

Section 3.4 Cultural Resources

Cultural resources include places, objects, and settlements that reflect group or individual religious, archaeological, architectural, or paleontological activities. Such resources provide information on scientific progress, environmental adaptations, group ideology, or other human advancements. By statute, the California Environmental Quality Act (CEQA) is primarily concerned with two classes of cultural resources: “historical resources,” which are defined in Public Resources Code (PRC) Section 21084.1 and CEQA Guidelines Section 15064.5; and “unique archaeological resources,” which are defined in PRC Section 21083.2. This section addresses potential impacts resulting with the project in relation to historical and archaeological resources. Project impacts to tribal cultural resources are evaluated in Section 3.13 of this EIR.

The analysis in this section is based on the *Archaeological Inventory and Evaluation Report* (2022a; Appendix E) prepared by ECORP Consulting, Inc. (ECORP) and peer reviewed by Michael Baker International and the City of Encinitas. Due to the sensitive and confidential nature of cultural resources, portions of the report have been redacted. The analysis herein is further based on the *City of Encinitas General Plan* (1991) and the *City of Encinitas 2013-2021 Housing Element Update Environmental Assessment* (2018).

ENVIRONMENTAL SETTING

The project site is located in the City of Encinitas, to the east of Piraeus Street and north of Plato Place. The site lies approximately 0.9 miles east of the Pacific Ocean and approximately 0.2 miles south of Batiquitos Lagoon. On-site elevations range from approximately 15 to 175 feet above mean sea level (ECORP 2022b). Undeveloped areas of the project site and to the east of the project site feature coastal sage scrub. A natural drainage exists west of the project site, which is currently developed with Interstate 5.

The underlying geology of the project area has been mapped as the Santiago Formation, dated back to the Middle Eocene (38-48 million years ago). Native geology of the area is categorized into three divisions: arkosic sandstone and conglomerate; gray and brownish gray arkosic sandstone; and gray arkosic sandstone and grit. On-site soils are described as Cieneba coarse sandy loam, Corralitos loamy sand, Gaviota fine sandy loam, Marina loamy coarse sand, and rough broken land (ECORP 2022a).

The potential for buried pre-contact archaeological sites in the project area does exist because of the site’s proximity to the Pacific Ocean and Batiquitos Lagoon. Additionally, the region is recognized to have been in regular use by Native Americans for thousands of years. The drainage located to the west of the site also contributes to this potential as pre-contact archaeological

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sites have been identified along perennial and intermittent waterways in the region (ECORP 2022a).

Cultural Resources Inventory Results

Records Search

The area of potential effect (APE) represents the area that would be affected by project development, and therefore could be subject to potential direct or indirect impacts on cultural resources if such resources are determined to be present. The boundaries of the APE analyzed include areas proposed for construction, vegetation removal, grading, trenching, stockpiling, staging, paving, and other such disturbance; refer to Appendix E for additional details.

A records search was conducted in February 2022 for the APE and a surrounding one-mile radius at the South Coastal Information Center (SCIC), part of the California Historical Resources Information System (CHRIS) maintained by the Office of Historic Preservation, at San Diego State University. The CHRIS records search determined that 35 previously recorded cultural resources are located within one mile of the project area; refer to Appendix A, Records Search Confirmation, of the *Archaeological Inventory and Evaluation Report*. Resources comprise a mix of habitation/camp sites, shell middens, shell and lithic scatter, lithic and bone tools, a former flower nursery, a log house, a trash pit and building remains, and commercial buildings. A portion of one previously recorded resource (CA-SDI-12130), containing shell middens, lithic scatters, hearth features, and stone tools, is located within the APE (ECORP 2022a).

The National Register Information System did not list any eligible or listed properties within the project area. The nearest National Register properties are located eight miles northwest of the project area in Carlsbad. Resources listed as California Historical Landmarks and by the Office of Historic Preservation were reviewed on February 7, 2022. The nearest listed landmark is #940: Rancho Guajome, located 12 miles north of the project area (ECORP 2022a).

