

TRIBAL CULTURAL RESOURCES

4.16 TRIBAL CULTURAL RESOURCES

This chapter of the Draft Environmental Impact Report (EIR) describes the potential impacts to tribal cultural resources (TCR) associated with the adoption and implementation of the proposed project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential impacts to TCRs, and identifies proposed General Plan 2050 goals, policies, and actions that would minimize any potentially significant impacts. A general discussion of cultural resources, which includes archeological resources and human remains that could be associated with Native Americans, is included in Chapter 4.5, *Cultural Resources*, of this Draft EIR, which may be referenced in this chapter.

4.16.1 ENVIRONMENTAL SETTING

4.16.1.1 REGULATORY FRAMEWORK

Federal Regulations

Archaeological Resources Protection Act

The Archaeological Resources Protection Act (US Code, Title 16, Sections 470aa–mm) became law on October 31, 1979, and has been amended four times. It regulates the protection of archaeological resources and sites that are on federal and Native American lands.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act (US Code, Title 15, Section 1996) recognizes that Native American religious practices, sacred sites, and sacred objects have not been properly protected under other statutes. It establishes as national policy that traditional Native American practices; beliefs; sites, including the right of access; and the use of sacred objects shall be protected and preserved. It does not include provisions for compliance.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act of 1990 (US Code, Title 25, Sections 3001 et seq.) protects Native American remains, including Native American graves on federal and tribal lands, and recognizes tribal authority over the treatment of unmarked graves. This act prohibits the selling of Native American remains and provides guidelines for the return of Native American human remains and cultural objects from any collection receiving federal funding, such as museums, universities, or governments. Noncompliance with this act can result in civil and criminal penalties.

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State Regulations

California Environmental Quality Act

California Environmental Quality Act (CEQA) Section 21083.2 and CEQA Guidelines Section 15126.4 specify lead agency responsibilities in determining whether a project may have a significant effect on archaeological resources. If it can be demonstrated that a project will damage a unique archaeological resource, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. Preservation in place is the preferred approach to mitigation. The Public Resources Code (PRC) also details required mitigation if unique archaeological resources are not preserved in place. CEQA defines a unique archeological resource as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

- Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
- Has a special and particular quality such as being the oldest of its type or the best available example of its type.
- Is directly associated with a scientifically recognized important prehistoric or historic event or person.

CEQA Guidelines Section 15064.5(e) requires that excavation activities stop whenever human remains are uncovered during a project or activity, and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are Native American, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. At that time, the lead agency must consult with the appropriate Native American descendants, if any, as identified by the NAHC. Under certain circumstances, the lead agency (or applicant), is required to develop an agreement with the Native American descendants for the treatment and disposition of the remains. In addition to the mitigating provisions pertaining to accidental discovery of human remains, CEQA Guidelines Section 15064.5(f) also requires that a lead agency make provisions for the accidental discovery of historical or archaeological resources. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be a Historical Resource or Unique Archaeological Resource, avoidance measures should be implemented, or appropriate mitigation should be available.

Native American Historic Resource Protection Act

The Native American Historic Resource Protection Act, commonly referred to as it's legislative bill number Assembly Bill (AB) 52, passed in 2014 and amended CEQA to address California Native American tribal concerns regarding how cultural resources of importance to tribes are treated under CEQA and created the new TCR category. CEQA identifies a TCR as a separate and distinct category of resource, separate from a historical resource or archaeological resource. CEQA specifies that a project that may cause a substantial adverse change in the significance of a TCR (as defined in CEQA Statute or PRC Section 21074[a]) is a project that may have a significant effect on the environment. To help determine whether a project may have such an effect, the PRC requires a lead agency to consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of the proposed project. According to AB 52, tribes may have expertise in tribal history and "tribal

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knowledge about land and TCRs at issue should be included in environmental assessments for projects that may have a significant impact on those resources.”

CEQA Section 21074.3(a) defines a TCR as a site, feature, place, or cultural landscape that is geographically defined in terms of size and scope, sacred place, and object with cultural value to a California Native American tribe that is either included or eligible for inclusion in the California Register of Historic Resources or included in a local register of historical resources, or if the City of Santa Rosa, acting as the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR. Because these criteria also meet the definition of a historical resource under CEQA, a TCR may also require additional consideration as a historical resource. TCRs may or may not exhibit archaeological, cultural, or physical indicators.

