

Attachment A

Resolution No. 2026-48 (Overriding ALUC)

RESOLUTION NO. 2026-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, FINDING THE COMPREHENSIVE UPDATE OF THE NEWPORT BEACH GENERAL PLAN, ALSO KNOWN AS THE “NEWPORT BEACH 2050 GENERAL PLAN,” CONSISTENT WITH THE PURPOSES OF THE STATE AERONAUTICS ACT AND OVERRIDING THE ORANGE COUNTY AIRPORT LAND USE COMMISSION’S DETERMINATION OF INCONSISTENCY WITH THE 2008 JOHN WAYNE AIRPORT ENVIRONS LAND USE PLAN (PA2022-080)

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach (“City”), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, California Government Code Section 65300 *et seq.* (“Government Code”) sets forth requirements for the City to prepare and adopt a comprehensive, long-term general plan for the physical development of the City;

WHEREAS, the General Plan is a community-wide vision document that is intended to address and respond to community needs;

WHEREAS, the City last completed a comprehensive General Plan update in 2006 (“General Plan”), with various elements of the General Plan being amended and adopted from time to time over the last 20 years;

WHEREAS, on January 22, 2019, the City Council adopted Resolution No. 2019-7, as amended by Resolution No. 2019-20 on February 26, 2019, establishing the General Plan Update Steering Committee (“Original GPUSC”) and initiating a comprehensive review and update of the General Plan;

WHEREAS, the City Council determined that the existing General Plan, as amended, should be reviewed and may require revision to sufficiently address the range and breadth of technological, environmental, economic, and demographic changes, within and outside the City, that have affected Newport Beach since the General Plan was adopted;

WHEREAS, on February 8, 2022, the City Council adopted Resolution No. 2022-14, adopting the 6th Cycle Housing Element for the 2021-2029 planning period (“Housing Element”), which was subsequently revised and re-adopted by Resolution No. 2022-60 on September 13, 2022, and certified as statutorily compliant with state law by the State Department of Housing and Community Development (“HCD”) on October 5, 2022;

WHEREAS, on November 14, 2023, the City Council adopted amendments to the Noise Element and Land Use Element pursuant to Resolution No. 2023-72 that were necessary to implement the Housing Element;

WHEREAS, on July 23, 2024, the City Council certified the Final Program Environmental Impact Report (“PEIR”) for the City of Newport Beach Housing Element Implementation Program (SCH No. 2023060699) and adopted a focused update to the Land Use Element for implementation of the Housing Element;

WHEREAS, contemporaneously, the City began working on the comprehensive General Plan Update with the reestablishment of the General Plan Update Steering Committee (“GPUSC”), pursuant to Resolution No. 2022-2, as subsequently amended by Resolution No. 2025-3;

WHEREAS, on September 13, 2022, the City Council adopted Resolution No. 2022-59, establishing the General Plan Advisory Committee (“GPAC”) to review and provide guidance on policy changes associated with the General Plan Update;

WHEREAS, the draft General Plan Update, which incorporates amendments to the Arts & Culture, Harbor, Bay, and Beaches, Historical Resources, Land Use, Natural Resources, Noise, Recreation, and Safety Elements, evolved over the course of a combined 100 meetings between the GPUSC, GPAC, and the GPAC’s various subcommittees, and includes input from hundreds of community members;

WHEREAS, as part of the work program of the GPUSC and GPAC, the Outreach Subcommittee was formed to ensure well-planned and well-executed community outreach and engagement;

WHEREAS, the public outreach efforts were documented in “Phase One Outreach Summary” prepared by Kearns & West and dated July 2024, “Phase Two Outreach Summary” prepared by Kearns & West and dated March 2025, and “Phase Three Outreach Summary” prepared by Kearns & West and dated January 2026;

WHEREAS, the GPUSC and GPAC held a special joint meeting on December 3, 2025, to review comments on the General Plan Update from City boards, commissions, and committees, and to provide direction to City staff on how to incorporate responsive revisions, as deemed appropriate;

WHEREAS, the GPUSC and GPAC held another special joint meeting on January 21, 2026, on the Final GPUSC/GPAC Draft General Plan Update (“Newport Beach 2050 General Plan”);

WHEREAS, the Planning Commission held a study session on March 19, 2026, to introduce the Newport Beach 2050 General Plan;

WHEREAS, California Public Utilities Code (“CPUC”) Section 21676(b) requires the City to refer the amendments to the General Plan to the Orange County Airport Land Use Commission (“ALUC”) to review for consistency with the 2008 John Wayne Airport Environs Land Use Plan (“AELUP”);

WHEREAS, on March 19, 2026, the ALUC conducted a public hearing on the Newport Beach 2050 General Plan and determined by a unanimous vote (5 ayes, 0 nays) that it is inconsistent with the AELUP, as provided in ALUC’s determination attached as Exhibit “A,” which is incorporated herein by reference;

