

## 4.4 Cultural Resources

This section addresses the Housing Element Update (HEU) in relation to potential impacts associated with historic structures, archaeological resources, and paleontological resources. Information presented in this section was obtained from the Final Existing Conditions Report, the Encinitas Register of Historic Places, the geological map of the Oceanside 30 feet x 60 feet quadrangle Paleontological Resources - County of San Diego, and additional secondary source documentation, as available (City of Encinitas 2010, 2015a; State of California 2010; and Deméré and Walsh 1994).

### 4.4.1 Existing Conditions

#### 4.4.1.1 Cultural Setting

##### a. Prehistoric Period

The prehistoric cultural sequence in San Diego County is generally conceived as comprising three basic periods: the Paleoindian, dated between about 11,500 and 8,500 years ago and manifested by the artifacts of the San Dieguito Complex; the Archaic, lasting from about 8,500 to 1,500 years ago (A.D. 500) and manifested by the cobble and core technology of the La Jollan Complex; and the Late Prehistoric, lasting from about 1,500 years ago to historic contact (i.e., A.D. 500 to 1769) and represented by the Cuyamaca Complex.

The Paleoindian Period in San Diego County is most closely associated with the San Dieguito Complex. The San Dieguito assemblage consists of well-made scraper planes, choppers, scraping tools, crescentics, elongated bifacial knives, and leaf-shaped points. The San Dieguito Complex is thought to represent an early emphasis on hunting.

The Archaic Period brings an apparent shift toward a more generalized economy and an increased emphasis on seed resources, small game, and shellfish. The local cultural manifestations of the Archaic Period are called the La Jollan Complex along the coast and the Pauma Complex inland. Pauma Complex sites lack the shell that dominates many La Jollan sites. Along with an economic focus on gathering plant resources, the settlement system appears to have been more sedentary. The La Jollan assemblage is dominated by rough, cobble-based choppers and scrapers, and slab and basin metates. Large side-notched and Elko series projectile points appeared. Large deposits of marine shell at coastal sites indicate the importance of shellfish gathering to the coastal Archaic economy.

Near the coast and in the Peninsular Mountains beginning approximately 1,500 years ago, patterns began to emerge which suggest the ethnohistoric Kumeyaay. This period is characterized by higher population densities and elaborations in social, political, and

technological systems. Economic systems diversify and intensify during this period, with the continued elaboration of trade networks, the use of shell-bead currency, and the appearance of more labor-intensive, but effective technological innovations. The late prehistoric archaeology of the San Diego coast and foothills is characterized by the Cuyamaca Complex. It is primarily known from the work of D. L. True at Cuyamaca Rancho State Park (City of Encinitas 2010). The Cuyamaca Complex is characterized by the presence of steatite arrowshaft straighteners, steatite pendants, steatite comales (heating stones), Tizon Brownware pottery, ceramic figurines reminiscent of Hohokam styles, ceramic “Yuman bow pipes,” ceramic rattles, miniature pottery various cobble-based tools (e.g., scrapers, choppers, hammerstones), bone awls, manos and metates, mortars and pestles, and Desert side-notched (more common) and Cottonwood Series projectile points. Cremation burial practices can also be traced to this Complex.

### **b. Ethnohistoric Period**

The Kumeyaay (also known as Kamia, Ipai, Tipai, and Diegueño) occupied the southern two-thirds of San Diego County. The Kumeyaay lived in semi-sedentary, politically autonomous villages or rancherias. The settlement system typically consisted of two or more seasonal villages with temporary camps radiating away from these central places. Their economic system consisted of hunting and gathering, with a focus on small game, acorns, grass seeds, and other plant resources. The most basic social and economic unit was the patrilocal extended family. A wide range of tools was made of locally available and imported materials. A simple shoulder-height bow was used for hunting. Numerous other flaked stone tools were made including scrapers, choppers, flake-based cutting tools, and biface knives. Preferred stone types were locally available metavolcanics, cherts, and quartz. Obsidian was imported from the deserts to the north and east. Ground stone objects include mortars and pestles typically made of locally available, fine-grained granite. Both portable and bedrock types are known. The Kumeyaay made fine baskets of either coiled or twined construction. The Kumeyaay also made pottery, using the paddle-and-anvil technique. Most were a plain brown utility ware called Tizon Brownware, but some were decorated.

### **c. Historic Period**

A period of historic contact began in San Diego County in the mid-1700s, beginning with the Spanish (1769–1821) and followed by the Mexican (1822–1848) and American (starting mid-1800s) homestead systems. One of the hallmarks of the Spanish colonial period was the rancho system. In an attempt to encourage settlement and development of the colonies, large land grants were made by the Spanish to meritorious or well-connected individuals. During the Mexican colonial period, which began in 1821 with the overthrow of the Spanish government in Mexico, the mission system was secularized by the Mexican government. These ex-mission lands allowed for the dramatic expansion of the rancho system, and local economy became increasingly based on cattle ranching.

The eastern portion of Encinitas was included in Rancho Las Encinitas, or “little live oaks,” granted to Don Andrés Ybarra in 1842 by Governor Juan Bautista Alvarado. Rancho Los

Encinitos comprised approximately 4,431 acres and included parts of the Escondido Creek and Encinitas Creek drainages. Don Ybarra constructed an adobe in the northeast corner of the rancho, just north of Encinitas Creek, and worked the rancho lands for 18 years. The remains of the adobe are now part of Stagecoach Park.

In 1860, Don Ybarra sold the rancho to two merchants, Joseph Mannasse and Marcus Schiller. The rancho adobe was first converted to a trading post to serve the sheepherders in the area, and later to a stage station serving the route between San Diego and Los Angeles. The rancho changed hands several times, until Frank A. and Warren C. Kimball bought the rancho lands in 1880.

The first pioneer settlers to live in the coastal Encinitas area were Nathan Eaton and Hector MacKinnon and his wife, both arriving in 1875. The coming of the California Southern Railroad to Encinitas in 1881 did little to spark growth in Encinitas, Leucadia, or Cardiff. By 1883, there were only 11 people in Encinitas, with a combination grocery store and ticket office by the railroad tracks. The Edward Hammond family arrived that year, effectively doubling the population, and soon established the Hammond Sunset Ranch. The Sunset Ranch eventually became the Paul Ecke Poinsettia Ranch.