CEQA Section 21080.3.2 provides that the tribal consultation process includes, but is not limited to, discussing the type of environmental review necessary, the significance of TCRs, the significance of the project impacts on TCRs, and alternatives and mitigation measures recommended by the tribe. If the California Native American tribe requests consultation to include project alternatives, mitigation measures, or significant effects, the consultation would be required to cover those topics. PRC Section 21082.3 provides that any mitigation measures agreed upon during this consultation “shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring program” if determined to avoid or lessen a significant impact on TCRs. Consultation is considered concluded when (1) the parties agree to measures to avoid or reduce a significant impact on a TCR, if such a significant impact exists, or (2) when a party concludes that mutual agreement cannot be reached. If no formal agreement on the appropriate mitigation has been established, mitigation measures that avoid or substantially lessen potential significant impacts should be implemented.

Health and Safety Code Sections 7052 and 7050.5

Health and Safety Code Section 7052 states that the disturbance of Native American cemeteries is a felony. Section 7050.5(b) of the Health and Safety Code specifies protocol when human remains are discovered during activities involving ground disturbance. If human remains are discovered or identified in any location other than a dedicated cemetery, there should be no further disturbance or excavation nearby until the county coroner has determined the area is not a crime scene that warrants further investigation into the cause of death and made recommendations to the persons responsible for the work in the manner provided in PRC Section 5097.98. This section, which applies to both State and private lands, provides guidance for proceeding when human remains associated with Native American burials and associated items are encountered. This act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods.

Public Resources Code Section 5097

PRC Section 5097.5(a) specifies that a person shall not knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, or archaeological sites, which can include fossilized footprints, inscriptions made by human agency, rock art, or any other archaeological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over the lands. As used in this section, “public lands” means lands owned by, or under

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the jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof. County and city lands are exempt from this provision, except for parklands larger than 100 acres.

California Code of Regulations

Archaeological resources, on lands administered by the California Department of Parks and Recreation, are addressed in California Code of Regulations Title 14, Division 3, Chapter 1. Section 4308 of this chapter addresses archaeological features and states that no person shall remove, injure, disfigure, deface, or destroy any object of archaeological or historical interest or value.

Assembly Bill 168

AB 168 was signed in 2020 and extends the responsibility of a development proponent to consult with Native American tribes to streamline ministerial approvals for affordable multifamily housing developments under Senate Bill (SB) 35. A development with streamlined ministerial approval under SB 35 is not subject to CEQA, allowing for such developments to occur without going through a CEQA review or screening process to determine if they would affect TCRs. AB 168 requires a development proponent to submit notice of its intent to apply for streamlined approval to the local government prior to the actual application submittal. The local government is then required to provide formal notice to each California Native American tribe that is culturally affiliated with the geographic area of the proposed development and to engage in a scoping consultation regarding the potential effects the proposed development could have on a potential TCR (California Government Code Section 65913.4(b)). The scoping consultation must commence within 30 days after the proponent submits a notice of intent to apply for ministerial approval and concluded before the proponent can submit the application. AB 168 deems a project ineligible for the streamlined, ministerial approval process and requires it be subject to CEQA if:

- The site of the proposed development is a TCR that is on a national, state, tribal, or local historic register list;
- The local government and the California Native American tribe do not agree that no potential TCR would be affected by the proposed development; or
- The local government and California Native American tribe find that a potential TCR could be affected by the proposed development and the parties do not document an enforceable agreement regarding the methods, measures, and conditions for treatment of those TCRs, as provided.