WHEREAS, Government Code Section 65353 requires that, when local regulations have authorized a Planning Commission to review and make recommendations on a proposed general plan or amendments to a general plan, the Commission shall hold at least one public hearing before making its recommendation;

WHEREAS, a public hearing was held on April 23, 2026, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California 92660. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code (“NBMC”). Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing;

WHEREAS, at the conclusion of the public hearing, the Planning Commission voted unanimously (5 ayes, 0 nays, 2 absent) to adopt Planning Commission Resolution No. PC2026-15 recommending approval of the Newport Beach 2050 General Plan;

WHEREAS, pursuant to Sections 21670 and 21676 of the CPUC, the City Council may, after a public hearing, propose to overrule ALUC with a two-thirds vote, if it makes specific findings that the Amendments are consistent with the purpose of Section 21670 of the CPUC to protect the 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;

WHEREAS, a City Council study session was held on April 28, 2026, to introduce the Newport Beach 2050 General Plan;

WHEREAS, the City Council held a duly noticed public hearing on April 28, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California 92660. A notice of time, place, and purpose of the public hearing was provided in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, and the NBMC. Evidence both written and oral, was presented to, and considered by, the City Council at this public hearing;

WHEREAS, at the conclusion of this hearing, the City Council adopted Resolution No. 2026-25 by a unanimous vote (7 ayes, 0 nays) to notify the ALUC and State Department of Transportation Aeronautics Program ("Aeronautics Program") of the City's intent to override ALUC's inconsistency finding;

WHEREAS, notice of the City's intent to override the ALUC inconsistency determination, along with Resolution No. 2026-25 was sent via certified mail and emailed to ALUC and Aeronautics Program on April 29, 2026;

WHEREAS, the City received two comment letters in response to the City's notice of intent to override the ALUC inconsistency determination from ALUC and the Aeronautics Program in accordance with CPUC Section 21676, which are attached hereto as Exhibits "B" and "C," respectively, and incorporated herein by reference; and

WHEREAS, the City Council held a duly noticed public hearing on June 23, 2026, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California 92660. A notice of time, place, and purpose of the hearing was given in accordance with CPUC Section 21676(b), the Ralph M. Brown Act, the NBMC, and City Council Policy K-1 (General Plan and Local Coastal Program) and City Council Policy K-3 (Implementation procedures for the California Environmental Quality Act). Evidence both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council has evaluated the comments provided as Exhibits “B” and “C” from the reviewing agencies and does hereby make the findings necessary to override the ALUC’s determination attached hereto as Exhibit “D,” all of which are attached hereto and incorporated herein by reference.

Section 2: Pursuant to Section 21166 of the California Public Resources Code and Section 15162 of the California Environmental Quality Act (“CEQA”) Guidelines, the changes authorized under the Project are not substantial, as they do not involve new significant effects or a substantial increase in the severity of previously identified significant effects, and therefore, a subsequent Environmental Impact Report (“EIR”) does not need to be prepared. On July 23, 2024, the City Council adopted Resolution No. 2024-50, certifying the adequacy and completeness of the PEIR (SCH No. 2023060699) for the City of Newport Beach Housing Element Implementation Program. State CEQA Guidelines allow for the updating and use of a previously certified EIR, or in this case PEIR, for projects that have changed or are different from the previous project. In cases where changes or additions occur with no new significant environmental impacts, an addendum to the previously certified PEIR may be prepared pursuant to CEQA Guidelines Section 15164. The City prepared an addendum to the PEIR, which is attached hereto as Exhibit “E,” and hereby incorporated by reference, and which concludes there are no new environmental impacts and no impacts of greater severity that would result from approval and implementation of the Newport Beach 2050 General Plan.

Section 3: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 23rd day of June, 2026.

Lauren Kleiman
Mayor

ATTEST:

Lena Shumway
City Clerk

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachments: Exhibit "A" – ALUC Inconsistency Determination dated March 20, 2026
 Exhibit "B" – Comment Letter from ALUC dated May 28, 2026
 Exhibit "C" – Comment Letter from Aeronautics Program dated May 18, 2026
 Exhibit "D" – Findings to Override ALUC's Determination
 Exhibit "E" – Addendum to Program Environmental Impact Report for the City of Newport Beach Housing Implementation Program (SCH No. 2023060699)

EXHIBIT "A"
ALUC Inconsistency Determination



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

March 20, 2026

Ben Zdeba, Acting Deputy Director
City of Newport Beach
Community Development Department
100 Civic Center Drive
Newport Beach, CA 92660

Subject: ALUC Determination for Newport Beach Comprehensive General Plan Update
(PA2022-080)

Dear Mr. Zdeba,

During the public meeting held on March 19, 2026, the Airport Land Use Commission (ALUC) for Orange County considered the subject item. The matter was duly discussed and with a 5-0 vote (Bresnahan, Hasselbrink Klema, Beverburg, and Hibard), the Commission found the Newport Beach Comprehensive General Plan Update (PA2022-080) to be consistent with the *Airport Environs Land Use Plan for Heliports* and inconsistent with the *Airport Environs Land Use Plan for John Wayne Airport (AELUP)*. The inconsistent finding was based on Section 2.1.1 Aircraft Noise; Section 2.1.2 Safety Compatibility Zones; Section 2.1.4, and PUC Section 21674; and 3.2.1 General Policy.

