) clarify the need for ALUC review of consistent/compatible projects that are within Review Area 1; 6) quantify how much change would be considered "substantive" with respect to project changes and the need for new or subsequent ALUC review; and

WHEREAS, the amendment the adopted MCAS Miramar ALUCP will ensure that the Airport Authority, acting in its capacity as the ALUC, and the affected local agencies have the most accurate technical data regarding the proposed clarifications and revisions before them when rendering consistency determinations and/or implementing the MCAS Miramar ALUCP; and

WHEREAS, ALUC staff has prepared and revised the affected policies to reflect the clarifications; and

WHEREAS, in compliance with the requirements of the California Environmental Quality Act (CEQA; Pub. Resources Code, §2100, et seq.), the CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.), and the Airport Authority's own CEQA Procedures, ALUC staff has evaluated the environmental ramifications of the proposed amendment to the adopted MCAS Miramar ALUCP; and

WHEREAS, ALUC staff has prepared an Addendum to the previously certified EIR (State Clearinghouse No. 2005031148); and

WHEREAS, the Addendum concludes the previously certified EIR addresses all impacts associated with the implementation of the proposed amendment to the adopted MCAS Miramar ALUCP; and

WHEREAS, the Addendum also concludes that any potential environmental impacts associated with the revisions to the affected policies were identified within the scope of the previously certified EIR, and that the environmental ramifications associated with the proposed amendment is the same as or less than that identified in the previously certified EIR; and

WHEREAS, the Addendum further finds that no new or substantially more severe environmental effects would result from the ALUC's decision to amend the adopted MCAS Miramar ALUCP; and

WHEREAS, the Addendum concludes that no new information has been presented regarding the adopted MCAS Miramar ALUCP's environmental effects that gives rise to any new or more severe environmental effects than were previously identified in the certified EIR; and

WHEREAS, the ALUC considered the Addendum for the proposed amendment to the adopted MCAS Miramar ALUCP, along with the previously certified EIR, and the ALUC, based on its independent judgment and analysis, agrees with the conclusions reached in the Addendum.

NOW, THEREFORE, BE IT RESOLVED, that the ALUC adopts the Addendum (Attachment A) to the previously certified EIR (State Clearinghouse No. 2005031148), as described therein, and orders that ALUC staff prepare and file a Notice of Determination within five (5) days of the certification of this Resolution; and

BE IT FURTHER RESOLVED, that the ALUC approves an amendment to the MCAS Miramar ALUCP, as previously adopted by the ALUC on October 2, 2008, so as to include revisions to affected policies as outlined within the Staff Report, to be effective immediately upon certification of this Resolution; and

BE IT FURTHER RESOLVED that this ALUC action is not a "development" as defined by the California Coastal Act, Pub. Res. Code Section 30106.

PASSED, ADOPTED AND APPROVED by the ALUC for San Diego County at a special meeting this 20th day of December, 2010, by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ATTEST:

TONY R. RUSSELL
DIRECTOR, CORPORATE SERVICES/
AUTHORITY CLERK

APPROVED AS TO FORM:

BRETON K. LOBNER
GENERAL COUNSEL

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**ADDENDUM TO THE ENVIRONMENTAL IMPACT REPORT
FOR THE MARINE CORPS AIR STATION MIRAMAR ALUCP
(STATE CLEARINGHOUSE NO. 2005031148)**

December 20, 2010

1.0 INTRODUCTION

This document is an Addendum to the previously certified Environmental Impact Report ("EIR") (State Clearinghouse No. 2005031148) for the Airport Land Use Compatibility Plan ("ALUCP") prepared for Marine Corps Air Station (MCAS) Miramar ("approved Project"). The EIR evaluated the environmental impacts associated with implementation of the MCAS Miramar ALUCP, and concluded that there was no substantial evidence that the approved Project would result in significant environmental impacts. On October 2, 2008, after a public hearing, the San Diego County Regional Airport Authority ("Airport Authority"), acting in its capacity as the Airport Land Use Commission ("ALUC") for the County of San Diego, certified the legal adequacy of the EIR, pursuant to the California Environmental Quality Act ("CEQA;" Pub. Resources Code, §21000 et seq.), the CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.), and the Airport Authority's CEQA Procedures.

This Addendum examines the environmental effects of proposed minor amendment to the approved Project. The minor amendment is being made in response to comments and input provided by ALUC staff as well as staff at local agencies affected by the Project regarding processing issues that have been encountered since the Project was adopted by the ALUC in October 2008. The proposed amendment contemplated in this Addendum would:

1. Correct an error in the safety policy language for indoor small assembly rooms;
2. Clarify the applicability of the Project to nonconforming structures for upgrades that are necessary in order to comply with life/safety requirements;
3. Clarify how to calculate Floor Area Ratio (FAR) for projects with a mixture of nonresidential uses;
4. Clarify how to evaluate new uses within existing structures for compatibility with the Project;
5. Clarify the need for ALUC review of consistent/compatible projects that are within Review Area 1; and
6. Quantify how much change would be considered "substantive" with respect to project changes and the need for new or subsequent ALUC review.