Sacred Lands File Results

The California Native American Heritage Commission (NAHC) identifies, catalogs, and protects Native American cultural resources on private and public lands in California. Cultural resources include graves, cemeteries, and places of special religious or social significance to Native Americans. The NAHC also records the historical territories of state recognized tribes into a database called the Sacred Lands File. A records search of the Sacred Lands File is conducted to ensure that the tribes potentially affected by a project are properly notified and consulted.

A search of the Sacred Lands File was completed by the NAHC and resulted in a negative finding, indicating that no Native American Sacred Lands have been recorded in the study area (ECORP 2022a).

Site Survey and Subsurface Testing Results

A site survey was conducted in March 2022 and subsurface testing was conducted in April 2022. No cultural resources were identified as a result of the site survey or subsurface testing; however, one previously documented cultural resource (Site CA-SDI-12130) was identified during the subsurface testing (refer also to EIR Section 3.4, Cultural Resources). The proposed off-site preserve area is entirely within resource CA-SDI-12130. The western two-thirds of the project site is within resource CA-SDI-12130 (ECORP 2022a).

Tribal Consultation

In conformance with State Assembly Bill (AB) 52, the City of Encinitas sent notification to the Native American tribes identified as previously requesting such notification of development projects within the City on August 24, 2022. These tribes included San Pasqual Band of Mission Indians, Rincon Band of Luiseño Indians, Barona Band of Mission Indians, Jamul Indian Village, and San Luis Rey Band of Mission Indians. Of the tribes who received such notification, three requested formal government-to-government consultation pursuant to AB 52 to discuss the potential for tribal cultural resources to be located on-site or in the project vicinity.

Additionally, on October 21, 2022, ECORP participated in a field meeting with the Tribal Historic Preservation Officer (THPO) for the Rincon Band of Luiseño Indians and the project proponent. The THPO recommended monitoring by a Luiseño tribe during construction due to the overall sensitivity of the area and agreed to a need to pre-designate a reburial location in the event of an unanticipated discovery (ECORP 2022a).

On November 1, 2022, the project proponent participated in a field meeting with a member of the San Luis Rey Band of Mission Indians. The tribal representative indicated that tribal monitoring would be recommended (ECORP 2022a).

Consultation with the tribes remains ongoing. Refer to Section 3.13, Tribal Cultural Resources, for additional discussion.

REGULATORY FRAMEWORK

Federal

Archaeological Resources Protection Act

The Archaeological Resources Protection Act of 1979 regulates the protection of archaeological sites and resources that are on Native American lands or federal lands.

Section 106 of the National Historic Preservation Act

Federal regulations for cultural resources are governed primarily by Section 106 of the National Historic Preservation Act of 1966. Section 106 requires federal agencies to take into account the effects of their undertakings on historic properties and affords the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings. The council's implementing regulations, Protection of Historic Properties, are found in 36 Code of Federal Regulations (CFR) Section 800. The goal of the Section 106 review process is to offer a measure of protection to sites that are determined eligible for listing on the National Register of Historic Places (NRHP). The criteria for determining NRHP eligibility are found in 36 CFR 60. Amendments to the act (1986 and 1992) and subsequent revisions to the implementing regulations have, among other things, strengthened the provisions for Native American consultation and participation in the Section 106 review process. While federal agencies must follow federal regulations, most projects by private developers and landowners do not require this level of compliance. Federal regulations only come into play in the private sector if a project requires a federal permit or if it uses federal funding.

National Register of Historic Places

The NRHP is “an authoritative guide to be used by federal, state, and local governments, private groups, and citizens to identify the Nation’s cultural resources and to indicate what properties should be considered for protection from destruction or impairment.” However, the federal regulations explicitly provide that a listing of private property on the NRHP “does not prohibit under Federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property.”