Please contact me at jfitch@ocair.com or (949) 252-5170 if you have any questions regarding this proceeding. Thank you!

Sincerely,

Julie Fitch, AICP
Executive Officer

cc: ALUC Commissioners

EXHIBIT "B"
Comment Letter from ALUC



AIRPORT LAND USE COMMISSION

FOR ORANGE COUNTY

3160 Airway Avenue • Costa Mesa, California 92626 • 949.252.5170 fax: 949.252.6012

May 28, 2026

Benjamin M. Zdeba, Acting Deputy Community Development Director
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Subject: Response to Notice of Intent to Overrule the Airport Land Use Commission Determination Regarding the City of Newport Comprehensive General Plan Update (PA2022-080)

Dear Mr. Zdeba,

We are in receipt of the City of Newport Beach (City) letter dated April 29, 2026, and City Council Resolution No. 2026-25 notifying the Airport Land Use Commission (ALUC) for Orange County of the City's intent to overrule the ALUC's inconsistency determination on the proposed City of Newport Beach Comprehensive General Plan Update (PA2022-080). In accordance with Section 21676 of the Public Utilities Code, the ALUC submits the following comments addressing the proposed overrule findings for the above-referenced project. These comments shall be included in the public record of a final decision to overrule the ALUC.

Please be advised that California Public Utilities Code (PUC) Section 21678 states: "With respect to a publicly owned airport that a public agency does not operate, if the public agency pursuant to Section 21676, 21676.5, or 21677 overrules a commission's action or recommendation, the operator of the airport shall be immune from liability for damages to property or personal injury caused by or resulting directly or indirectly from the public agency's decision to overrule the commission's action or recommendation."

Background

On March 19, 2026, the ALUC for Orange County found the proposed City of Newport Beach Comprehensive General Plan Update (PA2022-080) to be consistent with the *Airport Environs Land Use Plan (AELUP) for Heliports* and inconsistent with the *Airport Environs Land Use Plan (AELUP) for John Wayne Airport (JWA)*.

The inconsistency finding was based on AELUP Sections 2.1.1, 2.1.2, 2.1.4, PUC Section 21674, and Section 3.2.1. Pursuant to Section 1.2 of the *AELUP for JWA*, the purpose of the AELUP is to safeguard the general welfare of the inhabitants within the vicinity of the airport and to ensure the continued operation of the airport. Specifically, the AELUP seeks to protect the public from the

adverse effects of aircraft noise to ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and to ensure that no structures or activities adversely affect navigable airspace.

Additionally, Section 2.1.4 of the *AELUP for JWA* and PUC Section 21674 charge the Commission to coordinate at the local level to ensure compatible land use planning. The City's proposed General Plan Update includes policies allowing residential land uses within the 65 dB CNEL and uses the 2014 Settlement Agreement Noise Contours rather than the ALUC-adopted noise contours included in the *AELUP for JWA*. Because the 2014 Settlement Agreement Noise Contours have not been adopted by ALUC or incorporated into the *AELUP for JWA*, the City's proposed actions are inherently inconsistent with the *AELUP for JWA*. In the context of ALUC review, the City cannot choose which noise standards it wants to abide by. The only applicable noise standards for ALUC purposes are those found within the *AELUP for JWA*.

ALUC has the following additional comments regarding the findings and facts of support included in Resolution No. 2026-25.

Response to Finding and Fact in Support A - Regarding Noise Standards:

Resolution No. 2026-25 states that the 2006 General Plan Noise Element was based on the CNEL noise contours of the 1985 AELUP Master Plan that were updated by subsequent modeling, and that the City updated its Noise Element applying that updated modeling. The City further states that the 2014 Settlement Agreement Amendment and associated EIR were predicated on updated noise contours and that the City's Noise Element has been in effect since 2023 and is consistent with the noise contours established pursuant to the 2014 Settlement Agreement Amendment.

The ALUC acknowledges the City's position that the 2014 Settlement Agreement Noise Contours reflect more recent noise modeling. However, those contours have not been adopted by ALUC or incorporated into the *AELUP for JWA*. The proposed Draft Noise Element includes the 2014 Settlement Agreement Noise Contours and policies allowing residential uses within the 65 dB CNEL contours. The Draft Land Use Element also includes mixed-use/residential uses within both the ALUC-adopted 65 dB CNEL contours and the smaller 2014 Settlement Agreement contours.

