

## 4.4 Cultural Resources

This section describes the existing cultural resources conditions of the project site and vicinity, identifies associated regulatory requirements, evaluates potential impacts, and identifies mitigation measures related to implementation of the proposed project.

### Methods for Analysis

A Cultural Resources Technical Report was prepared for the proposed project by Dudek in July 2019, and is included as Appendix 4.4-1 to this environmental impact report (EIR). Dudek completed a separate analysis of San Diego County Credit Union (SDCCU) Stadium's historical significance in a complementary report included as Appendix 4.4-2 to this EIR (Dotter 2019). Information provided in this EIR section is based on the review of existing resources, technical data, and applicable laws, regulations, and guidelines, as well as the Cultural Resources Technical Report (Appendix 4.4-1) and Historical Resources Technical Report (Appendix 4.4-2) prepared for the proposed project.

Dudek conducted a records search at the South Coastal Information Center (SCIC) for the project area and a surrounding 1-mile radius on February 8, 2019. Additional consulted sources included the California Inventory of Historical Resources/California Register of Historical Resources (CRHR) and listed Office of Historic Preservation Archaeological Determinations of Eligibility, California Points of Historical Interest, California Historical Landmarks, and California Department of Transportation Bridge Survey information. Geographic information system maps were produced indicating the spatial relationship between known resources and possible project impacts. Historical aerial maps were also consulted using the internet database [Historicaerials.com](http://Historicaerials.com). These maps were used to determine the development history of the area and to indicate any possible development from the historic era.

Additionally, an intensive pedestrian cultural survey of the proposed project area was conducted by a Dudek archaeologist on March 7, 2019. Native American monitors from Redtail Environmental and the Manzanita Band of Kumeyaay Nation participated in the pedestrian survey. The survey conducted exceeded the applicable Secretary of Interior Professional Qualifications Standards for archaeological survey and evaluation. Large portions of the proposed project's area of potential effect (APE) are covered by buildings, asphalt, and landscaping. The survey team walked the periphery of the APE and viewed any undeveloped portion of the APE, including landscaped hillsides. The southwestern portion of the APE is less developed and was surveyed using transects spaced no more than 15 meters apart. The archaeologist used an Apple 3rd Generation iPad equipped with an 8 MP resolution camera, GPS receiver, and georeferenced PDF maps of the project area. Accuracy of this device ranged between 3 meters and 10 meters. The archaeologist inspected natural and artificial erosion exposures, as well as spoils from rodent burrows as a means to locate evidence for buried cultural deposits. No artifacts were collected during the survey.

On behalf of San Diego State University (SDSU), Dudek requested a search of the Native American Heritage Commission (NAHC) Sacred Lands File on December 19, 2018, to determine if any tribal cultural resources are present within 1 mile of the project area. Steven Quinn, NAHC Associate Government Program Analyst, facilitated this search and returned the results on January 3, 2019. The results of the NAHC search of the Sacred Lands File were positive. As part of the consultation process, the NAHC provided a list of tribal governments and individuals that should be consulted. Dudek sent outreach letters via certified mail to all representatives listed on the NAHC list on February 4, 2019. To date, Dudek has received only one response from the NAHC outreach letters. The NAHC response letter is outlined below under Section 4.4.4.

Under the California Environmental Quality Act (CEQA), the lead agency must consult with Native American Tribes regarding a project's potential impacts on tribal resources. (California PRC Section 21080.3.1.) As lead agency, SDSU and its representatives sent letters via certified mail to the Native American representatives included on the consultation list provided by the NAHC on December 21, 2018. SDSU tracked the certified mail return receipts and tried to establish contact via email or telephone with anyone from whom they did not receive a signed return receipt. SDSU's efforts resulted in responses from six tribal representatives requesting consultation. These responses are outlined in the impacts analysis below under Section 4.4.4.

### Summary of Notice of Preparation Comments

A Notice of Preparation (NOP) was circulated from January 19, 2019 to February 19, 2019. A total of 150 letters were received during this comment period. Comments on the NOP related to cultural resources focused on the impacts which could occur to historical resources as a result of SDCCU Stadium demolition, known and unknown cultural resources, and the request for qualified tribal cultural monitors during ground-disturbing activities. Please see Appendix 1-1, NOP Scoping Comments, for a complete compilation of comments received on the NOP.