As discussed in greater detail in the Addendum below, the proposed amendment to the approved Project would reduce the amount of potential displacement of future development identified in the previously certified EIR for the approved Project, such that potential displacement would be less than previously anticipated.

2.0 PURPOSE OF AN ADDENDUM

Under CEQA, a lead agency may prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred. (Cal. Code Regs., tit. 14, §15164, subd. (a).) Here, the proposed amendment does not trigger preparation of a subsequent EIR, thereby rendering preparation of an addendum appropriate.

Notably, when an EIR has already been certified for a project, no subsequent environmental review is required for that project unless the lead agency determines, based on substantial evidence in the record before it, that one or more specified circumstances has occurred. (Cal. Code Regs., tit. 14, §15162, subd. (a).) Those circumstances are:

- (1) Substantial changes to the project are proposed that will require major revision of the previously adopted negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the Negative Declaration was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

(Cal. Code Regs., tit. 14, §15162, subd. (a).)

This Addendum to the previously certified EIR for the approved Project has been prepared because ALUC staff has concluded, following an evaluation of the environmental effects of the proposed minor amendment, that the proposed amendment does not give rise to any of the circumstances requiring preparation of a subsequent EIR, as identified above. The evidence supporting ALUC staff's determination is contained in **Section 4.0, Environmental Analysis**, below.

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3.0 BACKGROUND

3.1 DESCRIPTION OF THE APPROVED PROJECT

The approved Project is an airport land use compatibility plan, which is inherently regulatory in nature and designed to promote compatibility between MCAS Miramar and the surrounding land uses, to the extent that these areas are not already devoted to incompatible uses. (Pub. Util. Code, §21674, subd. (a).) The MCAS Miramar ALUCP accomplishes this, in part, by regulating the future development of new residential dwellings, commercial and industrial structures, and other noise- or risk-sensitive land uses within the Airport Influence Area ("AIA"), based upon multiple factors established in the ALUCP. Accordingly, the MCAS Miramar ALUCP serves two complementary purposes: (i) the ALUCP provides for the orderly growth of the area surrounding MCAS Miramar in a manner that is compatible and consistent with the Airport's operations; and (ii) the ALUCP safeguards the general welfare of the inhabitants within the Airport's vicinity and the public in general. (*Id.* at §21670, subd. (a)(1)-(2).)

The MCAS Miramar ALUCP contains compatibility criteria applicable to land lying within the AIA. The boundaries of the AIA, which establish the jurisdictional boundaries of the Airport Authority, acting in its capacity as the ALUC, and the ALUCP, are set, on a cumulative basis. Specifically, the AIA's geographic coverage is established by the four factors/layers of land use planning related to aeronautical activities: (i) noise; (ii) safety; (iii) airspace protection; and (iv) overflight. The ALUCP's compatibility criteria identify whether a particular land use is compatible, conditionally compatible, or incompatible with the Airport's operations based on the proximity of the land uses to the Airport and the four factors/layers. These criteria are then used by the ALUC to determine whether development projects and local plans lying within the AIA for MCAS Miramar are consistent with the ALUCP. In addition, these criteria are used by local agencies during the preparation or amendment of general plans and/or other land use plans and ordinances, and by landowners during the design of new development projects.

The previously certified EIR, as discussed above, evaluated the environmental impacts of implementation of the MCAS Miramar ALUCP. As certified by the Airport Authority on October 2, 2008, the EIR concluded that there was substantial evidence that the ALUCP would have a significant and unavoidable impact on the environment, which was deemed acceptable in light of the benefits identified in the Statement of Overriding Considerations.

3.2 CURRENT PROPOSED ACTION

The specific amendment to the approved Project contemplated in this Addendum includes:

1. Correct an error in the safety policy language for indoor small assembly rooms. The policy language regarding how many people per acre would be allowed in both the APZ II and TZ would be corrected to correspond to the conditional criteria listed in Table MIR-2 for that use. Policy language would make it clear that a maximum of 50 people/acre is allowed in APZ II and a maximum of 300 people/acre is allowed in the TZ.
2. Clarify the applicability of the Project to nonconforming structures for upgrades that are necessary in order to comply with life/safety requirements. The Project, when adopted in January 2010, did not allow for any increase in FAR or height for nonconforming structures under any circumstances, including upgrades to structures in order to comply with life/safety

requirements (e.g., accessibility). Policy language would be added to allow for such upgrades, but only for that purpose, and only to the extent necessary. These revisions would still allow the nonconforming uses to retain nonconforming status from an ALUC perspective.