In 1884, a flood devastated the area, and the rail line to San Diego was washed out. It was two months before the trestles and tracks were rebuilt. In 1885, the California Southern Railroad sent Thomas Rattan to locate a site for a permanent train station and to lay out a street grid for the community. Rattan was joined a year later by John Pitcher, and both worked to develop Encinitas. The results of this were an increase in growth in Encinitas in the late 1880s, and an entire block of buildings was constructed on the west side of First Street in 1887.

At the same time Encinitas was developing, the community of Olivenhain was founded. Frank and Warren Kimball, developing the rancho lands they bought in 1880, contacted a group of German emigrants in Denver, Colorado, who were looking to establish a colony on the west coast. The group organized a partnership and purchased the entire 4,431 acres, and the first 67 colonists set out in November 1884. The colony was first planned as a commune, and the colonists worked together to build the small houses, or “shanties,” that housed the families until larger houses could be built.

During the late 1870s, the community of Leucadia was also established. In the 1880s, the Leucadia Land and Town Company was established. During this time, Leucadia was also known as Merle, after Merle Scott, son of another early Leucadia pioneer, E. B. Scott.

In 1888, surveyor O. N. Sanford was commissioned to platt Leucadia into five-acre tracts. It was at this time that the practice of using street names from classical mythology originated. A group of English spiritualists arrived in Leucadia and set up an open air temple at what is now Leucadia Boulevard and Highway 101. They planted 18 rows of cypress, eucalyptus, and pine trees, and built a glass observatory overlooking the beach. Although the observatory was demolished, a few of the cypress remain, scattered in the residential area west of Highway 101.

In 1913, the State of California constructed a road through Encinitas, which brought some new revenue with the new traffic. The founding of the San Dieguito Water District in 1923 meant a regular water supply was now available for Encinitas. The availability of water sent land prices up. The successful introduction of avocados was accompanied by the equally successful introduction of the flower industry in the 1920s. One of the first flower growers to establish in Encinitas was Paul Ecke Sr.

The land boom of the 1920s sparked acres of new subdivisions and opportunities for developers and builders. One of the visible reminders of the growth boom in the 1920s is the La Paloma Theater, on the corner of D Street and the South Coast Highway 101. The La Paloma Theater was built in 1928 by Aubrey Austin, and was rumored to be the first talking picture theater in rural America. Another well-known landmark from this era is the two boat houses built by Miles Kellog on Third Avenue, which are still in use today. Kellog also built and owned other commercial buildings on South Coast Highway 101, or what was then called First Street. Growth continued in the coastal towns until the Depression put development on hold in 1929. Growth started gradually after World War II. In the years that followed, development was still centered mainly along Highway 101, gradually spreading east. By 1980, El Camino Real had become a major road, and dense residential development had moved east to Olivenhain. In June 1986, voters in Old Encinitas, New Encinitas, Olivenhain, Leucadia, and Cardiff voted to form the City.

#### **4.4.1.2 Existing Resources**

##### **a. Known Historic Resources**

No listed national or local landmarks exist within the housing sites (City of Encinitas 2015a). However, a total of 16 structures/sites are identified in the Final Existing Conditions Report (2010) as potentially significant historic resources within the following housing sites: ALT-2, ALT-7, L-1, OE-1, and OE-5 (City of Encinitas 2010). The report identifies 159 structures within the City having historic value potential. The report relies on the Phase II of a Regional Historic Preservation Study for the Comprehensive Planning Organization (completed by RECON in 1980) and the Architectural and Historical Resources Inventory for the North 101 Corridor Specific Plan Area and Downtown Encinitas Specific Plan Area (conducted by DWL Parkinson Architects Preservation Studio in 1992). (These inventories provided a program-level assessment of the historical potential for each evaluated structure; formal site-specific assessments would need to be conducted for these structures to determine their historical significance under CEQA and eligibility for historical listing.) Table 4.4-1 cross-references the housing sites with known historical resources identified in the Final Existing Conditions Report, and includes their listing recommendations from the DWL Parkinson Architects Preservation Studio 1992 report.

**Table 4.4-1  
Historical Resources Known to Occur within the HEU Housing Sites**

| Housing Site | Name                             | Address <sup>1</sup>                 | Community <sup>1</sup> | National Landmark Eligible <sup>1</sup> | Local Landmark Eligible <sup>1</sup> |
|--------------|----------------------------------|--------------------------------------|------------------------|---|--------------------------------------|
| ALT-2 & L-1  | Gas Station                      | 1508 Highway 101                     | Encinitas              |   |                                      |
| ALT-2        | Commercial Building              | 1604 Highway 101                     | Encinitas              |   |                                      |
| ALT-2        | Commercial Building              | 1646 Highway 101                     | Encinitas              |   |                                      |
| ALT-2        | Log Cabin Motel                  | 1660 Highway 101                     | Encinitas              | Yes                                     |                                      |
| ALT-2        | Motel                            | 1784 Highway 101                     | Encinitas              |   |                                      |
| ALT-2        | Commercial Building              | 914 N. Highway 101                   | Encinitas              |   | Yes                                  |
| ALT-2        | Commercial Building              | 978 N. Highway 101                   | Encinitas              |   |                                      |
| ALT-2        | Motel                            | 1322 N. Highway 101                  | Encinitas              |   | Yes                                  |
| ALT-7        | La Paloma Theater Complex        | 471 First Street                     | Encinitas              | Yes                                     | Yes                                  |
| ALT-7        | The Saloon/Daley Double Station  | 546 First Street/Coast Highway 101   | Encinitas              |   |                                      |
| ALT-7        | Houses (2)                       | 922 First Street                     | Encinitas              |   |                                      |
| ALT-7        | House                            | 923 First Street                     | Encinitas              |   |                                      |
| ALT-7        | Spanish Eclectic                 | 1126 First Street                    | Encinitas              |   |                                      |
| ALT-7        | Encinitas Coast Dispatch Offices | 468-470 First Street                 | Encinitas              |   | Yes                                  |
| ALT-7        | Encinitas Hotel                  | 505-519 First Street / Coast Hwy 101 | Encinitas              | Yes                                     | Yes                                  |
| ALT-7        | Moderne                          | 528-530 First Street                 | Encinitas              |   |                                      |
| ALT-7        | Spanish Eclectic                 | 541-543 First Street                 | Encinitas              |   |                                      |
| ALT-7        | Commercial Building              | 570-94 First Street                  | Encinitas              |   |                                      |
| ALT-7        | Moderne                          | 615-33 First Street                  | Encinitas              |   |                                      |
| ALT-7        | Paloma Court                     | 465-467 First Street                 | Encinitas              |   |                                      |
| OE-1         | House                            | 363 Third Street                     | Encinitas              |   |                                      |

