

4.2 CULTURAL RESOURCES

This section describes the existing cultural resources of the project site, identifies associated regulatory requirements, evaluates potential impacts, and identifies mitigation measures as necessary related to implementation of the proposed Alta Oceanside Project (project). The following analysis is based upon the following studies:

- Cultural Resources Inventory Report for the Alta Oceanside Project, City of Oceanside, California, prepared by Dudek in 2019 (Appendix C of this Environmental Impact Report [EIR])
- Historical Cultural Assessment for 939-1009 North Coast Highway, Oceanside, California, 92054, prepared by Kristi S. Hawthorne in 2019 (Appendix D of this EIR)

4.2.1 Existing Conditions

4.2.1.1 Methodology

South Coastal Information Center Records Search

An examination of existing maps, records, and reports was conducted by Dudek staff to determine if the project could potentially impact previously recorded cultural resources. Dudek staff conducted a records search in January 2019 at the South Coastal Information Center (SCIC) at San Diego State University. The search encompassed the area of potential effect (APE) and a 1-mile buffer around the APE. The APE includes both on site and off site project impact areas, with off-site areas located within North Coast Highway. In addition to a review of previously prepared site records and reports, the records search also involved review of historical maps of the project site and vicinity; ethnographies; the National Register of Historic Places (NRHP); the California Register of Historical Resources (CRHR); the California Historic Property Data File; and the lists of California State Historical Landmarks, California Points of Historical Interest, and Archaeological Determinations of Eligibility.

Native American Correspondence

Dudek requested a search of the Native American Heritage Commission (NAHC) Sacred Lands File for the project APE on January 25, 2019. Based on the information provided in the NAHC response letter dated January 28, 2019, outreach letters were mailed on January 29, 2019 to applicable Native American group representatives to solicit additional information about known Native American resources. To date, three responses have been received from representatives; one letter from the Agua Caliente Band of Cahuilla Indians (February 6, 2019), San Luis Rey Band of Mission Indians (March 12, 2019), and Viejas Band of Kumeyaay Indians (March 18, 2019). See Section 4.2.1.3, Existing Archaeological and Historical Resources, and Appendix C for additional information.

Under CEQA, the lead agency is required to perform formal government-to-government consultation with Native American tribes under Assembly Bill 52 (AB 52). AB 52 is applicable to projects that have a notice of preparation or a notice of negative declaration on or after July 1, 2015. Notification to tribes was completed for AB 52 and three responses have been received regarding tribal consultation. Refer to Section 4.6, Tribal Cultural Resources for details. In summary, the Pechanga Tribe has indicated that the Project area is part of 'Atáaxum (Luiseño), and therefore the Tribe's, aboriginal territory as evidenced by the existence of 'Atáaxum place names, tóota yixélval (rock art, pictographs, petroglyphs), and an extensive Luiseño artifact record in the vicinity of the Project.

Archaeological Survey

An archaeological survey of the project APE was conducted on January 24, 2019, by archaeologist Scott Wolf using standard archaeological procedures and techniques that meet the Secretary of Interior's standards and guidelines for cultural resources inventory, as well as the City's Historical Resource Guidelines. The intensive-level survey methods consisted of a pedestrian survey conducted in five meter intervals. In this manner, all portions of traversable land were subject to pedestrian survey. Portions of the APE that were previously developed with structures were only photo-documented. An iPad Air with georeferenced project maps and GPS capabilities was used to aid surveying and site recordation. Records of sites previously identified within the APE were loaded onto the iPad for field reference.

Documentation of cultural resources complied with the Office of Historic Preservation's and Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 Federal Register 44716–44740), and the California Office of Historic Preservation's Planning Bulletin Number 4(a). Any resources identified during this inventory were recorded on California Department of Parks and Recreation Form DPR 523 (Series 1/95) using the Instructions for Recording Cultural Resources (Office of Historic Preservation 1995).

Visibility throughout the project APE was restricted due to development and existing dense vegetation conditions. The areas immediately adjacent to the standing facilities within the APE have been repeatedly graded or otherwise disturbed on or near the immediate ground surface. Additionally a thick mat of green ground covering vegetation (clover and other similar plant species) was noted across the majority of the survey-able portions of the APE. In areas obscured by dense vegetation, ground visibility was considered poor (0–5%); which in turn hindered the possibility of identifying cultural resources.

Built Environment Resources Assessment

A historical cultural assessment report for 939 to 1009 North Coast Highway, Oceanside, California 92054, was prepared by Kristi S. Hawthorne. Background studies comprised of archival research from the Oceanside Historical Society, examination of city and county directories, Los

Assessment books (1897–1953), San Diego County Tax Assessment Rolls, Master Property Records, maps, a field check of the property, census records, interviews and research through historic photos, and of various newspapers were conducted as part of the project. Primary, Continuation and Building, Structure and Object forms for the resource were completed.

4.2.1.2 Regional Prehistoric and Historic Context

Evidence for continuous human occupation in the San Diego County region spans the last 10,000 years. Various attempts to parse out variability in archaeological assemblages over this broad time frame have led to the development of several cultural chronologies; some of these are based on geologic time, most are based on temporal trends in archaeological assemblages, and others are interpretive reconstructions. Each of these reconstructions describes essentially similar trends in assemblage composition in more or less detail. This research employs a common set of generalized terms used to describe chronological trends in assemblage composition: Paleoindian (pre-5500 BC), Archaic (800 BC–AD 500), Late Prehistoric (AD 500–1769), and Ethnohistoric (post-AD 1769). A detailed description of the history is provided in Appendix C, including reference information.

Some of the earliest dated assemblages in coastal Southern California are dominated by processing tools, which runs counter to traditional notions of mobile hunter/gatherers traversing the landscape for highly valued prey. Evidence for the latter—that is, typical Paleoindian assemblages—may have been located along the coastal margin at one time, prior to glacial desiccation and a rapid rise in sea level during the early Holocene (pre-7500 BP) that submerged as much as 1.8 kilometers of the San Diego coastline. Relevant to the project site due to its location is the debated San Dieguito assemblages that are qualitatively distinct from most others in the San Diego region because the site has large numbers of finely made bifaces (including projectile points), formal flake tools, a biface reduction trajectory, and relatively small amounts of processing tools. Research suggests that the San Dieguito pattern is simply an inland manifestation of a broader economic pattern and this has been widely accepted in recent years, in part because of the difficulty in distinguishing San Dieguito components from other assemblage constituents.