3. Clarify how to calculate Floor Area Ratio (FAR) for projects with a mixture of nonresidential projects. The Project, as adopted, required projects with a mixture of nonresidential uses to calculate FAR for each component use as a proportionate share of the entire project site area. Resulting calculations did not yield meaningful FARs. The proposed revision would specify that each use would be allotted a proportionate share of that use's allowed FAR as depicted in Table MIR-2.
4. Clarify how to evaluate new uses within existing structures for compatibility with the Project. The Project did not provide policy language regarding how to evaluate a change of use, such as a tenant improvement, within an existing structure. Revisions to the Project would treat proposed uses as "existing land uses" provided they remain within the same or reduced level of intensity of occupancy as the most recent use that occurred onsite and would not require ALUC review. Changes from one occupancy to a wholly different one (e.g., a religious assembly or day care facility replacing a former retail suite) would be subject to review to ensure compatibility with applicable ALUCP compatibility factors.
5. Clarify the need for ALUC review of consistent/compatible projects that are within Review Area 1. Proposed changes would eliminate the need to send projects that are consistent with all ALUCP compatibility factors to the ALUC for review and allow staff review to suffice.
6. Quantify how much change would be considered "substantive" with respect to project changes and the need for new or subsequent ALUC review. The Project previously defined what would constitute a substantive change, but did not provide enough detail in terms of measuring or quantifying the amount of the change that would be considered substantive. By clarifying that a 10 percent increase in either lot coverage or total building area would constitute a substantive change, ALUC staff and local agency staff have a measurement factor to rely upon when it is necessary to determine whether or not new or subsequent ALUC review is required. Changes in a project's attributes (total building area, lot coverage) which do not increase more than 10 percent would not be subject to new or subsequent ALUC review.

4.0 ENVIRONMENTAL ANALYSIS

As discussed further below, the proposed amendment to the approved Project would not alter the conclusions reached in the previously certified EIR regarding the potential environmental impacts associated with the approved Project; the potential impacts resulting from the approved Project, as amended, would be the same as or less than those previously identified. (The previously certified EIR is hereby incorporated by reference and is available for public inspection during regular business hours at the Airport Authority's offices, which are located at 3225 North Harbor Drive, Third Floor, Commuter Terminal, San Diego, California 92101.)

First, the proposed amendment, like the approved Project, does not propose or entail any new development, construction, or physical changes to existing land uses or the environment. Therefore, the proposed amendment would not directly impact the environment or result in any direct impacts to any of

the environmental impact categories contemplated in Appendix G of the CEQA Guidelines, as identified in the previously certified EIR.

Second, while the proposed amendment may indirectly influence future land use development in the vicinity of the Airport by facilitating development in some locations and constraining development at other locations, any potential indirect effects that may arise are uncertain from a timing and location standpoint. Therefore, it is speculative to anticipate the specific characteristics of any development with which it would be associated. As discussed in the previously certified EIR, one possibility is that land uses in much of the Airport's environs would remain unchanged when compared to existing conditions. Another possibility is that implementation of the proposed amendment may indirectly result in shifting future residential, agricultural, open space, commercial, industrial, or public land uses to other locations designated or zoned to allow for such uses. Since such potential shifts cannot be accurately predicted, particularly as to the rate, timing, location, and extent, it is not considered reasonable to conclude that any potential shifts would be significant. Absent information to the contrary, any such shifts are reasonably considered less than significant.

Such conflicts also are considered less than significant under CEQA because state law (Gov. Code §65302.3) requires that the applicable local planning document(s) be consistent with an adopted ALUCP; and, in the event of an inconsistency, such document(s) must be amended promptly (or go through the special process required to overrule the ALUC pursuant to section 21676 of the Public Utilities Code). The ALUC finds that, by adopting the proposed amendment, any such conflicts can be avoided or substantially lessened by local agency action. The ALUC further finds that such action is within the responsibility and jurisdiction of the respective local agencies, and not the ALUC.

Importantly, the proposed amendment is *less* restrictive than the existing compatibility criteria and policies adopted on October 2, 2008. As such, the environmental analysis for the approved Project represents the worst-case scenario, such that the environmental effects of the proposed amendment are less than those previously studied and reported in the certified EIR.

5.0 CONCLUSION

After reviewing the previously certified EIR, ALUC staff finds that: (i) the EIR, previously certified by the Airport Authority on October 2, 2008, addresses all impacts associated with implementation of the approved Project; (ii) any potential environmental impacts associated within the proposed amendment were identified within the scope of the previously certified EIR; (iii) no new or substantially more severe environmental effects would result from the Airport Authority's decision to adopt the proposed amendment; and (iv) no new information has been presented regarding the approved Project's environmental effects that gives rise to any new or more severe environmental effects than were previously identified in the certified EIR. Therefore, the legal requirements for preparation of a subsequent EIR are inapplicable, and preparation of an addendum to the previously certified EIR is appropriate under the present circumstances.

This Addendum relies on the previously certified EIR and the related administrative record, in addition to the new documentation that has been prepared to support the Addendum.

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