<sup>1</sup>Based on the DWL Parkinson Architects Preservation Studio report as described by the Existing Conditions Report (City of Encinitas 2010).

## **b. Potential Historic Resources**

As implementation of the HEU has the potential for development over the next 20+ years, most existing buildings or other structures within the housing sites would reach an age of 50 years or older during the buildout horizon of the HEU. Generally, structures 50 years of age or older have the potential to be historic resources, based on National Register of Historic Places (NHRP) guidelines. Structures must have retained their original integrity and context in order to be considered a historic resource. Any housing site that is presently developed has the potential, however, to contain a historical structure(s) during the buildout horizon of the HEU: ALT-2, ALT-3, ALT-4, ALT-5, ALT-6, C-1, C-2, C-3, C-6, C-7, L-1, L-2, L-5, L-6, NE-1, NE-3, NE-4, NE-7, O-3, O-5, OE-2, OE-4, OE-7, OE-8, and CBHMG-1.

## **c. Archaeological Resources**

No known archaeological resources are present on the housing sites. Housing sites ALT-4, ALT-5, C-6, O-2, O-3, O-4, O-5, O-6, and OE-2 were mapped as having 'high sensitivity' for archaeological resources by the General Plan Resource Management Element (Table 4.4-2; City of Encinitas 2011). (However, sites subsequently developed [e.g., housing site O-3] would no longer have a "high sensitivity.") Areas designated as having high sensitivity for archaeological resources by the General Plan include areas that have not been previously surveyed and may have potential for archaeological resources due to the prehistoric settlement pattern for coastal southern California and density of recorded archaeological sites within the City. However, sensitivity as defined by the General Plan alone is not sufficient to determine the potential for cultural resources.

Undeveloped sites have the potential for the presence of unknown archaeological resources as the likelihood of encountering archaeological resources is greatest on sites that have been minimally excavated in the past (e.g., undeveloped parcels, vacant lots, and lots containing undeveloped areas). Previously excavated areas are generally considered to have a low potential for archaeological resources, since the soil containing the archaeological resources has been removed or previously disturbed. Therefore, the undeveloped housing sites, or sites with substantial portions undeveloped, also have potential to contain archaeological resources: L-4, L-7, NE-3, OE-1, OE-2, and OE-7 (see Table 4.4-2). Even though a majority of sites OE-1 and OE-2 have been developed, given the locational advantage of the sites and proximity to resources, there is a potential for archeological resources. Housing sites L-5 and L-6 are not considered undeveloped, as these sites contain a mixture of developed land and intensive agriculture [e.g., greenhouses and nurseries].

The General Plan further designates areas as having moderate or low sensitivity, based on previous grading and development. Developed housing sites that were characterized as having moderate potential for cultural resources (ALT-2, L-6, NE-1, NE-3, O-2, and OE-7) but exhibited previous grading during the site visit conducted on June 25, 2015 by RECON are currently considered to have low potential for cultural resources.

**Table 4.4-2  
Housing Sites with Potential to Contain Archaeological Resources**

| Housing Site | Previously Identified as Having High Sensitivity for Archaeological Resources <sup>1</sup> | Potential for Archaeological Resources? <sup>2</sup> |
|--------------|--|--|
| ALT-2        | -  | -  |
| ALT-3        |  | -  |
| ALT-4        | Yes  | Yes  |
| ALT-5        | Yes  | Yes  |
| ALT-6        |  | -  |
| ALT-7        |  | -  |
| C-1          | -  | -  |
| C-2          |  | -  |
| C-3          |  | -  |
| C-6          | Yes  | Yes  |
| C-7          |  | -  |
| L-1          |  | -  |
| L-2          |  | -  |
| L-4          |  | Yes  |
| L-5          |  | -  |
| L-6          | -  | -  |
| L-7          |  | Yes  |
| NE-1         | -  | -  |
| NE-3         | -  | Yes  |
| NE-4         |  | -  |
| NE-7         |  | -  |
| O-2          | Yes  | Yes  |
| O-3          | .3   | -  |
| O-4          | Yes  | Yes  |
| O-5          | Yes  | Yes  |
| O-6          | Yes  | -  |
| OE-1         |  | Yes <sup>4</sup> -                                   |
| OE-2         | Yes  | Yes <sup>4</sup> -                                   |
| OE-4         |  | -  |
| OE-5         |  | -  |
| OE-7         | -  | Yes  |
| OE-8         |  | -  |
| CBHMG-1      |  | -  |

<sup>1</sup>Based on Figure 4 of the General Plan Resource Management Element (City of Encinitas 2011).

<sup>2</sup>Based on field observations conducted by RECON on June 25, 2015.

<sup>3</sup>Although housing site O-3 was characterized as having 'high sensitivity' for archaeological resources by the General Plan Resource Management Element; this site is no longer considered to have high sensitivity due to past grading.

<sup>4</sup>Although primarily developed, the portions of housing sites OE-1 and OE-2 is undeveloped.

#### **d. Paleontological Resources**

To evaluate paleontological resources within the housing sites, the presence and distribution of geologic formations and the respective potential for paleontological resources were reviewed. A review of the geologic map of the Oceanside 30 feet x 60 feet quadrangle, California, shows two geologic formations mapped that have been shown to contain fossil

deposits in the project area. The formations identified are the Torrey Sandstone and the Del Mar formation. The paleontological resource potential for each formation identified within the housing sites is taken from Deméré and Walsh (1994) and is discussed below.

