

5. Environmental Analysis

5.3 CULTURAL RESOURCES

Cultural resources comprise paleontological, archaeological, and historical resources. Paleontological resources are the fossilized remains of plants and animals. Archaeology is the branch of paleontology that studies human artifacts, such as places, objects, and settlements that reflect group or individual religious, cultural, or everyday activities. Historical resources include sites, structures, objects, or places that are at least 50 years old and are significant for their engineering, architecture, cultural use or association, etc. In California, historic resources cover human activities over the past 12,000 years. Cultural resources provide information on scientific progress, environmental adaptations, group ideology, or other human advancements.

This section of the Draft Environmental Impact Report (DEIR) evaluates the potential for implementation of the Museum House project to impact cultural resources in the City of Newport Beach. The analysis in this section is based, in part, upon the following information:

- *Cultural Resources Technical Memo for the Museum House Project, City of Newport Beach, Orange County, California, Cogstone, April 2016*
- *Paleontological Resources Technical Memo for the Museum House Project, City of Newport Beach, Orange County, California, Cogstone, April 2016*

Complete copies of these studies are included in the Technical Appendices to this Draft EIR (Volume II, Appendices F1 and F2).

5.3.1 Environmental Setting

5.3.1.1 REGULATORY BACKGROUND

Federal

National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA) coordinates public and private efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The act authorized the National Register of Historic Places, which lists districts, sites, buildings, structures, and objects that are significant in American history, architecture, archaeology, engineering, and culture.

National Register of Historic Places

The National Register of Historic Places (National Register) is the nation's official list of buildings, structures, objects, sites, and districts worthy of preservation because of their significance in American history, architecture, archeology, engineering, and culture. The National Register recognizes resources of local, state, and national significance that have been documented and evaluated according to uniform standards and criteria. Authorized under the NHPA, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect historic and archeological resources. The

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National Register is administered by the National Park Service, which is part of the US Department of the Interior.

To be eligible for listing in the National Register, a resource must meet at least one of the following criteria:

- Is associated with events that have made a significant contribution to the broad patterns of our history.
- Is associated with the lives of persons significant in our past.
- Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.
- Has yielded, or may be likely to yield, information important in history or prehistory.

State

California Public Resources Code

Archaeological, paleontological, and historical sites are protected pursuant to a wide variety of state policies and regulations enumerated under the California Public Resources Code (PRC). Cultural and paleontological resources are recognized as nonrenewable resources and receive additional protection under the PRC and CEQA.

- **PRC Sections 5020–5029.5** continued the former Historical Landmarks Advisory Committee as the State Historical Resources Commission. The commission oversees the administration of the California Register of Historical Resources and is responsible for the designation of State Historical Landmarks and Historical Points of Interest.
- **PRC Sections 5079–5079.65** define the functions and duties of the Office of Historic Preservation, which is responsible for the administration of federally and state-mandated historic preservation programs in California and the California Heritage Fund.
- **PRC Sections 5097.9–5097.991** provide protection to Native American historical and cultural resources and sacred sites, and identify the powers and duties of the Native American Heritage Commission (NAHC). It also requires notification to descendants of discoveries of Native American human remains, and provides for treatment and disposition of human remains and associated grave goods.

California Register of Historic Resources

The State Historical Resources Commission has designed the California Register of Historic Resources for use by state and local agencies, private groups, and citizens to identify, evaluate, register, and protect California's historical resources. The California Register is the authoritative guide to the state's significant historical and archeological resources. It encourages public recognition and protection of resources of

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architectural, historical, archeological, and cultural significance; identifies historical resources for state and local planning purposes; determines eligibility for state historic preservation grant funding; and affords certain protections under CEQA.