Historic properties, as defined by the Advisory Council on Historic Preservation, include any “prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior” (36 CFR Section 800.16[I][1]). Eligibility for inclusion in the NRHP is determined by applying the following criteria, developed by the National Park Service in accordance with the National Historic Preservation Act:

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) That are associated with events that have made a significant contribution to the broad patterns of our history; or*
- b) That are associated with the lives of persons significant in our past; or*
- c) That embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or*
- d) That have yielded, or may be likely to yield, information important in prehistory or history (36 CFR 60.4).*

State

State historic preservation regulations affecting the proposed project include the statutes and guidelines contained in CEQA, PRC Sections 21083.2 and 21084.1, and CEQA Guidelines Section 15064.5. CEQA requires lead agencies to carefully consider the potential effects of a project on historical resources. A historical resource includes, but is not limited to, any object, building, structure, site, area, place, record or manuscript which is historically or archaeologically significant (PRC Section 5020.1). Section 15064.5 of the CEQA Guidelines specifies criteria for evaluating the significance or importance of cultural resources, including the following:

- The resource is associated with events that have made a contribution to the broad patterns of California history;
- The resource is associated with the lives of important persons from our past;
- The resource embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important individual or possesses high artistic values; or
- The resource has yielded, or may be likely to yield, important information in prehistory or history.

Advice on procedures to identify such resources, evaluate their importance, and estimate potential effects is given in several agency publications such as the technical advice series

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produced by the Governor's Office of Planning and Research. This technical advice series strongly recommends that Native American concerns and the concerns of other interested persons and corporate entities, including but not limited to museums, historical commissions, associations, and societies, be solicited as part of the process of cultural resources inventory. In addition, California law protects Native American burials, skeletal remains, and associated grave goods regardless of the antiquity and provides for the sensitive treatment and disposition of those remains.

California Register of Historical Resources

AB 2881 was signed into law in 1992, establishing the CRHR. The CRHR is an authoritative guide in California used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change. The criteria for eligibility for the CRHR are based on NRHP criteria. Certain resources are determined by the statute to be included on the CRHR, including California properties formally determined eligible for, or listed in, the NRHP, State Landmarks, and State Points of Interest.

The California Office of Historic Preservation has broad authority under federal and state law for the implementation of historic preservation programs in California. The State Historic Preservation Officer makes determinations of eligibility for listing on the NRHP and the CRHR.

The appropriate standard for evaluating "substantial adverse effect" is defined in PRC Sections 5020.1(q) and 21084.1. Substantial adverse effect means demolition, destruction, relocation, or alteration such that the significance of an historical resource would be impaired. Such impairment of significance would be an adverse impact on the environment.

Cultural resources consist of buildings, structures, objects, or archaeological sites. Each of these entities may have historic, architectural, archaeological, cultural, or scientific importance. Under the CEQA Guidelines, a significant impact would result if the significance of a cultural resource would be changed by project area activities. Activities that could potentially result in a significant impact include demolition, replacement, substantial alteration, and relocation of the resource. The significance of a resource is required to be determined prior to analysis of the level of significance of project activities. The steps required to be implemented to determine significance in order to comply with CEQA Guidelines are:

- Identify cultural resources.
- Evaluate the significance of the cultural resources based on established thresholds of significance.

- Evaluate the effects of a project on all cultural resources.
- Develop and implement measures to mitigate the effects of the project on significant cultural resources.

Government Code (GC) Sections 6253, 6254, and 6254.10 authorize state agencies to exclude archaeological site information from public disclosure under the Public Records Act. In addition, the California Public Records Act (CPRA; GC Section 6250 et seq.) and California's open meeting laws (the Brown Act, GC Section 54950 et seq.) protect the confidentiality of Native American cultural place information. The CPRA (as amended, 2005) contains two exemptions that aid in the protection of records relating to Native American cultural places by permitting any state or local agency to deny a CPRA request and withhold from public disclosure:

Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Section 5097.9 and Section 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another State agency, or a local agency (GC Section 6254(r)); and

Records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another State agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a State or local agency (GC Section 6254.10).

Likewise, the CHRIS Information Centers prohibit public dissemination of records and site location information. In compliance with these requirements and those of the Code of Ethics of the Society for California Archaeology and the Register of Professional Archaeologists, the locations of cultural resources are considered restricted information with highly restricted distribution and are not publicly accessible.