### ***Torrey Sandstone (Tt)***

The Torrey Sandstone has produced important remains of fossil plants and marine invertebrates. This formation dates from the early middle Eocene. The plant remains (mostly leaves) are especially significant because many are from taxa that would suggest that the Eocene climate in this area was warmer and wetter than the modern climate. Invertebrate fossils known from the Torrey Sandstone primarily consist of near-shore marine taxa (e.g., clams, oysters, snails and barnacles). Vertebrate fossil remains are rare and include teeth of crocodiles, sharks and rays.

The coarse-grained nature of the Torrey Sandstone and the generally poor state of preservation of contained fossils support a moderate paleontological resource sensitivity rank. Major exposures of Torrey Sandstone occur on the slopes on the west side of Green Valley, in the Encinitas Creek drainage and on the mesa tops east of Lux Canyon and south of Mountain View Drive. Torrey Sandstone is identified within or in close proximity to the following housing sites: ALT-3, ALT-5, ALT-6, ALT-7, L-7, NE-3, NE-4, NE-7, O-4, O-5, OE-1, OE-2, OE-7, and OE-8.

### ***Del Mar Formation (Td)***

The Del Mar Formation dates from the late early to early middle Eocene and underlies the Torrey Sandstone. Fossils occurring in this formation include estuarine invertebrates (e.g., clams, oysters and snails) and vertebrates (e.g., sharks and rays). A very important location is Swami's Point in Encinitas, where small numbers of aquatic reptile and terrestrial mammal remains have also been found.

The Del Mar formation has been assigned a high paleontological resource sensitivity rating because of the presence of terrestrial vertebrate fossils. Exposures of Del Mar formation rocks occur along Encinitas Creek east of Green Valley, on the south- and east-facing slopes overlooking San Elijo Lagoon and Escondido Creek and in a narrow band in the coastal bluffs overlooking the Pacific Ocean from San Elijo Lagoon to Batiquitos Lagoon. Del Mar Formation is identified within or in close proximity to the following housing sites: ALT-4, C-6, O-2, O-3, and O-6.

## **4.4.2 Regulatory Framework**

### **4.4.2.1 Federal**

#### **a. National Register of Historic Places**

Federal criteria are those used to determine eligibility for the National Register of Historic Places (NRHP). The NRHP was established by the National Historic Preservation Act



enacted in 1966 and is the official lists of sites, buildings, structures, districts and objects significant in American History, architecture, archaeology, engineering and culture. The NRHP criteria state that the quality of significance in American history, architecture, archaeology, engineering and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, materials, workmanship, feeling and association, and:

- A. Are associated with events that have made a significant contribution to the broad patterns in our history;
- B. Are associated with the lives of persons important in our past;
- C. Embody the distinctive characteristics of a type, period, region or method of construction, or represent the work of a master, or possess high artistic values; or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded, or may be likely to yield, information important in prehistory or history.

Certain properties are usually not considered for eligibility for the NRHP. These include ordinary cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved or reconstructed, properties primarily commemorative in nature or properties that have become significant within the last 50 years. These types of properties can qualify if they are an integral part of a district that does meet the criteria, or if they fall within certain specific categories relating to architecture, or association with historically significant people or events. The vast majority of archaeological sites that qualify for listing do so under criterion D, which yields information or research potential.

#### **4.4.2.2 State**

##### **a. California Register of Historic Resources (CRHR)**

Similar to the NRHP, the CRHR program established in 1992, encourages public recognition and protection of resources of architectural, historical, archaeological, and cultural significance; identifies resources for planning purposes; determines eligibility of state historic grant funding; and provides certain protections under CEQA. State criteria are those listed in CEQA and used to determine whether an historic resource qualifies for the CRHR.

A resource may be listed in the CRHR if it is significant at the federal, state, or local level under one of more of the four criteria listed below.

1. Is associated with events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the U.S.

2. Is associated with the lives of persons important to the nation or to California's past.
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
4. Has yielded, or may be likely to yield, information important in prehistory or history of the state or nation.

CEQA Sections 15064.5 and 21083.2(g) define the criteria for determining the significance of historical resources. Archaeological resources are considered "historical resources" for the purposes of CEQA.

Since resources that are not listed or determined eligible for the state or local registers may still be historically significant, their significance shall be determined if they are affected by a project. The significance of a historical resource under criterion 4 rests on its ability to address important research questions.

### **b. California Public Resources Code**

Section 5097 of the Public Resources Code specifies the procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. The disposition of Native American burial falls within the jurisdiction of the California Native American Heritage Commission (NAHC). Section 5097.5 of the Code states the following:

No person shall knowingly and willfully excavate upon, or remove, destroy, injure or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor.

As used in this section, "public lands" means lands owned by, or under the jurisdiction of, the state or any city, county, district, authority or public corporation, or any agency thereof. Consequently, the City is required to comply with Public Resource Code Section 5097.5 for its activities on publicly owned land.

Section 5097.98 further defines the standards for the handling of Native American human remains. Section 5097.993 sets requirements for the unlawful and malicious excavation, removals, destruction, injury, or defacing of a Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the CRHR.

### **c. California State Health and Safety Code**

Section 7052 of the California State Health and Safety Code makes the willful mutilation, disinterment, or removal of human remains a felony. Section 7050.5 requires that

construction activities be stopped near discovered human remains until the coroner can determine whether the remains are those of a Native American. If determined to be Native American, the coroner must contact the NAHC.

#### **d. California Environmental Quality Act**

CEQA was amended in 1992 to define “historical resources” as a resource listed in or determined eligible for listing on the California Register, a resource included in a local register of historical resources or identified as significant in a historical resource survey that meets certain requirements, and any object, building, structure, site, area, place, record or manuscript which a lead agency determines to be significant. Some resources that do not meet these criteria may still be historically significant for the purposes of CEQA. According to the CEQA Guidelines Section 15064.5 and Appendix G, adoption and implementation of a proposed project would result in a significant adverse cultural resources impact if a proposed project would:

- A. Cause a substantial adverse change in the significance of an historical architectural resource that is listed on, or determined to be eligible for listing on, the NRHP or the CRHR; is listed on, or determined to be eligible for listing on, the San Diego List of Historic Sites; or that meets any of the following criteria:
  - Is associated with events that have made a significant contribution to the broad patterns of history at the local, regional, state or national level;
  - Is associated with the lives of significant persons in the past on a local, regional, state or national level;
  - Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values; or
  - Has yielded, or may be likely to yield, information important in history or prehistory.
- B. Cause a substantial adverse change in the significance of an important archaeological resource or disturb any human remains, including those interred outside of formal cemeteries.