To be eligible for listing in the California Register, a resource must meet at least one of the following criteria:

- Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States.
- Associated with the lives of persons important to local, California, or national history.
- Embodies the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values.
- Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

In addition to having significance, resources must have integrity for the period of significance. The period of significance is the date or span of time within which significant events transpired or significant individuals made important contributions. Integrity is the authenticity of a historical resource's physical identity as evidenced by the survival of characteristics or historic fabric that existed during the resource's period of significance. Alterations to a resource or changes in its use over time may have historical, cultural, or architectural significance. Simply, resources must retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. A resource that has lost its historic character or appearance may still have sufficient integrity for the California Register if, under the fourth criterion, it maintains the potential to yield significant scientific or historical information or specific data.

California Senate Bill 18 and Assembly Bill 52

Existing law provides limited protection for Native American prehistoric, archaeological, cultural, spiritual, and ceremonial places. These places may include sanctified cemeteries, religious, ceremonial sites, shrines, burial grounds, prehistoric ruins, archaeological or historic sites, Native American rock art inscriptions, or features of Native American historic, cultural, and sacred sites.

Senate Bill 18: This bill related to traditional tribal cultural places (TTCPs) was signed into law in September 2004 and went into effect on March 1, 2005. It places new requirements upon local governments for developments within or near TTCPs. SB 18 applies to projects requiring an update to the local jurisdiction's General Plan, or actions, such as General Plan Amendments and adoption of Specific Plans. SB 18 requires local jurisdictions to provide opportunities for involvement of California Native Americans tribes in the land planning process for the purpose of preserving traditional tribal cultural places. The Final Tribal Guidelines recommends that the NAHC provide written information as soon as possible, but no later than 30 days after requested by the lead agency, to inform the lead agency if the proposed project is determined to be in proximity to a TTCP, and another 90 days for tribes to respond to a local government if they want to consult

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with the local government to determine whether the project would have an adverse impact on the TTCP. There is no statutory limit on the consultation duration. Forty-five days before the action is publicly considered by the local government council, the local government refers action to agencies, following the CEQA public review time frame. The CEQA public distribution list may include tribes listed by the NAHC who have requested consultation or it may not. If the NAHC, the tribe, and interested parties agree upon the mitigation measures necessary for the proposed project, it would be included in the project's EIR. If both the City and the tribe agree that adequate mitigation or preservation measures cannot be taken, then neither party is obligated to take action.

Assembly Bill 52: AB 52 took effect July 1, 2015, and requires inclusion of a new section in CEQA documents titled Tribal Cultural Resources (TCR), which includes heritage sites, for projects where the Notice of Preparation or notices to adopt a Negative Declaration or Mitigated Negative Declaration are filed after this date. Similar to SB 18, AB 52 requires consultation with tribes at an early stage to determine whether the project would have an adverse impact on the TCR and mitigation to protect them.

Local

City of Newport Beach General Plan

The following Newport Beach General Plan Historical Resources Element policies address the City's goals of protecting historic and paleontological resources and are applicable to the proposed project.

- **HR 1.5 Historical Elements within New Projects:** Require that proposed development that is located on a historical site or structure incorporate a physical link to the past within the site or structural design, if preservation or adaptive reuse is not a feasible option. For example, incorporate historical photographs or artifacts within the proposed project or preserve the location and structures of existing pathways, gathering places, seating areas, rail lines, roadways, or viewing vantage points within the proposed site design.
- **HR 2.1 New Development Activities:** Require that, in accordance with CEQA, new development protect and preserve paleontological and archaeological resources from destruction, and avoid and mitigate impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.
- **HR 2.2 Grading and Excavation Activities:** Maintain sources of information regarding paleontological and archeological sites and the names and addresses of responsible organizations and qualified individuals, who can analyze, classify, record, and preserve paleontological or archeological findings.
- Require a qualified paleontologist/archeologist to monitor all grading and/or excavation where there is a potential to affect cultural, archeological or paleontological resources. If these resources are found, the applicant shall implement the recommendations of the paleontologist/archeologist, subject to the approval of the City Planning Department.

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- **HR 2.3 Cultural Organizations:** Notify cultural organizations, including Native American organizations, of proposed developments that have the potential to adversely impact cultural resources. Allow representatives of such groups to monitor grading and/or excavation of development sites.
- **HR 2.4 Paleontological or Archaeological Materials:** Require new development to donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible.