The more than 1,500 year overlap between the presumed age of Paleoindian occupations and the Archaic period highlights the difficulty in defining a cultural chronology in the San Diego region. The Archaic pattern is relatively easy to define, with assemblages that consist primarily of processing tools; milling stones, handstones, battered cobbles, heavy crude scrapers, incipient flake-based tools, and cobble-core reduction. These assemblages occur in all environments across the San Diego region, with little variability in tool composition. Low assemblage variability over time and space among Archaic sites has been equated with cultural conservatism. Despite enormous amounts of archaeological work at Archaic sites, little change in assemblage composition occurs until the bow and arrow is adopted at around AD 500, and ceramics at approximately the same time. Even then, assemblage formality remains low. After the bow is

adopted, small arrow points appear in large quantities, and already low amounts of formal flake tools are replaced by increasing amounts of expedient flake tools. Similarly, shaped milling stones and handstones decrease in proportion relative to expedient, unshaped groundstone tools. Thus, the terminus of the Archaic period is equally as hard to define as its beginning because basic assemblage constituents and patterns of manufacturing investment remain stable, complimented only by the addition of the bow and ceramics.

The period following the Archaic and prior to Ethnohistoric times (AD 1769) is commonly referred to as the Late Prehistoric. However, several other subdivisions continue to be used to describe various shifts in assemblage composition, including the addition of ceramics and cremation practices. In northern San Diego County, the post-AD 1450 period is called the San Luis Rey Complex. Temporal trends in socioeconomic adaptations during the Late Prehistoric period are poorly understood. True (1980) argued that acorn processing and ceramic use in the northern San Diego region did not occur until the San Luis Rey pattern emerged after approximately AD 1450. It has also been argued that an acorn economy did not appear in the southern San Diego region until just prior to Ethnohistoric times, and that when it did occur, a major shift in social organization followed.

The history of the Native American communities prior to the mid-1700s has largely been reconstructed through later mission-period and early ethnographic accounts. The first records of the Native American inhabitants of the San Diego region come predominantly from European merchants, missionaries, military personnel, and explorers. These brief, and generally peripheral, accounts were prepared with the intent of furthering respective colonial and economic aims and were combined with observations of the landscape. They were not intended to be unbiased accounts regarding the cultural structures and community practices of the newly encountered cultural groups. The establishment of the missions in the San Diego region brought more extensive documentation of Native American communities, although these groups did not become the focus of formal, in-depth ethnographic study until the early 20th century. San Diego County is rich in tribal history and is the location of more federally recognized tribes than anywhere else in the United States: 18 tribes on 18 reservations that cover more than 116,000 acres.

The traditional cultural boundaries between the Luiseño and Kumeyaay Native American tribal groups have been defined by anthropologists (see Appendix C), with the Kumeyaay territory defined in 1769 as 100 miles south of the Mexican border (below Santo Tomas), thence north to the coast at the drainage divide south of the San Luis Rey River including its tributaries. The boundary with the Luiseño then follows that divide inland. The Luiseño territory encompassed an area roughly from what is now Agua Hedionda Creek on the coast, east to Lake Henshaw, north to Lake Elsinore, and west through San Juan Capistrano to the coast.

Mission San Luis Rey was founded in 1789 in the northeastern area of what would become Oceanside. During the 1870s, early pioneers moved into the region and founded the Township of

San Luis Rey. In 1882, railroad construction began between Riverside and San Diego. One year later, Andrew Jackson Myers applied for a Homestead Grant in what would become downtown Oceanside. On July 3, 1888, the City of Oceanside was incorporated and the first rain depot was built. Oceanside continued to grow, with expansion during the 1920s spurred on by construction of a highway through the town that connected Los Angeles and San Diego. In 1942, the Navy took control of Rancho Santa Margarita and renamed it Camp Joseph H. Pendleton. Construction of Camp Pendleton led to a population boom in Oceanside as military members and their families moved into the area; by 1950, the population had nearly tripled. The continued presence of Camp Pendleton and the growth of population in Southern California as a whole led to Oceanside becoming the third largest city in San Diego County.

4.2.1.3 Existing Archaeological and Historical Resources

South Coastal Information Center Records Search Results

As mentioned under methodology, a records search of the project APE and the surrounding 1-mile radius around the project was conducted by Dudek staff at the SCIC.

The records searches indicated that 95 previous studies have been performed in the 1-mile records search area and six of these reports covered the project APE. The reports identified during the SCIC record search for the project site are presented in Table 4.2-1, Previous Cultural Studies on the Project Site. Refer to Appendix C for the complete record search results.

**Table 4.2-1
Previous Cultural Studies on the Project Site**

Report I.D.	Title	Author	Year
SD-00335	An Archaeological Survey of Proposed New Alignment Of Route 76 Near Oceanside, California	Paul Ezell, Ph.D.	1974
SD-09019	Construction Monitoring Program for the Sewage Effluent Compliance Project Oceanside Outfall Alternative Marine Corps Base, Camp Pendleton And City Of Oceanside San Diego County, California	EDAW Inc.	2003
SD-11197	A Phase I Archaeological Assessment for the Guesthouse Inn Project, City Of Oceanside, APN 143-040-41	Brian F. Smith and Associates	2007
SD-11761	Historic Property Survey Report, I-5 North Coast Widening Project	Caltrans	2007
SD-14069	Cultural And Historical Resource Study for the City Of Oceanside General Plan- Circulation Element Update Program Environmental Impact Report (Peir)	ASM Affiliates Inc.	2011
SD-16127	2007 Cultural Resources Treatment Plan North Coast Interstate 5 Corridor	Caltrans	2008

Source: Appendix C

SCIC records indicate that no previously recorded cultural resources are located within the project APE. However, the records indicate that 29 cultural resources have been recorded within the 1-mile search radius. Of the 29 resources identified in the search radius; 14 are varied prehistoric resources (10 shell scatters/midden sites, and four shell isolates), 15 are historic resources (including 12 historic structures and three refuse deposit/scatters). The cultural resources identified during the SCIC records search for the current project are listed in Table 4.2-2, Previous Cultural Resources identified within 1 Mile of the Project Site.