#### **4.4.2.3 Local**

##### **a. General Plan/Local Coastal Program and Specific Plans**

The General Plan, along with relevant specific plans, contains policies related to protection and preservation of sensitive cultural resources. Additionally, the Municipal Code provides special provisions related to the protection of cultural resources for sites identified as containing archaeological and historic resources. Pertinent goals and policies related to cultural resources are listed in Table 4.4-3.

### ***City of Encinitas General Plan***

The Resource Management Element (RME) of the General Plan (adopted in 1989 and amended in 1991, 1993, 1994 and 1995) addresses both archaeological and historical cultural resources. Goal 7 in the Goals and Policies section states that “The City will make every effort to ensure significant scientific and cultural resources in the Planning Area are preserved for future generations” (Coastal Act/30250). Four policies are enumerated to assist in the implementation of the goal. As detailed in Section 4.4.1.2c Archaeological Resources above, the General Plan RME includes maps of the City identifying areas of low, moderate and high cultural resource sensitivity. The RME identifies mitigation procedures for archaeological sites discovered during excavation or construction phases of a new project. The RME also calls for an inventory of all historically significant sites and/or structures that require protection.

### ***Downtown Encinitas Specific Plan***

The Downtown Encinitas Specific Plan, adopted in February 1994, addresses historic preservation. A set of Design Recommendations (Chapter 4.0) are included to maintain and preserve the “existing, unique, beachy, small town character of the downtown area” by ensuring that new development is compatible to existing structures in terms of bulk and scale.

Ordinance No. 2009-15 sets up eligibility criteria for a property/structure to qualify as an historical resource within the Downtown Encinitas Specific Plan area. These criteria are similar to those established for the NRHP and the CRHR. A historical survey, conducted by a qualified professional historian, will evaluate the resources’ ability to qualify under one or more of the following requirements:

1. The historic resource exemplifies or reflects special elements of the City’s cultural, social, economic, political, aesthetic, engineering or architectural history.
2. The historic resource is identified with persons or events significant in local, state, or national history.
3. It embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship.
4. It is representative of the notable work of a builder, designer, or architect.
5. Its unique location or singular physical characteristic(s) represents an established and familiar visual feature or landmark of a neighborhood, community or the City.

For most cases, the resource shall be 50 years old or older, but a resource less than 50 years old may be considered if it can be demonstrated in the historical survey report that sufficient time has passed to understand its historical importance.

| <b>Table 4.4-3<br/>Goals and Policies Related to Sensitive Cultural Resources</b> |  |
|---|--|
| Goal/Policy   | Description  |
| <b>City of Encinitas General Plan Resource Management Element</b>                 |  |
| Goal 7  | The City will make every effort to ensure significant scientific and cultural resources in the Planning Area are preserved for future generations. (Coastal Act/30250)   |
| 7.1   | Require that paleontological, historical and archaeological resources in the planning area are documented, preserved or salvaged if threatened by new development. (Coastal Act/30250)   |
| 7.2   | Conduct a survey to identify historic structures and archaeological/ cultural sites throughout the community and ensure that every action is taken to ensure their preservation. (Coastal Act/30250/30253(5))  |
| <b>Encinitas Ranch Specific Plan</b>  |  |
| Goal 2  | Establish categories of sensitivities for biological, archaeological, and paleontological resources.   |
| 2.1   | Require that biological, archaeological, and paleontological resources threatened by development within the project site and which have been identified by qualified professionals as significant or important are documented, preserved, or salvaged for the benefit of future generations.                                       |
| 2.2   | Require that the project developer work with the City to establish appropriate categories and methodologies for evaluating the number, type, and quality of sensitive natural resources on-site.   |
| <b>Downtown Encinitas Specific Plan</b>   |  |
| Resource Management Goal 1  | Preserve significant historic, visual, biological, and cultural resources.   |
|   | Identify potential adaptive re- uses or restoration opportunities uses for historic structures that are either vacant or in danger of being demolished.  |
|   | Establish additional permitted uses specific to the preservation of historic structures in addition to the uses permitted in the underlying zone provided that the nature and the character of the use are such that it will be compatible with and not adversely impact the neighborhood or the historic resource. (Ord. 2009-15) |
|   | Establish the historic use of a resource (defined as the original resource use or the use for which the resource was designated) as a permitted use if that use is not typically permitted by the underlying zoning district. (Ord. 2009-15)   |
|   | Coordinate historic preservation and restoration strategies with the existing Downtown Encinitas Mainstreet Program.   |
| SOURCE: City of Encinitas 1989, amended 2014.                                     |  |

## **b. Municipal Code**

### ***Chapter 30.34.050A1 Cultural Resources Overlay Zone***

Cultural/Natural Resources Overlay Zone regulations apply to areas within the Special Study Overlay Zone where site-specific analysis indicates the presence of sensitive cultural, historic, and biological resources, including sensitive habitats. For parcels containing archaeological or historical sites, the Municipal Code requires a site resource survey and impact analysis to determine the significance of, and possible mitigation for, sensitive resources.

### **c. Historic Property Preservation Agreement**

Under the Mills Act, property owners may enter into a 'Historic Property Preservation Agreement' with the City to preserve, maintain, and, if necessary, restore and/or rehabilitate a qualified historic structure. In return for the preservation and maintenance of the historic structure, the property owner is eligible for property tax relief. The County tax assessor is responsible for administering the valuation terms of the Agreement.