4.16.1.2 EXISTING CONDITIONS

Information in this section was obtained from the California Historical Resources Information System's Northwest Information Center in Rohnert Park and the files of the City of Santa Rosa by Tom Origer and Associates for the preparation of this Draft EIR. A complete setting, including historic resources and Native

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American consultation pursuant to California Government Code Section 65352.3-5, is provided in Chapter 4.5, *Cultural Resources*, of this Draft EIR.¹

Ethnographic Setting

Linguists and ethnographers tracing the evolution of languages have found that most of the indigenous languages of the California region belong to one of five widespread North American language groups (the Hokan and Penutian phyla, and the Uto-Aztecan, Algic, and Athabaskan language families). The distribution and internal diversity of four of these groups suggest that their original centers of dispersal were outside, or peripheral to, the core territory of California, that is, the Central Valley, the Sierra Nevada, the Coast Range from Cape Mendocino to Point Conception, and the Southern California coast and islands. Only languages of the Hokan phylum can plausibly be traced back to populations inhabiting parts of this core region during the Archaic period, and there are hints of connections between certain branches of Hokan, such as that between Salinan and Seri, that suggest that at least some of the Hokan languages could have been brought into California by later immigrants, primarily from the Southwest and northwestern Mexico.²

At the time of Euroamerican settlement, people inhabiting this area spoke Southern Pomo, one of seven mutually unintelligible Pomoan languages belonging to the Hokan language stock. The Southern Pomo's aboriginal territory falls within present-day Sonoma County. To the north, it reaches the divide between Rock Pile Creek and the Gualala River, and to the south it extends to near the town of Cotati. The eastern boundary primarily runs along the western flanks of Sonoma Mountain until it reaches Healdsburg, where it crosses to the west side of the Russian River. Within the larger area that constitutes the Southern Pomo homelands, some bands or tribelets occupied distinct areas.

The Bitagomtara were a tribelet of the Southern Pomo and they occupied the lands south of Mark West Creek, north of Cotati and the boundary of the Coast Miwok, east of the Laguna de Santa Rosa, and west of Sonoma Canyon.^{3, 4} Primary village sites of the Southern Pomo were occupied continually, while temporary sites were visited to procure resources that were especially abundant or available only during certain seasons. Sites often were situated near freshwater sources and in ecotones where plant life and animal life were diverse and abundant.

¹ California Government Code Section 65352.3-5, commonly known by its legislative bill number, SB 18, states that prior to the adoption or amendment of a city or county's general plan, or specific plans, the city or county shall consult with California Native American tribes that are on the contact list maintained by the NAHC.

² V. Golla, 2011, *California Indian Languages*, Berkeley and Los Angeles: University of California Press.

³ R. Milliken, 1995, *A Time of Little Choice: The Disintegration of Tribal Culture in the San Francisco Bay Area, 1769-1810*, Menlo Park, CA: Ballena Press.

⁴ O. Stewart, 1943, "Notes on Pomo Ethnogeography", *University of California Publications in American Archaeology and Ethnology* 40, no. 2, pp.29-62.

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Primary village sites of the Southern Pomo were occupied continually, while temporary sites were visited to procure resources that were especially abundant or available only during certain seasons. Sites often were situated near freshwater sources and in ecotones where plant life and animal life were diverse and abundant. There are several ethnographic villages in the EIR Study Area.⁵

The Southern Pomo population was decimated early in the historic period, especially in the southern part of their territory. Ethnic identity was severely impacted in the region of Santa Rosa and Sebastopol; McLendon and Oswalt reported that the few Southern Pomo speakers remaining in 1976 were from north of Healdsburg.⁶ In 1992, the Southern Pomo and Coast Miwok established the Federated Indians of Graton Rancheria and were federally recognized in 2000.

Archaeological Resources

Beginning in the early twentieth century, avocational archaeologist Jesse Peter traversed the Santa Rosa area and documented over 100 Native American archaeological sites. Since the enactment of the National Historic Preservation Act of 1966 and the CEQA of 1970, hundreds of surveys have been conducted in the EIR Study Area, which has resulted in the documentation of over 1,000 cultural resources ranging from prehistoric habitation sites to mid-twentieth century developments. Remnants of Native American civilization have been discovered along Santa Rosa Creek and its tributaries, in the adjacent alluvial valleys and surrounding plains, in the hills, in the Trione-Annadel State Park area, in the Laguna de Santa Rosa, and in the Windsor area. The remains of entire settlements, including three former villages, were found in northern Santa Rosa. Given the environmental setting, the archaeologically rich nature of the Santa Rosa area, and the fact that the EIR Study Area has not been entirely surveyed, there is a high potential for finding additional Native American sites in Santa Rosa.

