

4.4 Cultural Resources

This section of the EIR provides contextual background information on historical resources in the project area, including the area's prehistoric, ethnographic, and historical settings. This section also summarizes the results of cultural literature reviews of the project site, analyzes the project's potential impacts on cultural resources, and identifies mitigation measures to address adverse impacts.

For the purposes of CEQA, "historical resources" generally refer to cultural resources that have been determined to be significant, either by eligibility for listing in state or local registers of historical resources, or by determination of a lead agency (see definitions below). Historical resources can also include areas determined to be important to Native Americans that qualify as tribal cultural resources as defined in PRC Section 21074 (sites, landscapes, historical, or archeological resources). Paleontological resources are also considered within this section.

4.4.1 REGULATORY SETTING

Federal

National Historic Preservation Act (NHPA)

Pursuant to the National Historic Preservation Act (NHPA) of 1966, as amended, the federal government, acting through the U.S. Department of the Interior's National Park Service, maintains an inventory of properties and structures that have been determined to meet certain criteria as significant historic resources commonly referred to as the "National Register of Historic Places" (NRHP). The NHPA established the Advisory Council on Historic Preservation and provided procedures for the agency to follow if a proposed action affects a property that is included or may be eligible for inclusion, on the NRHP. The NRHP was developed as a direct result of the NHPA.

National Register of Historic Places (NRHP)

The NRHP was established by the NHPA of 1966, as "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" (*Code of Federal Regulations* [CFR] 36 § 60.2). To be eligible for listing in the NRHP, a resource must be significant in American history, architecture, archaeology, engineering, or culture. A property (districts, sites, buildings, structures, and objects of potential significance) is eligible for the NRHP if it is significant under one or more of the following four established criteria:

- **Criterion A:** It is associated with events that have made a significant contribution to the broad patterns of our history.
- **Criterion B:** It is associated with the lives of persons who are significant in our past.
- **Criterion C:** It embodies the distinctive characteristics of a type, period, or method of construction; represents the work of a master; possesses high artistic values; or represents a significant and distinguishable entity whose components may lack individual distinction.
- **Criterion D:** It has yielded, or may be likely to yield, information important in prehistory or history.

In addition to meeting the criteria of significance, a property must have integrity. Integrity is defined as “the ability of a property to convey its significance.” The seven factors that define integrity are location, design, setting, materials, workmanship, feeling, and association.

State

California Register of Historical Resources (CRHR)

In 1992, then Governor Wilson signed Assembly Bill (AB) 2881 into law establishing the California Register of Historical Resources (CRHR). The CRHR is an authoritative guide in California to be 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. Eligibility for the CRHR is determined by the California Office of Historic Preservation in a formal review process in which a resource is proposed for listing. A resource deemed eligible for the NRHP is typically deemed eligible for the CRHR. Certain resources are determined by the statute to be included in the CRHR, including California properties formally determined eligible for or listed in the NRHP, as well as State Landmarks and State Points of Interest. The CRHR is maintained by the Office of Historic Preservation’s State Historic Preservation Officer.

For a historic resource to be listed, the resource must meet one or more of the following criteria:

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

California Public Resources Code

The California Public Resources Code (PRC) establishes the definition and criteria for historical resources. “Historical resources,” according to PRC Section 5020.1(j), “includes, but is not limited to, any object, building, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.” Section 15064.5(a) of the State CEQA Guidelines states that “[g]enerally, a resource shall be considered [by the Lead Agency] to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources”.

CEQA has established statutory requirements for the formal review and analysis of projects that fall under its jurisdiction. CEQA maintains that any property listed in, determined, or found eligible for listing in the CRHR is considered to be a “historical resource” and shall be considered historically significant. According to the State CEQA Guidelines, “[a] project with an effect that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment” (14 *California Code of Regulations* [CCR] § 15064.5[b]). Substantial adverse change is defined as “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]).

Impacts to cultural resources are considered significant if a project (1) physically destroys or damages all or part of a resource; (2) changes the character of the use of the resource or physical feature within the setting of the resource that contributes to its significance; and/or (3) introduces visual, atmospheric, or audible elements that diminish the integrity of significant features of the resource.

The Lead Agency must concurrently determine whether a project will cause damage to a unique archaeological resource (as defined in PRC § 21083.2[b]) and, if so, must make reasonable efforts to permit the resources to be preserved in place or left undisturbed. An archaeological resource must be determined to be “unique” or “historic” for an impact to the resource to be considered significant. Section 21083.2(g) of CEQA defines a unique archaeological resource as an archaeological artifact, object, or site about which it can be demonstrated that without merely adding to the existing body of archaeological 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.