Table 4.2-2
Previous Cultural Resources identified within 1 Mile of the Project Site

P-Number	Trinomial	Era	Site Type	In/Out APE
P-37-006008	CA-SDI-006008	Prehistoric	Midden Site	Out
P-37-010841	CA-SDI-010841	Prehistoric	Shell Scatter/Midden Site	Out
P-37-014226	CA-SDI-014058	Prehistoric	Shell Scatter	Out
P-37-014369	CA-SDI-014145	Historic	Refuse Scatter	Out
P-37-016259	-	Historic	Single Family Residence	Out
P-37-016260	-	Historic	Single Family Residence	Out
P-37-016261	-	Historic	Single Family Residence	Out
P-37-017018	-	Historic	Roller Rink	Out
P-37-017220	-	Historic	Residential Structure	Out
P-37-018810	-	Prehistoric	Isolated Marine Shell	Out
P-37-018811	-	Prehistoric	Isolated Marine Shell	Out
P-37-018812	-	Prehistoric	Isolated Marine Shell	Out
P-37-018813	-	Historic	Roller Rink	Out
P-37-019165	CA-SDI-015870	Prehistoric	Shell Scatter	Out
P-37-025937	CA-SDI-017245	Historic	Refuse Scatter	Out
P-37-027207	CA-SDI-017796	Prehistoric	Railroad Maintenance Yard	Out
P-37-027736	-	Historic	Single Family Residence	Out
P-37-028816	-	Historic	Municipal Firehouse	Out
P-37-028817	-	Historic	City Hall & Library	Out
P-37-030591	CA-SDI-019441	Prehistoric	Shell Scatter	Out
P-37-030715	-	Historic	Wire Mountain Road Bridge	Out
P-37-031408	CA-SDI-019944	Prehistoric	Shell Scatter	Out
P-37-031409	CA-SDI-019945	Prehistoric	Shell Scatter	Out
P-37-031410	CA-SDI-019946	Prehistoric	Shell Scatter	Out
P-37-031411	CA-SDI-019947	Prehistoric	Shell Scatter	Out
P-37-031412	CA-SDI-019948	Prehistoric	Shell Scatter	Out
P-37-033105	CA-SDI-020845	Historic	Refuse deposit	Out
P-37-033331	-	Prehistoric	Groundstone tool fragment	Out
P-37-036272	-	Historic	Single Family Residence	Out

Source: Appendix C

Additionally, the SCIC Records indicate the presence of a total of 154 previously recorded historic addresses within 1-mile search radius. None of the previously recorded historic addresses are identified within the project APE or are located adjacent to the APE. Refer to Appendix C for the complete list of historic addresses.

Native American Correspondence Results

Coordination

Native American Cami Mojado representing the San Luis Rey Band of Mission Indians was also consulted on January 28, 2019, concerning the newly discovered isolate and to discuss potential mitigation measure for the project. This information was incorporated into the analysis and mitigation under Section 4.2.4, Impacts Analysis, and Section 4.2.6, Mitigation Measures.

Sacred Lands File Search

As discussed in Section 4.2.1.1, Methodology, a search of the NAHC Sacred Lands File (SLF) search was conducted for the project APE and 1-mile buffer on January 28, 2019. The NAHC responded stating that sites have been located within the project APE, and advised that the San Luis Rey Band of Mission Indians and the La Jolla Band of Luiseño Indians be contacted.

The NAHC response letter also included a list of other Native American group representatives who should be contacted for information about these sites. Outreach letters were mailed on January 29, 2019, to all Native American group representatives included on the NAHC contact list (Appendix C). These letters contain a brief description of the planned project, reference maps, and a summary of the NAHC SLF search results. To date, three responses to the SLF search requests have been received for the current proposed project.

On February 06, 2019 the Tribal Historic preservation office for the Agua Caliente Band of Cahuilla Indians responded to the SLF search request, stating that the Project is out of their Tribe's Traditional Use Area and therefore they defer to other tribes in the area once formal government-to-government consultation is initiated by the lead agency for this project.

A second SLF search response form the San Luis Rey Band of Mission Indians was received on March 12, 2019. In this response the San Luis Rey Band of Mission Indians (the Tribe) has intimate knowledge about the many discoveries made throughout the Project Area and is aware of cultural resource sites within close proximity to the proposed Project. The Tribe strongly urges caution in assessing the land encompassing the Project for any ground disturbing purposes, as well as incorporating the presence of a Luiseño Native American monitor during all ground disturbing activities (including but not limited to any and all boring activities) and cultural resource assessment surveys.

The third response to the project SLF search was received on March 18, 2019, from Ray Teran, resources management, representing the Viejas Band of Kumeyaay Indians. Mr. Teran states that, for the Alta Oceanside Project, Viejas recommends that the San Pasqual Band of Mission Indians be notified of the project, they request that all NEPA/CEQA/NAGPRA laws be followed, and that San Pasqual be notified of any project changes and updates.

Consultation

The City sent out notification letters pursuant to Assembly Bill (AB) 52 tribal consultation requirements. Three responses have been received to date. The Rincon Band of Luiseño Indians and Pechanga Band of Luiseño Indians requested consultation. The Agua Caliente Band of Cahuilla Indians response indicated that this project is not located within the Tribe's Traditional Use Area and therefore, they defer to other tribes in the area. The Pechanga Band of Luiseño Indians asserts that the Project area is part of 'Atáaxum (Luiseño), and therefore the Tribe's, aboriginal territory as evidenced by the existence of 'Atáaxum place names, tóota yixélval (rock art, pictographs, petroglyphs), and an extensive Luiseño artifact record in the vicinity of the Project. Consultation is ongoing. Refer to Section 4.6, Tribal Cultural Resources, for additional consultation details.

Archaeological Field Survey Results

One new prehistoric isolated resource, was identified during the January 2019 field visit. This new resource was identified as AO-Iso-001. This newly identified prehistoric resource consists of a single prehistoric lithic tool; a green-gray colored volcanic unifacially-retouched flaked stone tool. No other artifacts were identified associated with this flaked stone tool, thus it was recorded as an isolate; however the reliability of this determination is extremely low with the poor surface visibility due to the presence of dense surface vegetation.

Built Environment Field Survey and Record Search Results

The project site consists of several buildings with a large portion consisting of undeveloped land. The developed parcels front North Coast Highway and include an existing business (The Main Attraction), as well as buildings that are unoccupied or not open to the general public. An evaluation of all structures exceeding 45 years old was completed, for 939, 1003, 1009, and 1015 North Coast Highway. These buildings are postwar commercial buildings with a variety of commercial purposes, including manufacturing, warehouse storage, retail and restaurant. The buildings are ordinary, built for functionality rather than form or style. The buildings are not attributed to a formally trained architect, but likely a local builder or contractor. Below is a discussion of each of these buildings.

