

## 5. Environmental Analysis

### 5.15 TRIBAL CULTURAL RESOURCES

Tribal cultural resources include landscapes, sacred places, or objects with cultural value to a California Native American tribe. This section of the Draft Environmental Impact Report (DEIR) evaluates the potential for implementation of proposed the La Puerta School Site Specific Plan (Specific Plan) to impact tribal cultural resource in the City of Claremont—specifically, in the development area covered by the Specific Plan (Project Area). Other potential impacts to cultural resources (i.e., prehistoric, historic, paleontological, and disturbance of human remains) are evaluated in Section 5.4, *Cultural Resources*.

The analysis in this section is based in part on the following technical report:

- *Cultural Resources Assessment*, BCR Consulting LLC, August 2022

A complete copy of this report is included as Appendix D of this DEIR.

#### 5.15.1 Environmental Setting

##### 5.15.1.1 REGULATORY BACKGROUND

Federal, state, and local laws, regulations, plans, or guidelines related to tribal cultural resources that are applicable to the Specific Plan are summarized below.

##### **Federal**

##### *Archaeological Resources Protection Act*

The Archaeological Resources Protection Act of 1979 regulates the protection of archaeological resources and sites on federal and Indian lands.

##### *Native American Graves Protection and Repatriation Act*

The Native American Graves Protection and Repatriation Act is a federal law passed in 1990 that mandates museums and federal agencies to return certain Native American cultural items—such as human remains, funerary objects, sacred objects, or objects of cultural patrimony—to lineal descendants or culturally affiliated Indian tribes.

##### **State**

##### *Public Resources Code*

Archaeological resources are protected pursuant to a wide variety of state policies and regulations enumerated under the California Public Resources Code (PRC). In addition, cultural resources are recognized as nonrenewable resources and therefore receive protection under the PRC and the California Environmental Quality Act (CEQA).

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- **PRC Sections 5097.9 to 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). They also require notification to descendants of discoveries of Native American human remains and provide for treatment and disposition of human remains and associated grave goods.
- **PRC Section 5097.9** states that no public agency or private party on public property shall “interfere with the free expression or exercise of Native American Religion.” The code further states that:

No such agency or party [shall] cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine... except on a clear and convincing showing that the public interest and necessity so require. County and city lands are exempt from this provision, except for parklands larger than 100 acres.

#### *Health and Safety Code*

The discovery of human remains is regulated by California Health and Safety Code Section 7050.5, which states that:

In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation...until the coroner...has determined...that the remains are not subject to...provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible.... The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the coroner determines that the remains are not subject to his or her authority and...has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

#### *Assembly Bill 52*

The Native American Historic Resource Protection Act (AB 52) took effect July 1, 2015, and incorporates tribal consultation and analysis of impacts to tribal cultural resources (TCR) into the CEQA process. Under AB 52, a tribal cultural resource is defined similar to tribal cultural places under SB 18—sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either included or eligible for inclusion in the California Register of Historic Resources or included in a local register of historical resources. Or the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a tribal cultural resource.

It requires that impacts to TCRs be analyzed like any other CEQA topic and establishes a consultation process for lead agencies and California tribes. Projects that require a Notice of Preparation of an EIR or Notice of Intent to adopt an ND or MND are subject to AB 52. A significant impact on a TCR is considered a significant environmental impact, requiring feasible mitigation measures.

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TCRs must have certain characteristics:

- 1) Sites, features, places, cultural landscapes (must be geographically defined), sacred places, and objects with cultural value to a California Native American tribe that are either included or determined to be eligible for inclusion in the California Register of Historic Resources or included in a local register of historical resources. (PRC § 21074[a][1])
- 2) The lead agency, supported by substantial evidence, chooses to treat the resource as a TCR. (PRC § 21074[a][2])

The first category requires that the TCR qualify as a historical resource according to PRC Section 5024.1. The second category gives the lead agency discretion to qualify that resource—under the conditions that it support its determination with substantial evidence and consider the resource’s significance to a California tribe. Following is a brief outline of the process (PRC §§ 21080.3.1–3.3).