For purposes of an AELUP consistency determination, the City and ALUC must use the noise contours provided in the adopted AELUP. A consistency analysis cannot be based on different or updated contours unless those contours have been incorporated into the AELUP. Therefore, because the General Plan Update continues to allow residential development within the 65 dB CNEL and relies on Exhibit N-3, 2014 Settlement Agreement Airport Noise Contours, rather than the ALUC-adopted contours in the *AELUP for JWA*, the General Plan Update remains inconsistent with the *AELUP for JWA*. Moreover, the City's resolution fails to justify how locating individuals within a 65 dB CNEL contour promotes appropriate noise standards. Namely, how would a reasonable person residing within a 65 dB CNEL find such noise acceptable? See PUC Section 21669. To the contrary, ALUC believes that locating individuals within a 65 dB CNEL creates new noise and safety problems. This highlights the fact that such a practice is not only inconsistent with the *AELUP for JWA* but also PUC Section 21670.

Response to Finding and Fact in Support B - Regarding Safety:

Pursuant to AELUP Section 2.1.2, “[s]afety and compatibility zones depict which land uses are acceptable and which are unacceptable in various portions of airport environs. The purpose of these zones is to support the continued use and operation of an airport by establishing compatibility and safety standards to promote air navigational safety and to reduce potential safety hazards for persons living, working or recreating near JWA.”

Resolution No. 2026-25 notes that the General Plan Update does not include housing opportunity sites in the JWA Clear Zone/Runway Protection Zone and that most housing opportunity sites in the JWA Airport Planning Area (APA) are located in Safety Zone 6. However, safety compatibility review under the AELUP is not limited to the Clear Zone/Runway Protection Zone. While the General Plan Update does not change existing land uses in the current Land Use Element, the policies contained therein continue to address land uses within the JWA APA. The northern part of the City of Newport Beach is within Safety Zones 2, 3, 4, and 6. The City indicates that it will continue to evaluate compliance and compatibility with the AELUP through Policy LU-28.2. In addition, the Draft Safety Element includes Goal S-9, “A community protected from airport-related hazards,” with policies addressing land use compatibility, noise and air pollution, emerging technologies, and aircraft rescue.

JWA flight tracks for four recent days were included in the ALUC staff report for informational purposes, including Reverse Flow operations on January 12, 2026. Accordingly, although the Draft GPU does not propose changes to land uses within the Safety Zones, safety, overflight, and land use compatibility remain relevant considerations within the JWA APA.

Response to Finding and Fact in Support C - Regarding Air Transportation and Intent of the AELUP:

By virtue of *AELUP for JWA* Sections 1.2 “Purpose and Scope” and 2.0 “Planning Guidelines,” the ALUC is charged with protecting public airports from encroachment by incompatible land use development, while also protecting the health, safety, and welfare of citizens who work and live in the airport’s environs. However, future project-level review does not resolve a General Plan-level inconsistency where the policy framework itself allows residential uses within areas identified as incompatible under the adopted *AELUP for JWA*.

The adopted AELUP remains the applicable compatibility plan for purposes of ALUC review unless and until it is amended. Based on the City’s submittal, applicable AELUP policies, and the ALUC-adopted noise contours for JWA, the ALUC found the proposed Comprehensive General Plan Update inconsistent with the *AELUP for JWA*.

We urge the City Council to take ALUC’s concerns into consideration in its deliberations prior to deciding whether to overrule ALUC. Thank you for the opportunity to provide these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen Beverburg". The signature is fluid and cursive, with a large, stylized initial "S" and "B".

Stephen Beverburg
Vice Chairman

cc: Airport Land Use Commission for Orange County
Caltrans/Division of Aeronautics

EXHIBIT "C"
Comment Letter from Aeronautics Program

California Department of Transportation

DIVISION OF AERONAUTICS - M.S. #40
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May 18, 2026

Mr. Benjamin Zdeba Electronically Sent: bzdeba@newportbeachca.gov
Acting Deputy Community Development Director
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Dear Mr. Zdeba:

The California Department of Transportation, Division of Aeronautics (Caltrans), supports cities, counties, and Airport Land Use Commissions (ALUCs) in developing land use policies that promote public health, safety, and welfare near airports. We appreciate the opportunity to provide input on the City's proposed overrule of the Orange County ALUC determination.

On April 29, 2026, Caltrans received an email that included Resolution No. 2026-25 declaring an intent to overrule the ALUC's March 19, 2026, inconsistency determination for the proposed City of Newport Beach Comprehensive General Plan Update Project (PA2022-080) (Project) with the Airport Environs Land Use Plan (AELUP) for the John Wayne Airport (JWA).