City of Newport Beach City Council Policies

The following City Council policies are used to guide development and redevelopment in Newport Beach as related to paleontological and archaeological resources.

- **City Council K-4 Paleontological Guidelines:** Requires preservation of paleontological resources and requires that any project impacts on paleontological resources be mitigated in accordance with the California Environmental Quality Act (CEQA). The City shall maintain a database of paleontological sites within the City and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve paleontological findings. A qualified paleontologist may be required by the Community Development Director, to examine future project sites to determine the existence and extent of paleontological resources and prepare a report and recommendations. Detailed procedures for the site examination, pre-grading conference (if required), and responsibilities of the City's Community Development Director are also provided in the K-4 Paleontological Guidelines.
- **City Council K-5 Archaeological Guidelines:** Requires the preservation and mitigation of project impacts on significant archaeological resources in accordance with CEQA. The City is required to maintain a database of archaeological sites within the City and the names and addresses of responsible organizations and qualified individuals who can analyze, classify, record, and preserve archaeological findings. If required by the Community Development Director, future developers are required to allow examination of proposed sites by a qualified archaeologist, who shall prepare a written report and recommendations for further actions. Procedures used in examining and reporting on possible archaeological sites are also detailed in the K-5 Archaeological Guidelines.

5.3.1.2 EXISTING CONDITIONS

Natural Setting

The City is in the northern Peninsular Ranges Geomorphic Province. This province consists of a series of mountain ranges separated by northwest-trending valleys paralleling faults that branch off from the San Andreas Fault to the east. The Peninsular Ranges Province is in the southwestern corner of California and is bounded by the Transverse Range Province to the north and the Transverse Range and Colorado Desert to the east.

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The project area is mapped as Pleistocene Old Paralic Deposits. This rock unit consists of nearshore marine and nonmarine deposits laid down near the coastline during the middle to late Pleistocene. These deposits consist of poorly sorted, moderately permeable, reddish-brown, interdigitated strandline, beach, estuarine, and colluvial deposits of silt, sand, and gravel.

The Old Paralic deposits are broken into seven units based on the age of the sediments and location in the map quadrangle, with Unit 7 being the youngest (80,000 years old) and Unit 1 the oldest (450,000 years old). In some areas, the old paralic deposits are overlain by a thin, discontinuous layer of younger alluvial sand deposits.

Below the Old Paralic deposits is bedrock of the Monterey Formation which was deposited in a marine setting during the Miocene (5.3 to 23 million years ago). It is made up of white to pale brown, finely laminated siltstone interbedded with tan, fine- to medium-grained feldspar-rich sandstone.

Cultural Setting

Ethnography

Early Native American peoples of the project area are poorly understood. They were replaced about 3,500 years ago by Native Americans now known as the Gabrielino (Tongva). Even later, other Native Americans, now known as the Juaneño (Acjachemen), moved into southern Orange County and are likely to have also used the project area at some time. Material culture was very similar between these two groups, but the Juaneño were known to produce Tizon brownware ceramics, which might differentiate sites.

Gabrielino Tongva

The Gabrielino speak a language that is part of the Takic language family. Their territory encompassed a vast area stretching from Topanga Canyon in the northwest, to the base of Mount Wilson in the north, to San Bernardino in the east, Aliso Creek in the southeast, and the Southern Channel Islands—in all an area of more than 2,500 square miles. At European contact, the tribe consisted of more than 5,000 people living in various settlements throughout the area. Some of the villages could be quite large, housing up to 150 people.

The Gabrielino are considered to have been one of the wealthiest tribes and to have greatly influenced tribes they traded with. Houses were domed, circular structures thatched with tule or similar materials. The best-known artifacts were made of steatite and were highly prized. Many common everyday items were decorated with inlaid shell or carvings that reflected an elaborately developed artisanship. The village of Kengaa is within the City, and records from Mission San Juan Capistrano indicate it may have been occupied as late as 1830.