Any project site located on non-federal land in California is also required to comply with state laws pertaining to the inadvertent discovery of Native American human remains.

California Health and Safety Code Sections 7050.5, 7051, and 7054

California Health and Safety Code Sections 7050.5, 7051, and 7054 collectively address the illegality of interference with human burial remains as well as the disposition of Native American burials in archaeological sites. The law protects such remains from disturbance, vandalism, or inadvertent destruction and establishes procedures to be implemented if Native American

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skeletal remains are discovered during construction of a project, including the treatment of remains prior to, during, and after evaluation, and reburial procedures.

Local**City of Encinitas General Plan***Resource Management Element*

The Resource Management Element of the General Plan addresses both archaeological and historical cultural resources. The element includes maps of the City identifying areas of low, moderate, and high cultural resource sensitivity. The element identifies mitigation procedures for archaeological sites discovered during the excavation or construction phases of a new project. It also calls for an inventory of all historically significant sites and/or structures that require protection.

The following goal and policies are relevant in protecting cultural resources in the City.

Resource Management Element

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)

Policy 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)

Policy 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))

City of Encinitas Municipal Code

Section 30.34.050, Cultural/Natural Resources Overlay Zone, of the City's Municipal Code (Chapter 30.34, Special Purpose Overlay Zones) includes regulations that 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.

IMPACT ANALYSIS AND MITIGATION MEASURES

Thresholds of Significance

The following thresholds of significance are based on CEQA Guidelines Appendix G. For the purposes of this EIR, the project would be considered to have a significant impact on cultural resources if it would:

- Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.
- Disturb any human remains, including those interred outside of formal cemeteries.

PROJECT IMPACTS AND MITIGATION

HISTORICAL RESOURCES

Impact 3.4-1 **The project would have the potential to cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5. Impacts would be less than significant with mitigation incorporated.**

As noted above, one previously recorded cultural resource (CA-SDI-12130) was determined to overlap the project site. Subsurface testing was performed in April 2022, with several samples returning evidence of subsurface cultural materials (ECORP 2022a). Through evaluation, the materials identified during the testing program were determined to lack context and do not appear representative of intact deposits.

The presence of several pre-contact archaeological sites nearby suggests that these observances may be residue from Site CA-SDI-12130 that have been relocated and moved out of context. The presence of the newly identified materials has likely been caused by decades of prior ground disturbance on the subject site and in the surrounding landscape. Earthwork associated with construction of I-5 as well as previously recorded slope failures/landslides have undoubtedly impacted site P-37-012130 in the past. Grading and earthwork within the Project Area likely caused any artifacts to no longer remain in their primary (original) context, and therefore, their ability to provide information important to prehistory is limited. Therefore, while these materials have been determined as an extension of historical resource CA-SDI-12130, these cultural materials lack integrity and are not eligible for inclusion in the CRHR or NRHP under Criteria 4/D.

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Further, because the auger locations were specifically selected to coincide with planned excavation for the proposed project, the results of the auguring program reflect the potential impact (or lack thereof) to the eligible site. No information exists within any of the sources sought for this study to indicate that the site is eligible under any of the criteria for the NRHP or CRHR. Based on the current evidence, no significant impact would occur to P-37-012130 as a result of project implementation.

ECORP conducted subsurface testing to evaluate the cultural resource using NRHP and CRHR eligibility criteria and found the resource not eligible for listing under any criteria based on archaeological information. Tribal consultation between the City and culturally affiliated tribes is ongoing. No ground disturbance should occur until the lead agencies concur with this finding. Therefore, resource CA-SDI-12130 is not considered a historical resource under CEQA based on archaeological information. Development of the project site as proposed would not cause a substantial adverse change in the significance of a known historical resource pursuant to CEQA Guidelines Section 15064.5.

However, the determination about impacts to tribal cultural resources is being addressed separately by the City. There is the potential that unknown resources on the site may have been obscured by grading, earthwork, or various materials over the years. As the potential exists for unknown historical resources or properties to be present, project construction activities may potentially impact unknown historical sites within the project APE. Implementation of mitigation measures **CR-1** to **CR-3** are proposed to reduce project effects on such unknown historical resources. Impacts would be reduced to **less than significant with mitigation incorporated**.