Tribal Cultural Resources and Consultation

Native American Resources

Santa Rosa was a site of Native American habitation beginning approximately 7,000 years ago, and Santa Rosa contains approximately 190 recorded Native American resources.⁷ The Santa Rosa Basin, encompassing the EIR Study Area, contains six major drainages: Santa Rosa, Matanzas, Piner, Rincon, Austin, and Brush Creeks. These creeks may hold prehistoric resources because Native American archaeological sites tend to be near waterways as well as along ridge tops, mid-slope terraces, alluvial flats, the base of hills, and near vegetation ecotones.⁸ Trione-Annadel State Park, in the southeast corner of the EIR Study Area, was an important obsidian source for Native American tools. Resources may include chert or obsidian flakes, projectile points, mortars, pestles, dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials.

⁵ S. Barrett, 1908, *The Ethno-Geography of the Pomo and Neighboring Indians*, University of California Publications in American Archaeology and Ethnology, vol. 6, no. 1, Berkeley, California: University of California Press.

⁶ S. McLendon and R. Oswalt, 1978, "Pomo," In *California*, edited by R. Heizer, pp. 274–288, *Handbook of North American Indians*, Vol. 8, W. Sturtevant, general editor, Washington, D.C.: Smithsonian Institution.

⁷ Based on a 2001 review of records and literature on file with the California Historical Resources Information System.

⁸ Vegetation ecotones are transition areas between different plant communities.

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Native American Consultation: Assembly Bill 52

Pursuant to AB 52, on March 14, 2023 the City provided notification of the proposed project and provided an opportunity for comments from representatives of the Federated Indians of Graton Rancheria and Lytton Rancheria as they are traditionally and culturally affiliated with the geographic area and have requested to be notified about projects in the city of Santa Rosa. The City received requests for consultation from the Federated Indians of Graton Rancheria and Lytton Rancheria. The City met with representatives of Federated Indians of Graton Rancheria and with representatives of Lytton Rancheria. In addition to the meetings, the City maintained ongoing communication with representatives from the Federated Indians of Graton Rancheria and Lytton Rancheria.

Additionally, as recommended by the NAHC, the City sent a request to the NAHC for a Tribal Contacts List in April 2019 and due to the ongoing nature of the proposed project a new request was sent in August 2024. As described in Section 4.5.1.3, *Existing Conditions*, under the subheading “Native American Consultation: Senate Bill 18” in Chapter 4.5, *Cultural Resources*, of this Draft EIR, the NAHC identified 36 local Native American representatives from 25 tribes as potentially having local knowledge of Native American places, features, and objects, as defined in PRC Section 5097.9 and PRC Section 5097.993, that are within the EIR Study Area. As of the publication of this Draft EIR, no additional requests for consultation have been received.

As a result of the consultations to date, no TCRs have been identified and as described in Chapter 4.5 of this Draft EIR, only the following requests have been made:

- Work to develop a better communication system for the required AB 52 and Senate Bill 18 consultation between City staff and tribes.
- Tribal acknowledgment to be added to the Housing Element and to be carried forward in the comprehensive General Plan.
- Consider Phase 1 archaeological survey for all projects that involve ground disturbance: allowing potential exceptions where the ground has already been disturbed.
- Develop a threshold for when ministerial projects with ground disturbance can include consultation.
- Expand consideration of projects along waterways to include historical locations and trajectories.
- Ensure the plan includes adequate goals, policies, and actions related to resilience.

Sacred Lands File Search

Concurrently with the request for the Tribal Consultation List in August 2024, a request was sent to the NAHC for a Sacred Lands File search. The NAHC reported on August 30, 2024, that the result of the Sacred Lands File search was negative.

4.16.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed project would result in significant impacts to tribal resources if it would:

1. Cause a substantial adverse change in the significance of a TCR, defined in PRC Section 21074 as either a site, feature, place, or 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

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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 PRC 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 PRC Section 5024.1. In applying the criteria set forth in subdivision (c) of the PRC Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.

2. In combination with past, present, and reasonably foreseeable projects, result in a cumulative impact with respect to TCRs.

4.16.3 IMPACT DISCUSSION

As described in Chapter 4.0, *Environmental Analysis*, of this Draft EIR, some proposed General Plan 2050 policies and actions are required as a means to mitigate environmental impacts under CEQA. These policies and actions are fully enforceable at the discretion of the decision maker through permit conditions, agreements, or other legally binding instruments. These mitigating policies and actions use the imperative “shall,” include performance criteria, and are marked with an asterisk (*). Note that all actions are required to be implemented by the City and therefore the imperative “shall,” if not explicitly stated, is implied.