History

James Irvine and James McFadden played pivotal roles in the history of Newport Beach. Irvine was the largest landholder in the region and was interested in identifying the most lucrative agricultural uses for the enormous tract of land. When Irvine died in 1886, James Irvine II took control of the ranch and increased its agricultural production. In 1894, James Irvine II incorporated the land holdings as the Irvine Company.

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McFadden, joined by his brother, Robert, sought to buy as much land as possible to sell again, with an end goal of increasing Newport's population to help it emerge as an important commercial center. The number of settlers increased significantly, and a small settlement in the Newport area was established.

Large-scale residential development was organized by William Collins, Henry Huntington, and C. L. Landcaster, who operated under firms like the Newport Beach Company, Newport Bay Dredging Company, and the Orange County Improvement Association. The communities of West Newport, East Newport, Bay Island, and Balboa were laid out. In 1906, these communities had a combined total population of 205 and were incorporated as the City of Newport Beach. The reclamation of lower Newport Bay, a large-scale municipal project of the 1930s, gave the City its present contours. Fishing and canning were the major industries until World War II, when Newport Beach became an important center for repairing and refurbishing Navy vessels. The building of the Santa Ana freeway in the 1950s opened up Newport Beach and other areas of Orange County for more permanent residents, rather than just summer beach goers.

In 1953, the National Scout Jamboree was held on Irvine Ranch land in the modern day location of the Fashion Island Shopping Center. Jamboree Road was built to allow people to travel to the jamboree from nearby train stations. The 1970s saw explosive growth and the development of Newport Beach as a prestigious address for residents and businesses.

Archaeological Resources

A search for archaeological and historical records was completed by Holly Duke and Sara Nava of Cogstone on October 15, 2013 for a previous citywide cultural resources assessment, at the South Central Coast Information Center (SCCIC) at California State University at Fullerton. The record search covered the entire City of Newport Beach, approximately 33,920 acres including the project site. A review of the 2013 record search indicates that eight cultural resources investigations were conducted within 1,000 feet of the proposed project site. Of these, only one previous investigation included the project site.

The records search identified one previously recorded cultural resource, P-30-162284 (National Boy Scout Jamboree), which encompasses the existing Fashion Island Shopping Center area and includes the project site (see Table 5.3-1). This resource is listed in the California Historical Resources Inventory (CHRI) maintained by the California Office of Historic Preservation and is a California Point of Historical Interest (CPHI). However, as stated, it has been developed over by the Fashion Island Shopping Center.

Additionally, prehistoric site P-30-000136 is also in proximity to the project site. This resource is a shell midden and flaked stone site approximately 300 feet southwest of the project site. In 1964, this resource was excavated by the Pacific Coast Archaeological Society. It is doubtful that this resource still exists due to existing development, including a golf course and office buildings. Thirteen additional cultural resources consisting of prehistoric sites are within the half-mile record search radius, but outside the project site boundary (see Table 5.3-1).

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Table 5.3-1 Previously Recorded Resources within a Half-Mile Radius of the Project Area

Primary No. (P-30-)	Site Description	Date Recorded	Distance from Project Area
000052	Prehistoric, shallow shell midden	1949	Within ½ mile
000064	Prehistoric habitation site with shell, lithic, and artifacts	1965	Within ½ mile
000100	Prehistoric site with shell midden	1965	Within ½ mile
000136	Prehistoric site with shell midden and flaked stone artifact	1965	Within 300 feet
000138	Prehistoric site with shell midden and flakes	1965	Within ½ mile
000140	Prehistoric site with shell midden and flaked knife	1965	Within ½ mile
000141	Prehistoric site with shell midden	1965	Within ½ mile
000150	Large prehistoric shell midden with artifacts	1965	Within ½ mile
000151	Large shell midden prehistoric site with artifacts	1965	Within ½ mile
000152	Prehistoric site with shell midden	1965	Within ½ mile
000153	Prehistoric site with shell midden	1965	Within ½ mile
000154	Prehistoric site with shell midden	1965	Within ½ mile
000155	Prehistoric site with shell midden	1965	Within ½ mile
000518	Prehistoric site with shell midden	1976	Within ½ mile
162284	National Boy Scout Jamboree; HRI 90893; NRHP/CRHR Status 7L; CPHI	1977	Includes project site

Source: Cogstone 2016a.

