

## 4.17 TRIBAL CULTURAL RESOURCES

This section evaluates the tribal cultural resources impacts of the proposed Plan.

### 4.17.1 Existing Conditions

#### PRE-EUROPEAN CONTACT SETTING

The major cultural developments in the San Diego region before the arrival of Spanish colonists in 1769 are generally discussed in three major periods (Paleoindian, or Paleoamerican; Archaic; and Late Prehistoric), each marked by certain changes in the archaeological record. These archaeological changes appear to reflect a variety of shifts in technology, settlement, and land use.

##### Paleoamerican Period (12,000-7000 BP)

Despite decades of research, the early prehistory of coastal Southern California remains poorly understood. The archaeological record reveals that humans appeared about 13,000 years ago on the Channel Islands, where they lived primarily by fishing and shellfishing. These early island components are of interest because they seem to reflect fully developed maritime economies that were distinct from, but roughly contemporaneous with, the Clovis tradition represented throughout much of interior North America. Identified late-Pleistocene components are lacking on the mainland coast of Southern California, although several sites have yielded calibrated dates in excess of 9,000 years (Erlandson et al. 2007: 58–59). Archaeological complexes represented at these early sites include the San Dieguito complex with its finely worked scrapers and leaf-shaped and stemmed projectile points (Byrd and Raab 2007; Warren 1968), and the La Jolla complex represented by simple flaked cobble tools, relatively abundant groundstone, and flexed burials. Although the temporal and cultural relationship between San Dieguito and La Jolla continues to be debated, human populations were well established along the coast of Southern California very early in the Holocene.

##### Archaic Period (7000-1200 BP)

Sea-level rise had been occurring since the last glacial maximum (about 18,000 years ago), and during the early Holocene, sea levels increased. However, by around 8000 BP, sea levels began to slow to a rate of about 0.25 meters per century, a process that allowed the formation of a complex mosaic of productive lagoon and estuary habitats at many locations along the region's coastline (Masters and Aiello 2007; Masters and Gallegos 1997). These seem to have supported a significant coastal population during the early Archaic because numerous coastal components have been found that date to this interval.

Archaeological remains in these components typically represent the La Jolla complex and often contain abundant shellfish and fish remains, along with flaked cobble tools, basin metates, manos, discoids, stone balls, and flexed burials. At the same time, archaeological research suggests that the contemporaneous inland Pauma complex may represent seasonal movements of early Archaic populations between coastal and inland resource areas (True and Pankey 1985; Warren et al. 1961). If so, a relatively broad seasonal range is implied for the early portion of the Archaic.

Although the basic toolkit represented by the La Jolla complex appears to have remained consistent throughout the Archaic, there are some indications of significant shifts in settlement. Compilations of radiocarbon assays for Batiquitos Lagoon (Gallegos 1985; Warren et al. 1961), for example, provide evidence for disuse of this location between about 3000 and 1500 BP.

This and evidence from some other locations in the region led Warren (1964, 1968; Warren et al. 1961) and others (Gallegos 1985; Masters and Gallegos 1997) to postulate a population movement inland and southward in response to siltation and declining productivity of coastal lagoons in the northern portion of the region. More recent data, however, have demonstrated continued settlement and use of coastal resources throughout the late

Archaic period in the region's northern areas (Byrd and Reddy 2002). Rather than widespread population movement away from the coast, the changing coastal ecology may have resulted in more localized settlement adjustments.

### **Late Prehistoric Period (1500-1769)**

In Southern California, the appearance of small, arrowhead-size projectile points and ceramics and the practice of cremation around 1,300 years ago mark the beginning of the Late Prehistoric period. Projectile points commonly found in Late Prehistoric assemblages include Cottonwood Triangular and Desert Side-Notched forms, both thought to mark the introduction of the bow and arrow into the region. Regional populations appear to have been relatively high during the Late Prehistoric, resulting in territorial restrictions, increased sedentism, and subsistence intensification. Villages were relatively stable and occupied for much of the year and were positioned for access to a variety of resource areas. Subsistence is thought to have focused on acorns and grass seeds, along with deer and a variety of small mammals. Along the coast, subsistence focused on the collection of shellfish and nearshore fishing.

Settlement patterns during the Late Prehistoric in the northern section of the San Diego region are not well understood, although the data do suggest some important spatial and temporal variation. The strongest settlement data come from the upper San Luis Rey River drainage system, where investigations by True and Waugh (1982) suggest a transition from a fairly wide-ranging mobility pattern into a territorially constricted pattern of seasonally bipolar movement between upland and lowland settlements. This interior-upland pattern is seen as distinct from that of the lower San Luis Rey River, where residential mobility is thought to have been even lower, with one principal village per group area.

## **ENTOGRAPHIC CONTEXT**

At Spanish contact, the northern portion of the San Diego region was occupied by speakers of a Takic language related to those dialects spoken in the Los Angeles Basin to the north but distinct from the Yuman language spoken to the south in San Diego. These groups were later known generally as the Juaneño and Luiseño, based on their associations with either Mission San Luis Rey or Mission San Juan Capistrano. The region occupied by the Luiseño and Juaneño extended along the coast roughly between Agua Hedionda to approximately Aliso Creek in present Orange County, and inland approximately to Palomar Mountain. The southern coastal portion of the San Diego region was occupied by the Kumeyaay, a Yuman-speaking group also known as the Kamia, Ipai, and Diegueño (Kroeber 1925).

### **Juaneño**

The Acjachemen (or Juaneño) lived in sedentary and autonomous village groups, each with specific subsistence territories encompassing hunting, collecting, and fishing areas. Villages were typically located in valley bottoms, along streams, or along coastal strands near mountain ranges where water was available, and villages were defensible. Inland populations had access to fishing and gathering sites on the coast, which they used during the winter months (Bean and Shippek 1978).

Acjachemen (or Juaneño) subsistence was centered around the gathering of acorns, seeds, greens, bulbs, roots, berries, and other vegetal foods. This was supplemented with hunting mammals such as deer, antelope, rabbit, woodrat, ground squirrels and mice, as well as quail, doves, ducks, and other birds. Bands along the coast also exploited marine resources such as sea mammals, fish, crustaceans, and mollusks. Inland, trout and other fish were taken from mountain streams (Bean and Shippek 1978).

Hunting was done both individually and by organized groups. Tool technology for food acquisition, storage, and preparation reflects the size and quantity of items procured. Small game was hunted with the use of curved throwing sticks, nets, slings, or traps. Bows and arrows were used for hunting larger game. Dugout canoes, basketry fish traps, and shell hooks were used for near-shore ocean fishing. Coiled and twined baskets were made for food gathering, preparation, storing, and serving. Other items used for food processing included large shallow

trays for winnowing chaff from grain, ceramic and basketry storage containers, manos and metates for grinding seeds, and ceramic jars for cooking (Bean and Shipek 1978).

Villages had hereditary chiefs who controlled religious, economic, and territorial activities (Bean and Shipek 1978). An advisory council of ritual specialists and shamans was consulted for environmental and other knowledge. Large villages located along the coast or in inland valleys may have had more complex social and political structures than settlements controlling smaller territories (Bean and Shipek 1978).

Most Acjachemen (or Juaneño) villages contained a ceremonial structure enclosed by circular fencing located near the center of the village. Houses were semisubterranean and thatched with locally available brush, bark, or reeds. Earth-covered semisubterranean sweathouses were also common and were used for purification and curing rituals (Bean and Shipek 1978).

The Acjachemen (or Juaneño) first came into contact with Europeans in 1769 when the expedition led by Gaspar de Portolá arrived in their territory. That same year, the San Diego Mission was established just to the south, followed by the San Juan Capistrano Mission in 1776 and the San Luis Rey Mission in 1798. Poor living conditions at the missions and introduced European diseases led to a rapid decline of the Luiseño population. Following the Mission Period (1769-1834), Acjachemen (or Juaneño) Indians scattered throughout southern California. Some became serfs on the Mexican ranchos, others moved to newly founded "pueblos" (towns) established for them, some sought refuge among inland groups, and a few managed to acquire land grants. Later, many moved to or were forced onto reservations. Although many of their cultural traditions had been suppressed during the Mission Period, the Acjachemen (or Juaneño) were successful at retaining their language and certain rituals and ceremonies. Starting in the 1970s, there was a revival of interest in the Acjachemen (or Juaneño) language and classes were organized. Since then, traditional games, songs, and dances have been performed; traditional foods have been gathered and prepared; and traditional medicines and curing procedures have been practiced (Bean and Shipek 1978).