### 4.4.1 Existing Conditions

#### Environmental Setting

The project site is located in the northeast portion of the Mission Valley community within the City of San Diego (City). Specifically, the project site is situated south of Friars Road, west of Interstate (I) 15, north of I-8, and east of the existing Fenton Marketplace shopping center. It is approximately 5 miles from downtown San Diego and approximately 2.5 miles west of the existing SDSU main campus situated along I-8 within the College Area Community of the City. The project site is in a developed area surrounded by major freeways, roadways, existing development, and the San Diego River. Higher density multifamily residential land uses are located to the northwest, southwest, and east, across I-15. Friars Road, Mission Village Road, and San Diego Mission Road are located to the north. The San Diego River, which flows east to west, is located south of the project site; and south of the river are additional office uses and I-8. To the north of Friars Road is San Diego Fire Department Fire Station 45, undeveloped hillsides, and single-family residences situated atop the mesa. To the west are office and large commercial retail uses. Murphy Canyon Creek, a partially earthen and concrete-lined channel that conveys flow into the river, is located within the eastern project boundary, and I-15 is located east of Murphy Canyon Creek. The project does not include any improvement, facility, construction, or staging within any portion of Murphy Canyon Creek; therefore, while the existing creek is within the project boundary, no project element, component, improvement, or feature is contemplated within the creek.

The proposed project's APE encompasses the existing SDCCU Stadium, its parking facilities, a recycling center, open athletic field, and undeveloped land (Figure 4.4-1, Area of Potential Effect). The APE is largely developed and covered by buildings, asphalt, or landscaping; however, the southwestern extent of the project site is undeveloped and overgrown with vegetation. The proposed project APE is located in unsectioned land of the La Jolla and La Mesa U.S. Geological Survey 7.5-minute quadrangle. The elevation ranges from approximately 35 feet above mean sea level to 300 feet above mean sea level. The majority of the project site is relatively flat within the existing large parking area surrounding the stadium structure. Along the southern boundary of the project site there is a small berm beyond the parking lot, which descends into the lower floodplain of the San Diego River. Though ground surface is visible, there is evidence of earthmoving within the floodplain. In the western portion of the project site, there is a flat training field, and beyond that a storm drain outlet channel that conveys water down into the San Diego River floodplain.

## Cultural Context

Evidence indicates that continuous human occupation in the San Diego region spans the last 10,000 years. Various attempts to parse out variability in archaeological assemblages over this broad time frame have led to the development of several cultural chronologies; some of these are based on geologic time, most are based on temporal trends in archaeological assemblages, and others are interpretive reconstructions. Each of these reconstructions describes essentially similar trends in assemblage composition in more or less detail. This research employs a common set of generalized terms used to describe chronological trends in assemblage composition: Paleoindian (pre-5500 BC), Archaic (8000 BC–AD 500), Late Prehistoric (AD 500–1750), and Ethnohistoric (post-AD 1750). As recognized by State Assembly Joint Resolution No. 60 (2001), the Kumeyaay Nation has occupied the southern California and Baja California region, including the City of San Diego’s jurisdictional boundaries and the proposed project’s APE, far into antiquity. Should any Native American human remains be found in the City of San Diego’s jurisdictional boundaries, the NAHC will designate a Most Likely Descendant from the Kumeyaay Nation. It is important to note that Kumeyaay Native American aboriginal lifeways did not cease at European contact. Protohistoric refers to the chronological trend of continued Native American aboriginal lifeways at the cusp of the recorded historic period in the Americas. Section 3.3 of the Cultural Resources Technical Report (Appendix 4.4-1) outlines the cultural chronologies in detail.

## Archaeological Inventory

The SCIC records search revealed that 159 cultural resource studies have been previously conducted within 1-mile of the current APE (Appendix 4.4-1). Of these previous studies, 23 included portions of the APE (refer to Table 3.1 of Appendix 4.4-1 to this EIR). The studies included records searches, surveys, and monitoring reports for the San Diego River corridor and SDCCU Stadium grounds. Most relevant to this study is the San Diego Stadium Historic Resources Technical Report conducted by Heritage Architecture & Planning (HAP) in 2015. Besides the SDCCU Stadium, these previous studies did not identify any cultural resources within the APE.

The records search also identified one previously recorded resource, SDCCU Stadium (P-37-035171), within the current APE. Additionally, the records search also identified 51 other previously recorded cultural resources within 1 mile of the APE. Historical resources include three historical trash deposits, an electric transmission line, an electric substation, and many historical buildings. Prehistoric resources include two artifact scatters, two isolates, and one unknown site. One multicomponent resource, the Mission of San Diego de Alcalá and the Kumeyaay village of Nipawai and /Nipaguay (P-37-000035; CA-SDI-35) ~~(P-37-035171) 000035; CA-SDI-35~~, is also located 0.5 miles east of the APE (refer to Table 3.2 of Appendix 4.4-1 to this EIR).