Paleontological Resources

Paleontological resources are nonrenewable scientific and educational resources. The CEQA regulatory framework for impacts on paleontological resources is contained in Appendix G (Environmental Checklist Form) of the State CEQA Guidelines and includes paleontological resources under the general heading “Cultural Resources”. Projects subject to CEQA must determine whether the project would “directly or indirectly destroy a unique paleontological resource”.

An impact to paleontological resources would be considered a significant impact if a project results in the direct or indirect destruction of a unique or important paleontological resource or site. A project site is deemed paleontologically sensitive if (1) it has fossils that have previously been recovered from a particular geologic unit; (2) there are recorded fossil localities within the same geologic units as occur within the project area; and (3) the types of fossil materials that have been recovered from the geologic unit are unique or important.

Senate Bill 18

Senate Bill (SB) 18 (*California Government Code* § 65352.3) requires local governments to consult with Native American tribes prior to making certain planning decisions and to provide notice to tribes at certain key points in the planning process. These consultation and notice requirements apply to the adoption and amendment of general plans and specific plans. The consultation process requires (1) that local governments send the State Native American Heritage Commission (NAHC) information on a proposed project and request contact information for local Native American tribes; (2) that local governments then

send information on the project to the tribes that the NAHC has identified and notify them of the opportunity to consult; (3) that the tribes have 90 days to respond on whether they want to consult or not, and (4) that consultation begins if requested by a tribe and there is no statutory limit on the duration of the consultation. If issues arise and consensus on mitigation cannot be reached, SB 18 allows a finding to be made that the suggested mitigation is infeasible. SB 18 is not applicable to the Proposed Project.

Assembly Bill 52

Assembly Bill (AB) 52 (Chapter 532, Statutes of 2014) establishes “Tribal Cultural Resources” as a new, separate, and distinct category of resources requiring consideration in the CEQA process. AB 52 amends CEQA by adding a new definition for tribal cultural resources. Such resources include “[s]ites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are eligible for inclusion in the California Register of Historical Resources or included in a local register of historical resources.” It also requires a new consultation process with Native American tribes to occur during the CEQA process to allow tribes the opportunity to provide input on tribal cultural resources, and appropriate mitigation and alternatives to avoid or reduce significant impacts to tribal cultural resources. AB 52 also gives lead agencies the discretion to determine, based on substantial evidence, whether a resource qualifies as a “tribal cultural resource”.

City of Newport Beach

City Council Policy Manual Guidelines

The City of Newport Beach (City) has adopted archaeological and paleontological guidelines that govern the identification and evaluation of these resources and are used to guide the development or redevelopment of lands within the City.

With respect to paleontological resources, City Policy K-4 (adopted on August 26, 1974, as amended) requires that impacts to paleontological resources caused by development be mitigated in accordance with CEQA. As determined necessary by the Community Development Director, procedures to be used to assess paleontological resources are a walk-over site survey; review of publications and reports on the geology or paleontology of the area; analysis of all available soils information; and examination of the relationship of the proposed development site to known or potential fossil-producing areas identified in available records, as applicable.

With respect to archaeological resources, City Policy K-5 (adopted on January 13, 1975, as amended) requires that an impact to significant archaeological resources caused by any development be mitigated in accordance with CEQA. If deemed necessary by the City, the City requires a site survey and report that identifies potential impacts, alternatives, and recommendations for impact mitigation.

General Plan Natural Resources Element

The primary objective of the Natural Resources Element is to provide direction regarding the conservation, development, and utilization of natural resources. It identifies the City’s natural resources and policies for their preservation, development, and wise use. This General Plan Element addresses water supply (as a resource) and water quality (including bay and ocean quality, and potable drinking water), air quality, terrestrial and marine biological resources, open space, archaeological and paleontological resources,

mineral resources, visual resources, and energy. The Project's consistency with applicable General Plan goals and policies is provided in Section 4.9, *Land Use and Planning*.

General Plan Historical Resources Element

The Historical Resources Element addresses the protection and sustainability of Newport Beach's historic and paleontological resources. Goals and policies are intended to recognize, maintain, and protect the community's unique historical, cultural, and archeological sites and structures. Preserving and maintaining these resources helps to create an awareness and appreciation of the City's rich history. The Element identifies resources in the City that are on the NRHP or CRHR, as well as locally recognized resources; these resources are identified on Figure HR1 of the Historical Resources Element.