- 1) A California Native American tribe asks agencies in the geographic area with which it is traditionally and culturally affiliated to be notified about projects. Tribes must ask in writing.
- 2) Within 14 days of deciding to undertake a project or determining that a project application is complete, the lead agency must provide formal written notification to all tribes who have requested it.
- 3) A tribe must respond within 30 days of receiving the notification if it wishes to engage in consultation.
- 4) The lead agency must initiate consultation within 30 days of receiving the request from the tribe.
- 5) Consultation concludes when both parties have agreed on measures to mitigate or avoid a significant effect to a TCR, OR a party, after a reasonable effort in good faith, decides that mutual agreement cannot be reached.
- 6) Regardless of the outcome of consultation, the CEQA document must disclose significant impacts on TCRs and discuss feasible alternatives or mitigation that avoid or lessen the impact.

### Local

#### *City of Claremont General Plan*

The Human Services, Recreational Programs and Community Facilities Element of the City of Claremont General Plan (Claremont 2009) identifies policies pertaining to cultural resources, and the following goals and policies are applicable to the Specific Plan:

**Goal 7-8:** Preserve and respect important representations of our heritage and the contributions made by the earliest area residents.

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- **Policy 1-8.1.** Identify and preserve historic and archaeological sites and their environmental setting, and restore resources where such action will respect the sites and the people who used them, and will enhance appreciation and understanding.

#### 5.15.1.2 EXISTING CONDITIONS

##### Cultural Setting – Ethnohistory

The following information is summarized from the cultural resources assessment prepared for the Specific Plan (Appendix D).

The Project Area is in the traditional boundaries of the Gabrielino. The Gabrielino probably first encountered Europeans when Spanish explorers reached California's southern coast during the 15th and 16th centuries. The first documented encounter, however, occurred in 1769 when Gaspar de Portola's expedition crossed Gabrielino territory. Other brief encounters took place over the years and are documented in McCawley 1996 (citing numerous sources). The Gabrielino name has been attributed by association with the Spanish mission of San Gabriel and refers to a subset of people sharing speech and customs with other Cupan speakers (such as the Juaneño/Luiseño/Ajachemem) from the greater Takic branch of the Uto-Aztecan language family. Gabrielino villages occupied the watersheds of various rivers (locally including the Santa Ana) and intermittent streams. Chiefs were usually descended through the male line and often administered several villages. Gabrielino society was somewhat stratified and is thought to have contained three hierarchically ordered social classes that dictated ownership rights and social status and obligations. Plants utilized for food were heavily relied on and included acorn-producing oaks, as well as seed-producing grasses and sage. Animal protein was commonly derived from rabbits and deer in inland regions, while coastal populations supplemented their diets with fish, shellfish, and marine mammals. Dog, coyote, bear, tree squirrel, pigeon, dove, mud hen, eagle, buzzard, raven, lizards, frogs, and turtles were specifically not utilized as a food source.

##### Cultural Resources Records Search Results

A cultural resources records search was conducted at the South Central Coastal Information Center (SCCIC) using information on file at California State University, Fullerton. This archival research includes a review of the status of all recorded historic and prehistoric cultural resources, and survey and excavation reports completed within 0.5-mile of the Project Area. Additional resources reviewed included the Built Environment Resources Directory, which consists of properties evaluated for or listed in the National Register of Historic Places (National Register), the California Register of Historical Resources (CRHR), lists of California Historical Landmarks, California Points of Historical Interest, and the Inventory of Historic Structures. Additional research was conducted through the Los Angeles County Assessor and through various internet resources.

The cultural resources records search revealed that five cultural resources studies have taken place resulting in the recording of two cultural resources within 0.5-mile of the Project Area. However, the Project Area has not been subject to previous cultural resources assessments, and no cultural resources have been previously identified within its boundaries.

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#### Sacred Lands File Search Results

A search of the Sacred Lands File by NAHC was requested as a part of the cultural resources assessment prepared for the Specific Plan. This search was requested to determine whether there are sensitive or sacred Native American resources in the vicinity of the Project Area that could be affected by the Specific Plan. The results of the Sacred Lands File records search were negative, indicating no record for the presence of Native American Sacred Lands within the Project Area. NAHC did however, note that the absence of specific site information in the Sacred Lands File does not indicate the absence of Native American cultural resources in the area.