Caltrans has reviewed the proposed Findings and Facts in Support (Findings) provided by the City of Newport Beach (City) and the Staff Report from ALUC dated April 28, 2026, and the Inconsistency Determination letter dated March 19, 2026.

Caltrans has reviewed the proposed Findings of Resolution No. 2026-25 and has determined that the Findings are not sufficient to warrant the proposed overrule. Specifically, the Findings do not appear to be consistent with the purposes of the statutes set forth in the California Public Utilities Code (PUC) sections 21670–21676.5, nor with the noise and safety criteria disseminated in the AELUP for the JWA. Caltrans concurs with the ALUC's determination that the City's General Plan Update is inconsistent with the AELUP and recommends that the City revise its proposal to ensure full compliance with applicable statutory and policy requirements.

Mr. Benjamin Zdeba, Acting Deputy Community Development Director May 18, 2026
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PUC Section 21675.1(f) states: "If a city or county overrules the commission pursuant to subdivision(d) with respect to a publicly owned airport that the city or county does not operate, the operator of the airport is not liable for damages to property or personal injury resulting from the city's or county's decision to proceed with the action, regulation, or permit."

Pursuant to PUC Section 21676(a), Caltrans and ALUC comments shall be included in the public record of any decision to overrule the ALUC. If you have questions or we may be of further assistance, please contact me at ahmed.akhtar@dot.ca.gov or I can be reached at (916) 917-3477.

Sincerely,

Ahmed Akhtar
Aviation Planner
Caltrans Division of Aeronautics

c: Julie Fitch, Executive Director, ALUC Orange County, jfitch@ocair.com

EXHIBIT “D”
Findings to Override ALUC’s Determination

The City Council does hereby find that the General Plan Update is consistent with the purposes of Section 21670 of the PUC and the AELUP of protecting the 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.

Findings and Facts in Support of Findings:

A. The General Plan Update is consistent with the noise standards of the AELUP.

The AELUP guides development proposals to provide for the orderly development of John Wayne Airport and the surrounding area through implementation of the standards in Section 2 (Planning Guidelines) and Section 3 (Land Use Policies). Implementation of these standards are intended to protect the public from the adverse effects of aircraft noise, ensure that people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure that no structures or activities adversely affect navigable airspace.

Section 2.1.1 of the AELUP sets forth the community noise equivalent level (“CNEL”) standards. The General Plan Update does not include uses that are incompatible with noise standards of the AELUP. To the extent that ALUC’s determination of incompatibility was based on prior General Plan amendments, those prior actions are consistent as described herein. The Housing Element allocated a total of 62 housing opportunity sites in the Airport Area. The 2006 General Plan Noise Element was based on the CNEL noise contours of the 1985 AELUP Master Plan that were updated by subsequent modeling. As a result, the Noise Element was updated applying this updated modeling.

Specifically, in 2014, the County of Orange prepared a Environmental Impact No. (“EIR”) No. 617 (SCH No. 2001111125) (“EIR No. 617”) in connection with the 2014 John Wayne Airport Settlement Agreement Amendment. EIR No. 617 explains why the 2014 dBA CNEL noise contours have reduced in size compared to the 1985 AELUP Master Plan CNEL noise contours. EIR No. 617 observed that “the Mater Plan noise contours are considerably larger than existing noise contours due to a quieter fleet of existing commercial aircraft and a dramatic reduction in the number of generation aviation operations”¹ The 2014 CNEL contours were also based on a newly adopted, “state-

¹ EIR No. 617 at 4.6-34. [CC 5A Appendices to FEIR 617](#)

of-the-art” noise modeling program.² EIR No. 617 found that the 65 dBA CNEL contour area was 114% smaller than the analog from the 1985 Master Plan.

As the EIR explained, “one of the most important factors in generating accurate noise contours is the collection of accurate operational data.” Airport noise contours generated in the noise study uses the INM Version 7.0d which was released for use in May 2013 and is state-of-art in airport noise modeling. Although the 2014 Settlement Agreement Amendment and EIR No. 617 were predicated on updated noise contours, the AELUP, which ALUC bases its land use compatibility or incompatibility determinations on, still relies on the outdated noise contours from the 1985 JWA Master Plan. The Noise Element has been in effect since 2023 and is consistent with the noise contours established pursuant to the 2014 Settlement Agreement Amendment.

The comment letter from ALUC (Exhibit “B”) poses the question “... how would a reasonable person residing within a 65 dBA CNEL find such noise acceptable?”