Four properties in the City are listed on the NRHP and four other properties are listed as California Historical Landmarks. Properties that are not listed on the NRHP or CRHR may also be considered historical resources. The City has established the Newport Beach Register of Historical Properties to recognize structures or properties of local historical or architectural significance. The Historic Resource Inventory was never formally adopted by the City; however, the Inventory serves as a guide for potentially historic properties that may have historic or cultural significance to the City. The project site is not listed on the Newport Beach Register of Historical Properties, and there are no properties or structures located on the City's Historic Resource Inventory in the immediate vicinity of the site. The Project's consistency with applicable General Plan Historical Resources Element goals and policies is provided in Section 4.9, *Land Use and Planning*.

4.4.2 ENVIRONMENTAL SETTING

Natural Setting

California is divided into geomorphic provinces, which are distinctive, generally easy-to-recognize natural regions in which the geologic record, types of landforms, pattern of landscape features, and climate in all parts are similar. The project site is within the Peninsular Ranges Geomorphic Province of Southern California. The Peninsular Ranges Geomorphic Province, one of the largest geomorphic units in western North America, extends from the Transverse Ranges Geomorphic Providence and the Los Angeles Basin, south to Baja California.

Regional geologic maps of the project site and vicinity indicate that the site is underlain by late to middle Pleistocene-aged Old Paralic deposits overlain by alluvial fan deposits (EEI, 2016). The project area remained undeveloped until the early 1970s. Historical topographic maps and aerial photographs show that portions of the northern section and the southern section of the project site were developed with paved parking and driving areas from at least 1977. The northern portion of the project site was fully paved with parking and driving areas, with some landscaping by 1985.

Prehistoric Setting

Archaeological evidence suggests habitation in the project vicinity by a mobile population during the early Milling Stone Period, about 8,000 to 6,500 years before present (YBP)¹. During the Late Milling Stone Period, about 6,500 years to 3,000 YBP, this population appears to have expanded their settlement to

¹ "Years Before Present" assumes that 1950 is "present", so in this case, 8,000 YBP would be 6,050 BCE (Before Common Era).

take advantage of new habitats and resources available. By the end of the Intermediate Period, 3,000 to 1,350 YBP, settlement became more stationary, as indicated by the hearths, mortuary features, and houses found in archaeological sites from this period.

The project site and surrounding area became inhabited by Native Americans known as the Gabrieliño about 3,500 YBP, toward the end of the Late Milling Stone Period. Gabrieliño territory encompassed more than 2,500 square miles of Southern California, stretching from Topango Canyon in the northwest to Mount Wilson in the north, San Bernardino in the east, and Aliso Creek in the southeast. By the time of European contact in 1769, the Gabrieliño had approximately 5,000 people living in various settlements.

The Gabrieliño were a hunter/gatherer group who lived in small sedentary or semi-sedentary groups, termed Rancherías, of 50 to 100 persons. These Rancherías were occupied by at least some people all of the time. Location of the encampment was determined by water availability. Their subsistence relied heavily on plant foods, but was supplemented with a variety of meat, especially from marine resources. Major Gabrieliño villages south of the City of Long Beach included Kengaa. According to Mission San Juan Capistrano mission records, Kengaa may have been occupied as late as 1828 or 1829. The place name was still used as late as 1853, identifying Newport Bay as “bolsa de gengara”.

Historic Setting

Between 1769 and 1822, the Spanish colonized California and established missions, presidios, and pueblos. After winning its independence from Spain, Mexico worked to lessen the wealth and power held by these missions. In 1833, in accordance with the Spanish-Mexican Grant Act of 1851, the missions and their lands were given to the Mexican governor, who redistributed them in the form of grants to private owners, who set up ranchos.

When California was granted statehood in 1850, the United States promised to honor rancho land grants. However, the process of defining land boundaries and proving legal ownership was often costly and time consuming. In combination with environmental factors detrimental to the cattle industry, many ranchos incurred debt and went into bankruptcy. This resulted in ranchos being divided up and sold inexpensively.

The project site lies within the boundaries of what was Rancho San Joaquin, the result of two land grants awarded to Jose Andres Sepulveda in 1837 and 1842. In 1864, Sepulveda sold the rancho to four investment partners, one of whom was James Irvine. Twelve years later in 1876, Irvine bought out his partners and became the sole owner of the Irvine Ranch.