939 North Coast Highway

The existing building at 939 North Coast Highway is a one story commercial building that serves as an adult entertainment venue (Figure 2-4, Site Photos, in Chapter 2, Environmental Setting). The shape is rectangular and built of wood and stucco. The front façade has a large awning which runs the length of the building on either side of the entrance. The entry is also covered by an awning that extends further over the concrete sidewalk. Left of the entrance is a larger lighted sign that is mounted to the exterior wall. To the right of the entrance are three tinted windows. Flower beds are on either side of the entry. A driveway to the rear of the building is facing south and a large paved parking lot is situated to the north. The building is in good condition.

A large concrete block warehouse building is located to the west of the main parking, contained in Assessor's Parcel Number (APN) 143-040-26-00 (see Figure 2-4). It features a vertical façade with a square top on either end of the building (north and south), as well as a gabled roof. Each vertical façade rises to form a parapet and was common in western style storefronts. To the north, on the same parcel, is a row of commercial and warehouse buildings of various sizes and construction.

The property was owned at different points in time by the following people: David and Maureen Rorick in 1942; then to William L.D. and Minnie Hamilton, and George A. and Ruby Strahan in 1946; John and Mary Vieszt in 1948; R.G. Hunter in 1953; Jim Brogdon in 1968. Jim Brogdon owned the property until his death in 1997, to which the deed to his properties was given to Judith Edick Trust from Brogdon's widow. The property served as a café and various iterations of clubs (the Wheel Club, the 101 Club, First Edition, Francine's, Pure Platinum, Dirty Dan's, and currently The Main Attraction). See Appendix D for a detailed overview of the history of ownership of 939 North Coast Highway.

1003 and 1009 North Coast Highway

The property located at 1003 North Coast Highway was owned by the following people: Albert Zaiser in 1947; Leonard W. Rounds in 1954; Henry E. Ellery in 1959; Vern Boe in 1971; Gene and Judith Edick in 1999. The property on 1009 North Coast Highway was owned by the following people at different points of time: Albert Zaiser in 1947; Henry Ellery in 1959; Vern Boe in 1972; Gene and Judith Edick in 1999.

The buildings located at 1009 North Coast Highway served a number of different businesses, including Cummins & Skiba Building Materials in 1948, Smith Plumbing Co. in 1949; Solana Beach Cabinet Shop in 2950s; Jerry's Military & Sporting Goods from 1952 to 1963; Dragmaster Company in 1963; North County Electronics in 1971; Coleman's Appliance Service in 1977 and Pro Motion Wetsuits in 1981.

The building at 1003 North Coast Highway was demolished in 1999, leaving a large cement block warehouse. See Appendix D for a detailed overview of the history of 1003 and 1009 North Coast Highway.

1015 North Coast Highway

Frank A. Murch acquired 1015 North Coast Highway in 1929, and subsequently sold the property to Texaco (formerly known as the Texas Company) in 1930. The service station operated until it closed in the mid-1960s, due in large part to the new Interstate. The Interstate had opened in the 1950s which diverted traffic from the old Highway 101, along with competition from other nearby stations, resulted in the closure of the station. The development was dismantled. The property was purchased by Frank and Dorothy Satten in the mid-1960s, then was purchased by Judith Edick in 2011. See Appendix D for a detailed overview of the history of 1015 North Coast Highway.

4.2.2 Regulatory Setting

Federal

National Historic Preservation Act

The National Historic Preservation Act (NHPA) (16 USC 470 et seq.) establishes the federal policy for preservation of historical resources, including archaeological sites, and sets in place a program for the preservation of historic properties by requiring federal agencies to consider effects to significant cultural resources (e.g., historic properties) prior to undertakings.

Section 106 of the NHPA requires federal agencies to take into account the effects of projects on historic properties (resources included in or eligible for the NRHP). It also gives the Advisory Council on Historic Preservation and the state historic preservation offices an opportunity to consult.

Executive Order 11593, Protection and Enhancement of the Cultural Environment

Executive Order 11593 (36 Federal Register 8921) (1) orders the protection and enhancement of the cultural environment through requiring federal agencies to administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations; (2) initiates measures necessary to direct their policies, plans, and programs in such a way that federally owned sites, structures, and objects of historical, architectural, or archaeological significance are preserved, restored, and maintained for the inspiration and benefit of the people; and (3) in consultation with the Advisory Council on Historic Preservation, institutes procedures to assure that federal plans and programs contribute to the preservation and enhancement of non-federally owned sites, structures, and objects of historical, architectural, or archaeological significance (16 USC 470-1).

National Register of Historic Places

The NRHP is the nation’s official list of historic places. The register is overseen by the National Park Service and requires that a property or resource eligible for listing in the register meet one or more of the following four criteria at the national, state, or local level to ensure integrity and obtain official designation:

- The property is associated with events that have made a significant contribution to the broad patterns of our history.
- The property is associated with the lives of persons significant to our past. Eligible properties based on this criterion are generally those associated with the productive life of the individual in the field in which the person achieved significance.
- The property embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic value, or represents a significant and distinguishable entity whose components lack individual distinction.
- The property has yielded, or is likely to yield, information important to prehistory or history.

In addition to meeting at least one of these four criteria, listed properties must also retain sufficient physical integrity of those features necessary to convey historic significance. The register has identified the following seven aspects of integrity: (1) location, (2) design, (3) setting, (4) materials, (5) workmanship, (6) feeling, and (7) association.

Properties are nominated to the register by the state historic preservation officer of the state in which the property is located, by the federal preservation officer for properties under federal ownership or control, or by the tribal preservation officer if on tribal lands. Listing in the NRHP provides formal recognition of a property’s historic, architectural, or archaeological significance based on national standards used by every state. Once a property is listed in the NRHP, it becomes searchable in the NRHP database of research information. Documentation of a property’s historic significance helps encourage preservation of the resource.

State

California Public Resources Code

California Public Resources Code (PRC), Sections 5097–5097.6, identify that the unauthorized disturbance or removal of archaeological or historical resources located on public lands is a misdemeanor. It prohibits the knowing destruction of objects of antiquity without a permit (express permission) on public lands, and it provides for criminal sanctions. This section was amended in 1987 to require consultation with the Native American Heritage Commission (NAHC) whenever Native American graves are found. Violations that involve taking or possessing remains or artifacts are felonies.