#### **4.4.2.4 Native American Involvement**

Native American involvement in the development review process is addressed by several federal and state laws. The most notable of these are the California Native American Graves Protection and Repatriation Act (2001) and the federal Native American Graves Protection and Repatriation Act (1990). These acts ensure that Native American human remains and cultural items be treated with respect and dignity.

Senate Bill 18 (SB 18) requires local (city and county) governments to consult with California Native American tribes to aid in the protection of traditional tribal cultural places ("cultural places") through local land use planning. The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places. SB 18 requires local governments to consult with tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process. These consultation and notice requirements apply to adoption and amendment of both general plans (defined in Government Code Section 65300 et seq.) and specific plans (defined in Government Code Section 65450 et seq.).

### **4.4.3 Significance Determination Thresholds**

Consistent with Appendix G of the CEQA Guidelines, impacts related to cultural resources would be significant if the HEU project would:

1. Result in the alteration, including the adverse physical or aesthetic effects and/or the destruction of a prehistoric or historic structure, object or site;
2. Result in any impact to existing religious or sacred uses within the potential impact area;
3. Result in the disturbance of any human remains, including those interred outside of formal cemeteries; or
4. Allow development to occur that could significantly impact a unique paleontological resource or a geologic formation possessing a moderate to high fossil bearing potential.

## **4.4.4 Methodology**

### **4.4.4.1 Sources**

A literature review was conducted to determine potential historical, archaeological, and paleontological resources within the housing sites. The literature review included: (1) Final Existing Conditions Report (2010); (2) Encinitas Register of Historic Places (2015a); (3) the geological map of the Oceanside 30 feet x 60 feet quadrangle; and (4) Paleontological Resources - County of San Diego. No site-specific archaeological or historic field surveys were conducted; instead, analysis relied on the use of existing information. In addition, the City completed a consultation with local Native American tribes, consistent with SB 18 requirements. The evaluation of the potential for the HEU to cause a substantial adverse change in the significance of any historical, archaeological, or paleontological resources was based on Appendix G of the CEQA Guidelines.

### **4.4.4.2 Future Project Implementation**

As noted previously in this chapter, for housing sites containing known archeological or historical sites, the City of Encinitas Municipal Code requires a site-specific resource survey and impact analysis. For housing sites within the Cultural Resources Overlay Zone, the City would review project applications for compatibility, applicable requirements for cultural resource protection, and require specific conditions as part of the approval process. Adoption of the HEU floating zone would not alter the City's adopted discretionary review process.

Redevelopment of any of the housing sites may occur with or without implementation of the HEU floating zone. The floating zone gives a property owner a choice whether to opt into the housing plan, or forgo doing so and retain their existing zoning rights. Depending on the category of the existing zoning, different levels of development or reconstruction activities are permitted on the housing sites.

The impact analysis below describes the type and magnitude of environmental impacts of future development on the housing sites and how such impacts would affect the existing environment. Future development has the potential to impact historical, archeological, and paleontological resources. The analysis in the following section identifies both direct and indirect impacts, the significance of impacts, and a mitigation framework for future projects. Subsequent "by right" development within the new floating zone district created through the HEU would not be subject to further CEQA review to analyze project-level impacts on cultural resources, unless otherwise noted. Compliance with development standards required for "by right" development as well as the mitigation framework identified in this PEIR would serve to minimize the potential for significant impacts associated with implementation of the HEU.

### 4.4.5 Issue 1: Historical Resources

*Would the project result in the alteration, including the adverse physical or aesthetic effects and/or the destruction of a prehistoric or historic structure, object or site?*

#### 4.4.5.1 Impacts

##### a. Housing Sites

While the HEU does not specifically propose alteration of a known historical resource, it can be assumed that future development of housing sites could have the potential to directly or indirectly impact resources through such activities. Impacts to historical resources would be significant if future development would cause a substantial adverse change in the significance of a historical resource, as defined in the CEQA Guidelines Section 15064.5. As defined in the CEQA Guidelines Section 15064.5, “substantial adverse change means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the historical resource is materially impaired.” CEQA Guidelines Section 15064.5 further defines a historical resource to include a resource listed on, or formally determined eligible for, the following:

1. The NRHP or the CRHR, including contributors to NRHP Historic Districts or California Register Historic Districts; or
2. That meets the CEQA criteria for historical resources.

These criteria are elaborated in Section 4.4.2.2.d above, but generally include any resource that:

- Is associated with events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the U.S.
- Is associated with the lives of persons important to the nation or to California’s past.
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- Has yielded, or may be likely to yield, information important in prehistory or history of the state or nation.

Direct impacts to historical resources could potentially result from the physical demolition, destruction, relocation, or alteration of potential historical resources within the housing sites (Impact CUL-1). The following housing sites are identified as containing potentially significant historical structures and/or sites: ALT-2, ALT-7, L-1, and OE-1. Additionally, as implementation of the HEU has development potential over the next 20+ years, the following housing sites contain buildings or structures that may be 50 years of



age or older at the time of future development and, therefore, may need to be evaluated for historical significance: ALT-2, ALT-3, ALT-4, ALT-5, ALT-6, ALT-7, C-1, C-2, C-3, C-6, C-7, L-1, L-2, L-5, L-6, NE-1, NE-3, NE-4, NE-7, O-3, O-5, OE-1, OE-2, OE-4, OE-5, OE-7, OE-8, and CBHMG-1. Historically significant resources would be identified through on-site reconnaissance in conjunction with future projects, and housing site development would be required to comply with applicable federal and state laws that concern the preservation of historical resources, including the National Historic Preservation Act and CEQA.

As identified in Table 4.4-3 following are aimed at protection of historic resources: Policies 7.1 and 7.2 of the City of Encinitas General Plan RME (2011); Policies 2.1 and 2.2 of the Encinitas Ranch Specific Plan (2005a); Resource Management Goal 1 of the Downtown Encinitas Specific Plan (2005b). Additionally, Section 30.34.050 of the Municipal Code (2015b) regulates the treatment of historic resources. As future projects are planned they must adhere to these policies and regulations. However, as the site-specific requirements are unknown at this program-level of analysis, it is unknown whether direct or indirect impacts to historic resources would be potentially significant.

