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## 4.4 Cultural Resources

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The analysis of cultural resources contained in this section is based on the *Cultural Resources Assessment* dated September 8, 2021, prepared by Duke CRM. The *Cultural Resources Assessment* is contained in Appendix E of the technical appendices for this Draft EIR.

### 4.4.1 Setting

#### Historical Resources Records Search

The South Central Coastal Information Center (SCCIC) conducted a records search for the Project site and a 1/2-mile radius and a review of known cultural resources reports. The SCCIC search identified three cultural resources within 1/2-mile of the Project. Two of these resources do not have an exact location; however, all three are prehistoric. The SCCIC identified a total of seven previously prepared cultural resource reports for projects within 1/2-mile of the Project site. The prior surveys concluded no historic resources occur within the Project vicinity.

#### Cultural Resources Records Search

As noted previously, the SCCIC records search conducted for the proposed Project identified three prehistoric cultural resources within 1/2-mile of the Project, with two of the resources having no exact location.

### 4.4.2 Related Policies and Regulations

#### Federal Regulations

There are no federal regulations that are applicable to cultural resources relevant to the proposed Project.

#### State Regulations

##### California Public Resources Code Section 5097.5

Public Resources Code section 5097.5 provides for the protection of cultural and paleontological resources and prohibits the removal, destruction, injury, or defacement of archaeological and paleontological features on any lands under the jurisdiction of State or local authorities.

##### California Register of Historical Resources Section 5020

State law also protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources in CEQA documents. A cultural resource is an important historical resource if it meets any of the criteria found in Section 15064.5(a) of the State CEQA Guidelines. These criteria are nearly identical to those of the National Register.

The State Historic Preservation Officer (SHPO) maintains the California Register. Properties listed, or formally designated eligible for listing, on the National Register are nominated to the

California Register and then selected to be listed on the California Register, as are the State Landmarks and Points of Interest.

California Penal Code Section 622.5

California Penal Code section 622.5 provides misdemeanor penalties for injuring or destroying objects of historic or archaeological interest located on public or private lands, but specifically excludes the landowner.

California Health and Safety Code Sections 7050.5 and 7052

California Health and Safety Code section 7050.5 declares that in the event of the discovery of human remains outside a dedicated cemetery, all ground disturbance must cease and the county coroner must be notified. California Health and Safety Code section 7052 establishes a felony penalty for mutilating, disinterring, or otherwise disturbing human remains, except by relatives.

**Local Regulations**

Laguna Niguel General Plan

The Laguna Niguel General Plan (LNGP) contains goals, policies, and plans that are intended to guide land use and development decisions. The Open Space/Parks/Conservation Element was designed to ensure the conservation of important historical, archaeological, and paleontological resources. Relevant policies are listed below.

Open Space/Parks/Conservation Element

**Goal 7.0.** Recognize significant cultural sites or features within the community.

- **Policy 7.1.** Review the technical data on sensitive cultural resources for all new development proposals.
- **Policy 7.2.** Require mitigation of impacts to significant areas of archaeological and paleontological resources.
- **Policy 7.3.** Preserve uncovered resources in their natural state, as much as feasible to assure their preservation and availability for later study. Require that uncovered resources are documented and retained in an appropriate museum or institution.

Development proposals will be assessed for potential impacts on archaeological resources according to CEQA requirements. The City will require that significant impacts either be avoided or mitigated, which may involve further investigation and resource recovery.

### 4.4.3 Thresholds of Significance

Criteria for determining the significance of impacts related to cultural resources are based on criteria contained in Appendix G of the State CEQA Guidelines and the City’s CEQA Manual. The proposed Project could have a significant impact on the environment if it would result in any of the following.

**Threshold CUL-1** *Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?*

**Threshold CUL-2** *Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?*

**Threshold CUL-3** *Disturb any human remains, including those interred outside of formal cemeteries?*

### Methodology

Impacts on cultural resources are assessed based on the potential for the Project to significantly affect existing known and unknown historic and archaeological resources. The methodology entails identifying significant cultural resources and whether the Project would cause a substantial adverse change in the significance of the resource. Examples of substantial adverse changes include physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.

### 4.4.4 Project Design Features and Standard Conditions of Approval

No Project Design Features are proposed with regard to cultural resources.

### 4.4.5 Environmental Impact Evaluation

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**Threshold CUL-1** *Cause a Substantial Adverse Change in the Significance of a Historical Resource as Defined in Section 15064.5?*

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**No Impact.** The proposed Project site is currently vacant and not occupied by a historic resource and has never been occupied by an historic resource. Implementation of the proposed Project would not cause a substantial adverse change in the significance of a historical resource. Therefore, no impact to historic resources would occur, and no mitigation is required.

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**Threshold CUL-2** *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?*

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**Less than Significant Impact with Mitigation.** As discussed previously, the SCCIC records search conducted for the proposed Project identified three cultural resources within 1/2-mile of the

Project site, with two of the resources having no exact location and all three resources being prehistoric. Previous field surveys and the field survey conducted in 2021 did not reveal the presence of archeological resources. Additionally, due to the Project site's history of being previously graded and developed, as well as subjected to a significant landslide and remedial grading including the creation of an earthen buttress, the likelihood of encountering archaeological resources is minimal. In the event that such resources are discovered at the Project site during grading or earthmoving activities, implementation of the **Mitigation Measure MM CUL-1**, as described below, would render impacts to less than significant and no further mitigation is required.