California Public Resources Code, Section 5097.5, states that “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, rock art, or any other archaeological, paleontological or historic feature situated on public lands, except with the express permission of the public agency having jurisdiction over the lands.”

California Register of Historical Resources

In California, per the PRC, the term “cultural resource” includes “any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economical, agricultural, educational, social, political, military, or cultural annals of California” (PRC Section 5020.1(j)). In 1992, the California legislature established the CRHR “to be used by state and local agencies, private groups, and citizens to identify the state’s cultural resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change” (PRC Section 5024.1(a)). A resource is eligible for listing in the CRHR if the State Cultural Resources Commission determines that it is a significant resource and that it meets any of the following criteria (PRC Section 5024.1(c)):

1. Associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.
2. Associated with the lives of persons important in our past.
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents to 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.

Per the California Code of Regulations (CCR), resources less than 50 years old are not considered for listing in the CRHR, but may be considered if it can be demonstrated that sufficient time has passed to understand the historical important of the resource (see 14 CCR, Section 4852(d)(2)).

The CRHR protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources. The criteria for the CRHR are nearly identical to those for the National Register of Historic Places (NRHP), and properties listed for formally designated as eligible for listing in the NRHP are automatically listed in the CRHR, as are state landmarks and points of interest. The CRHR also includes properties designated under local ordinances or identified through local cultural resource surveys. The State Historic Preservation Office maintains the CRHR.

Native American Historic Resources Protection Act

The Native American Historic Resources Protection Act (PRC Section 5097 et seq.) addressed the disposition of Native American burials in archaeological sites, and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establishes the Native American Heritage Commission (NAHC) to resolve disputes regarding the disposition of such remains. In addition, the Native American Historic Resource Protection Act makes it a misdemeanor punishable by up to one year to deface or destroy a Native American historic or cultural site that is listed or may be eligible for listing in the CRHR.

California Environmental Quality Act

As described further below, the following CEQA statutes and CEQA Guidelines are relevant to the analysis of archaeological and historic resources:

- PRC Section 21083.2(g) defines “unique archaeological resource.”
- PRC Section 21084.1 and CEQA Guidelines Section 15064.2(a) define cultural resources. In addition, CEQA Guidelines Section 15064.2(b) defines the phrase “substantial adverse change” in the significance of a cultural resource. It also defines the circumstances when a project would materially impair the significance of a cultural resource.
- PRC Section 21074 (a): defines “tribal cultural resources” and Section 21074(b) defines a “cultural landscape.”
- PRC Section 5097.98 and CEQA Guidelines Section 15064.2(e) set forth standards and steps to be employed following the accidental discovery of human remains in any location other than a dedicated ceremony.
- PRC Sections 21083.2(b)–(c) and CEQA Guidelines Section 15126.4 provide information regarding the mitigation framework for archaeological and historic resources, including options of preservation-in-place mitigation measures. Preservation-in-place is identified as the preferred manner of mitigating impacts to significant archaeological sites.

Under CEQA, a project may have a significant impact on the environment if it may cause “a substantial adverse change in the significance of an [sic] cultural resource” (PRC Section 21084.1; CEQA Guidelines Section 15064.2(b)). A “cultural resource” is any site listed or eligible for listing in the CRHR. The term “cultural resource” also includes any site described in a local register of historic resources, or identified as significant in a cultural resources survey (meeting the requirements of PRC Section 5024.1(q)).

CEQA also applies to “unique archaeological resources.” PRC Section 21083.2(g) defines a “unique archaeological resource” as any archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

1. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
2. Has a special and particular quality such as being the oldest of its type or the best available example of its type.
3. Is directly associated with a scientifically recognized important prehistoric or historic event or person.

In 2014, CEQA was amended through Assembly Bill 52 to apply to “tribal culture resources” as well. Specifically, PRC Section 21074 provides guidance for defining tribal cultural resources as either of the following:

1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following: (A) included or determined to be eligible for inclusion in the California Register of Cultural Resources or (B) included in a local register of cultural resources as defined in subdivision (k) of §5020.1.
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of §5024.1. In applying the criteria set forth in subdivision (c) of §5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe. A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

All cultural resources and unique archaeological resources—as defined by statute—are presumed to be historically or culturally significant for the purposes of CEQA (PRC Section 21084.1; 14 CCR 15064.5(a)). The lead agency is not precluded from determining that a resource is a cultural resource even if it does not fall within this presumption (PRC Section 21084.1; 14 CCR 15064.5(a)). A site or resource that does not meet the definition of a “cultural resource” or “unique archaeological resource” is not considered significant under CEQA and need not be analyzed further (PRC Section 21083.2(a); 14 CCR 15064.5(c)(4)).

Under CEQA, a significant cultural impact results from a “substantial adverse change in the significance of an historical resource [including a unique archaeological resource]” due to the

“physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired” (14 CCR 15064.5(b)(1); PRC Section 5020.1(q)). In turn, the significance of a cultural resource is materially impaired when a project (14 CCR 15064.5(b)(2)):

1. Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register; or
2. Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to Section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
3. Demolishes or materially alters in an adverse manner those physical characteristics of a cultural resource that convey its historical significance and that justify its eligibility for inclusion in the California Register as determined by a lead agency for purposes of CEQA.

Pursuant to these sections, CEQA first evaluates whether a project site contains any “cultural resources,” then assesses whether that project would cause a substantial adverse change in the significance of a cultural resource such that the resource’s historical significance is materially impaired.

When a project significantly affects a unique archaeological resource, CEQA imposes special mitigation requirements. Specifically (PRC Sections 21083.2(b)(1)–21083.2(b)(4)):

[i]f it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

1. Planning construction to avoid archaeological sites.
2. Deeding archaeological sites into permanent conservation easements.
3. Capping or covering archaeological sites with a layer of soil before building on the sites.
4. Planning parks, greenspace, or other open space to incorporate archaeological sites.

If “preservation in place” options are not feasible, mitigation may be accomplished through data recovery (PRC Section 21083.2(d); 14 CCR 15126.4(b)(3)(C)). PRC Section 21083.2(d) states that:

[e]xcavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.