In addition to the SCCIC records search, a variety of sources were consulted in April 2016 to obtain information related to the project site. Sources include the NRHP, CRHR, CHRI, California Historic Landmarks, and CPHI.

Paleontological Resources

A record search of the entire City of Newport Beach was conducted in 2013 by staff of the Natural History Museum of Los Angeles County. No fossils are known within the project site. A large number of fossils are known on the eastern side of the Back Bay near the project site in Older Quaternary sediments. Fossil specimens belonging to 111 taxa of mammals, sharks, rays, fish, amphibians, reptiles, and birds, including fossils belonging to 17 extinct taxa, have been recovered from the 15 fossil localities recorded in this area, which is approximately 1,000 feet from the project site.

Native American Consultation

A Sacred Lands File search was conducted by the NAHC on February 2, 2016. The NAHC concluded that there are no sacred lands within the project site or a half-mile radius. The NAHC requested that 15 Native American tribes or individuals be consulted for compliance with Senate Bill 18. On February 12, 2016, the City sent letters to the 15 Native American contacts provided by the NAHC, notifying them of the project and opportunity for tribal consultation. Of these 15 tribes, 2 also requested AB 52 notification of projects within the City of Newport Beach.

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Andrew Salas of the Gabrieleno Band of Mission Indians – Kizh Nation responded on February 24, 2016, requesting tribal monitoring onsite during all ground disturbance activities. The City conducted tribal consultation and closed out the issue by requiring a mitigation measure that would notify the appropriate tribe if any resources are discovered onsite (see Mitigation Measure 3-1).

Rebecca Robles of the United Coalition to Protect Panhe responded on March 17, 2016, noting receipt of City's letter and concurrence with Mitigation Measure 3-1.

Tribal Cultural Resources

There are no known tribal cultural resources within the project site. P-30-000136 existed 300 feet southwest of the site, but was excavated in 1964 by archaeologists and the site was developed over.

5.3.2 Thresholds of Significance

CEQA Guidelines Section 15064.5 provides direction on determining significance of impacts to archaeological and historical resources. Generally, a resource shall be considered "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- Is associated the with lives of persons important in our past;
- Embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- Has yielded, or may be likely to yield, information important in prehistory or history. (PRC § 5024.1; 14 CCR § 4852)

The fact that a resource is not listed in the California Register of Historical Resources, not determined to be eligible for listing, or not included in a local register of historical resources does not preclude a lead agency from determining that it may be a historical resource.

According to Appendix G of the CEQA Guidelines, a project would normally have a significant effect on the environment if the project would:

- C-1 Cause a substantial adverse change in the significance of an historical resource pursuant to Section 15064.5.
- C-2 Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.
- C-3 Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

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- C-4 Disturb any human remains, including those interred outside of formal cemeteries.
- C-5 Cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074. (Interim checklist question for AB 52 compliance.)

The Initial Study, included as Appendix A, substantiates that impacts associated with the following thresholds would either be less than significant or have no impact:

- Threshold C-1
- Threshold C-4

These thresholds will not be addressed in the following analysis.

5.3.3 Environmental Impacts

The following impact analysis addresses thresholds of significance for which the Initial Study disclosed potentially significant impacts. The applicable thresholds are identified in brackets after the impact statement.

Impact 5.3-1: Development of the project could impact archaeological resources. [Threshold C-2]

Impact Analysis: As shown in Table 5.3-1, no archaeological resources have been recorded within the project site. The nearest archaeological site (P-30-000136) was 300 feet southwest of the site and was excavated in 1964, and there are a number of archaeological sites within a half mile of the project site.