## **b. Housing Strategy Summaries**

There would be no inherent difference between housing strategies 1 (RM), 2 (BYO), and 3 (MMUP) for potential impacts to known historic structures and/or sites, or buildings/structures greater than 50 years old. As implementation of the HEU has the potential for development over the next 20+ years, most existing buildings or other structures within the housing sites would reach an age of 50 years or older during the buildout horizon of the HEU. Thus, any housing site that is presently developed has the potential to contain a historical structure(s) during the buildout horizon of the HEU. The impacts of each housing strategy are detailed below.

### ***Housing Strategy 1 – Ready Made (RM)***

Development within housing strategy 1 (RM) has potential to impact:

- Known historic structures and/or sites on L-1 and OE-1; and
- Buildings or structures greater than 50 years old on C-2, C-3, C-7, L-1, L-2, L-5, L-6, NE-4, O-5, OE-4, OE-5 and OE-7.

### ***Housing Strategy 2 – Build Your Own (BYO)***

Development within housing strategy 2 (BYO) has potential to impact:

- Known historic housing sites on L-1; and
- Buildings or structures greater than 50 years old on C-2, L-1, NE-1, NE-3, NE-7, O-5, OE-2, OE-7, and OE-8.

### ***Housing Strategy 3 – Modified Mixed Use Places (MMUP)***

Development within housing strategy 3 (MMUP) has potential to impact:

- Known historic structures and/or sites on ALT-2, ALT-7 and OE-1; and
- Buildings or structures greater than 50 years old on ALT-2, ALT-3, ALT-4, ALT-5, ALT-6, C-1, C-2, C-6, NE-1, NE-7, O-3, OE-4, OE-7, and CBHMG-1.

#### **4.4.5.2 Significance of Impacts**

Potential direct impacts to historical resources (Impact CUL-1) within housing strategies 1 (RM), 2 (BYO), and 3 (MMUP) may be considered significant and would require mitigation.

#### **4.4.5.3 Mitigation Framework**

**CUL-1:** Applications for future development of housing sites consistent with the HEU floating zone program, wherein the City has determined a potential for impacts to historical resources, shall be required to comply with the following mitigation framework:

(a) Prior to the issuance of any permit for a future development project, the age and original structural integrity and context of any buildings/structures occurring on the housing sites shall be verified. The project applicant shall submit in conjunction with the development permit application, verification of the age and original structural integrity of all on-site structures.

(b) For any building/structures in excess of 50 years of age having its original structural integrity intact, a qualified professional historian shall determine whether the affected building/structure is historically significant. The evaluation of historic architectural resources shall be based on criteria such as age, location, context, association with an important person or event, uniqueness, or structural integrity, as indicated in CEQA Guidelines Section 15064.5. A historical resource report shall be submitted by the project applicant to the City and shall include the methods used to determine the presence or absence of historical resources, identify potential impacts from the proposed project, and evaluate the significance of any historical resources identified.

#### **4.4.5.4 Significance After Mitigation**

Impacts to historical resources within housing strategies 1, 2, and 3 (Impact CUL-1) would be mitigated through the application of measure CUL-1. Although significant impacts to historical resources may be mitigated through future review of project-specific development proposals, specific mitigation at the program-level is not available since specific development projects are not known at this time. Therefore, the impact to historical resources is considered significant and unavoidable.

## 4.4.6 Issue 2: Archaeological Resources

*Would the project result in any impact to existing religious or sacred uses within the potential impact area?*

### 4.4.6.1 Impacts

#### a. Housing Sites

While the HEU does not specifically propose alteration of a known archaeological resource or ground-disturbing activities such as grading or excavation, it can be assumed that future development of housing sites could have the potential to directly or indirectly impact undiscovered subsurface archaeological resources through such activities. The following housing sites consist, at least in part, of undeveloped land and/or have been mapped as having 'high sensitivity' for archaeological resources by the General Plan Resource Management Element (City of Encinitas 2011). Future development of these sites has the potential to significantly impact archaeological resources (Impact CUL-2): ALT-4, ALT-5, C-6, L-4, L-7, NE-3, O-2, O-4, O-5, O-6, OE-1, OE-2, and OE-7. Housing sites L-5 and L-6 are not considered undeveloped, as these sites contain a mixture of developed land and intensive agriculture (e.g., greenhouses and nurseries).

As identified in Table 4.4-3, the following are aimed at protection of archaeological resources: Policies 7.1 and 7.2 of the General Plan Resource Management Element (2011) and Policies 2.1 and 2.2 of the Encinitas Ranch Specific Plan (2005a) Additionally, Section 30.34.050 of the Municipal Code (2015b) regulates the treatment of archaeological resources. As future projects are planned they must adhere to these policies and regulations. However, as the site-specific archaeological conditions are unknown at this program-level of analysis, it is unknown whether direct or indirect impacts to archaeological resources would be potentially significant.

#### b. Housing Strategy Summaries

##### *Housing Strategy 1 – Ready Made (RM)*

Development within housing strategy 1 (RM) has potential to impact:

- Archaeological resources on L-4, O-2, O-5, O-6, OE-1, and OE-7.

##### *Housing Strategy 2 – Build Your Own (BYO)*

Development within housing strategy 2 (BYO) has potential to impact:

- Archaeological resources on L-7, NE-3, O-2, O-4, O-5, OE-2, and OE-7.

### ***Housing Strategy 3 – Modified Mixed Use Places (MMUP)***

Development within housing strategy 3 (MMUP) has potential to impact:

- Archaeological resources on ALT-4, ALT-5, C-6, L-7, O-2, O-4, OE-1, and OE-7.

#### **4.4.6.2 Significance of Impacts**

Potential direct and/or indirect impacts to archaeological resources within housing strategies 1, 2, and 3 (Impact CUL-2) would be considered significant and require mitigation.