## Luiseño

The Luiseño lived in sedentary and autonomous village groups, each with specific subsistence territories encompassing hunting, collecting, and fishing areas. Villages were typically located in valley bottoms, along streams, or along coastal strands near mountain ranges where water was available and village defense was possible. Inland populations had access to fishing and gathering sites on the coast, which they used during the winter months (Bean and Shipek 1978).

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### **Kumeyaay**

The territory of the Kumeyaay was bounded by natural geographic features, extending north from Todos Santos Bay near Ensenada, Mexico to the mouth of the San Luis Rey River in north San Diego County, and east to the Sand Hills bordering Imperial Valley and south of what is now the Mexico border, extending east to Cocopa Mountains and the Colorado delta (Luomala 1978).

The primary source of Kumeyaay subsistence was wild vegetal food supplemented with horticulture, as well as small game, including birds and fish. Ethnographic gender roles consisted of men hunting and producing weapons and women gathered wild plants and cultivated the fields. Women also processed and cooked food, utilizing a variety of containers and implements including basketry and plainware or decorated reddish-brown ceramic pottery. Seasonal travel followed the seasonal round and extended vertically, wherein plants were gathered from the lowlands areas in the fall and winter, and families would travel up to the higher mountainous elevations in the spring and summer. Similar to other indigenous Californians, acorns were a primary staple of their diet; indeed, acorns were gathered from six oak trees common to the region. Acorns were processed via a grinding and leaching system and then cooked through a variety of methods, including baking, boiling, and stewing to form bread, soups, stews, mush and gruel. In addition to acorns, mesquite pods, sage seeds, cacti seeds, and grass seeds were all processed into flour. Buds, blossoms, potherbs, agave, wild onion, yucca, cactus fruits, including prickly pears, piñon, and wild plums were among the diet of both groups (Luomala 1978). Although wild gathered plants formed the majority of their diet, the Kumeyaay also practiced limited horticulture within the floodplain areas of their territory, growing such crops as Melons, maize, beans, cowpeas, and teparies (beans). Women sometimes transplanted wild onion and tobacco plants to convenient locations and sowed wild tobacco seeds. The Kumeyaay also practiced deliberate burning of grassland areas in order to propagate seeds. Although less common, larger game primarily including deer were hunted, however, the majority of hunted game consisted of small to medium mammals, such as rodents, rabbits, lizards, insects, and larvae. Birds, including quail, geese, doves and hawks were also caught and consumed. Groups living near coastal or riverine resources fished (Luomala 1978).

Village locations varied from temporary campsites built for mobility and to gather and forage local vegetal resources, to more permanent locales. They were chosen based on several advantageous factors including proximity to good sources of perennial freshwater as well as resource patches and gathering areas. Of equal importance was the location in relation to natural geologic features such as outcroppings, which offer additional protection from would-be attackers. Villages were occupied by exogamous, patrilineal clans. Three or four clans would winter together, then disperse into smaller bands during the spring and summer (Luomala 1978). Like village type, Kumeyaay structures varied with the seasons and region. Summer shelters were of more simple construction and consisted of a wind break, tree, or a cave fronted with rocks. Winter dwellings were built with more permanence and protection from the elements in mind, and had slightly sunken floors with dome-shaped structures made of brush thatch covered with grass and earth. Southern groups, such as those near the Sloughs,

built rectangular-sand covered dwellings, while palm-leaf thatched houses were built in desert areas. The chief usually had the biggest dwelling. The ceremonial structure was communally owned by the village. Dance grounds, owned by clans, were encircled by a rock and brush fence (Gifford 1931; Luomala 1978).

Kumeyaay organization was based upon autonomous tribelets, or bands, each of which had a clan chief and an assistant chief. This position could be hereditary, or one chosen by consensus. The chief's job was to help facilitate conflicts, provide guidance to the band in matters of spiritualism and ceremony, and mediate marriages and conflicts. Another important position within the village was hunt master, a hereditary position based down from father to son, which entailed leading communal hunts and drives and learning specific skills and rituals related to hunting. Everyone in the tribelet had a right to water as well as cached foods, provided they would reciprocate at a later time. Lands and springs were communally owned by the band, however, certain resources within band territory could be claimed by a specific clan or family. Clans did own what they had made or gathered (Luomala 1978). Upon death, the Kumeyaay cremated the body of the deceased. Families may have practiced gift-giving during this primary stage of mourning. Songs were sung throughout the night, speeches were made, and mourners wailed. Once cremated, the individual's ashes were placed in a ceramic urn and buried or hidden in a cluster of rocks. After this ceremony, the deceased loved ones name was not spoken again, and their dwelling was burned to the ground and subsequently avoided. The family customarily held a mourning ceremony one year after the death of a family member. During this ceremony, the clothes of the deceased individual, as well as items that were not previously burned, were burned to ensure that the spirit would not return for his or her possessions. During this ceremony, mourners wailed, sang song cycles, and performed one last dance for the departed spirit (Gifford 1931; Luomala 1978).

It is estimated that the precontact Kumeyaay population ranged from as little as approximately 3,000 (Kroeber 1925) to as many as 9,000 (Luomala 1978). Although avoiding direct impacts from European and Euro-American colonizers, change came to this region as well. Beginning in 1775, the semi-nomadic life of the Kumeyaay was altered as a result of contact with European-Americans, particularly from the influence of the Spanish missions. Despite much resistance from the Kumeyaay, including the burning of San Diego Mission in 1775 by a group of 800 people from 70 villages, the mission system continued and by 1779, San Diego Mission had 1,405 neophytes living in proximity to the mission. Through successive Spanish, Mexican, and Anglo-American control, the Kumeyaay, especially in less remote locales, were forced to adopt a sedentary lifestyle and accept Christianity (Luomala 1978). As of 1968, the Kumeyaay population was somewhere between approximately 1,322 (Shipek 1972, included in Luomala 1978) and 1,522 (Luomala 1978).

## ETHNOGRAPHIC RESOURCES AND SACRED SITES

Ethnographic resources that are potential tribal cultural resources include sites, areas, and materials important to Native Americans for religious, spiritual, or traditional uses. These can encompass the sacred character of physical locations (mountain peaks, springs, and burial sites) or particular native plants, animals, or minerals that are gathered for use in traditional ritual activities. Villages, camps and activity areas, burials, rock art, rock features, and traditional hunting, gathering, or fishing sites may also constitute significant California Native American cultural resources. Tribal cultural resources tend to fall into distinctive categories that relate to cosmology or activities that took place. They are found throughout the region but tend to be physical geographic landmarks or in areas close to a water source or resources (such as materials for tool making or readily available food) and on flatter ground. Tribal cultural resources can be found on the surface or buried. Tribal cultural resources close to water sources that were originally just superficial can be buried over time by alluvial action.

Tribal cultural resources are more likely to have been destroyed in historic urbanized and commercial areas; namely along the highly developed coastal region, although this does not preclude the presence in urban or developed settings of buried archaeological resources that may meet the definition of a tribal cultural resource. A greater number of surficial tribal cultural resources and buried archaeological tribal cultural resources are more likely to have been previously documented as traditional cultural places, sacred sites, or archaeological sites resulting from cultural resources studies and outreach to Native Americans during environmental analysis for previous projects throughout the region. In addition, tribal cultural resources that have not been documented or

evaluated may be in the Plan area. Large portions of the Plan area have not been subjected to cultural resource surveys or consultations with California Native American tribes and therefore may contain tribal cultural resources. Additionally, there are likely a number of documented archaeological resources, landscapes, and sacred places that have not been evaluated as tribal cultural resources.