The project area remained undeveloped until the early 1970s. Portions of the northern section and the southern section of the project site were developed with paved parking and driving areas from at least 1977. The northern portion of the project was fully paved with parking and driving areas, with some landscaping by 1985.

Archaeological and Historical Resources

An archaeological and historical records search was conducted at the South Central Coastal Information Center of the California Historic Resources Inventory System (CHRIS) in February 2017. The results of the search are included in Appendix D. The search included a review of all recorded archaeological and built-environment resources as well as a review of cultural resource reports on file. In addition, the California

Points of Historical Interest, the California Historical Landmarks, the CRHR, the NRHP, and the California State Historic Properties Directory listings. While the search identified several archaeological resources within a half-mile radius of the project site, none of these resources are listed or eligible for listing on the NRHP, the CRHR, California landmarks, or local registers.

Paleontological Setting

Fossils in the central Santa Ana Mountains represent the oldest formations in Orange County, at 145 to 175 million years old, and contain aquatic fossil types, such as radiolarians (single-celled plankton), ammonites (extinct members of the class including nautili, squid, and octopi) and bivalves (such as oysters and clams). The predominance of these fossil types indicates that for much of its geological history Orange County was underwater.

A paleontological records search was conducted at the Natural History Museum of Los Angeles in February 2017. The results of the search are included in Appendix D. The search included review of the paleontology collection records for the locality and specimen data for the project site. The records search and geologic mapping notes that the entire project area has surface exposures of marine younger Quaternary Terrace deposits which typically do not contain significant vertebrate fossils. These deposits are usually underlain by older Quaternary deposits that frequently do contain significant vertebrate fossils. The records search identified no vertebrate fossil localities that lie directly within the project site boundaries. However, there are localities nearby in the same sedimentary deposits that probably occur in the subsurface of the site.

4.4.3 THRESHOLDS OF SIGNIFICANCE

According to Appendix G of the CEQA Guidelines, a project would normally be considered to have a significant impact if it would:

- Threshold 4.4-1** Cause a substantial adverse change in the significance of a historical resource, as defined in CEQA Guidelines Section 15064.5.
- Threshold 4.4-2** Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.
- Threshold 4.4-3:** Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or (ii) 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 Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

Threshold 4.4-4 Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

Threshold 4.4-5 Disturb any human remains, including those interred outside of formal cemeteries.

4.4.4 ENVIRONMENTAL IMPACTS

Threshold 4.4-1: Would the Project cause a substantial adverse change in the significance of a historical resource, as defined in CEQA Guidelines Section 15064.3?

Section 15064.5(c)(1) of the State CEQA Guidelines provides criteria for the determination of significance of impacts to both archaeological and historical resources. The following analysis addresses potential significant impacts to built-environment (man-made) historical resources. Potential impacts to archaeological resources, including archeological resources that meet the CEQA definition of an historical resource, are addressed under Threshold 4.4-2.

There are no resources on or within a half-mile radius of the project site that have been listed or are eligible for listing on the NRHP, the CRHR, California landmarks, or local registers. As a part of project implementation, no existing buildings would be directly or indirectly affected in the context of historic resources. The existing office buildings located within the boundaries of the site (4490 Von Karman Avenue and 4910 Birch Street), or immediately contiguous to the site (5000 Birch Street, 4340 Von Karman Avenue, 4350 Von Karman Avenue) are not a part of the proposed development and were constructed between the 1970s and 2000s. Consequently, development of the Proposed Project would not impact an historic resource. No impacts would occur and no mitigation is required.

Impact Summary: *No Impact.* Neither the project site nor the surrounding area contains resources that have been listed or are eligible for listing on the NRHP, the CRHR, California landmarks, or local registers. No impacts would occur.

Threshold 4.4-2: Would the Project cause a substantial adverse change in the significance of an archaeological resource, as defined in CEQA Guidelines Section 15064.5?

As previously addressed, an archaeological and historical records search was conducted by staff of the South Central Coastal Information Center of the CHRIS in February 2017. The records search found three archaeological resources within a half-mile of the project site. Due to the sensitive nature of cultural resources, archaeological site locations are not identified in this EIR.