These same requirements are set forth in slightly greater detail in CEQA Guidelines Section 15126.4(b)(3), as follows (14 CCR 15126.4(b)(3)):

- A. Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
- B. Preservation in place may be accomplished by, but is not limited to, the following:
 - 1. Planning construction to avoid archaeological sites;
 - 2. Incorporation of sites within parks, greenspace, or other open space;
 - 3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site[; and]
 - 4. Deeding the site into a permanent conservation easement.
- C. When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the cultural resource, shall be prepared and adopted prior to any excavation being undertaken.

Note that, when conducting data recovery, “[i]f an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation” (14 CCR 15126.4(b)(3)). However, “[d]ata recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historic resource, provided that determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center” (14 CCR 15126.4(b)(3)(D)).

Finally, CEQA Guidelines Section 15064.5 assigns special importance to human remains and specifies procedures to be used when Native American remains are discovered. These procedures are set forth in PRC Section 5097.98.

California Health and Safety Code

California law protects Native American burials, skeletal remains, and associated grave goods, regardless of their antiquity, and provides for the sensitive treatment and disposition of those remains. California Health and Safety Code Section 7050.5 requires that if human remains are discovered in any place other than a dedicated cemetery, no further disturbance or excavation of the site or nearby area reasonably suspected to contain human remains can occur until the county coroner has examined the remains (California Health and Safety Code, Section 7050.5b). If the coroner determines or has reason to believe that the remains are those of a Native American, the coroner must contact the NAHC within 24 hours (California Health and Safety Code Section 7050.5c). The NAHC will notify the most likely descendent (MLD). With the permission of the landowner, the MLD may inspect the site of discovery. The inspection must be completed within 48 hours of the MLD being granted access to the site. The MLD may recommend means of treating or disposing of, with appropriate dignity, the human remains and items associated with Native Americans.

Assembly Bill 52

AB 52, in effect as of July 1, 2015, introduces the tribal cultural resource (TCR) as a class of cultural resource and additional considerations relating to Native American consultation into CEQA. As a general concept, a TCR is similar to the federally defined TCP; however, it incorporates consideration of local and state significance and required mitigation under CEQA. A TCR may be considered significant if included in a local or state register of historical resources; determined by the lead agency to be significant pursuant to criteria set forth in PRC Section 5024.1; is a geographically defined cultural landscape that meets one or more of these criteria; or is a historical resource described in PRC Section 21084.1, a unique archaeological resources described in PRC Section 21083.2, or is a non-unique archaeological resource if it conforms with the above criteria. Because an assessment of project-related impacts on TCRs involves analytical requirements different from those that apply to impacts on archaeological resources, this EIR includes a separate discussion of TCRs in Section 4.6.

Local

City of Oceanside General Plan

Cultural resources are addressed in the Environmental Resources Management Element and the Land Use Element. The Environmental Resources Management Element identifies several important cultural sites, including the nearby Mission San Luis Rey, and encourages preservation

of such sites when planning development. Specifically the Environmental Resource Management Element has the following objective for cultural sites:

- Encourage the conservation and protection of significant cultural resources for future scientific, historic, and educational purposes.

In order to achieve this objective, the City of Oceanside (City) will:

1. Encourage the use of “O” zoning and open space easements for the preservation of cultural sites.
2. Encourage private organizations to acquire, restore, and maintain significant historical sites.
3. Encourage investigation by the appropriate groups (i.e., museums, university students, etc.) to explore and record the significant archaeological sites in the areas and to forward this information to appropriate County agencies for inclusion in the San Diego County Natural Resources Inventory.

The Land Use Element provides designations for historic areas in order to preserve cultural resources. The Land Use Element states the following policy relevant to historic sites:

- **1.33 Historic Areas and Sites, Policy A:** The City shall utilize adopted criteria, such as the “Mission San Luis Rey Historic Area Development Program and Design Guidelines,” to preserve and further enhance designated historic or cultural resources.

The Land Use Element further contains the following policies regarding cultural resources:

- **3.2A:** The City shall encourage open space land use designations and open space land use designations and open space zoning or open space easements for the preservation of cultural resources.
- **3.2B:** The City shall encourage the acquisition, restoration, and/or maintenance of significant cultural resources by private organizations.
- **3.2C:** Cultural resources that must remain in-situ to preserve their significance shall be preserved intact and interpretive signage and protection shall be provided by project developers.
- **3.2D:** An archeological survey report shall be prepared by a Society of Professional Archaeologists certified archaeologist for a project proposed for grading or development if any of the following conditions are met:
 1. The site is completely or largely in a natural state;
 2. There are recorded sites on nearby properties;

3. The project site is near or overlooks a water body (creek, stream, lake, freshwater lagoon);
4. The project site includes large boulders and/or oak trees; or
5. The project site is located within a half-mile of Mission San Luis Rey.

City of Oceanside Historic Preservation Ordinance

Chapter 14A of the City’s Municipal Code, referred to as the Historic Preservation Ordinance, identifies evaluation criteria under which a historical site or area may be designated in Section 14A.6, as follows (City of Oceanside 2018):

- a) It exemplifies or reflects special elements of the city’s cultural, social, economic, political, aesthetic, engineering, or architectural history; or
- b) It is identified with persons or events significant in local, state, or national history; or
- c) 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; or
- d) It is representative of the notable work of a builder, designer, or architect; or
- e) It is found by the council to have significant characteristics which should come under the protection of this chapter.

4.2.3 Thresholds of Significance

The significance criteria used to evaluate the project impacts to cultural resources are based on Appendix G of the CEQA Guidelines. According to Appendix G of the CEQA Guidelines, a significant impact related to cultural resources would occur if the proposed project would:

1. Cause a substantial adverse change in the significance of a historical resource pursuant to in CEQA Guidelines Section 15064.2.
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.2.
3. Disturb any human remains, including those interred outside of formal cemeteries.

The CEQA Guidelines state that a project that demolishes or alters those physical characteristics of a historical resource that convey its historical significance (i.e., its character-defining features) can be considered to materially impair the resource’s significance. To best mitigate the effects of a project on cultural resources, a lead agency must make a reasonable, good faith effort to determine their historical or archaeological character and eligibility for listing in the CRHR. Of the four primary CRHR criteria for making such recommendations listed in Section 4.2.2, Regulatory Setting, Criterion 4 is most applicable for directing Phase I archaeological

investigations. To be eligible for listing in the CRHR, a site must have “yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation” (PRC Section 5024.1; 14 CCR 4852).