Construction activities associated with the proposed project would require excavation of at least 20 to 25 feet for the underground garage, which would be below previously graded depths for construction of the existing OCMA building. As discussed above, Newport Beach is associated with various early Native American peoples who inhabited the larger region. Therefore, it is possible that previously undiscovered archaeological resources may be found. The Newport Beach City Council has adopted formal guidelines—Archaeological Guidelines (K-5)—that would ensure any impacts to archaeological resources would be minimized. Mitigation Measure 3-1 implements General Plan Policy HR 2.2 requiring a qualified archaeologist to monitor all grading and/or excavation where there is a potential to affect such resources, and would reduce impacts to less than significant levels.

Impact 5.3-2: The proposed project could destroy paleontological resources or a unique geologic feature. [Threshold C-3]

Impact Analysis: The project is sited on Pleistocene Old Paralic Deposits (mostly marine terrace deposits) to depths of approximately 20 feet below the modern surface. These deposits consist of poorly sorted, moderately permeable, reddish-brown, interdigitated strandline, beach, estuarine, and colluvial deposits of silt, sand, and gravel.

The project site is entirely built out with the OCMA building and hardscape improvements; therefore, there are no unique geologic features onsite. However, given the location of other paleontological resources

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discovered within the vicinity of the project site, all subsurface excavation anticipated for tower supports and underground parking has a sensitivity to encounter paleontological resources. The City has adopted formal guidelines—Paleontological Guidelines (K-4)—that contains specific procedures and standards for examining and reporting on possible paleontological sites. Nevertheless, the applicant shall retain a qualified paleontologist to prepare and implement a paleontological mitigation plan prior to issuance of grading permits. The plan shall require a qualified paleontological monitor for all grading activities eight feet or more below the current surface and require temporary halt of work within 25 feet of any found fossils. Implementation of Mitigation Measure 3-2 would ensure impacts to potential paleontological resources are reduced to less than significant levels, and would implement General Plan Policy HR 2.2, which requires a qualified paleontologist to monitor all grading and/or excavation where there is a potential to affect such resources.

Impact 5.3-3: The proposed project could impact tribal cultural resources. [Threshold C-5]

Impact Analysis: As previously stated, there are no known tribal cultural resources, as defined in Public Resources Code Section 21074, in the project area. The City sent letters to 15 Native American contacts provided by the NAHC notifying them of the project and opportunity for tribal consultation. Only 2 of the 15 tribes responded—the Gabrieleno Band of Mission Indians, Kizh Nation, and United Coalition to Protect Panhe.

The City consulted with Andrew Salas, Chairman of the Gabrieleno Band of Mission Indians, who requested Native American tribal monitoring onsite during all construction activities. Consultation between the City and the Gabrieleno Band of Mission Indians ended with the conclusion that mitigation measures would be provided to ensure appropriate tribes would be notified if any resources are discovered during ground disturbing activities and that tribal cultural monitoring by the Gabrieleno Band of Mission Indians would be allowed onsite during construction activities on a voluntary basis, consistent with the City's General Plan Policy HR 2.3.

The United Coalition to Protect Panhe noted receipt of City's letter and did not request further consultation.

Although no tribal cultural resources were identified to be within the project site, Mitigation Measures 3-1 and 3-3 are provided to ensure appropriate tribes would be notified if any were to be found and allow Native American tribal monitoring on a voluntary basis consistent with General Plan Policy HR 2.3. Impacts would be less than significant.

5.3.4 Cumulative Impacts

Implementation of the proposed project in conjunction with other planned projects in the City could result in cumulative impacts to cultural resources. However, other development projects would be required to undergo discretionary review and would be subject to the same resource protection requirements and CEQA review as the proposed project. For example, other development projects may require some degree of ground-disturbing monitoring but would be required to comply with applicable regulations, which would minimize the potential to disturb significant cultural resources. If cultural resources were found, they would