TCR-1	Implementation of the proposed project could cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC Section 21074 as either a site, feature, place, or 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; (ii) Register of Historical Resources, or in a local register of historical resources as defined in PRC Section 5020.1(k), or (iii) 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 Resource Code Section 5024.1. In applying the criteria set forth in subdivision (c) of the Public Resource Code Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.
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As previously described in Section 4.16.1.1, *Regulatory Framework*, CEQA defines a TCR as a site, feature, place, or cultural landscape that is geographically defined in terms of size and scope, sacred place, or object with cultural value to a California Native American tribe that is either included or eligible for inclusion in the California Register or included in a local register of historical resources, or if the City of Santa Rosa, acting as the lead agency, supported by substantial evidence, chooses at its discretion to treat

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the resource as a TCR.⁹ Through the consultation process described in Section 4.16.1.2, *Existing Conditions*, no California Native American Tribe has identified the presence of TCRs in the EIR Study Area. However, there is the potential for TCRs to be identified as part of project-specific development over the course of the implementation of the proposed project.

As described in Section 4.16.1.2, *Existing Conditions*, as part of the consultation process, some requests were made by the tribes. Table 4.16-1, *Tribal Consultation Requests and City Responses*, shows the requests presented to the City during the tribal consultation process completed to date and how the request has been responded to as part of the proposed General Plan 2050.

TABLE 4.16-1 TRIBAL CONSULTATION REQUESTS AND CITY RESPONSES

Request	Response
Work to develop a better communication system for the required SB 18 and AB 52 consultation between City staff and tribes.	Proposed General Plan 2050 Policy 4-2.2, *Action 4-2.1, and *Action 4-2.2 require the review of projects, consultation with Native American Tribes as required by State law, and collaboration with the most likely descendants, as identified by the Native American Heritage Commission.
Tribal acknowledgment to be added to the Housing Element and to be carried forward in the comprehensive General Plan.	The Housing Element 2023-2031, adopted on February 14, 2023, includes the Tribal Acknowledgement in Chapter 1, <i>Introduction</i> , on page 1-1. The proposed General Plan 2050 includes the Tribal Acknowledgement in Chapter 1, <i>Introduction</i> , on page 1-6.
Consider Phase 1 archaeological survey for all projects that involve ground disturbance: allowing potential exceptions where the ground has already been disturbed.	Proposed General Plan 2050 *Action 4-2.1 requires preliminary review of development projects with the California Historical Resources Information System, Northwest Information Center, at Sonoma State University to determine whether project areas contain known archaeological resources, including TCRs. Proposed *Action 4-2.2 requires the review of projects with site-specific investigations.
Develop a threshold for when ministerial projects with ground disturbance can include consultation.	No threshold has been determined as part of the proposed General Plan 2050 project. The City acknowledges this request and will continue to work with the tribes.
Expand consideration of projects along waterways to include historical locations and trajectories.	The proposed General Plan 2050 includes policies and actions to protect historic and cultural resources, including waterways as Native American archaeological sites tend to be located near waterways and these locations may hold prehistoric resources. Proposed General Plan 2050 Policy 4-1.1, Policy 3-5.7, and *Action 3-5.20 require the preservation and enhancement of the city's natural waterways, require construction adjacent to creek channels to be sensitive to the natural environment, and require ecological buffer zones between the waterway and development. These policies and actions protect both natural and cultural resources near waterways in the EIR Study Area.

⁹ Public Resources Code Sections 21074(a)(1) and (2).

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TABLE 4.16-1 TRIBAL CONSULTATION REQUESTS AND CITY RESPONSES

Request	Response
Ensure the plan includes adequate goals, policies, and actions related to resilience.	The proposed General Plan 2050 includes an update to the State-required safety element, Chapter 5, <i>Safety, Climate Resilience, Noise, and Public Services and Facilities</i> . The Climate Resilience section addresses agricultural and ecosystem pests and diseases, droughts, extreme heat and warm nights, other climate-influenced health risks, severe winds and storms, wildfires.