4.2.4 Impacts Analysis

Would the project cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.2?

Six historical-era (greater than 45 years old) structures are present on the project site, as described in Section 4.2.1.3 These structures were evaluated according to the NRHP/CRHR significance criteria. Below is the evaluation of each criteria provided in the Historical Cultural Assessment (Appendix D):

Criterion A/1: That are associated with events that have made a significant contribution to the broad patterns of our history.

To be considered for listing under Criterion A, a property must be associated with one or more events important in the defined historic context. The event or trends must clearly be important within the associated context. Mere association with historic events or trends is not enough, in and of itself, to qualify under Criterion A – the property’s specific association must be considered important as well. No known significant events occurred on the project site before or after the buildings were constructed. The identified buildings are not significant under Criterion A.

Criterion B/2: That are associated with the lives of persons significant in our past.

Criterion B applies to properties associated with individual whose specific contributions to history can be identified and documented. Person “significant in our past” refers to individuals whose activities are demonstrably important within a local, state or national historic context. The criterion is generally restricted to those properties that illustrate (rather than commemorate) a person’s important achievements. The persons associated with the property must be individually significant within a historic event. Significant individuals must be directly associated with the nominated party.

Properties eligible under Criterion B are usually those associated with a person’s productive life, reflecting the time period when he or she achieved significance. Speculative associations are not acceptable. Documentation must make clear how the nominated property represents an individual’s significant contributions. A property must retain integrity from the period of its significant historic associations. Architects are often represented by their works, which are eligible under Criterion C. Their homes, however, can be eligible for consideration under Criterion B, if these properties were personally associated with the individual.

While the identified buildings on the project site are associated with a number of noteworthy people in Oceanside’s history and development (see Section 4.2.1.3, Existing Archaeological and Historical Resources, under “Built Environment Field Survey and Record Search Results”), the identified buildings are not significant under Criterion B.

Criterion C/3: That embody the 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.

Properties may be eligible under Criterion C if they embody the 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 entry whose components may lack individual distinction. Properties which embody the distinctive characteristics of a type, period, or method of construction refer to the way in which a property was conceived, designed, or fabricated by a people or culture in past periods of history. Distinctive characteristics are the physical features or traits that commonly recur in individual types, period, or methods of construction. To be eligible, a property must clearly contain enough of those characteristics to be considered a true representative of a particular type, period, or method of construction.

A master is a figure or generally recognized greatness in a field, a known craftsman or consummate skill, or an anonymous craftsman whose work is distinguishable from others by its characteristic style and quality. The property must express a particular phase in the development of the master’s career, an aspect of his or her work, or a particular them in his or her craft.

The identified buildings are not considered to be a work of a master architect or craftsman. The identified buildings area not significant under Criterion C. As discussed in Section 4.2.1.3, the buildings on site are postwar commercial buildings built for functionality rather than form or style.

Criterion D/4: That have yielded, or may be likely to yield, information important in prehistory or history.

Properties may be eligible under Criterion D if they have yielded, or may be likely to yield, information important in prehistory of history.

The Historical Cultural Assessment did not identify any pre-historical or historical information about the project site. It is unlikely that any further information of importance would be revealed with additional study. The identified buildings are not significant under Criterion D.

City of Oceanside Historic Preservation Ordinance

The criteria identified in the City’s Historic Preservation Ordinance are similar to the criteria for listing in the NRHP or CRHR, as discussed in Section 4.2.2, Regulatory Setting. As such, for the reasons detailed previously, the structures on the project site are recommended not eligible for local listing under all applicable designation criteria.

Conclusion

The identified buildings on the project site do not possess any notable design features, they are not the work of a master architect or craftsman, and are not constructed of rare or unique materials. The buildings do not qualify for nomination to the national, state or local historical resources registers. The SCIC records search as discussed in Section 4.2.1.3 identified 154 previous recorded historic addresses within the 1-mile search radius, however none were within the project’s APE, are adjacent to the site or would otherwise be affected by the project. The project would not result in a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.2. Therefore, the project would result in a **less than significant impact**.

Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.2?

As discussed under Section 4.2.1, a records search was conducted for the APE and surrounding 1-mile radius at the SCIC on January 23, 2019. These records indicate that there are no previously recorded cultural resourced located within the project APE, however there are 29 cultural resources identified within the 1-mile search radius (see Table 4.2-2). However, one prehistoric isolated resource (Isolate AO-Iso-001) was located on the project site during the archaeological field survey conducted on January 24, 2019.

Isolate AO-Iso-001, as discussed in Section 4.2.1.3, is a single prehistoric lithic tool measuring and consist of an interior flake that demonstrates unifacial pressure-flaking scars along the dorsal flake edge. No other resources were found near Isolate AO-Iso-001 or within the project site, however surface visibility was extremely poor due to overgrown, dense vegetation. Due to the overgrown vegetation and the ground-disturbing construction activities that would take place, there is a potential to uncover more surface or sub-surface resources within the project site. Therefore, the Project would have a **potentially significant impact (Impact CUL-1)** on archaeological resources pursuant to CEQA Guidelines Section 15064.2 and would require mitigation measures (**MM-CUL-1**).

Would the project disturb any human remains, including those interred outside of formal cemeteries?

The project site is not used as a cemetery and is not otherwise known to contain human remains. Additionally, no evidence of human remains were discovered during the field survey. The project site was not tested for human remains. The project shall comply with Section 7050.5 of the California Health and Safety Code, which requires the County Coroner to be notified within 24 hours of any human remain discoveries and a stop work until the Coroner has determined the appropriate treatment and disposition of the human remains. If the remains are determined to be Native American, this regulation also requires the Coroner to notify the NAHC in Sacramento within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify those persons it believes to be the MLD from the deceased Native American. The MLD shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the property owner, the disposition of the human remains. As such, the project would have **no impact** to human remains. None-the-less, it is noted that the standard archaeological monitoring mitigation (**MM-CUL-1**) provided to address **Impact CUL-1** includes a provision to address any unforeseen discovery of human remains as well and reinforces the implementation of these mandated regulations, consistent with California Health and Safety Code Section 7050.5.

4.2.5 Mitigation Measures

The following mitigation measure would reduce potentially significant impacts to archaeological to a level below significance.