Section 21083.2(g) of CEQA defines “unique archaeological resource” for purposes of determination as to whether a project may have a significant effect on archaeological resources. As used in this section “unique archaeological resource” means an 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:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;

- Has a special and particular quality such as being the oldest of its type or the best available of its type; or
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

Although the project site has been disturbed, the project area is potentially sensitive for archaeological resources. Therefore, the Project would be required to comply with MM 4.4-1, which requires that an archaeologist monitor grading and excavation activities. The archaeologist would have the ability to temporarily halt or redirect work to permit the sampling, identification, and evaluation of the artifacts and resources, as appropriate. If resources are found to be significant, the archaeologist would determine appropriate actions, in cooperation with the City and Applicant compliance with MM 4.4-1 would reduce potential impacts to a less than significant level.

Impact Summary: ***Less Than Significant With Mitigation.*** The Proposed Project would potentially have direct impacts on archaeological and cultural resources. This impact would be mitigated to a level considered less than significant with implementation of MM 4.4-1.

Threshold 4.4-3: **Would the Project cause a substantial adverse change in the significance of a tribal cultural resource?**

In compliance with PRC Section 21080.3.1(b), the City has provided formal notification to California Native American tribal representatives that have previously requested notification from the City regarding projects within the geographic area traditionally and culturally affiliated with the tribe. Native American groups may have knowledge about cultural resources in the area and may have concerns about adverse effects from development on tribal cultural resources as defined in PRC Section 21074. The City has contacted the following tribal representatives:

- Gabrieliño Band of Mission Indians – Kizh Nation, Andrew Salas
- Juaneño Band of Mission Indians – Acjachemen Nation, Joyce Stanfield Perry

Correspondence to and from the tribal representatives is included in Appendix D. The City received correspondence from Andrew Salas, a representative of the Gabrieliño Band of Mission Indians, noting that there could potentially be cultural resources located on the project site due to the sensitivity of the project area. Mr. Salas requested a certified Native American monitor be on site during ground disturbances. MM 4.4-1 includes this monitoring request. Compliance with MM 4.4-1 would ensure that impacts to cultural resources would be less than significant.

Impact Summary: ***Less Than Significant With Mitigation.*** The Proposed Project would potentially have direct impacts on archaeological resources. This impact would be mitigated to a level considered less than significant with implementation of MM 4.4-1.

Threshold 4.4-4: Would the Project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

As previously noted, a paleontological records search was conducted by staff of the Natural History Museum of Los Angeles in February 2017. The project area has surface exposures of marine younger Quaternary Terrace deposits. The records search identified no vertebrate fossil localities that lie directly within the project site but that there are nearby localities from the same sedimentary deposits that probably occur subsurface at the site. Most properties do not have paleontological resources exposed at the surface, and fossils are usually found during the earth-moving activities as grading exposes the geologic formations.

The records search determined that surface grading or shallow excavations in the younger Quaternary deposits would likely not uncover significant vertebrate fossil remains. Deeper excavations that extend down into older Quaternary deposits, however, may well encounter significant fossil vertebrate specimens. MM 4.4-2 requires that a paleontologist monitor grading and excavation activities and conduct salvage excavation as necessary. If any scientifically important large fossil remains are uncovered, the paleontologist would have the authority to divert heavy equipment away from the fossil site. Compliance with MM 4.4-2 would reduce impacts to less than significant.

Impact Summary: *Less Than Significant With Mitigation.* The Proposed Project would potentially have direct impacts on paleontological resources. This impact would be mitigated to a level considered less than significant with implementation of MM 4.4-2.

Threshold 4.4-5: Would the Project disturb any human remains, including those interred outside of formal cemeteries?

The project site has been previously disturbed and currently is developed with surface parking lots and landscape areas. There is no indication that there are burials present at the project site and it is unlikely that human remains would be discovered during project development. In the event that human remains are discovered during grading activities, Standard Condition (SC) 4.4-1 addresses procedures to follow the discovery of suspected human remains. Compliance with existing law would ensure that impacts to human resources would not occur.

Impact Summary: *Less Than Significant Impact.* The Project would be required to comply with SC 4.4-1 which establishes procedures to be implemented should human remains be discovered.

4.4.5 CUMULATIVE IMPACTS

With respect to historic resources, the Project would not impact any known historical resources. With respect to prehistoric archaeological resources, the cumulative study area would include the areas along coastal Orange County historically used by the Juaneño Band of Mission Indians and the Gabrieliño Band of Mission Indians. The paleontological study area would include other areas in the region where a parcel is underlain by older Quaternary deposits, which are considered to have high paleontological sensitivity.