The Native American Heritage Commission (NAHC) maintains the Sacred Lands File (SLF), a confidential inventory of California Native American sacred sites, which may be indigenous material sites, cultural landscapes, locations used for traditional resource gathering, or sacred places. An unknown number of these sites may meet the definition of a tribal cultural resource. A search of the NAHC's SLF completed for the Plan area was obtained from the NAHC on August 13, 2018. Results of the SLF search indicate that California Native American cultural sites are present in the Plan area. The specific locations and descriptions of the sites are confidential. The NAHC also provided a list of tribes that are traditionally and culturally affiliated with the geographic area of the proposed Plan.

## 4.17.2 Regulatory Setting

### STATE LAWS, REGULATIONS, PLANS, AND POLICIES

#### Health and Safety Code, Section 7050.5

Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If they are determined to be those of a Native American, the coroner must contact the NAHC by telephone within 24 hours. It is a misdemeanor to knowingly remove, disturb, or disinter human remains from any location other than a dedicated cemetery without legal authorization.

#### California Native American Historical, Cultural, and Sacred Sites Act

The California Native American Historical, Cultural, and Sacred Sites Act (PRC Section 5097.9-5097.991) applies to both state and private lands. The act requires, upon discovery of human remains, that construction or excavation activity cease and that the county coroner be notified. If the remains are those of a Native American, the coroner must notify the NAHC, which notifies (and has the authority to designate) the most likely descendants of the deceased. The act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods. Guidance on tribal consultation under this act is further detailed in the California Office of Planning and Research's LCI Technical Advisory on AB 52.

#### Public Resource Code Section 5097

PRC Sections 5097 through 5097.7 specify the procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. The disposition of California Native American human burials falls within the jurisdiction of the NAHC. Section 5097.5 of the code states the following:

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

#### AB 52 and Tribal Cultural Resources

Assembly Bill 52 (AB 52), enacted in 2014, amended CEQA to recognize tribal cultural resources as a new category of cultural resources (PRC Sections 21074 and 21083.09). CEQA requires public agencies to consider the effects of their actions on tribal cultural resources. PRC Section 21084.2 establishes that "[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment." PRC Section 21074 states:

- a) "Tribal cultural resources" are 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 CRHR.
    - B) Included in a local register of historical resources as defined in subdivision (k) of Section 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 Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American Tribe.
- b) 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.
- c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

AB 52 also established a formal consultation process between lead agencies and California Native American tribes that are traditionally and culturally affiliated with a project area (PRC Sections 21074, 21080.3.1–21080.3.2, 21082.3, and 21084.3). Also, as required by AB 52, the Governor's Office of Land Use and Climate Innovation (LCI) (formerly known as the Governor's Office of Planning and Research) updated Appendix G of the State CEQA Guidelines to provide sample questions regarding impacts on tribal cultural resources (PRC Section 21083.09).

Under AB 52, lead agencies must notify tribes that have requested consultation within 14 days of determining that an application for a project is complete or a notice of preparation is filed (PRC Section 21080.3.1). Tribes then have 30 days to request consultation. Once consultation is initiated, the tribe and lead agency may discuss, for example:

- ▶ the significance of the project's potential impacts on tribal cultural resources
- ▶ the significance of the resource
- ▶ possible alternatives or mitigation measures to reduce those impacts.

According to PRC Section 21080.3.2(a), the consultation may include the type of environmental review, the significance of tribal cultural resources and potential impacts, and any alternatives or preservation or mitigation measures the tribe may recommend to the lead agency (PRC Section 21080.3.2[a]).

If consultation leads to agreed-upon mitigation, those measures must be included in the environmental document (PRC Section 21082.3[a]). If the recommended mitigation is not included in the environmental document, if no mitigation measures were agreed upon in consultation, or if no consultation occurred, and if the proposed project would cause a significant impact on a tribal cultural resource, the lead agency must consider feasible mitigation measures pursuant to PRC Section 21084.3 (PRC Section 21082.3[e]). If no agreement is reached and no feasible mitigation is available, the agency must document this before approving the project. LCI also updated CEQA Guidelines to help agencies evaluate potential impacts on tribal cultural resources.

PRC Section 21084.3 requires agencies to avoid damaging effects to any tribal cultural resource, when feasible, and provides examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts:

1. Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
2. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, consisting of, but not limited to, the following:

- a. protecting the cultural character and integrity of the resource
  - b. protecting the traditional use of the resource
  - c. protecting the confidentiality of the resource
3. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
4. Protecting the resource.

### **California Government Code Sections 7927.000 and 7927.005**

These sections of the California Public Records Act help protect archaeological sites from unauthorized excavation, looting, or vandalism. California Government Code Section 7927.000 allows public agencies to withhold records related to California Native American graves, cemeteries, and sacred places, and records related to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, where such records are maintained by the NAHC. Section 7927.005 exempts from disclosure any records about archaeological site information or reports maintained by, or in the possession, agencies such as the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the NAHC, or any local or state agency. This includes records obtained through consultation between a California Native American tribe and a state or local agency.

## **LOCAL JURISDICTIONS' PRESERVATION POLICIES AND REGULATIONS**

### **County of San Diego: Resource Protection Ordinance (RPO)**

The RPO (San Diego County Code of Regulatory Ordinances Sections 86.601–86.608) mandates the evaluation of cultural resources during the county's environmental review process. Significant sites, including those of tribal cultural importance, must be preserved. Section 86.604(g) of the ordinance prohibits grading, excavation, or other damaging activities on such sites except for scientific research conducted under an approved research design by a qualified archaeologist.

### **County of San Diego: Grading, Clearing, and Watercourses Ordinance**

This ordinance requires that grading operations cease if human remains or materials of cultural significance to California Native American tribes are discovered during construction. (San Diego County Code of Regulatory Ordinances Section 87.429). Additionally, grading plans must be modified if unanticipated cultural resources are found, and appropriate mitigation measures must be implemented in coordination with the county and tribal representatives. (San Diego County Code of Regulatory Ordinances Section 87.216(a)(7)).

### **County of San Diego: Conservation and Open Space Element of the San Diego County General Plan**

The Conservation and Open Space Element of the County of San Diego's General Plan includes goals and policies that recognize the importance of protecting cultural resources, including those of significance to California Native American tribes. Goal COS-7 states "Identify, preserve, and protect the County's important cultural resources." Policy COS-7.1 further emphasizes that the County shall "consult with Native American tribes and other interested parties early in the planning process to identify and address potential impacts to cultural resources." The Open Space Element encourages early identification of cultural sites during planning, emphasizes preservation in place as the preferred form of mitigation, and promotes consultation with tribal representatives to ensure that tribal values and traditional knowledge are considered in land use decisions. This Plan includes goals and policies that recognize the importance of protecting cultural resources, as described in the Conservation and Open Space Element of the County of San Diego General Plan (County of San Diego 2011).



## County of San Diego: Local Register of Historical Resources

San Diego County maintains a local register of historical resources, which includes sites of local cultural significance. Properties listed in or eligible for the CRHR or the National Register of Historic Places are automatically included. Resources may also be added based on local criteria, including those significant to California Native American tribes.

### Local Ordinances in San Diego County

Multiple cities in San Diego County have adopted ordinances that address the protection of historical and cultural resources, including those with tribal cultural significance. Table 4.5-2 lists preservation policies and regulations from jurisdictions across the region. For illustrative purposes, the City of San Diego's approach is summarized below. See also Table 4.5-2 for additional local ordinances.

The City of San Diego's Municipal Code Chapters 11, 12, and 14 establish the Historical Resources Board, designation processes, and development standards for historic resources. These regulations aim to protect, preserve, and restore historical resources, including traditional cultural properties. The city provides explicit guidelines for managing historical resources, including methodologies for assessing impacts and appropriate mitigation strategies. These guidelines are designed to ensure consistency in the management of the city's historical resources, which includes traditional cultural properties, which are often associated with those of tribal cultural significance.