While no TCRs have been acknowledged as part of the consultation process or otherwise, there is the potential to unearth archeological resources or human remains, which could be identified as TCRs upon discovery. The proposed General Plan 2050 Chapter 2, *Land Use and Economic Development*; Chapter 3, *Circulation, Open Space, Conservation, and Greenhouse Gas Reduction*; and Chapter 4, *Urban Design, Cultural and Tribal Cultural Resources, Historic Preservation, and Art and Culture*, contains goals, policies, and actions that require local planning and development decisions to consider impacts to TCRs and archaeological resources, which have the potential to be identified as TCRs upon discovery archaeological resources. The following goals, policies, and actions would minimize impacts to TCRs and archaeological resources:

- **Goal 2-2:** Promote city-centered growth and investment with a neighborhood-focused approach to create complete and connected communities that provide community members' daily needs within easy walking or biking distance.
 - **Policy 2-2.2:** Encourage a compact, rather than a scattered, development pattern for new development proposals, particularly in Areas of Change.
- **Goal 3-5:** Protect, expand, maintain, and restore natural resources, open space, and the limited remaining agricultural land.
 - **Policy 3-5.2:** Preserve, enhance, and expand a connected network of open spaces for recreation, natural and cultural resource protection, and mobility of species by way of critical linkages between open space lands.
 - **Action 3-5.4:** Collaborate with regional agencies and private landowners to link inaccessible open spaces to benefit the protection of special environments and ecosystems, such as wetlands, plant communities, wildlife habitats and corridors, historic resources, and tribal and cultural resources.
 - **Policy 3-5.3:** Conserve and protect creeks, wetlands, vernal pools, wildlife ecosystems, rare plant habitats, and waterways from development.
 - **Policy 3-5.5:** Maintain, restore, and protect the city's waterways.
 - **Policy 3-5.7:** Ensure that construction adjacent to creek channels is sensitive to the natural environment, preserves topography and vegetation along the creek, does not disrupt or pollute the waterway, and provides an adequate setback buffer.

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- ***Action 3-5.19:** Require new development along channelized waterways to establish an ecological buffer zone between the waterway and development that also provides opportunities for multiuse trails and recreation.
- ***Action 3-5.20:** Require new development to maintain an adequate setback from channelized waterways to recognize the 100-year flood elevation, with setbacks in the Zoning Code as minimums and larger setbacks encouraged in accordance with Restoration Concept Plans to meet restoration and enhancement goals.
- **Goal 4-2:** Protect tribal cultural resources in Santa Rosa and enrich the sense of place and understanding of the city's history and prehistory.
 - **Policy 4-2.1:** Protect Native American heritage, honor the early stewards of this land, and treat Native American remains and resources with sensitivity.
 - ***Action 4-2.1:** Continue to review proposed developments in conjunction with the California Historical Resources Information System, Northwest Information Center, at Sonoma State University to determine whether project areas contain known archaeological resources, both prehistoric and/or historic-era, and tribal cultural resources, or if they have the potential to hold such resources and if so, implement mitigation to protect the resource.
 - ***Action 4-2.2:** Work in good faith with interested communities to evaluate proposed development sites for the presence of subsurface historic, archaeological, and tribal cultural resources. These efforts may include:
 - Consideration of existing reports and studies.
 - Consultation with Native American tribes as required by State law.
 - Appropriate site-specific investigative actions.
 - On-site monitoring during excavation if appropriate.
 - ***Action 4-2.3:** Continue to require that project areas found to contain significant archaeological resources be examined by a qualified consulting archaeologist with recommendations for protection and preservation.
 - **Policy 4-2.2:** Collaborate with the most likely descendants, as identified by the Native American Heritage Commission.
 - ***Action 4-2.4:** If tribal cultural resources are encountered during development, halt work to avoid altering the materials and their context until a qualified consulting archaeologist and Native American representative (if appropriate) have evaluated the situation and recorded identified tribal cultural resources—which may include animals, structures, landscapes, or plants—and determined suitable mitigation measures.