#### **4.4.6.3 Mitigation Framework**

**CUL-2:** Applications for future development of housing sites consistent with the HEU floating zone program, wherein the City has determined a potential for impacts to historical resources, shall be required to comply with the following mitigation framework:

Prior to the issuance of any permit for future development consistent with the HEU floating zone program located on a previously undisturbed housing site, an archaeological survey shall be conducted by a qualified archaeologist to evaluate the presence of archaeological resources and the need for project impact mitigation by preservation, relocation, or other methods. An archaeological resource report shall be submitted by the project applicant to the City and shall include the methods used to determine the presence or absence of archaeological resources, identify potential impacts from the proposed project, and evaluate the significance of any archaeological resources identified. If potentially significant impacts to an identified archaeological resource are identified, the report shall also recommend appropriate mitigation to reduce the impacts to below a level of significance.

#### **4.4.6.4 Significance After Mitigation**

Impacts to archaeological resources within housing sites 1, 2, and 3 (Impact CUL-2) would be mitigated through the application of mitigation measure CUL-2. Although significant impacts to historical resources may be mitigated through future review of project-specific development proposals, specific mitigation at the program EIR level is not available since specific development projects are not known at this time. Therefore, the impact to historical resources is considered significant and unavoidable.

### 4.4.7 Issue 3: Paleontological Resources

*Result in the disturbance of any human remains, including those interred outside of formal cemeteries?*

#### 4.4.7.1 Impacts

##### a. Housing Sites

While the HEU itself does not specifically propose ground-disturbing activities, future development projects consistent with the HEU that would grade housing sites with potential to contain undisturbed deposits of Torrey Sandstone and/or the Del Mar formation would have the potential to significantly impact subsurface paleontological resources (Impact CUL-3). Impacts would be considered significant if development of a housing site would require the excavation of over 1,000 cubic yards of a geologic formation with high resource potential to contain paleontological resources, excavation depths within the geologic formation of 10 feet or greater, or over 2,000 cubic yards of a geologic formation with moderate resource potential to contain paleontological resources. The following housing sites may be underlain by geological formations that have moderate to high resource potential to contain paleontological resources: ALT-3, ALT-4, ALT-5, ALT-6, ALT-7, C-6, L-7, NE-3, NE-4, NE-7, O-2, O-3, O-4, O-5, O-6, OE-1, OE-2, OE-7, and OE-8. Future site-specific geotechnical studies would identify the geologic formations underlying these housing sites in conjunction with future development.

As identified in Table 4.4-3, the following are aimed at protection of paleontological resources: Policy 7.2 of the General Plan Resource Management Element (2011); and Policies 2.1 and 2.2 of the Encinitas Ranch Specific Plan (2005a). As future projects are planned they must adhere to these policies and regulations. However, as the site-specific requirements are unknown at this program-level of analysis, it is unknown whether direct or indirect impacts to paleontological resources would be potentially significant.

##### b. Housing Strategy Summaries

###### *Housing Strategy 1 – Ready Made (RM)*

Development within housing strategy 1 (RM) has potential to impact:

- Paleontological resources on NE-4, O-2, O-5, O-6, OE-1, and OE-7.

###### *Housing Strategy 2 – Build Your Own (BYO)*

Development within housing strategy 2 (BYO) has potential to impact:

- Paleontological resources on L-7, NE-3, NE-7, O-2, O-4, O-5, OE-2, OE-7, and OE-8.

### ***Housing Strategy 3 – Modified Mixed Use Places (MMUP)***

Development within housing strategy 3 (MMUP) has potential to impact:

- Paleontological resources on ALT-3, ALT-4, ALT-5, ALT-6, ALT-7, C-6, L-7, NE-7, O-2, O-3, O-4, O-5, OE-1, and OE-7.

#### **4.4.7.2 Significance of Impacts**

Impacts to paleontological resources within housing strategies 1 (RM), 2 (BYO), and 3 (MMUP) (Impact CUL-3) would be significant and require mitigation.

#### **4.4.7.3 Mitigation Framework**

**CUL-3:** Applications for future development of housing sites consistent with the HEU floating zone program, wherein the City has determined a potential for impacts to paleontological resources, shall be required to comply with the following mitigation framework:

A qualified paleontological monitor shall be present during grading on housing sites where development would require the excavation of over 1,000 cubic yards of a geologic formation with high resource potential to contain paleontological resources, excavation depths within the geologic formation of 10 feet or greater, or over 2,000 cubic yards of a geologic formation with moderate resource potential to contain paleontological resources. Geologic formations would be determined by a site-specific geotechnical study. The monitor shall have the authority to stop and/or divert grading, trenching, or excavating if a significant paleontological resource is encountered. An excavation plan shall be implemented to mitigate the discovery. Excavation shall include the salvage of the fossil remains (simple excavation or plaster-jacketing of larger and/or fragile specimens); recording stratigraphic and geologic data; and transport of fossil remains to laboratory for processing and curation.

#### **4.4.7.4 Significance After Mitigation**

Impacts to paleontological resources within housing sites 1 (RM), 2 (BYO), and 3 (MMUP) (Impact CUL-3) would be mitigated to below a level of significance by measure CUL-3.

### **4.4.8 Issue 4: Human Remains**

*Allow development to occur that could significantly impact a unique paleontological resource or a geologic formation possessing a moderate to high fossil bearing potential?*

#### **4.4.8.1 Impacts**

##### **a. Housing Sites**

There are no known burial sites or cemeteries within the vicinity of the City. Therefore, it is not expected that human remains would be disturbed as a result of construction of the housing sites.

In the unlikely event that human remains are discovered, then the provisions set forth in California Public Resources Code Section 5097.98 and State Health and Safety Code Section 7050.5 would be implemented in consultation with the assigned Most Likely Descendant as identified by the NAHC. No further construction activities would be permitted until the coroner is contacted, as well as any applicable Native American tribes. The City shall be required to comply with the California Native American Graves Protection and Repatriation Act (2001) and the federal Native American Graves Protection and Repatriation Act (1990). As regulations are in place to treat any inadvertent uncovering of human remains during grading, impacts to human remains would be less than significant.

##### **b. Housing Strategy Summaries**

Although grading activities associated with development of all housing sites within housing strategies 1 through 3 has the potential to inadvertently uncover human remains, state regulations control the procedures that must take place under these circumstances. There would be no inherent differences in impacts among the housing strategies.

#### **4.4.8.2 Significance of Impacts**

Potential impacts to human remains within housing strategies 1, 2, and 3 would be less than significant.