## 4.17.3 Significance Criteria

Appendix G of the CEQA Guidelines provides criteria for determining the significance of a project's environmental impacts, in the form of initial study checklist questions. Unless otherwise noted, the significance criteria specifically developed for this EIR are based on the checklist questions that address the criteria in CEQA Guidelines Appendix G. In some cases, SANDAG has combined checklist questions, edited their wording, or changed their location in the document in an effort to develop significance criteria that reflect the programmatic level of analysis in this EIR, and the unique characteristics of the proposed Plan and EIR.

Checklist questions for tribal cultural resources are provided in Section XVIII of CEQA Guidelines Appendix G. Criterion (a)(i) addresses tribal cultural resources that are listed or eligible for listing in the CRHR, or in a local register of historical resources as defined in PRC Section 5020.1(k). Criterion (a)(ii) addresses tribal cultural resources determined to be significant by the lead agency consistent with criteria set forth in PRC Section 5024.1 and the significance of the resource to a California Native American tribe. SANDAG has combined these checklist questions into TCR-1.

For purposes of this EIR, implementation of the proposed Plan would have a significant tribal cultural resource impact if it would result in the following:

- TCR-1** 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 either (1) 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 (2) 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.

The analysis discloses impacts to tribal cultural resources. There is insufficient evidence to support a meaningful analysis of how the proposed Plan's tribal cultural resources impacts would be worsened by climate change. Therefore, a climate change analysis for tribal cultural resources impacts is not included in this section.

## 4.17.4 Environmental Impacts and Mitigation Measures

**TCR-1 CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE SECTION 21047 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 EITHER (1) 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 (2) 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**

### Analysis Methodology

This analysis examines the impacts on tribal cultural resources that would result from implementation of the proposed Plan.

Although tribal cultural resources may differ from other types of cultural resources, cultural resources records searches and outreach to the NAHC can identify previously reported cultural resources that may be tribal cultural resources. The impact analysis is based on the NAHC SLF search completed for the proposed Plan and AB 52 consultation conducted between SANDAG and consulting tribes. Information obtained from the NAHC and through tribal consultation, including records searches and outreach to tribes, may help identify resources that qualify as tribal cultural resources under CEQA (Governor's Office of Planning and Research [OPR] 2020). Cultural resources records searches, along with information obtained through outreach to the NAHC and consultation with tribes, may help identify resources that qualify as tribal cultural resources under CEQA. These may include resources listed or eligible for listing in the CRHR or a local register, but may also include resources identified by California Native American tribes as culturally significant based on tribal knowledge and tradition, consistent with PRC Section 21074. Evidence that may support such a finding could include elder testimony, oral history, tribal government archival information, testimony of a qualified archaeologist certified by the relevant tribe, testimony of an expert certified by the tribal government, official tribal government declarations or resolutions, formal statements from a certified Tribal Historic Preservation Officer, or historical/anthropological records. (LCI, 2020).

PRC Section 21084.2 establishes that "[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment." A substantial adverse change to the significance of a historical resource is defined as the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of the resource would be materially impaired (CEQA Guidelines Section 15064.5); this definition can also be applied to a substantial adverse change to a tribal cultural resource.

Construction activities are more likely to disturb tribal cultural resources than operations activities because tribal cultural resources are most likely to be encountered during initial ground disturbance. For forecasted regional growth and land use change projects, as well as planned transportation network improvements, the likelihood of encountering tribal cultural resources is thus analyzed based on whether projects would require grading, excavation, or other ground-disturbing activities. Even minimal grading activities can encounter resources, as they have been discovered only inches below the surface. Ground-disturbing activities associated with infill, redevelopment, and infrastructure expansion have the potential to unearth these resources.

Impacts of operations activities on tribal cultural resources are unlikely to be significant, unless they impose a sustained change to the setting or viewshed of a tribal cultural resource (thereby affecting the integrity of its setting and its significance).

### Results of the Regional Plan AB 52 Consultation Process

SANDAG regularly coordinates with the Interagency Technical Working Group on Tribal Transportation Issues (Working Group). The Working Group is composed of a representative from each federally recognized tribal government and California tribe in San Diego County that chooses to participate in the Working Group, and serves as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region. The Working Group is co-chaired by a tribal member and a member of the SANDAG executive staff. Tribal representatives are voting members of the Working Group, and SANDAG and other public agencies involved in tribal transportation issues serve as advisory members of the Working Group. The Working Group meets quarterly, as determined by the group. These meetings are not formal consultation pursuant to AB 52, but instead implement a tribal consultation plan developed by the Southern California Tribal Chairmen's Association and SANDAG intended to guide consultation with tribes on regional transportation issues, including the development of the proposed Plan.

As part of formal AB 52 consultation, on January 19, 2023, SANDAG sent letters to 26 tribes to invite them to formal consultation under AB 52 on the EIR for the 2025 Regional Plan:

- ▶ Agua Caliente Band of Cahuilla Indians,
- ▶ Barona Band of Mission Indians,
- ▶ Cahuilla Band of Indians,
- ▶ Campo Band of Mission Indians,
- ▶ Chemehuevi Indian Tribe,
- ▶ Ewiiapaayp Band of Kumeyaay Indians,
- ▶ Ilipay Nation of Santa Ysabel,
- ▶ Inaja Band of Diegueño Mission Indians,
- ▶ Jamul Indian Village of California,
- ▶ Kwaaymii Laguna Band of Mission Indians,
- ▶ La Jolla Band of Luiseño Indians,
- ▶ La Posta Band of the Kumeyaay Nation,
- ▶ Los Coyotes Band of Cahuilla Cupeno Indians,
- ▶ Manzanita Band of the Kumeyaay Nation,
- ▶ Mesa Grande Band of Mission Indians,
- ▶ Pala Band of Mission Indians,
- ▶ Pauma Band of Luiseño Indians,
- ▶ Rincon Band of Luiseño Indians,
- ▶ San Luis Rey Band of Mission Indians,
- ▶ San Manuel Band of Mission Indians,
- ▶ San Pasqual Band of Diegueño Mission Indians,
- ▶ Santa Rosa Band of Cahuilla Indians,
- ▶ Soboba Band of Luiseño Indians,
- ▶ Sycuan Band of the Kumeyaay Nation,
- ▶ Torres Martinez Desert Cahuilla Indians, and
- ▶ Viejas Band of Kumeyaay Nation.

These letters constituted formal notification to the designated contact of, or a tribal representative of, traditionally and culturally affiliated California Native American tribes that requested notice, pursuant to PRC 21080.3.1. The letter stated that while the 2025 Regional Plan would be developed consistent with the Tribal Consultation Plan developed by the Southern California Tribal Chairmen's Association and SANDAG, the invitation to conduct AB 52 tribal cultural resource consultation on the Regional Plan EIR was separate from, and in addition to, the collaborative efforts among the tribal governments and SANDAG on development of the 2025 Regional Plan.

Three responses were received. The Yuhaaviatam of San Manuel Nation (formerly known as the San Manuel Band of Mission Indians) emailed SANDAG on January 17, 2023, informing SANDAG that the location of the proposed project was located outside of Serrano ancestral territory and, as such, the Yuhaaviatam of San Manuel Nation would not be requesting to receive consulting party status or to participate in the scoping, development, or review of documents created pursuant to legal and regulatory mandates, thus concluding consultation efforts. The Agua Caliente Band of Cahuilla Indians Tribal Historic Preservation Office emailed SANDAG on January 26, 2023, stating that a records check of the cultural registry revealed that the project is not located within the tribe's Traditional Use Area and that they would defer to the other tribes in the area, thus concluding consultation efforts. The Rincon Band of Luiseño Indians emailed SANDAG on March 9, 2023, and requested consultation. SANDAG and the Rincon Band of Luiseño Indians met virtually on May 26, 2023. At that meeting consultation was held and

concluded on the Supplemental EIR for the Amendment to the 2021 Regional Plan. Also, at that meeting SANDAG consulted on the 2025 Regional Plan EIR. The Rincon Band of Luiseño Indians expressed the desire to engage in the ongoing consultation on the 2025 Regional Plan EIR and be notified of any future listening sessions or workshops on the EIR. Subsequent updates and discussion on the 2025 Regional Plan were facilitated at Tribal Working Group meetings, and meetings were held with the Rincon Band of Luiseño Indians in April and May of 2024.. SANDAG reached out to the Rincon Band of Luiseño Indians on August 19, 2025 to discuss closing consultation. Additional discussions were held between August 19<sup>th</sup> through 21<sup>st</sup>, 2025, the outcome of which was to continue consultation. An additional meeting date was set for August 26, 2025, and further materials were requested from SANDAG by the Rincon Band of Luiseño Indians.