As described under impact discussion CUL-3 in Chapter 4.5, *Cultural Resources*, of this Draft EIR, compliance with the mandatory regulatory procedures described and the proposed General Plan 2050 goals, policies, and actions, potential impacts related to the potential discovery or disturbance of any human remains accidentally unearthed during construction activities associated with future development in the EIR Study Area would be less than significant. However, as described under impact discussion CUL-2 in Chapter 4.5 of this Draft EIR, because future development under the proposed General Plan 2050 may occur where there is the potential for archeological resources, known and unknown, which could be

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identified as TCRs upon discovery, impacts from the proposed General Plan 2050 are potentially *significant*.

Impact TCR-1: Impacts to unknown tribal cultural resources (TCR) could occur from potential future development under the proposed General Plan 2050.

Significance with Mitigation: Less than significant. The proposed General Plan 2050 includes goals, policies, and actions that require local planning and development decisions to reduce impacts to archaeological resources that could qualify as TCRs and to conduct consultation with Native American tribes as required by State law. Specifically, proposed Policy 2-2.2 encourages infill development in Areas of Change, which reduces opportunities to unearth potential TCRs and Action 3-5.4 requires the City to collaborate with regional agencies to expand open space that would protect historic and TCRs. Proposed *Action 4-2.1 and *Action 4-2.2 requires the City to continue to review proposed developments to determine if TCRs are present and evaluate proposed development sites for TCRs through consultation with local Native American tribes. Additionally, proposed *Action 4-2.4 requires that if TCRs are encountered during development, work is halted to avoid altering the materials and their context until a qualified consulting archaeologist and Native American representative have evaluated the situation, and recorded identified cultural resources, which may include animals, structures, landscapes, and plants and determined suitable site-specific mitigation measures.

The proposed General Plan 2050 also includes policies and actions to protect historic and cultural resources, including waterways as Native American archaeological sites tend to be located near waterways and these locations may hold prehistoric resources. As listed under impact discussion CUL-1 in Chapter 4.5, *Cultural Resources*, of this Draft EIR, proposed General Plan 2050 Policy 4-1.1 requires the preservation and enhancement of the city's natural waterways and landscapes; Policy 3-5.7 requires that construction adjacent to creek channels is sensitive to the natural environment, preserves topography and vegetation along the creek, does not disrupt or pollute the waterway, and provides an adequate setback buffer; and *Action 3-5.19 and *Action 3-5.20 require new development along channelized waterways to establish an ecological buffer zone between the waterway and development.

Compliance with federal and State laws, as described in Section 4.16.1.1, *Regulatory Framework*, and the proposed General Plan 2050 goals, policies, and actions would protect unrecorded TCRs in the EIR Study Area by providing for the early detection of potential conflicts between development and resource protection, and by preventing or minimizing the material impairment of the ability of archaeological deposits to convey their significance through excavation or preservation. Therefore, impacts to TCRs would be *less than significant*.

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TCR-2	Implementation of the proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in less-than-significant cumulative impacts with respect to tribal cultural resources.
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Cumulative impacts to TCRs occur when a series of actions leads to adverse effects on local Native American tribes or tribal lands. No TCRs have been identified in the EIR Study Area. Further, in association with CEQA review, future AB 52 consultations with Native American tribes to identify TCRs would be required for projects that have the potential to cause significant impacts to TCRs.

Future development planned for under the proposed project would be primarily within the developed portions of the EIR Study Area (Areas of Change). This, in conjunction with buildout of the city and the region, has the potential to cumulatively impact TCRs impacts. Impacts to TCRs that may be identified as part of project-specific development over the course of the implementation of the proposed project would be less than significant with implementation of the proposed General Plan 2050 goals, policies, and actions. As previously discussed, impacts to TCRs in the EIR Study Area would be less than significant with implementation of the proposed General Plan 2050 goals, policies, and actions described in impact discussion TCR-1 and, with respect to archeological resources that have the potential to be identified as TCRs once unearthed, in impact discussions CUL-1 through CUL-3 in Chapter 4.5, *Cultural Resources*, of this Draft EIR. Additionally, the existing federal, state, and local regulations and the proposed General Plan 2050 goals, policies, and actions described throughout this chapter serve to protect TCRs and archeological resources in the EIR Study Area. Continued compliance with these regulations substantially decreases potential impacts to TCRs to the maximum extent practicable and cumulative impacts would be *less than significant* in this regard.

Significance with Mitigation: Less than significant.

TRIBAL CULTURAL RESOURCES

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