

Introduction

OVERVIEW OF THE PLAN

This *Merced County Airport Land Use Compatibility Plan (Compatibility Plan)* contains the individual *Compatibility Plan* for each of the five public-use airports in Merced County: Castle Airport, Gustine Municipal Airport, Los Banos Municipal Airport, Merced Regional Airport, and Turlock Municipal Airport. As adopted by the Merced County Airport Land Use Commission (ALUC), the basic function of the *Compatibility Plan* is to promote compatibility between each airport and the land uses which surround them to the extent that these areas have not already been devoted to incompatible uses. The plan accomplishes this function through establishment of a set of compatibility criteria applicable to new development around the airport. The *Compatibility Plan* serves as a tool for use by the ALUC in fulfilling its duty to review airport and adjacent land use development proposals. Neither this *Compatibility Plan* nor the ALUC have authority over existing land uses or over operation of the airport.

Except for Castle Airport and Merced Regional Airport, the influence area for each of the airports, as defined herein, extends roughly 2 miles from the airport runways. For Castle Airport and Merced Regional Airport, the influence area stretches approximately 4 miles from the runway ends in recognition of the airports' runway lengths, instrument approach procedures, and heavy aircraft which the airports are capable of accommodating. The influence areas of these five airports affect the land use jurisdictions of the following government entities in Merced County:

Land Use Jurisdictions	Airport				
	Castle Airport	Gustine Municipal Airport	Los Banos Municipal Airport	Merced Regional Airport	Turlock Municipal Airport
County of					
Merced	X	X	X	X	X
Cities of					
Atwater	X				
Gustine		X			
Los Banos			X		
Merced	X			X	

In accordance with state law (Public Utilities Code Section 21670(f)), any city, special district, school district, or community college district that exists or may be established or expanded into the airport influence areas defined by this *Compatibility Plan* are also subject to the provisions of the plan. The authority of the ALUC does not extend to state, federal, or tribal lands. Also note that although part of the Turlock Municipal Airport influence area extends into Stanislaus County, the *Compatibility Plan* is binding only to the government agencies of Merced County.

AIRPORT LAND USE COMPATIBILITY PLANNING

The creation of airport land use commissions (ALUCs) and the preparation of airport land use compatibility plans are requirements of the California State Aeronautics Act (Public Utilities Code Section 21670 *et seq.*). Provisions for creation of ALUCs were first established under state law in 1967 (see Appendix B for a copy of the statutes). With limited exceptions, an ALUC is required in every county in the state. Furthermore, a compatibility plan is required for each public-use and military airport even in instances where an ALUC is not established.

Purpose and Objective

Although the law has been amended numerous times since its original enactment, the fundamental purpose of ALUCs to promote land use compatibility around airports has remained unchanged. As expressed in the present statutes, this purpose is:

“...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.”

The compatibility plans that ALUCs adopt are the basic tools that they use to achieve this purpose. The ultimate objective of ALUCs, though, is to ensure that land use actions taken by local agencies also adhere to this purpose. ALUCs pursue this objective by reviewing the general plans, specific plans, zoning ordinances, building regulations, and certain individual development actions of local agencies for consistency with the policies and criteria in the applicable compatibility plan. ALUCs also review master plans and other airport development plans proposed by operators of public-use and military airports to determine if those plans are consistent with the compatibility plan or if modifications should be made to the compatibility plan to reflect current airport planning.

Relationship between ALUCs and County and City Governments

The relationship between ALUCs and the governments of the counties and the cities within their jurisdiction is set forth in the State Aeronautics Act. For the most part, ALUCs act independently from the local land use jurisdictions. ALUCs must consult with the involved agencies regarding establishment of airport influence area boundaries (Public Utilities Code Section 21675(c)), but otherwise have the authority to adopt compatibility plans without approval from county or city governing bodies. ALUCs, though, do not have the authority to implement their own compatibility policies.

The responsibility for implementation of ALUC-adopted compatibility plans rests with the affected local agencies. Government Code Section 65302.3 establishes that each county and city affected by an airport land use compatibility plan must make its general plan and any applicable specific plans con-

sistent with the ALUC compatibility plan. Alternatively, local agencies can take the series of steps listed in the Public Utilities Code Section 21676 and described later in this chapter to overrule the ALUC policies. Public Utilities Code 21670(f) indicates that special districts, school districts (including charter schools), and community college districts are included among the local agencies that are subject to airport land use laws.