Mitigation Measures:

CR-1 Cultural Resources Monitoring Program. Prior to the commencement of any ground disturbing activities, a Cultural Resource Mitigation Monitoring Program shall be established to provide for the identification, evaluation, treatment, and protection of any cultural resources that are affected by or may be discovered during the construction of the proposed project. The monitoring shall consist of the full-time presence of a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric and historic archaeology. Further, a Native American monitor from a tribe that is traditionally and culturally affiliated (TCA) with the project area shall be retained to monitor all ground-disturbing activities associated with project construction, including vegetation removal, clearing, grading, trenching, excavation, or other activities that may disturb original (pre-project) ground, including the placement of imported fill materials and related roadway improvements (i.e., for access).

- The requirement for cultural resource mitigation monitoring shall be noted on all applicable construction documents, including demolition plans, grading plans, etc.
- Prior to the start of construction activities, the project proponent shall submit a letter of engagement or a copy of a monitoring contract to the City to demonstrate that archaeological and culturally affiliated Native American monitors have been retained for the project.
- The qualified archaeologist and TCA Native American monitor shall attend all applicable preconstruction meetings with the contractor and/or associated subcontractors.
- Monitors shall be provided at least 72 hours notice of the initiation of construction and be kept reasonably apprised of changes to the construction schedule. In the event that a monitor is not present at the scheduled time, work can continue without the monitor present, as long as the notice was given and documented.
- A reburial location shall be identified as an “environmentally sensitive area” on project plans and communicated to the consulting tribes. If cultural materials discovered during project construction are reburied in this location, the landowner shall record a deed restriction over the reburial area within 30 days of the completion of ground disturbing activities. If the location is not used for reburial of materials, then recording a deed restriction on this location shall not be required.

During Construction

- The qualified archaeologist shall maintain ongoing collaborative consultation with the TCA Native American monitor during all ground-disturbing or altering activities, as identified above.
- The qualified archaeologist and/or TCA Native American monitor shall have the authority to temporarily halt ground-disturbing activities if archaeological artifact deposits or cultural features are discovered. In general, if subsurface deposits believed to be cultural or human in origin are discovered during construction, all work shall halt within a 100-foot radius of the discovery and ground-disturbing activities shall be temporarily directed away from these deposits to allow a determination of potential significance, the subject of which shall be determined by the qualified archaeologist and the TCA Native

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American monitor. Ground-disturbing activities shall not resume until the qualified archaeologist, in consultation with the TCA Native American monitor, deems the cultural resource or feature has been appropriately documented and/or protected. At the qualified archaeologist's discretion, the location of ground-disturbing activities may be relocated elsewhere on the project site to avoid further disturbance of cultural resources.

- If the professional archaeologist determines that the find does not represent a cultural resource, work may resume immediately and no agency notifications are required.
- The avoidance and protection of discovered unknown and significant cultural resources and/or unique archaeological resources is the preferable mitigation for the proposed project. If avoidance is not feasible, a Data Recovery Plan may be authorized by the City as the lead agency under CEQA. If a Data Recovery Plan is required, then the TCA Native American monitor shall be notified and consulted in drafting and finalizing any such recovery plan.
- The qualified archaeologist and/or TCA Native American monitor may also halt ground-disturbing activities around known archaeological artifact deposits or cultural features if, in their respective opinions, there is the possibility that they could be damaged or destroyed.
- The landowner shall relinquish ownership of all tribal cultural resources collected during the cultural resource mitigation monitoring conducted during all ground-disturbing activities, and from any previous archaeological studies or excavations on the project site, to the TCA Native American Tribe for respectful and dignified treatment and disposition, including reburial, in accordance with the tribe's cultural and spiritual traditions. All cultural materials that are associated with burial and/or funerary goods will be repatriated to the most likely descendant as determined by the Native American Heritage Commission per California Public Resources Code Section 5097.98.