## Impact Analysis

### 2035

#### Regional Growth and Land Use Change

As shown in Table 2-1, in Section 2.0, "Project Description," of this Draft EIR, from 2022 to 2035, the region is forecasted have an increase of 117,056 people (4%), 137,242 housing units (11%), and 67,297 jobs (4%). The 2035 regional SCS land use pattern is shown in Figure 2-4. Approximately 93.3% of the forecasted regional population increases between 2022 and 2035 are in the cities of San Diego (51.3%), Chula Vista (26.1%), and San Marcos (15.8%). Those same three jurisdictions would accommodate approximately 71.4% of new housing units in the region between 2022 and 2035, while the cities of San Diego, San Marcos, and Oceanside would accommodate more than 69.5% of new jobs in the region between 2022 and 2035.

Regional growth and land use change would result in potential impacts to tribal cultural resources resulting from a wide variety of construction and ground-disturbing activities, such as grading, excavation, and clearing, which remove or disturb soils and sediments. The likelihood of encountering archaeological tribal cultural resources is greatest for projects that include grading or excavation of areas on which past grading or excavation activities have been minimal. However, development and ground-disturbing activities associated with infill, redevelopment, or expansion of infrastructure also have the potential to impact tribal cultural resources. Because archaeological sites have been found within inches of the ground surface throughout the San Diego region, even minimal grading activities can impact these resources. Excavation and soil removal of any kind, irrespective of depth, have the potential to yield archaeological tribal cultural resources. In addition to the potential for identifying buried tribal cultural resources in urbanized areas of the proposed Plan, such as Downtown San Diego, Chula Vista, and National City, the additional growth forecasted in the less developed portions of the San Diego region, such as Otay and North County Metro, may occur in areas where tribal cultural resources are present.

Tribal cultural resources may have been previously documented as archaeological sites, cultural landscapes, areas of traditional natural resource gathering, or sacred sites, and may be identified only through future consultation with California Native American tribes. A search of the NAHC's SLF completed for the Plan area was obtained from the NAHC on August 13, 2018. Results of the SLF search indicate that California Native American cultural sites are present in the Plan area. The specific locations and descriptions of the sites are confidential. Regional growth and land use changes through 2035 are anticipated to result in significant impacts on tribal cultural resources across the region. This is due to the potential for ground-disturbing activities to unearth previously unidentified tribal cultural resources and the possibility of indirect impacts on culturally sensitive landscapes that are tribal cultural resources.

Adherence to the existing laws, regulations, and programs discussed in Section 4.17.2, "Regulatory Setting," and consultation with California Native American tribes can help avoid or reduce impacts on tribal cultural resources by facilitating early identification of such resources, allowing for project design modifications or avoidance measures, and ensuring that tribes have input into mitigation strategies during construction of development projects associated with regional growth and land change. Given the potential for land use changes to cause substantial adverse changes in the significance of a tribal cultural resource coupled with the nonrenewable nature of these resources if disturbed or altered, implementation of the proposed Plan would result in ground-disturbing

activities and changes in setting related to regional growth and land use change that would cause a substantial adverse change in the significance of a tribal cultural resource. This is a significant impact.

#### Transportation Network Improvements and Programs

Major transportation network improvements by 2035 include new Managed Lanes and Managed Lane Connectors on SR 15, SR 52, SR 78, I-5, I-15, and I-805. The proposed Plan also includes Reversible Managed Lane improvements on SR-75, improvements to rural corridors on SR-67, SR 76, SR 79, SR 94, and I-8, as well as interchange and arterial operational improvements on SR 94 and SR 125. In addition, the proposed Plan includes increased roadway and transit connections to the United States–Mexico border, as well as tolling equipment and Regional Border Management System investments on SR 11. Upgrades at certain locations on the Los Angeles–San Diego–San Luis Obispo (LOSSAN) Rail Corridor would be implemented during this period. Other major network improvements include grade separations at certain locations on the SPRINTER, Green line, Blue Line, and Orange Line. Double-tracking is also proposed on the SPRINTER.

As stated previously, numerous cultural resources have been documented in the San Diego region, some of which may be identified as tribal cultural resources during tribal consultation, and the potential exists for undocumented tribal cultural resources to be discovered. Given the region’s rich cultural setting, construction of transportation network improvements included in the proposed Plan would likely encounter these resources.

Some of the improvements in the proposed Plan completed between 2022 and 2035 would involve only operations changes that would not require construction of new transportation or transit facilities, such as increasing service frequencies or creating new transit routes, and therefore would have little impact on tribal cultural resources. However, improvements that would involve construction of new infrastructure or facilities could encounter tribal cultural resources.

Direct permanent impacts on tribal cultural resources may result from ground disturbance associated with construction, such as grading and excavation, for the planned transportation improvements stemming from the proposed Plan. The development of new transportation facilities, construction of additional lanes, or upgrades to existing facilities may have a relatively higher potential to directly impact tribal cultural resources of an archaeological nature, primarily by grading or excavation in previously undisturbed soil and by the disturbance of buried resources that have not been previously identified.

Transportation construction projects, such as double-tracking at certain locations on the LOSSAN Rail Corridor and construction for the Central Mobility Hub and San Ysidro Mobility Hub, as well as numerous road projects and improvements, would require grading, and potentially trenching, activities that remove or disturb the upper layer of soils and could unearth underlying tribal cultural resources of an archaeological nature, areas of traditional natural resource gathering, or sacred places. Improvements along the I-5 corridor have the potential to impact tribal cultural resources that may be present along the shores, estuaries, lagoons, and bluffs of the San Diego coastline. Direct impacts would be significant if tribal cultural resources cannot be avoided or preserved in place by project design or redesign and are destroyed or substantially altered. Additional major transportation network improvements that could impact tribal cultural resources include new Managed Lanes and Managed Lane connectors on SR 52, SR 78, I-5, I-15, I-805. Direct access ramps are assumed at I-15/Clairemont Mesa Boulevard; I-5/Voigt Drive; and I-15/San Diego State University West. Shoulder-widening and straightening improvements on SR 67 from Maplevue to Dye Rd, and additional improvements to local arterial streets. These projects also have the potential to impact tribal cultural resources resulting from ground disturbance or demolition. The potential for direct impacts on tribal cultural resources may be lower for improvements to existing facilities and modifications to existing roads because these areas have been previously disturbed. However, even if previously disturbed, excavation at depth has the potential to directly impact undocumented tribal cultural resources of an archaeological nature.

Direct impacts would be significant if tribal cultural resources cannot be avoided or preserved in place by project design or redesign and are destroyed or substantially altered such that the significance of the resource would be materially impaired. Disturbance of tribal cultural resource features or places could result in impacts on the traditional use or the cultural character and integrity of the resource and may result in a significant impact if its

contributing characteristics or the character of its physical setting is destroyed or substantially altered such that the significance of the resource would be materially impaired. Permanent direct impacts may be addressed by advance project planning and consulting with tribes that have requested consultation to ensure known tribal cultural resources are identified, avoided, and preserved in place or to develop project alternatives that would minimize impacts on known tribal cultural resources. Permanent direct impacts on tribal cultural resources discovered inadvertently during project construction may be addressed by project redesign to avoid and preserve the resource and by tribal consultation focused on minimizing the impact.