Local agencies' other responsibility is to submit their plans and certain other proposed land use actions to the ALUC for review and determination of those actions' consistency with the ALUC's compatibility plan. Proposed adoption or amendment of general plans, specific plans, zoning ordinances, and building regulations always must be submitted to the ALUC. However, other actions such as ones associated with individual development proposals are subject to ALUC review only until such time as the agency's general plan and specific plans have been made consistent with the ALUC plan or the agency has overruled the ALUC.

COMPATIBILITY PLAN POLICY FRAMEWORK

State Laws and Guidelines

Many of the procedures that govern how ALUCs operate are defined by state law. As noted earlier, statutory provisions in the Public Utilities Code establish the requirements for ALUC adoption of compatibility plans, which airports must have these plans, and some of the steps involved in plan adoption. The law also dictates the requirements for airport land use compatibility reviews by the ALUC. The types of actions that local jurisdictions must submit for review are specified, for example.

With respect to airport land use compatibility criteria, the statutes say little however. Instead, a section of the law enacted in 1994 refers to another document, the *Airport Land Use Planning Handbook* published by the California Department of Transportation (Caltrans), Division of Aeronautics. Specifically, the statutes say that, when preparing compatibility plans for individual airports, ALUCs shall "be guided by" the information contained in the *Handbook*. The *Handbook* is not regulatory in nature, however, and it does not constitute formal state policy except to the extent that it explicitly refers to state laws. Rather, its guidance is intended to serve as the starting point for compatibility planning around individual airports.

The policies and maps in this *Compatibility Plan* take into account the guidance provided by the current edition of the *Handbook*, dated October 2011.

An additional function of the *Handbook* is established elsewhere in California state law. The Public Resources Code creates a tie between the *Handbook* and California Environmental Quality Act (CEQA) documents. Specifically, Section 21096 requires that lead agencies must use the *Handbook* as "a technical resource" when assessing airport-related noise and safety impacts of projects located in the vicinity of airports.

The October 2011 edition of the *Handbook* is available for downloading from the Division of Aeronautics web site (www.dot.ca.gov/hq/planning/aeronaut).

Compatibility Plan Relationship to Airport Plans

Airport land use compatibility plans are distinct from airport master plans and other types of airport development plans, but are closely connected to them. In simple terms, airport master plans are adopted by the agency that owns and/or operates the airport. Master plans primarily address on-airport issues. In contrast, compatibility plans are normally adopted by an ALUC and are concerned with issues affecting surrounding lands.

The principal connection between the two types of plans stems from the California Public Utilities Code. Specifically, Section 21675(a) requires that ALUC plans be based upon a long-range airport master plan adopted by the airport owner/proprietor or, if such a plan does not exist for a particular airport, an airport layout plan may be used with the acceptance of the Caltrans Division of Aeronautics. Furthermore, the compatibility plan must reflect “the anticipated growth of the airport during at least the next 20 years.”

The connection works in both directions, however. While a compatibility plan must be based upon an airport master plan, Public Utilities Code Section 21676(c) requires that any proposed modification to an airport master plan be submitted to the ALUC to determine if the proposal is consistent with the compatibility plan. Provided that the off-airport compatibility implications of the proposed modifications are adequately addressed in the master plan, the outcome of this process usually is that the compatibility plan will need to be updated to mirror the new master plan.

GENERAL PLAN CONSISTENCY

As noted above, each local agency having jurisdiction over land uses within an ALUC’s planning area, also referred to as the Airport Influence Area, is required by state law to modify its general plan and any affected specific plans to be consistent with the compatibility plan. The law says that the local agency must take this action within 180 days of when the ALUC adopts or amends its plan. Until the local agency has made the necessary general plan modifications to the satisfaction of the ALUC, the ALUC can require all proposals affecting land within the Airport Influence Area to be submitted for review and a consistency determination (Public Utilities Code Section 21676.5(a)).