In response, Title 21 of the California Code of Regulations Section 5000 *et seq.* (“21 CCR Section 5000”) provides noise standards governing the operation of aircraft and aircraft engines for all airports operating under a valid permit issued by the Department of Transportation. Section 5006 provides that “[t]he level of noise acceptable to a reasonable person residing in the vicinity of an airport is established as a CNEL value of 65 dB for purposes of these regulations. This criterion level has been chosen for reasonable persons residing in urban residential areas where houses are of typical California construction and may have windows partially open.” The California compatibility criterion (i.e., 65 dBA CNEL) is only mandated for a few airports (including JWA) that are designated as “noise problem airports.” For these airports, four types of land uses are defined as incompatible outside the 65 dBA CNEL, including residences of all types, public and private schools, and other institutional uses. However, these uses are not incompatible if certain sound attenuation methods are incorporated. For example, high rise apartment or condominium” having an interior CNEL of 45 dB or less in all habitable rooms due to aircraft noise, and an air circulation or air conditioning system as appropriate ...” are not incompatible. 21 C.C.R. 5014(a)(3).

Locally, the City maintains regulations with a number of examples delineated below:

Land Use Policy LU 28.1 provides that residential uses may be allowed in the Airport Area on parcels that are wholly or partially outside the 65 dBA CNEL contour as denoted in Figures N4 and N5 of the Noise Element. Residential uses may be approved in these areas provided interior living areas are protected from excessive noise by appropriate

² *Id.* at 4.6-31. Airport noise contours were generated using the INM Version 7.0d. The latest version, INM Version 7.0d, was released for use in May 2013 and is the state-of-the-art in airport noise modeling.

construction techniques that reduce the interior noise to 45 dBA CNEL. This is consistent with state law as set forth in 21 C.C.R. Section 5014(a)(1)-(4).

The 65 dBA CNEL contour area describes the area for which new noise-sensitive developments, including residential uses, will be conditionally permitted only if appropriate measures are included such that the standards contained in the Noise Element are achieved. Furthermore, residential units should be sufficiently indoor-oriented, consistent with Title 21 of the California Code of Regulations, so as to reduce noise impingement on outdoor living areas. Noise Element Policy N-1.2 requires applicants for proposed residential or mixed-use projects located in areas projected to be exposed to 65-70 dBA CNEL or greater to conduct a noise study to provide evidence that the depicted noise contours do not adequately account for local noise exposure circumstances due to such factors as, topography, variation in traffic speeds, and other applicable conditions. These findings are used to determine the level of exterior or interior noise, attenuation needed to attain an acceptable noise exposure level and the feasibility of such measures when other planning considerations are reviewed, consistent with Title 21 of the California Code of Regulations. Thus, the City's General Plan Update maintains adequate regulations and does not conflict with the state prescribed standards for noise and land use compatibility. In addition, the General Plan Update follows state mandates and local agency regulations by ensuring appropriate noise considerations are made and that mitigation measures are included in the design. Residential development and the residential portion of mixed-use projects would be restricted from areas exposed to exterior noise levels of 70 dBA CNEL and higher. Compliance with these policies and regulations will ensure that future development within the JWA Airport Planning Area will follow the noise standards of the AELUP.

Lastly, the General Plan Update does not include uses that are incompatible with noise standards of the AELUP. The General Plan Update includes a number of policies, including Policies N-3.1 and N-3.2, designed to safeguard against noise impacts for development adjacent to JWA. Therefore, the General Plan Update is consistent with the noise standards of the AELUP.

B. The General Plan Update is consistent with the safety standards of the AELUP.

Section 2.1.2 (Safety Compatibility Zones) of the AELUP sets forth zones depicting which land uses are acceptable in various portions of JWA environs. The General Plan Update does not include uses that are incompatible with safety standards of the AELUP. To the extent that ALUC's determination of incompatibility was based on prior General Plan amendments, those prior actions are consistent as described herein. The Housing Element allocated a total of 62 housing opportunity sites in the Airport Area. Most of the housing opportunity sites, except for portions of three properties, are all within Safety Zone 6. Allowed uses in Safety Zone 6 include residential and most nonresidential uses

except outdoor stadiums and similar uses with very high intensities. Uses that should be avoided include children's schools, large day-care centers, hospitals, and nursing homes. Risk factors associated with Safety Zone 6 generally include a low likelihood of accident occurrence. The Newport Beach Golf Course and Young Men's Christian Association properties are included as housing opportunity sites in the Housing Element. Portions of those properties are within Safety Zone 4 with the remaining portions lying in Safety Zone 6. Safety Zone 4 limits residential uses to very low density (if not deemed unacceptable because of noise) and advises to avoid nonresidential uses having moderate or higher usage intensities.

The General Plan Update's Safety Element includes Policy S-9.1 (Land Use Compatibility), which demonstrates the importance the City places on the JWA Safety Zones. Specifically Policy S-9.1 requires participation in the planning process for projects related to John Wayne Airport, including any future updates to its AELUP and continuing to ensure new development land use intensity and compatibility align with the most currently available AELUP for John Wayne Airport to minimize potential safety impacts on residents.