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**Threshold CUL-3** *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

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**Less than Significant Impact with Mitigation.** Due to the Project site's history of being previously graded and developed, as well as subjected to a significant landslide and remedial grading including the creation of an earthen buttress, and the fact that the site has never been a cemetery, the likelihood of encountering human remains is minimal. In the event that human remains (or remains that may be human) are discovered at the Project site during grading or earthmoving activities, implementation of **Mitigation Measure MM CUL-2**, as described below, would render impacts to be less than significant.

#### 4.4.6 Cumulative Impacts

**Less than Significant Impact with Mitigation.** As described above, the proposed Project's cultural resources impacts would be limited to the construction phase, when ground disturbance would occur. The possibility of encountering cultural resources and human remains would be remote due to the lack of any evidence that prehistoric or historic-period cultural resources or human remains are present on-site because of the previous grading and development of the project site and the extensive landslide and subsequent remedial grading associated with the landslide repair. Mitigation measures **MM CUL-1** and **MM CUL-2** provide specific monitoring and stop-work requirements to ensure that monitoring is conducted during Project construction and any archaeological resources or human remains that are uncovered are handled appropriately. Although past, present, and future projects such as those identified in Section 1.4, Table 1-2, and Figure 1.C, have the potential to encounter cultural resources in the cumulative Project study area, the Project's contribution to any loss of cultural resources would be less than cumulatively considerable because any archaeological resources encountered would be recovered. Therefore, the Project's incremental contribution to cumulative cultural resources impacts would not be cumulatively considerable.

#### **4.4.7 Summary of Mitigation Measures**

CEQA Guidelines Section 15126.4 requires EIRs to describe feasible measures that can minimize significant impacts. The following mitigation measures have been evaluated for feasibility and are incorporated in order to reduce potentially significant impacts related to the discovery of unknown archeological resources.

**MM CUL-1** Prior to the issuance of grading permits, the applicant will retain a qualified archaeological monitor who will prepare an Archaeological Resources Mitigation Monitoring Plan. The qualified archaeological monitor will attend all pre-grading meetings to inform the grading and excavation contractors of the archaeological resources mitigation program and will instruct them with respect to its implementation. The qualified archaeological monitor will be on-site during grading within native soil that has the potential to yield archaeological resources. If such resources are discovered and are in danger of loss and/or destruction, the qualified archaeological monitor will recover them. In instances where recovery requires an extended salvage time, the qualified archaeological monitor will be allowed to temporarily direct, divert, or halt grading to allow recovery of resource(s) in a timely manner. Recovered archaeological resources, along with copies of pertinent field notes, photographs, and maps, will be deposited in a certified curation facility that meets the standards of the California Office of Historical Preservation. The resources will be recorded in the California Archaeological Inventory Database. Should archaeological resources with ties to Native Americans be discovered, the archaeological monitor will immediately notify the City and the most likely tribal representative for the area if not already present during monitoring activities. A final monitoring report will be submitted to the City within 30 days of the end of monitoring activities.

**MM CUL-2** Human Remains. Consistent with the requirements of CCR Section 15064.5(e), if human remains are encountered during site disturbance, grading, or other construction activities on the Project site, the construction contractor shall halt work within 25 feet of the discovery; all work within 25 feet of the discovery shall be redirected and the Orange County (County) Coroner notified immediately. No further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be Native American, the County Coroner shall notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the City, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native

American burials. Consistent with CCR Section 15064.5(d), if the remains are determined to be Native American and an MLD is notified, the City shall consult with the MLD identified by the NAHC to develop an agreement for the treatment and disposition of the remains. Upon completion of the assessment, the consulting archaeologist shall prepare a report documenting the methods and results and provide recommendations regarding the treatment of the human remains and any associated cultural materials, as appropriate, and in coordination with the recommendations of the MLD. The report shall be submitted to the City Development Services Director, or designee, and the South Central Coastal Information Center. The City Development Services Director, or designee, shall be responsible for reviewing any reports produced by the archaeologist to determine the appropriateness and adequacy of the findings and recommendations.

#### **4.4.8 Significant Environmental Impacts**

Impacts to cultural resources can be mitigated to less than significant levels by incorporating **MM CUL-1** and **MM CUL-2** as described in Section 4.4.7. No significant impacts would remain after mitigation.

#### **4.4.9 References**

- 14 CCR 15000–15387 and Appendix A–L. Guidelines for Implementation of the California Environmental Quality Act, as amended.
- City of Laguna Niguel. February 2022. City of Laguna Niguel CEQA Manual.
- City of Laguna Niguel. 1992. General Plan for the City of Laguna Niguel. Available: <http://cityoflagunaniguel.org/DocumentCenter/Home/View/1886>. (Accessed: August 11, 2021.)
- City of Laguna Niguel. 2021. City of Laguna Niguel 2021–2029 Housing Element. Available: <https://www.cityoflagunaniguel.org/1352/Housing-Element-Update>. Last revised: October 2021. (Accessed February 22, 2022).
- City of Laguna Niguel, Laguna Niguel Municipal Code Title 9, Planning and Zoning. [https://library.municode.com/ca/laguna\\_niguel/codes/code\\_of\\_ordinances?nodeId=TIT9PLZO](https://library.municode.com/ca/laguna_niguel/codes/code_of_ordinances?nodeId=TIT9PLZO) (Accessed June 20, 2021).
- DUKE CRM. September 8, 2021. Cultural Resources Assessment for the Cove, City of Laguna Niguel, Orange County, California.