Indirect impacts from construction and operations improvements may result from potential access-related damage to tribal cultural resources when public accessibility increases because of improved transportation networks stemming from the proposed Plan, for example, off-street bike trail projects that take users through open space, like the Oceanside Inland Rail Trail. The likelihood of unauthorized artifact collecting and destruction (intentional or unintentional) of tribal cultural resources or of damage to or destruction (intentional or unintentional) of tribal cultural resources that are traditional places for gathering natural resources, cultural landscapes, or sacred places increases with improved access. Recreational use, overland vehicle travel, and vandalism have the potential to degrade the integrity and traditional use of the tribal cultural resources. Ensuring that appropriate measures are devised during project planning that would minimize or reduce damage to tribal cultural resources, coupled with requested tribal consultation, may reduce indirect access-related impacts. However, operational impacts associated with increased public access, such as vandalism or inadvertent damage, are anticipated to be limited in extent and geographic scope. These impacts would not constitute a substantial adverse change in the significance of a tribal cultural resource under CEQA and are therefore considered less than significant.

Given the magnitude and location of several of the transportation network improvements and programs occurring between 2022 and 2035, additional ground disturbances are anticipated. As a result, additional tribal cultural resources would be encountered during construction activities between 2022 and 2035. For example, regional growth through 2035 could increase recreational use of open space areas, which in turn could promote erosion or increase the likelihood of damage to tribal cultural resources through increased foot traffic and public access.

Although adherence to the existing laws, regulations, and programs discussed in Section 4.17.2 would reduce impacts on tribal cultural resources upon implementation of the proposed Plan, there is a likelihood that they would not reduce these impacts to a less-than-significant level for all future projects under the proposed Plan. Given the potential for transportation facilities to cause substantial adverse changes in the significance of tribal cultural resources, coupled with the nonrenewable nature of these resources if disturbed or altered, implementation of the proposed Plan would result in ground-disturbing activities and increased access related to transportation network improvements and programs that would cause a substantial adverse change in the significance of a tribal cultural resource. This is a significant impact.

### **2035 Conclusion**

Implementation of the proposed Plan would result in regional growth and land use change and transportation network improvements and programs that could cause a substantial adverse change in the significance of a tribal cultural resource. Therefore, this impact (TCR-1) in the year 2035 is significant.

## **2050**

### **Regional Growth and Land Use Change**

As shown in Table 2-1 in Section 2.0, "Project Description," of this Draft EIR, from 2036 to 2050, regional population is forecast to decrease by 4,112 people (-0.1%), while housing units are projected to increase by 65,577 (4.8%) and employment is forecasted to increase by 103,460 (6.2%). The 2050 regional SCS land use pattern is shown in Figure 2-5 in Chapter 2, "Project Description." The majority of the forecasted regional population decrease between 2036 and 2050 is attributed to the unincorporated county, and the cities of Carlsbad and El Cajon. Approximately 78.8% of new housing units are in the cities of San Diego (51.6%) and Chula Vista (17.1%)

and the unincorporated county. Similarly, these same two jurisdictions contribute to approximately 70.3% of new jobs between 2036 and 2050.

As discussed in the 2035 analysis, many areas throughout the San Diego region have a high potential to contain tribal cultural resources. In addition to the resource-sensitive areas mentioned in the 2035 analysis, the additional growth forecasted in both the unincorporated county and western portion of the region between 2035 and 2050 would result in new development in areas such as Otay, and redevelopment in established urban areas such as Downtown, Kearny Mesa, and Midway-Pacific Highway. Additional construction and ground-disturbing activities, such as excavation, grading, clearing, demolition, alteration, and structural relocation, would occur with the potential to directly impact tribal cultural resources. Ground-disturbing activities associated with infill, redevelopment, or expansion of infrastructure have the potential to impact tribal cultural resources, as do changes in setting. Forecasted growth and land use change, as well as changes in setting, would also result in indirect physical impacts on open space areas, such as in the Otay planning area, and thus increase the likelihood of physical impacts on tribal cultural resources located in those areas. For instance, increased recreational use of open space areas could promote erosion or increase the likelihood of damage to tribal cultural resources through increased traffic (foot or otherwise). Regional growth and development through 2050 are anticipated to result in significant cumulative impacts on tribal cultural resources across the region. This is due to the potential for ground disturbing activities to unearth previously unidentified tribal cultural resources and the possibility of indirect impacts on culturally sensitive landscapes. The proposed Plan would contribute to these cumulative impacts by facilitating new development that involves ground disturbance in areas with known or potential tribal cultural resources. Therefore, the Plan's contribution to the significant cumulative impact on tribal cultural resources would be considered cumulatively considerable under CEQA. With additional growth and increased development intensities, and increased use of open space areas, the extent of impacts on tribal cultural resources between 2036 and 2050 would be greater than that experienced by 2035 as more resource-sensitive land would be disturbed over time.

As more land is disturbed and altered for new development and redevelopment between 2036 and 2050, the possibility of irreversible losses of significant tribal cultural resources becomes greater. As discussed in the 2035 analysis, although adherence to the existing laws, regulations, and programs would reduce impacts on tribal cultural resources upon implementation of the proposed Plan, there remains a likelihood that this would not reduce these impacts to a less-than-significant level for all future projects. Given the potential for land use changes to cause substantial adverse changes in the significance of tribal cultural resources, coupled with the nonrenewable nature of these resources if disturbed or altered, implementation of the proposed Plan would result in ground-disturbing activities and changes in setting related to regional growth and land use change that would cause a substantial adverse change in the significance of a tribal cultural resource. This is a significant impact.

#### Transportation Network Improvements and Programs

Major transportation network improvements by 2050 include new Managed Lanes and Managed Lane Connectors on SR 52, SR 56, SR 75, SR 94, SR 125, SR 163, I-15, and I-805. In addition, the proposed Plan includes increased roadway and transit connections to the United States–Mexico border, as well as expansion of and improvements to existing port of entry facilities. Upgrades at certain locations on the LOSSAN Rail Corridor would continue during this period. Grade separations on the SPRINTER, Blue Line, Green Line, and Orange Line, as well as double-tracking on the SPRINTER would also continue during this period.

As with the 2035 analysis, there is a likelihood that identified and unidentified tribal cultural resources would occur in transportation network improvement and program areas scheduled for implementation between 2036 and 2050. Projects that would involve construction of new infrastructure or facilities could result in impacts. Major rail projects and improvements, such as continued double-tracking along certain LOSSAN corridor locations and construction of the Purple Line, have the potential to impact tribal cultural resources resulting from ground disturbance or disturbance of tribal cultural resource features or places. Highway improvements, such as Managed Lane construction along I-5, I-15, I-805, SR 52, and SR 56, would require grading and, potentially, trenching activities that remove or disturb the upper layer of soils, and could encounter underlying archaeological tribal cultural resources. Widening and road straightening along rural highways, such as SR 76, SR 79, SR 94, and I-8,

would occur in areas that have seen relatively little development and would disturb new ground. Such construction activities are more likely to disturb tribal cultural resources than construction areas in previously developed areas because tribal cultural resources are most likely to be encountered during initial ground disturbance. Direct impacts would be significant if tribal cultural resources cannot be avoided or preserved in place by project design or redesign and are destroyed or substantially altered. Disturbance of tribal cultural resource features or places could impact the traditional use, or the cultural character and integrity, of the resource and may result in a significant impact if their contributing characteristics or the character of their physical setting is destroyed or substantially altered such that the significance of the resource would be materially impaired.

Indirect impacts from construction and operational improvements may result from increased public accessibility to areas that contain tribal cultural resources. Improved transportation networks under the proposed Plan, for example, off-street bike trail projects that take users through open space, like the proposed San Luis Rey River Trail, could lead to unauthorized access, artifact collecting, and intentional or unintentional damage to tribal cultural resources. These areas often hold cultural and spiritual significance as traditional gathering places for gathering natural resources or sacred landscapes, and increased access has the potential to degrade their integrity. These operational access-related impacts on tribal cultural resources are considered significant under CEQA. However, ensuring that appropriate measures are integrated into project planning, such as avoidance, design modifications, and early tribal consultation, would reduce these impacts, as discussed in the mitigation section of this chapter.