The General Plan Update excludes any changes to the adopted and certified Housing Element and does not include any housing opportunity sites in the JWA Clear Zone/Runway Protection Zone. Compliance with these policies and regulations will ensure that future development within the JWA Airport Planning Area will follow the safety standards of the AELUP.

Safety concerns have been raised during previous amendments that carried forward with this General Plan Update due to the location of proposed residential sites within the AELUP's Safety Zones, particularly Zone 4 (Outer Approach/ Departure Zone) and Zone 6 (Traffic Pattern Zone); therefore, it has been recommended that the City recognize safety concerns in the context of the General Plan Update and make adjustments and modifications to eliminate, where possible, such safety concerns. The "Basic Compatibility Qualities" listed for Zone 4 (Outer Approach/Departure Zone) state "[i]n undeveloped areas, limit residential uses to very low densities (if not deemed unacceptable because of noise); if alternative uses are impractical, allow higher densities as infill in urban areas." Similarly, the Basic Compatibility Qualities" for Zone 6 "allow residential uses." The AELUP defines "allow" to mean "use is acceptable." A total of 62 new housing opportunity sites were identified in the Airport Area according to the Housing Element. Of those sites, 48 are located wholly or partially outside the 65 dBA CNEL contour boundary as identified in 2014 Settlement Agreement Amendment EIR. Fourteen housing opportunity sites are located wholly within the updated 65 dBA CNEL contour boundary. Given the urban and developed state of the Airport Area, future residential development on sites located wholly or partially outside the 2014 65 dBA CNEL contour would constitute urban infill development. The 14 housing opportunity sites located wholly

within the 2014 65 dBA CNEL are explicitly recognized as suitable for nonresidential uses under the policies carried forward in the General Plan Update. Therefore, the General Plan Update does not create an inherent conflict between the land use compatibility criteria for Zones 4 and 6 and the location of certain housing opportunity sites in the City's Housing Element.

Lastly, it is important to note that no height increases to any particular property or development proposal are proposed in the General Plan Update. The City will ensure that all appropriate consideration is given to this topic in future planning decisions concerning building heights in the Airport Area.

The comment letters from ALUC (Exhibit "B") and the Aeronautics Program (Exhibit "C") generally express concerns about the City's inconsistency with safety standards; however, as identified above, the General Plan Update includes a policy framework to continue ensuring land use compatibility with identified safety zones and airport operations.

C. The General Plan Update is consistent with the air transportation standards of the AELUP and will not result in incompatible land uses adjacent to JWA.

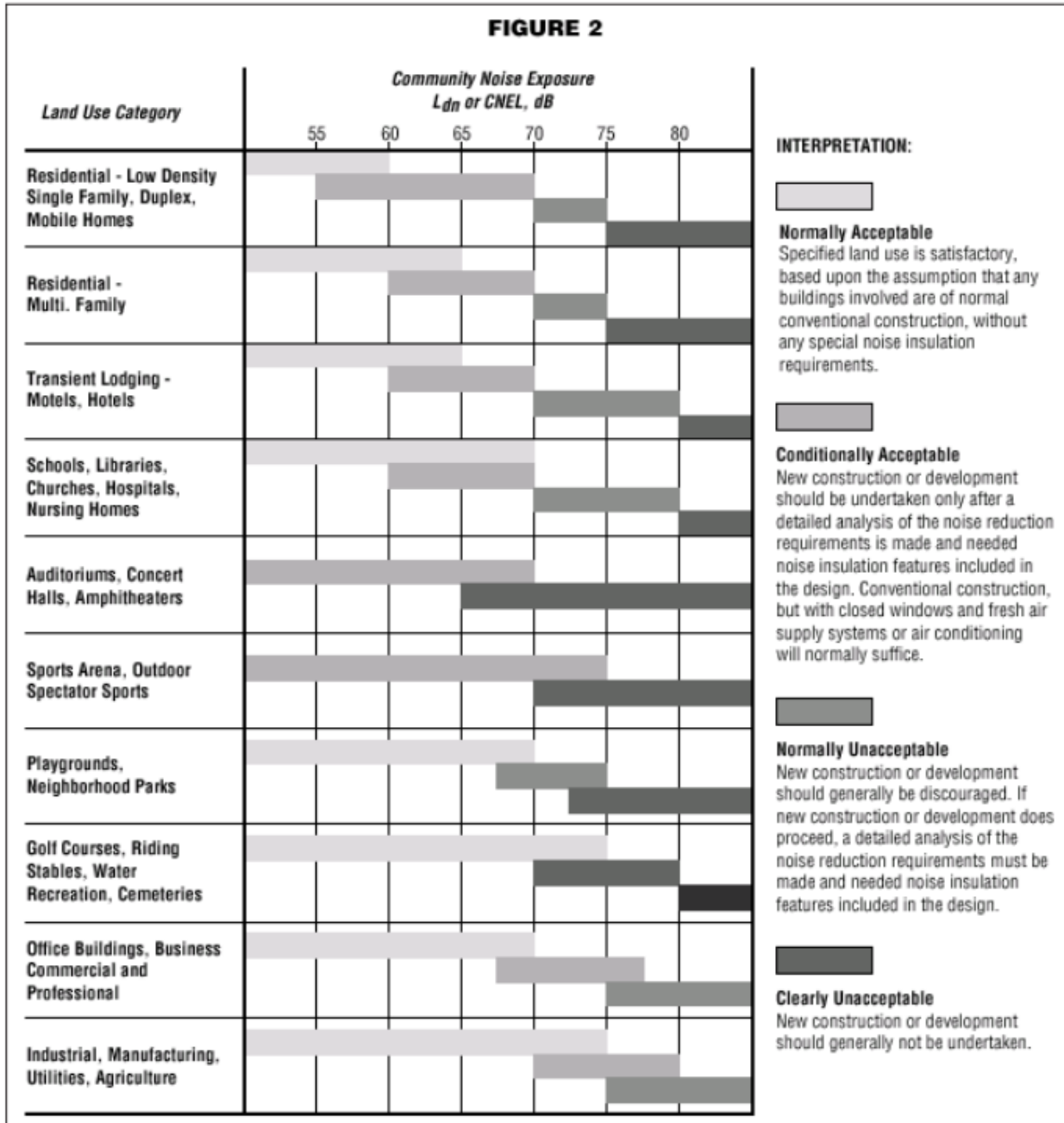
The standards and policies set forth in AELUP Sections 2 and 3 were adopted to prevent the creation of new noise and safety problems. California Government Code Section 65302 sets forth the requirements for Noise Elements in each jurisdiction's General Plan. Government Code Section 65302(f) mandates that each local agency's general plan includes a noise element that identifies and appraises noise problems in the community by analyzing and quantifying, to the extent practicable, current and projected noise levels from airport and airport operations. This is quantified by way of noise contours stated in terms of CNEL or day-night average sound level.