CR-2 Prepare Monitoring Report and/or Evaluation Report. Prior to the release of the Grading Bond, a Monitoring Report and/or Evaluation Report, which describes the results, analysis, and conclusions of the cultural resource mitigation monitoring efforts (such as but not limited to the Research Design and Data Recovery Program), shall be submitted by the qualified archaeologist, along with the TCA

Native American monitor's notes and comments, to the City's Development Services Director for approval.

CR-3 Identification of Human Remains. As specified by California Health and Safety Code Section 7050.5, if human remains are found on the project site during construction or during archaeological work, the person responsible for the excavation, or his or her authorized representative, shall immediately notify the San Diego County Coroner's office by telephone. No further excavation or disturbance of the discovery or any nearby area reasonably suspected to overlie adjacent remains (as determined by the qualified archaeologist and/or the TCA Native American monitor) shall occur until the coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code 5097.98. If such a discovery occurs, a temporary construction exclusion zone shall be established surrounding the area of the discovery so that the area would be protected (as determined by the qualified archaeologist and/or the TCA Native American monitor), and consultation and treatment could occur as prescribed by law. As further defined by state law, the coroner shall determine within two working days of being notified if the remains are subject to his or her authority. If the coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC shall make a determination as to the most likely descendent. If Native American remains are discovered, the remains shall be kept in situ ("in place"), or in a secure location in close proximity to where they were found, and the analysis of the remains shall only occur on-site in the presence of the TCA Native American monitor.

Level of Significance: Less than significant with mitigation incorporated.

ARCHAEOLOGICAL RESOURCES

Impact 3.4-2 The project would have the potential to cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5. Impacts would be less than significant with mitigation incorporated.

As stated above, a records search was conducted in February 2022 for the APE and a surrounding one-mile radius at the SCIC; a site survey was conducted in early March 2022; and subsurface testing was conducted in early April 2022 (ECORP 2022a). The CHRIS records search identified 35 previously recorded cultural resources located within one mile of the project area. A portion of one previously documented cultural resource site (CA-SDI-12130) was determined to overlap the

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project boundaries. Based on the results of subsequent subsurface testing, it was determined that this resource is not eligible for listing under NRHP or CRHR criteria (ECORP 2022a).

The region in which the project site is located is recognized as having been in regular use by Native Americans for thousands of years. The potential for buried pre-contact archaeological sites does exist due to the site's proximity to the Pacific Ocean and Batiquitos Lagoon. Additionally, archaeological sites have been identified along perennial and intermittent waterways in the region, such as the drainage located to the west of the project site. Along the eastern edge of the site Holocene surficial sediments exist atop earlier geological formations. Pre-contact archaeological deposits have been previously identified and documented within these strata. Therefore, as previously recorded pre-contact resources as well as sediments associated with human occupation occur within the project vicinity, the potential for subsurface resources in previously undisturbed soils is considered to be moderate to high (ECORP 2022a).

A potentially significant impact to unknown archaeological resources may therefore occur from subsurface construction disturbances (i.e. trenching, excavation, grading) associated with project construction. To ensure proper protection of any undiscovered resources, should they be encountered during project-related ground disturbance activities, archaeological and Native American monitoring is required (mitigation measures **CR-1** and **CR-2**).

The magnitude of potential project impacts is unknown because any undiscovered archaeological resources are located underground and, therefore, cannot be readily evaluated. Mitigation measures **CR-1** and **CR-2** would be implemented to address the recovery of any unknown cultural resources in the event such resources are encountered during project construction. Impacts would be reduced to **less than significant with mitigation incorporated**.

Mitigation Measures: Implement mitigation measures **CR-1** and **CR-2**.

Level of Significance: Less than significant with mitigation incorporated.

HUMAN REMAINS

Impact 3.4-3 The project would have the potential to disturb human remains, including those interred outside of formal cemeteries. Impacts would be less than significant with mitigation incorporated.