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be addressed through the necessary testing, archiving, and recovery prior to development of the site. For example, Newport Beach General Plan Policy HR 2.1 states that new development activities shall proceed in accordance with CEQA and must “protect and preserve paleontological and archaeological resources from destruction, and avoid and mitigate impacts to such resources. Through planning policies and permit conditions, ensure the preservation of significant archaeological and paleontological resources and require that the impact caused by any development be mitigated in accordance with CEQA.” General Plan Policy HR 2.4 similarly requires new development to “donate scientifically valuable paleontological or archaeological materials to a responsible public or private institution with a suitable repository, located within Newport Beach, or Orange County, whenever possible.” Neither the proposed project nor related projects (listed in Table 4-1) is expected to result in significant impacts to cultural resources, including tribal resources, provided that site-specific surveys and test and evaluation excavations are conducted, as necessary, to determine whether the resources are unique cultural resources, and appropriate mitigation is implemented, including, but not limited to, compliance with existing requirements. Additionally, the proposed project has incorporated mitigation that would reduce the potential for the project to contribute to cumulative impacts to cultural resources.

In consideration of the preceding factors, the project’s contribution to cumulative cultural resource impacts would be rendered less than significant; therefore, project impacts would not be cumulatively considerable.

5.3.5 Existing Regulations and Standard Conditions

Existing Regulations

State

- California Public Resources Code 5020–5029.5, 5079–5079.65, and 5097.9–5097.991
- Senate Bill 18
- Assembly Bill 52

City of Newport Beach Standard Conditions of Approval

There are no specific City-adopted standard operating conditions of approval related to cultural resources that are applicable to the proposed project at this time; however, project-specific conditions of approval may be applied to the project by the City during the discretionary approval (site development review, tentative tract map, etc.) subsequent design, and/or construction process.

5.3.6 Level of Significance Before Mitigation

Without mitigation, these impacts would be **potentially significant**:

- **Impact 5.3-1** Previously undiscovered archaeological resources may be uncovered during grading activities associated with the proposed project.

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- **Impact 5.3-2** Paleontological resources could be adversely impacted by development of the proposed project.
- **Impact 5.3-3** Tribal cultural resources could be found on the project site.

5.3.7 Mitigation Measures

Impact 5.3-1

3-1 Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional archaeologist has been retained to monitor any potential impacts to archaeological resources throughout the duration of any ground-disturbing activities at the project site. The qualified archeologist shall be present at the pregrade meeting to discuss the monitoring, collection, and safety procedures of cultural resources, if any are found.

If subsurface cultural resources are discovered during ground-disturbing activities, the construction contractor shall ensure that all work stops within 25 feet of the find until the qualified archeologist can assess the significance of the find and, if necessary, develop appropriate treatment or disposition of the resources in consultation with the City of Newport Beach and a representative of the affected Native American tribe (Gabrieleno or Juaneño). The archeological monitor shall have the authority to halt any project-related activities that may adversely impact potentially significant archaeological resources. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until an archeological monitor has evaluated the discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act and, if determined to be significant, to develop an appropriate treatment or disposition plan. As required by General Plan Policy HR 2.4, any scientifically valuable materials will be donated to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.

Impact 5.3-2

3-2 Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional paleontologist has been retained to monitor any potential impacts to paleontological resources throughout the duration of any ground-disturbing activities at the project site. The paleontologist shall 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.

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- If fossils are discovered, the paleontological monitor has the authority to temporarily divert work within 25 feet of the find 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 and evaluated for significance.
- Significant fossils shall be cataloged and identified 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.

An executed curation agreement shall be part of the plan, and the project proponent shall bear all expenses of the mitigation program, including curation of materials meeting significance criteria.

Impact 5.3-3

Mitigation Measure 3-1 would also apply to this impact.

- 3-3 During construction activities, the project applicant shall allow representatives of cultural organizations, including Native American tribes (i.e., Gabrieleno Band of Mission Indians), to access the project site on a volunteer basis to monitor grading and excavation activities.

5.3.8 Level of Significance After Mitigation

Impacts would be less than significant.

5.3.9 References

- Cogstone. 2016a, April. Cultural Resources Technical Memo for the Museum House Project, City of Newport Beach, Orange County, California.
- . 2016b, April. Paleontological Resources Technical Memo for the Museum House Project, City of Newport Beach, Orange County, California.