Overrule Process

The only other course of action available to local agencies is to overrule the ALUC by a two-thirds vote of its governing body after making findings that the agency’s plans are consistent with the intent of state airport land use planning statutes. Additionally, the local agency must provide both the ALUC and Caltrans Division of Aeronautics, with a copy of the local agency’s proposed decision and findings at least 45 days in advance of its decision to overrule and must hold a public hearing on the proposed overruling (Public Utilities Code Section 21676(a) and (b)). The ALUC and the Division of Aeronautics may provide comments to the local agency within 30 days of receiving the proposed decision and findings. If comments are submitted, the local agency must include them in the public record of the final decision to overrule the ALUC (Sections 21676, 21676.5 and 21677.) Note that similar requirements apply to local agency overruling of ALUC actions concerning individual development proposals for which ALUC review is mandatory (Section 21676.5(a)) and airport master plans (Section 21676(c)).

Attaining Consistency

A general plan does not need to be identical with the ALUC compatibility plan in order to be consistent with the compatibility plan. To meet the consistency test, a general plan must do two things:

- ▶ It must specifically address compatibility planning issues, either directly or through reference to a zoning ordinance or other policy document; and
- ▶ It must avoid direct conflicts with compatibility planning criteria.

The land use jurisdictions affected by this *Compatibility Plan* may need to modify their general plans, specific plans, and other policy documents for consistency with the *Compatibility Plan*. It must be emphasized, however, that local agencies need not change land use designations to bring them into consistency with the ALUC criteria if the current designations merely reflect existing development. They merely would need to establish policies to ensure that the nonconforming uses would not be expanded in a manner inconsistent with this *Compatibility Plan* and that any redevelopment of the affected areas would be made consistent with the compatibility criteria.

Compatibility planning issues can be reflected in a general plan in several ways:

- ▶ **Incorporate Policies into Existing General Plan Elements**—One method of achieving the necessary planning consistency is to modify existing general plan elements. For example, airport land use noise policies could be inserted into the noise element, safety policies could be placed into a safety element and the primary compatibility criteria and associated maps plus the procedural policies might fit into the land use element. With this approach, direct conflicts would be eliminated and the majority of the mechanisms and procedures necessary to ensure compliance with compatibility criteria could be fully incorporated into the local jurisdiction’s general plan.
- ▶ **Adopt a General Plan Airport Element**—Another approach is to prepare a separate airport element of the general plan. Such a format may be advantageous when the community’s general plan also needs to address on-airport development and operational issues. Modification of other plan elements to provide cross-referencing and eliminate conflicts would still be necessary.
- ▶ **Adopt Compatibility Plan as Stand-Alone Document**—Jurisdictions selecting this option would simply adopt as a local policy document the relevant portions of the *Compatibility Plan*—specifically, the policies and maps in Chapters 2. Applicable background information from Chapter 3 could be included as well if desired. Changes to the community’s existing general plan would be minimal. Policy reference to the *Compatibility Plan* would need to be added and any direct land use or other conflicts with compatibility planning criteria would have to be removed. Limited discussion of compatibility planning issues could be included in the general plan, but the substance of most compatibility policies would appear only in the stand-alone document.
- ▶ **Adopt Airport Combining District or Overlay Zoning Ordinance**—This approach is similar to the stand-alone document except that the local jurisdiction would not explicitly adopt the *Compatibility Plan* as policy. Instead, the compatibility policies would be restructured as an airport combining district or overlay zoning ordinance. A combining zone serves as an overlay of standard community-wide land use zones and modifies or limits the uses permitted by the underlying zone. Flood hazard combining zoning is a common example. An airport combining zone ordinance can serve as a convenient means of bringing various airport compatibility criteria into one place. The airport-related height-limit zoning that many jurisdictions have adopted as a means of protecting airport airspace is

a form of combining district zoning. Noise and safety compatibility criteria, together with procedural policies, would need to be added to create a complete airport compatibility zoning ordinance. Other than where direct conflicts need to be eliminated from the local plans, implementation of the compatibility policies would be accomplished solely through the zoning ordinance. Policy reference to airport compatibility in the general plan could be as simple as mentioning support for the airport land use commission and stating that policy implementation is by means of the combining zone. (An outline of topics which could be addressed in an airport combining zone is included in Appendix D.)