#### Field Survey Results

Archaeological field work of the Project Area was conducted by a qualified archaeologists from BCR Consulting and consisted of an intensive systematic pedestrian survey. The Project Area was examined for the presence of cultural artifacts and features by walking the entire Project Area. No pre-contact or historic-era cultural resources were identified as a result of the field survey.

#### 5.15.2 Thresholds of Significance

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

- TCR-1 Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code § 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
- i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
  - ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code § 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code § 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

#### 5.15.3 Environmental Impacts

##### 5.15.3.1 IMPACT ANALYSIS

The following impact analysis addresses thresholds of significance. The applicable thresholds are identified in brackets after the impact statement.

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**Impact 5.15-1: Implementation of the Specific Plan would not result in substantial adverse change in the significance of a tribal cultural resource that is listed or eligible for listing in the California Register of Historical Resources or in a local register of historical resources. [Threshold TCR-1.i]**

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*Impact Analysis:* See response to Impact 5.5-1 of Chapter 5.5, *Cultural Resources*, of this DEIR. As substantiated in this chapter, no impact to historical resources would occur as a result of implementation of the Specific Plan. Additionally, the cultural resources assessment conducted for the Project Area (Appendix D) determined that there are no TCRs listed or eligible for listing in the California Register of Historical Resources as defined in Public Resources Code section 5020.1(k) within the Project Area or within a 0.5-mile radius surrounding the Project Area. Therefore, no impact would occur.

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**Impact 5.15-2: Implementation of the Specific Plan would not result in an impact on tribal cultural resources. [Threshold TCR-1.ii]**

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*Impact Analysis:* As stated earlier, TCR's are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that is either eligible or listed in the California Register of Historical Resources or local register of historical resources (Public Resources Code Section 21074). Or the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR.

Following is a discussion of the potential impacts to Native American cultural resources, including TCRs, as a result of development that would be accommodated by the Specific Plan. The analysis considers impacts that would result from Specific Plan buildout of the Project Area.

### AB 52 Consultation

Conducting consultation early in the CEQA process allows tribal governments, public lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to TCRs, and reduce the potential for delay and conflict in the environmental review process. The intent of the consultations is to provide an opportunity for interested Native American contacts to work together with the lead agency (in this case, the City of Claremont) during the project planning process to identify and protect TCRs.

The provisions of CEQA, Public Resources Code Sections 21080.3.1 et seq. (also known as AB 52), requires meaningful consultation with California Native American Tribes on potential impacts to TCRs, as defined in Public Resources Code Section 21074. As part of the AB 52 process, Native American tribes must submit a written request to the relevant lead agency if it wishes to be notified of projects that require CEQA public noticing and are within its traditionally and culturally affiliated geographical area. The lead agency must provide written, formal notification to the tribes that have requested it within 14 days of determining that a project application is complete or deciding to undertake a project. The tribe must respond to the lead agency within 30 days of receipt of the notification if it wishes to engage in consultation on the project, and the lead agency must begin the consultation process within 30 days of receiving the request for consultation. Consultation concludes when either 1) the parties agree to mitigation measures to avoid a significant effect, if one exists, on a tribal cultural resource, or 2) a party, acting in good faith and after reasonable effort, concludes that mutual

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agreement cannot be reached. AB 52 also addresses confidentiality during tribal consultation per Public Resources Code Section 21082.3(c).

In accordance with the provisions of AB 52, the City sent letters on January 12, 2022, to the following tribes:

- Gabrieleno Band of Mission Indians – Kizh Nation
- Gabrieleno/Tongva San Gabriel Band of Mission Indians
- Gabrielino-Tongva Tribe
- Gabrielino Tongva Indians of California Tribal Council
- Gabrielino/Tongva Nation
- Morongo Band of Mission Indians
- Quecahn Tribe of the Fort Yuma Reservation
- San Manuel Band of Mission Indians
- Santa Rosa Band of Cahuilla Indians
- Serrano Nation of Mission Indians
- Soboba Band of Luiseño Indians

The 30-day noticing requirement under AB 52 ended on February 14, 2022 (approximately 30 days from the date the tribes received the notification letter). One tribe responded to the City's AB 52 consultation notification letter: Gabrieleño Band of Mission Indians–Kizh Nation (Kizh Nation). The Kizh Nation requested a formal consultation meeting, which the City accommodated and completed. During the consultation meeting, the Kizh Nation provided the City with information about the history of the tribe's origins and descendants. However, the Kith Nation did not request any mitigation measures. Therefore, the City completed its obligation under AB 52 and no further action is necessary.