MM-CUL-1 Prior to the issuance of a Grading Permit, the Applicant/Owner shall enter into a pre-excavation agreement, otherwise known as a Tribal Cultural Resources Treatment and Tribal Monitoring Agreement with the “Traditionally and Culturally Affiliated (TCA) Native American Monitor associated with a TCA Luiseno Tribe”. A copy of the agreement shall be included in the Grading Plan Submittals for the Grading Permit. The purpose of this agreement shall be to formalize protocols and procedures between the Applicant/Owner and the “Traditionally and Culturally Affiliated (TCA) Native American Monitor associated with a TCA Luiseno Tribe” for the protection and treatment of, including but not limited to, Native American human remains, funerary objects, cultural and religious landscapes, ceremonial items, traditional gathering areas and tribal cultural resources, located and/or discovered through a monitoring program in conjunction with the construction of the proposed project, including additional archaeological surveys and/or studies, excavations, geotechnical investigations, grading, and all other ground disturbing activities.

Prior to the issuance of a Grading Permit, the Applicant/Owner or Grading Contractor shall provide a written and signed letter to the City of Oceanside Planning Division stating that a Qualified Archaeologist and Luiseño Native American Monitor have been retained at the Applicant/Owner or Grading Contractor's expense to implement the monitoring program, as described in the pre-excavation agreement.

The Qualified Archaeologist shall maintain ongoing collaborative consultation with the Luiseño Native American monitor during all ground disturbing activities. The requirement for the monitoring program shall be noted on all applicable construction documents, including demolition plans, grading plans, etc. The Applicant/Owner or Grading Contractor shall notify the City of Oceanside Planning Division of the start and end of all ground disturbing activities.

The Qualified Archaeologist and Luiseño Native American Monitor shall attend all applicable pre-construction meetings with the General Contractor and/or associated Subcontractors to present the archaeological monitoring program. In order to prevent unnecessary negative effects to cultural resources within the project's APE, a brief archaeological sensitivity training would be provided during this pre-grading meeting with the grading contractor. This training would include a discussion concerning resources located in proximity to designated work areas.

The Qualified Archaeologist and Luiseño Native American Monitor shall be present on-site full-time during grubbing, grading and/or other initial ground altering activities to identify any evidence of potential archaeological or tribal cultural resources. All fill materials shall be absent of any and all tribal cultural resources.

In order for potentially significant archaeological artifact deposits and/or cultural resources to be readily detected during mitigation monitoring, a written "Controlled Grade Procedure" shall be prepared by a Qualified Archaeologist, in consultation with the Luiseño Native American monitor, the San Luis Rey Band, and the Applicant/Owner, subject to the approval of City representatives. The Controlled Grade Procedure shall establish requirements for any ground disturbing work with machinery occurring in and around areas the Qualified Archaeologist and Luiseño Native American monitor determine to be sensitive through the cultural resource mitigation monitoring process. The Controlled Grade Procedure shall include, but not be limited to, appropriate operating pace, increments of removal, weight and other characteristics of the earth disturbing equipment. A copy of the Controlled Grade Procedure shall be included in the Grading Plan Submittals for the Grading Permit.

The Qualified Archaeologist or the Luiseño Native American monitor may halt ground disturbing activities if unknown tribal cultural resources, archaeological artifact deposits or cultural features are discovered. Ground disturbing activities shall be directed away from these deposits to allow a determination of potential importance. Isolates and clearly non-significant deposits will be minimally documented in the field, and before grading proceeds these items shall be given to the San Luis Rey Band so that they may be repatriated at the site on a later date. If the Qualified Archaeologist and Luiseño Native American monitor determine that the unearthed tribal cultural resource, artifact deposits or cultural features are considered potentially significant, the San Luis Rey Band shall be notified and consulted regarding the respectful and dignified treatment of those resources. The avoidance and protection of the significant tribal cultural resource and/or unique archaeological resource is the preferable mitigation. If, however, it is determined by the City that avoidance of the resource is infeasible, and it is determined that a data recovery plan is necessary by the City as the Lead Agency under CEQA, the San Luis Rey Band shall be notified and consulted regarding the drafting and finalization of any such recovery plan. For significant tribal cultural resources, artifact deposits or cultural features that are part of a data recovery plan, an adequate artifact sample to address research avenues previously identified for sites in the area will be collected using professional archaeological collection methods. The data recovery plan shall also incorporate and reflect the tribal values of the San Luis Rey Band. If the Qualified Archaeologist collects such resources, the Luiseño Native American monitor must be present during any testing or cataloging of those resources. Moreover, if the Qualified Archaeologist does not collect the tribal cultural resources that are unearthed during the ground disturbing activities, the Luiseño Native American monitor, may at their discretion, collect said resources and provide them to the San Luis Rey Band for respectful and dignified treatment in accordance with the Tribe's cultural and spiritual traditions. Ground disturbing activities shall not resume until the Qualified Archaeologist, in consultation with the Luiseño Native American Monitor, deems the cultural resource or feature has been appropriately documented and/or protected.

The landowner shall relinquish ownership of all tribal cultural resources unearthed 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 San Luis Rey Band for respectful and dignified treatment and disposition, including reburial at a protected location on-site, 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. No tribal cultural resources shall be subject to curation.

Prior to the release of the grading bond, a monitoring report and/or evaluation report, if appropriate, which describes the results, analysis and conclusions of the archaeological monitoring program (e.g., data recovery plan) shall be submitted by the Qualified Archaeologist, along with the Luiseño Native American monitor's notes and comments, to the City of Oceanside Planning Division for approval.

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 Office of the Medical Examiner by telephone. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the Medical Examiner 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, and consultation and treatment could occur as prescribed by law. If suspected Native American remains are discovered, the remains shall be kept in situ, 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 a Luiseño Native American monitor. By law, the Medical Examiner will determine within two working days of being notified if the remains are subject to his or her authority. If the Medical Examiner identifies the remains to be of Native American ancestry, 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.

4.2.6 Level of Significance After Mitigation

The project site and its associated historic-era structures were determined not to be eligible for listing under NRHP/CRHR or locally. Therefore, they are not considered historic resources, and impacts would be less than significant.

With the incorporation of **MM-CUL-1**, potentially significant impacts to cultural and archaeological resources would be reduced to a level below significance.

No known human remains are located on the site. With compliance with Section 7050.5 of the California Health and Safety Code and California Public Resources Code, Section 5097.98, no impact related to any unexpected human remain discovery would occur and no mitigation is required.