Although the Project—in conjunction with the effects of past projects, other current projects, and probable future projects—may result in the disturbance of prehistoric archaeological resources throughout the study area, standard conditions of approval and mitigation measures required for each project would reduce the impacts to less than significant levels. Despite the site-specific nature of the resources, mitigation required for the identification and protection of unknown or undocumented resources would reduce the potential for cumulative impacts. On a cumulative level, data recovered from a site, combined with data from other sites in the region, would allow for the examination and evaluation of the diversity of human activities in the region. As a result, development of the Proposed Project would not contribute to a significant cumulative impact on cultural resources. This determination is consistent with the findings of the Newport Beach General Plan EIR.

Development of the project site, in combination with other projects in the region where a parcel is underlain by the older Quaternary formations could contribute to the progressive loss of fossil-bearing strata in rock unit that could uncover fossil remains and unrecorded fossil sites. The Proposed Project would cumulatively contribute to a potentially significant impact without mitigation. Consistent with the findings of the Newport Beach General Plan EIR, cumulative development is not expected to result in significant impacts to cultural, provided site-specific surveys and test and evaluation excavations are conducted to determine whether the resources are unique archaeological resources or historical resources, and appropriate mitigation measures are implemented prior to grading. Implementation of the appropriate mitigation measures would reduce cumulative impacts to a level considered less than significant.

4.4.6 MITIGATION PROGRAM

Project Design Features

No project design features have been identified by the Applicant.

Standard Conditions

SC 4.4-1 California Health and Safety Code Section 7050.5, CEQA Section 15064.5, and Public Resources Code Section 5097.98 mandate the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery. California Health and Safety Code Section 7050.5 requires that in the event that human remains are discovered within the project site, disturbance of the site shall be halted until the coroner has conducted an investigation into the circumstances, manner and cause of death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes or has reason to believe the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Mitigation Measures

MM 4.4-1 Prior to the issuance of a grading permit and/or action that would permit project site disturbance (whichever occurs first), the Applicant shall provide written evidence to the City that the Applicant has retained a qualified archaeologist and Native American monitor to observe grading activities and to salvage and catalogue historic and archaeological resources, as necessary. The selection of a qualified Gabrieliño Band of Mission Indians Native American monitor shall be made by the archaeologist subject to the approval of the City. The archaeologist and Native American monitor shall be present at the pre-grade conference; the archaeologist shall establish procedures for archaeological resource surveillance; and shall establish, in cooperation with the Applicant, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts, as appropriate. Because of the disturbed condition of the project site, the duration of monitoring by both the archaeologist and the Native American monitor shall be determined by the archaeologist. If the archaeologist, with the assistance of the Native American monitor, determines that they are unique historic or archaeological resources as defined by Public Resources Code (PRC) Section 21083.2 or a tribal cultural resource as defined by PRC Section 21074, then the archaeologist and Native American monitor shall conduct additional excavations as determined to be necessary to avoid impacts to these resources by the development. If they are not “unique” then no further mitigation would be required. Unique cultural resources shall be determined based on the criteria set forth in Section 21083.2 of CEQA. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval of the City of Newport Beach Community Development Department.

MM 4.4-2 Prior to the issuance of the first grading permit and/or action that would permit project site disturbance, the Applicant shall provide written evidence to the City of Newport Beach Community Development Department that the Applicant has retained a qualified Paleontologist to monitor any potential impacts to paleontological resources throughout the duration of any ground-disturbing activities at the project site. The paleontologist shall review the project’s final plans and develop and implement a Paleontological Mitigation Plan, which shall include the following minimum elements:

- All earthmoving activities eight-feet or more below the current surface shall be monitored full-time by a qualified paleontological monitor.
- If fossils are discovered, the paleontological monitor has the authority to temporarily divert work as deemed necessary to allow recovery of the fossils and evaluation of the fossil locality.
- Fossil localities shall require documentation including stratigraphic columns and samples for micropaleontological analyses and for dating.
- Fossils shall be prepared to the point of identification prior to being donated to an appropriate repository.
- The final report shall interpret any paleontological resources discovered in the regional context and provide the catalog and all specialists’ reports as appendices.

4.4.7 LEVEL OF SIGNIFICANCE AFTER MITIGATION

With implementation of the Mitigation Program set forth in this section, potential impacts to cultural resources would be reduced to a level considered less than significant.

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