### **Sacred Lands File Search**

As noted earlier, a Sacred Lands File search was conducted by NAHC to determine if any sacred lands or traditional cultural properties had been identified on or near the Project Area. This search was requested to determine whether there are sensitive or sacred Native American resources in the vicinity of the Project Area that could be affected by the Specific Plan. The results of the Sacred Lands File records search were negative, indicating no record for the presence of Native American Sacred Lands within the Project Area. NAHC did however, note that the absence of specific site information in the Sacred Lands File does not indicate the absence of Native American cultural resources in the area.

### **Cultural Resources Records Search and Field Survey**

A cultural resources records search was conducted at the South Central Coastal Information Center (SCCIC) using information on file at California State University, Fullerton. This archival research includes a review of the status of all recorded historic and prehistoric cultural resources, and survey and excavation reports completed within 0.5-mile of the Project Area. Additional resources reviewed included the Built Environment Resources Directory, which consists of properties evaluated for or listed in the National Register of Historic Places (National Register), the California Register of Historical Resources (CRHR), lists of California Historical Landmarks, California Points of Historical Interest, and the Inventory of Historic Structures. Additional

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research was conducted through the Los Angeles County Assessor and through various internet resources. The cultural resources records search revealed that five cultural resources studies have taken place resulting in the recording of two cultural resources within 0.5-mile of the Project Area. However, the Project Area has not been subject to previous cultural resources assessments, and no cultural resources have been previously identified within its boundaries.

Additionally, no pre-contact or historic-era cultural resources were observed during the field survey of the Project Area conducted by qualified archaeologists from BCR Consulting. The Project Area was examined for the presence of cultural artifacts and features by walking the entire Project Area. No pre-contact or historic-era cultural resources were identified as a result of the field survey.

#### Conclusion

Based on the preceding, impacts to TCR's would be considered less than significant.

#### 5.15.4 Cumulative Impacts

Cumulative impacts to TCRs would occur when the impacts of a proposed project, in conjunction with other cumulative projects in the City, result in multiple and/or cumulative impacts to tribal cultural resources in the area. The presence of tribal cultural resources is site specific. However, implementation of the Specific Plan in conjunction with other planned projects in other areas of the City could unearth unknown significant cultural resources, including TCR's. As with the Specific Plan, other planned development projects in the City would involve ground disturbance and could impact TCR's that could be buried in those project sites.

However, other development projects in the City would be required to undergo discretionary review and would be subject to the same resource protection requirements and CEQA review as the Specific Plan. For example, other development projects would require the preparation of site-specific cultural resource assessments, which would include some degree of surface-level surveying. As a part of the assessments, a cultural resources records search at the SCCIC and a Sacred Land Files search would also be required. Additionally, as with the Specific Plan, other development projects would similarly be required to comply with all applicable existing regulations, procedures, and policies that are intended to address TCR impacts, including consultation under AB 52, which address accidental discoveries of archaeological sites and resources, including TCR's.

Furthermore, as demonstrated above, impacts on TCR's as a result of implementation of the Specific Plan would be less than significant.

In consideration of the preceding, the Specific Plan's contribution to cumulative TCR impacts would be rendered less than significant, and therefore, Specific Plan impacts would not be cumulatively considerable.

#### 5.15.5 Level of Significance Before Mitigation

Upon implementation of regulatory requirements, the following impacts would be less than significant: 5.15-1 and 5.15-2.

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### 5.15.6 Mitigation Measures

No significant adverse impacts related to tribal cultural resources were identified and no mitigation measures are necessary.

### 5.15.7 Level of Significance After Mitigation

No significant adverse impacts related to tribal cultural resources were identified.

### 5.15.8 References

BCR Consulting LLC. August 2022. Cultural Resources Assessment.

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