No known cemeteries are located on-site and no such resources were identified during the records searches, consultation efforts, or field survey; refer also to Section 3.13, Tribal Cultural Resources. Although no known human remains have been identified on-site, the potential for project ground-disturbing activities to result in impacts to unknown resources does exist. Due to the presence of sediments contemporaneous with human occupation of the region and the

presence of previously recorded pre-contact resources in the surrounding area and within the Project Area, the potential for subsurface resources in previously undisturbed soils is considered moderate to high. Additionally, the project vicinity has the potential to support buried pre-contact archaeological sites due to proximity to the Pacific Ocean and recognized regular use by Native Americans for thousands of years (Appendix E).

The project would be required to comply with regulatory requirements for treatment of Native American human remains contained in California Health and Safety Code Sections 7050.5 and 7052 and California PRC Section 5097. Additionally, implementation of mitigation measure **CR-3** would reduce project impacts on unknown human remains to less than significant. Potential construction impacts on human remains would be reduced to **less than significant with mitigation incorporated**.

Mitigation Measure: Implement mitigation measure **CR-3**.

Level of Significance: Less than significant with mitigation incorporated.

CUMULATIVE IMPACTS

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| Impact 3.4-4 | The project would have the potential to result in a significant cumulative impact related to historical or archaeological resources or human remains. Impacts would be less than cumulatively considerable. |
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Geographic Scope

Cumulative projects that have the potential to be considered in a cumulative context with the project's incremental contribution, and that are included in the analysis of cumulative impacts relative to cultural resources, are identified in Table 3.0-1 and Figure 3.0-1 in Section 3.0 of this EIR. The cumulative impact analysis includes all 2019 Housing Element Update sites to the extent they may contribute to certain issue-specific cumulative effects (see Table 3.0-2).

Potential Cumulative Impacts

Urban development over past decades in San Diego County has resulted in adverse impacts on cultural resources. However, the adoption of state and federal laws related to cultural resources has provided a mechanism to address potential impacts of development activities on known and/or unknown cultural resources. Although inadvertent discoveries and potential impacts may still result on a project-by-project basis based on location, development type, and availability of data, compliance with regulatory procedures generally mitigates potential impacts to cultural resources. Federal, state, and local laws protect cultural resources in most instances, but they are not always feasible, particularly when in-place preservation may complicate or prevent the implementation of a development project. Future development may conflict with these

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resources through inadvertent destruction or removal resulting from grading, excavation, and/or construction activities.

Project construction activities would include grading and excavation which may have the potential to result in the discovery of previously unknown subsurface resources. Project implementation could contribute to potential cumulative impacts on cultural resources, including unknown archaeological and historical resources, as well as unknown buried human remains. Past, present, and foreseeable projects have affected, or would have the potential to affect, cultural resources throughout the region over time. However, federal, state, and local laws are designed to protect such resources. These laws have led to the discovery, recordation, preservation, and curation of artifacts and historic structures.

Mitigation measures **CR-1** and **CR-2** address the discovery and recovery of unknown archaeological and historical resources through construction monitoring, identification of potential cultural resources, and evaluation of the significance of a find. Mitigation measure **CR-3** addresses the discovery and recovery of unknown human remains through construction monitoring, protection of the resource, and consultation and treatment as prescribed by state law. Mitigation measures **CR-1** to **CR-3** would be implemented to reduce the potential for the project to contribute to a cumulative impact from project construction on undiscovered resources, if encountered, to less than significant. Similarly, with conformance to applicable federal, state, and local regulations, combined with the evaluation of resource significance and implementation of mitigation measures in compliance with applicable legislation, it is anticipated that other cumulative development projects would be adequately addressed and impacts on historical and cultural resources and/or human remains would be reduced to the extent feasible.

Therefore, individual project-level impacts associated with cultural resources would be less than significant with incorporation of mitigation measures **CR-1** to **CR-3**. Further, the proposed project and other cumulative projects would be subject to conformance with applicable federal, state, and local requirements for the protection of such resources. The project's contribution to a cumulative impact on cultural resources is considered **less than cumulatively considerable**.

Mitigation Measures: Implement mitigation measures **CR-1** to **CR-3**.

Level of Significance: Less than cumulatively considerable.