COMPATIBILITY PLANNING FOR MERCED COUNTY

Merced County Airport Land Use Commission

Pursuant to state law (Public Utilities Code Section 21670(b)), the responsibility for preparation of the individual *Compatibility Plans* for the five-public use airports in Merced County rests with the Merced County Airport Land Use Commission (ALUC). The ALUC was established in 1976 and follows the standard, single-purpose format:

- ▶ Two members appointed by the Board of Supervisors;
- ▶ Two members appointed by cities;
- ▶ Two members appointed by airport managers; and
- ▶ A seventh member, representing the general public, appointed by the other six.

Section 21671 of the ALUC statues specifies that, where an airport in one county is owned by a county, city, or district in another county, then the board of supervisors and the selection committee of city mayors in the adjacent county shall appoint one of the county representative and one of the city representatives, respectively. This section of the law applies to the Merced ALUC in that Turlock Municipal Airport is owned by the Stanislaus County city of Turlock, but is located in Merced County. The Merced County Board of Supervisors has in the past offered one of the county positions on the ALUC to a representative of Stanislaus County. Historically, neither Stanislaus County nor the city of Turlock have been represented on the Merced County ALUC.

The Merced County Planning and Community Development Director serves as the ALUC Secretary with support from the department staff.

The ALUC adopted its original compatibility plan in 1978. This *Compatibility Plan* replaces an earlier plan—*Merced County Airport Land Use Compatibility Plan*—which the ALUC adopted in April 1999.

Sources of Information and Guidance

As required by California state law, the *California Airport Land Use Planning Handbook* provides guidance for the compatibility policies set forth in this *Compatibility Plan*. The 2011 *Handbook* was used both to structure and define compatibility criteria and to establish the procedures to be followed by the ALUC and local agencies in implementation of the criteria.

For each of the five airports in Merced County, an airport master plan was prepared and adopted by the respective airport owners during the 1990s. These master plans—and especially the activity forecasts,

noise contours, and proposed facility improvements described within them—were utilized as major inputs to this *Compatibility Plan*.

The major issues associated with this *Compatibility Plan* were topics of discussion at numerous meetings of the Merced County ALUC and with affected local agencies beginning in late 2010. Comments obtained at these meetings from the ALUC, affected agencies, and the general public were considered in the preparation of this *Compatibility Plan*.

Plan Adoption

Separately from this *Compatibility Plan*, an Initial Study of environmental impacts has been prepared pursuant to the requirements of the California Environmental Quality Act (CEQA). Issues addressed include those identified in the 2007 California Supreme Court decision in *Muszny Ranch Company v. Solano Airport Land Use Commission*. These issues include assessment of the potential future displacement of residential and nonresidential land use development as a result of implementation of this *Compatibility Plan*. A copy of the Initial Study and associated Negative Declaration was circulated for a 30-day public review and comment period starting on March 2, 2012 and ending on April 13, 2012.

On June 21, 2012, the Merced County ALUC adopted the *Merced County Airport Land Use Compatibility Plan* and certified the associated Negative Declarations. As such, this *Compatibility Plan* replaces the earlier *Merced County Airport Land Use Compatibility Plan (1999)*. A copy of the *Compatibility Plan* is available on the Merced County ALUC web site (<http://www.co.merced.ca.us/index.aspx?NID=406>).

PLAN CONTENTS

This *Compatibility Plan* is organized into eight chapters and a set of appendices. The intent of this introductory chapter is to set the overall context of airport land use compatibility planning in general and for Merced County in particular. The most important components of the plan are found in Chapters 2 and 3. Chapter 2 presents airport compatibility and review policies applicable countywide. Chapter 3 contains the compatibility map for each airport together with individual policies and some explanatory notes for that airport. Chapters 4 through 8 present airport and land use background information regarding each of the airports in alphabetical sequence.

Also included in this document are a set of appendices containing a copy of state statutes concerning airport land use commissions and other general information pertaining to airport land use compatibility planning. This material is mostly taken from other sources and does not represent ALUC policy except where cited as such in Chapter 2—specifically the state ALUC statutes and certain other laws (Appendix B) and Federal Aviation Regulations Part 77 (Appendix C).