The CNEL contours from the 2014 Settlement Agreement Amendment EIR No. 617 were based on a newly adopted, "state-of-the-art" noise modeling program. It is reasonable to conclude that the updated noise modeling data taken in conjunction with EIR No. 617 are the more optimal choice to satisfy this statutory requirement than the outdated 1985 Master Plan CNEL contours.

Furthermore, the General Plan Update is consistent with the Appendix D Noise Element Guidelines developed by the Governor's Office of Land Use and Climate Innovation ("LCI") (formerly the Office of Planning & Research or "OPR") (the "Noise Element Guidelines"). The Noise Element Guidelines were developed to aid local agencies in adopting (and updating) statutorily required noise elements. Among other things, the Noise Element Guidelines recommend that "Noise contours for larger airport facilities and major industrial sites are sufficiently complex that they must be developed via sophisticated computer techniques available through recognized acoustical consulting

firms. Noise Element Guidelines at 371). The Noise Element Guidelines also recommend an "assessment of the present- day noise environment ..."

In addition to this recommendation, the Noise Element Guidelines include recommended exterior and interior noise level standards for local jurisdictions to identify and prevent the creation of incompatible land uses. The Noise Element Guidelines contain a land use compatibility table that describes the compatibility of various land uses with a range of environmental noise levels in terms of the CNEL. As noted in Figure 2 below, Residential-Multifamily Uses are "conditionally acceptable" between 60 and 70 dBA CNELs.



As set forth above, any development on the proposed housing opportunity sites will comply with the noise criteria and safety standards established in Sections 2 and 3, and consistent with policies contained in the Amendments to Land Use and Noise Elements and comply with standard conditions proposed for Title 20 of the NBMC and the Newport Place and Newport Airport Village planned communities. Parcels or sites bisected by the updated 65 dBA CNEL noise contour could support future housing; whereas parcels or sites located wholly within the updated 65 dBA CNEL noise contour could support housing, if deemed necessary to satisfy the RHNA mandate. Lastly, compliance with the AELUP and City standards will also be evaluated and demonstrated at the time development projects are proposed in the future. Future development projects will be subject to compliance with FAR Part 77 surfaces for JWA. Existing regulations and the proposed Amendments require projects to be submitted to the FAA for a review and clearance.

The comment letter from ALUC (Exhibit "B") clarifies ALUC's charge and states a difference of opinion from the City's position. For all reasons above that are detailed underneath Findings A, B, and C, the City continues to maintain that the General Plan Update is consistent with the air transportation standards of the AELUP and will not result in incompatible land uses adjacent to JWA.

EXHIBIT "E"
**Addendum to the City of Newport Beach Housing Implementation Program
Environmental Impact Report**

Available separately due to bulk at:

<https://ecms.newportbeachca.gov/WEB/Browse.aspx?id=3034050&dbid=0&repo=CNB>