Given the magnitude and location of several of the transportation network improvements occurring between 2036 and 2050, and the number of additional transportation network improvements over those implemented by 2035, additional significant ground disturbances are anticipated. It is therefore likely that more tribal cultural resources would be disturbed between 2036 and 2050.

As discussed in the 2035 analysis, although adherence to the existing laws, regulations, and programs would reduce impacts on tribal cultural resources upon implementation of the proposed Plan, there remains a likelihood that they would reduce these impacts to a less-than-significant level for all future projects under the proposed Plan. Implementation of the proposed Plan would result in ground-disturbing activities and increased access related to transportation network improvements, which may result in significant operational impacts on tribal cultural resources if not mitigated. Given the potential for transportation facilities to cause substantial adverse changes in the significance of tribal cultural resources coupled with the nonrenewable nature of these resources if disturbed or altered, this is a significant impact.

#### 2050 Conclusion

Implementation of the proposed Plan would result in regional growth and land use change and transportation network improvements and programs that could cause a substantial adverse change in the significance of a tribal cultural resource. Therefore, this impact (TCR-1) in the year 2050 is significant.

## MITIGATION MEASURES

**TCR-1 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 EITHER (1) 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 (2) 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.**



## 2035 2050

### **TCR-1a: Implement Tribal Cultural Resources Mitigation Measures for Development Projects and Transportation Network Improvements.**

During project-level CEQA review of development projects or transportation network improvements that would cause a substantial adverse change in the significance of a tribal cultural resource, the County of San Diego, cities, and other local jurisdictions can and should, SANDAG shall, and other transportation project sponsors, can and should develop project-level protocols and mitigation measures with consulting tribes, consistent with PRC Section 21080.3.2(a) to avoid or reduce impacts on tribal cultural resources during construction and operation of development projects and transportation network improvements. The County of San Diego, cities, and other local jurisdictions can and should, SANDAG shall, and other transportation projects sponsors can and should identify these resources through records searches, survey, consultation, or other means, in order to develop minimization and avoidance methods where possible, and consult with California Native American tribes participating in AB 52 consultation to develop mitigation measures for tribal cultural resources that may experience substantial adverse changes.

To assist AB 52 consultation, the County of San Diego, cities, and other local jurisdictions can and should, SANDAG shall, and other transportation project sponsors can and should comply with the following best practices for complying with AB 52:

- ▶ Gather relevant cultural resources information, such as CHRIS records search results, prior archaeological or ethnographic studies, SLF checks, or tribal input, early in the planning process to help identify tribal cultural resources and preserve options for avoidance or preservation in place.
- ▶ Build working relationships with tribes that are traditionally and culturally affiliated to the project area or to the agency's geographic area of jurisdiction. In consultation, agencies should deal with officially designated representatives of the tribe who have written designation to speak on behalf of the tribe.
- ▶ Avoid inadvertent discoveries of California Native American burials and work with tribes in advance to determine culturally appropriate treatment and disposition if burials are inadvertently discovered.
- ▶ Maintain the confidentiality of information shared during consultation, consistent with PRC Section 21082.3(c)(2), unless the tribe provides written consent to disclose. This measure helps prevent looting, vandalism, or damage to tribal cultural resources.
- ▶ Implement any mitigation measures agreed upon during AB 52 consultation.

In the absence of any specific mitigation measures agreed upon during AB 52 consultation, the County of San Diego, cities, and other local jurisdictions can and should, SANDAG shall, and other transportation project sponsors can and should develop standard mitigation measures as set forth in PRC Section 21084.3(b).

The following are standard mitigation measures for tribal cultural resources:

1. Avoidance and preservation of the resources in place, consisting of, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
2. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, consisting of, but not limited to, the following:
  - a. protecting the cultural character and integrity of the resource
  - b. protecting the traditional use of the resource
  - c. protecting the confidentiality of the resource
3. Record permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

4. Protecting the resource as agreed upon during the tribal consultation process.

**TCR-1b: Implement Monitoring and Mitigation Programs for Development Projects and Transportation Network Improvements.**

During project-level CEQA review and during construction of development projects and transportation network improvements, the County of San Diego, cities, and other local jurisdictions can and should, SANDAG shall, and other transportation project sponsors can and should identify and implement monitoring and mitigation measures to reduce impacts on both known and undiscovered tribal cultural resources, during construction and operation activities, as applicable, consisting of but not limited to the following:

- ▶ Require tribal cultural resource areas identified in any required monitoring and mitigation plan to be monitored during the grading phase of individual projects by a qualified archaeologist, and tribal monitor who has been approved by the consulting tribe(s).
- ▶ Should a previously undiscovered cultural resource be encountered during construction activities that is determined to be a tribal cultural resource by the CEQA lead agency in consultation with California Native American tribes, the qualified archaeologist, or tribal monitor if an archaeologist is not present, shall direct the contractor to temporarily divert all ground-disturbing activities in the area of the discovery and prepare and implement a mitigation plan consistent with, but not necessarily limited to, standard mitigation measures set forth in PRC Section 21084.3(b), in consultation with California Native American tribes.
- ▶ The qualified archaeologist shall be responsible for ensuring that all records associated with the survey, testing, data recovery, and monitoring of future projects are curated with an appropriate-regional information center, such as the South Coastal Information Center (SCIC) at San Diego State University. The construction contractor(s) and lead agency shall facilitate the respectful reburial of the culturally sensitive soils or objects. This includes providing a reburial location that is consistent with the tribe's preferences, excavation of the reburial location, and assisting with the reburial upon written request by a designated representative of the tribe. This shall be completed in consultation with the California Native American representative and does not include California Native American human remains and associated burial items, the disposition of which should be determined in consultation with the designated Most Likely Descendants (MLDs).
- ▶ Upon completion of all ground-disturbing activity, the qualified archaeologist shall prepare and submit a draft and final monitoring report to the CEQA lead agency that describes the results, analysis, and conclusions of all phases of the monitoring program, including the provisions for curation and repatriation, if applicable, and copies of any signed curation agreements to verify completion of the required monitoring program. A copy of the final monitoring report, and appendices thereto, will be provided to designated representatives of consulting tribe(s) upon request.

## SIGNIFICANCE AFTER MITIGATION

### 2035, 2050

Implementation of the proposed Plan would result in significant impacts on tribal cultural resources through construction and ground-disturbing activities and unauthorized or unintentional access to sensitive tribal cultural areas in 2035 and 2050. Implementation of mitigation measures TCR-1a and TCR-1b would reduce impacts by incorporating tribal input to avoid or minimize disturbance to tribal cultural resources, ensuring appropriate treatment of discoveries, and implementing mitigation monitoring to detect and address impacts during construction. However, it cannot be guaranteed that all future project-level impacts under the proposed Plan can be mitigated to a less-than-significant level. Therefore, this impact (TCR-1) would remain significant and unavoidable.

## 4.17.5 Cumulative Impacts Analysis

**C-TCR-1 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 EITHER (1) 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 (2) 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.**

The area of geographic consideration for cumulative impacts on tribal cultural resources is the Southern California and Northern Baja California region. Because local and regional settlement patterns are closely linked, evaluating the cumulative loss of tribal cultural resources across this entire geographic area is necessary to determine whether such loss would result in a substantial adverse change in the significance of these resources, particularly by diminishing the understanding of the closely interrelated prehistoric and historic context. A significant cumulative impact on tribal cultural resources would occur if the proposed Plan would result in incremental effects that are considered cumulatively significant when considered in combination with the impact projections in adopted plans, and impacts on tribal cultural resources resulting from existing and probable future projects. Significant cumulative impacts related to tribal cultural resources would occur if cumulatively there would be a substantial increase in substantial adverse impacts with regard to the significance of tribal cultural resources.

This cumulative impact assessment considers and relies on the impact analysis within this EIR for the proposed Plan, SCAG's Connect SoCal 2024-2050 Regional Transportation Plan/Sustainable Communities Strategy EIR (SCAG 2024) for the Southern California region, the County of San Diego General Plan Update EIR (County of San Diego 2011), and the California-Baja California 2021 Border Master Plan (Caltrans 2021). Many local jurisdictions provide guidance and protective measures for tribal cultural resources in their general plans and other local planning documents. There are generally no regional plans pertaining to such resources for the Northern Baja California region. The California-Baja California Border Master Plan is a binational comprehensive approach to coordinate planning and delivery of projects at land POEs and transportation infrastructure serving those POEs in the California-Baja California region. The Master Plan does not have an associated environmental analysis document, and no detailed analysis of cultural resource impacts was conducted for this Master Plan (Caltrans 2021).

### Impacts of the Proposed Plan

Areas in the San Diego region are known to have a high potential for tribal cultural resources. Implementation of the proposed Plan would result in the construction of development projects and transportation network improvements that would result in a wide range of construction and ground-disturbing activities, such as excavation, grading, and clearing, which remove or disturb the upper layer of soils. Since tribal cultural resources have been found within inches of the ground surface in some areas of the San Diego region, in some locations these ground-disturbing activities would cause a substantial adverse change in the significance of a tribal cultural resource by unearthing or damaging the resource such that its significance would be materially impaired. Implementation of the proposed Plan would necessitate construction activities that in some locations would cause a substantial adverse change in the significance of a tribal cultural resource through the physical demolition, destruction, relocation, or alteration of a resource or its immediate surroundings such that the significance of a tribal cultural resource would be materially impaired. This would occur within each horizon year analyzed (2035 and 2050). Therefore, impacts related to a substantial adverse change in the significance of a tribal cultural resource would be significant (Impact TCR-1).

In addition to direct impacts from construction and ground disturbance, the proposed Plan may also result in indirect impacts on tribal cultural resources through increased public access to previously less accessible areas.

Such access could lead to heightened risks of vandalism, looting, or inadvertent disturbance of sensitive sites, particularly if adequate avoidance and protective measures are not implemented. If not properly managed, these indirect impacts could contribute to a substantial adverse change in the significance of tribal cultural resources.

### **Impacts of Related Projects**

Land development and infrastructure projects throughout the region, such as transportation infrastructure, energy generation and transmission corridors, and commercial and residential land development would likely result in impacts if these projects occur in areas containing tribal cultural resources. For example, projects planned in the Southern California region, such as the Navy Old Town Campus Revitalization Project, San Diego International Airport (SDIA) Airport Development Plan, High-Speed Train (HST), and City of San Diego Pure Water North City, would result in impacts related to destruction or alteration of tribal cultural resources. For example, the HST project in the San Diego region would result in construction of track, bridges and elevated guideways, stations, and other features that may result in destruction or alteration of tribal cultural resources, referred to in the program EIR/EIS as traditional cultural properties (HSRA 2005). The EIR/EIS prepared for the HST project determined that the project would result in significant cumulative impacts on traditional cultural properties. The SDIA Airport Development Plan involved construction activities with the potential to affect tribal cultural resources; however, the EIR for the project (SDCRAA 2020) concluded that such impacts would not be significant under CEQA. The Navy Old Town Campus Revitalization Project EIS did not identify any known tribal cultural resources within the project area. The Native American Heritage Commission indicated that no such resources were present, and the Navy committed to consultation with the SHPO and other interested parties. Mitigation measures, including inadvertent discovery protocols, would reduce impacts to cultural and historic resources to less than significant levels under NEPA (U.S. Department of the Navy 2020, Table ES-1). The City of San Diego Pure Water North City Project EIR/EIS identified impacts to known tribal cultural resources associated with religious or sacred uses or human remains. However, with implementation of mitigation measure MM-HIS-3, as described in Section 6.10, impacts were reduced to a level below significance (City of San Diego 2018, Table ES-1).

### **Impacts of Projections in Adopted Plans**

Implementation of the SCAG 2024-2050 RTP/SCS would result in significant and unavoidable impacts related to adverse changes in the significance of tribal cultural resources. In addition, the SCAG 2024-2050 RTP/SCS's influence on growth would contribute to regionally significant impacts on tribal cultural resources and be cumulatively considerable (SCAG 2024). The EIR prepared for the County of San Diego General Plan Update did not explicitly analyze impacts on tribal cultural resources. However, the EIR addresses archaeological resources and includes mitigation measures consistent with SB 18, including coordination with Native American Heritage Commission and local tribal governments (County of San Diego 2011, Section 2.5.6, pp. 2.5-37 to 2.5-40). Because tribal cultural resources were not explicitly addressed, the EIR did not reach a specific significance conclusion for such resources. The California-Baja California Border Master Plan does not provide analysis of impacts on tribal cultural resources; however, projects included in the Master Plan could have adverse impacts on tribal cultural resources due to ground disturbance necessary for construction of infrastructure.

### **Cumulative Impacts and Impact Conclusions**

#### **2035**

A significant cumulative impact in the year 2035 would occur if the proposed Plan would result in incremental effects that are considered cumulatively considerable when considered in combination with impacts of cumulative projects and the impact projections in adopted plans within the Southern California and Northern Baja region. As described above, implementation of the proposed Plan, cumulative projects, and other plans would result in ground-disturbing activities that would cause a substantial adverse change in the significance of a tribal cultural resource.

California projects are required to adhere to federal, state, and local regulations, as described in Section 4.17.2, "Regulatory Setting"; however, cumulative growth development located in Mexico would not be subject to compliance with such regulations. Additionally, even with regulations in place, individual tribal cultural resources could still be impacted or degraded from demolition, destruction, alteration, or structural relocation as a result of

new private or public development or redevelopment allowable under the proposed Plan, cumulative projects, or other adopted plans. Therefore, cumulative impacts on tribal cultural resources would be significant. Because the proposed Plan's impacts on tribal cultural resources are significant, the project's contribution to the significant cumulative impact is cumulatively considerable in 2035 (Impact C-TCR-1).

### 2050

The cumulative analysis presented above for the horizon year of 2035 would be applicable to year 2050, and significant cumulative impacts on tribal cultural resources would occur. By 2050, increases in regional growth and land use change, and the number of transportation network improvements implemented over those that occurred by 2035 would result in adverse impacts related to changes in the significance of a tribal cultural resource. As described in the 2035 analysis, cumulative impacts on tribal cultural resources would be significant because there would be cumulative adverse changes in the significance of those resources due to the proposed Plan, cumulative projects, and other plans, and development located in Northern Baja California. Because the proposed Plan's impacts on tribal cultural resources are significant, the project's contribution to the significant cumulative impact is cumulatively considerable in 2050 (Impact C-TCR-1).

## MITIGATION MEASURES

**C-TCR-1 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 EITHER (1) 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 (2) 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.**

### **2035, 2050**

Mitigation measures to reduce impacts on tribal cultural resources due to implementation of the proposed Plan as identified in Section 4.17.4, "Environmental Impacts and Mitigation Measures," would be applicable to reducing the proposed Plan's cumulative impacts as well. Mitigation Measures TCR-1a and TCR-1b are measures to avoid or substantially reduce adverse changes in the significance of a tribal cultural resource and protect tribal cultural resources. These mitigation measures also require the implementation of monitoring and data recovery programs during construction. These mitigation measures would be included in project-level planning, design, and CEQA reviews. The measures would be required as part of projects under the proposed Plan for which SANDAG is the lead agency, and would be recommendations when other local jurisdictions act as lead agency. Implementation of these mitigation measures would not reduce impacts that would cause a substantial adverse change in the significance of a tribal cultural resource to less than significant because it cannot be guaranteed that all future project-level impacts under the proposed Plan can be mitigated to a less-than-significant level. Mitigation Measures TCR-1a and TCR-1b would not reduce the proposed Plan's incremental impacts to less than significant. Therefore, the proposed Plan's incremental contributions to cumulative tribal cultural resources impacts in years 2035 and 2050 would remain cumulatively considerable post-mitigation.

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