In addition to the SCIC records search, Dudek conducted an online review of historic aerial images of the project APE and general vicinity. The aerial photographs indicated that, besides SDCCU Stadium, no other structures within the APE are older than 45 years and none are considered cultural resources (Appendix 4.4-1).

Besides the SDCCU Stadium (P-37-~~035171~~) ~~000035; CA-SDI-35~~, no archaeological resources were observed during intensive pedestrian survey of the project APE. The APE is largely covered by the SDCCU Stadium, other buildings, asphalt, and landscaping. The San Diego River corridor is located immediately outside of the APE. This corridor shows signs of previous earthmoving and is covered by vegetation. The only portion of the APE that is not fully developed is the southwestern corner. This section, though undeveloped, has been heavily disturbed and sculpted by the adjacent construction of the sports field, trolley stop, and river flood plain. All buildings outside of the SDCCU Stadium are not of significant age to be considered cultural resources (Appendix 4.4-1).

## Historic Context

As described in the Historical Resources Technical Report, Appendix 4.4-2 to this EIR, HAP prepared the 2015 Historical Resources Technical Report (HRTR) for the City of San Diego's SDCCU Stadium Environmental Impact Report (prepared by AECOM). Because historic resources are not expected to become less significant with the passage of time, the HRTR prepared for the proposed project is based on the analysis and findings contained in the 2015 HRTR and has been updated to reflect any changes in the intervening 4 years since the preparation of that report. The 2015 HRTR found the SDCCU Stadium eligible for listing in the National Register of Historic Places (NRHP), CRHR, and as a City of San Diego Historical Resource. The SDCCU Stadium was found significant for its association in the area of recreation/entertainment based on the role that the stadium played in the cultural and civic life of the San Diego region (NRHP Criterion A, CRHR Criterion 1, and City of San Diego Historical Resource Criterion A). The stadium is also significant in the areas of architecture and engineering for its associations with master architects Frank L. Hope and Charles B. Hope, as well as master engineer Charles "Chuck" Bullock. The stadium is a distinctive example of the Brutalist architectural style in San Diego (NRHP Criterion C, CRHR Criterion 3, and City of San Diego Historical Resource Criteria C and D). The structure was not yet 50 years old when HAP prepared the HRTR; consequently, NRHP Criterion Consideration G thresholds for properties less than 50 years old that have achieved exceptional significance were applied to the evaluation. The stadium reached 50 years of age in 2017, two years after the 2015 HRTR. While Criteria Consideration G no longer applies, it is worth noting that the structure was identified as having exceptional significance meriting designation prior to reaching the standard age for consideration of listing in the NRHP. Primary character-defining features of the stadium are its monumental massing, sculptural quality of exposed concrete, and repetition of forms. After careful review of the 2015 HRTR, Dudek agrees with the findings of the report. Stadium history and architectural style is described in detail in Appendix 4.4-2 to this EIR.

A report completed by AECOM + Magellan Consulting entitled Facilities Condition Assessment Qualcomm Stadium (April 2011) addressed the cost of bringing the existing Stadium up to the standard required by a professional football team. The report estimated that \$80 million would be required to accomplish such work. Of this amount, approximately \$2.25 million was estimated for the cost of a seismic upgrade and a relatively minor amount to cover the cost of repairing the existing concrete. The types of concrete repairs documented in the AECOM report include small areas of concrete spalls and exposed rebar, which may be repaired and do not pose a structural risk. In contrast, the HAP report focused on the physical condition of the Stadium as it existed in 2015, instead of focusing on upgrading all aspects of the Stadium to meet the modern standards of a professional football team. As such, the findings of the HAP report do not contradict the AECOM report, and represent a fair and accurate assessment of the Stadium's current condition.

Given the planned sale of the property to the state as part of the SDSU campus, Dudek evaluated the SDCCU Stadium, in consideration of California Public Resources Code Sections 5024 and 5024.5, for listing as a California Historical Landmark. The Stadium appears to meet all three criteria, and therefore, the SDCCU Stadium is recommended eligible for listing as a California Historical Landmark (Appendix 4.4-2).

## 4.4.2 Relevant Plans, Policies, and Ordinances

### Federal

#### *National Historic Preservation Act*

The National Historic Preservation Act (NHPA) established the NRHP and the President’s Advisory Council on Historic Preservation (ACHP), and provided that states may establish State Historic Preservation Officers to carry out some of the functions of the NHPA. Section 106 of the NHPA directs that “[t]he head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the NRHP.” Section 106 also affords the ACHP a reasonable opportunity to comment on the undertaking (16 USC 470f).

36 Code of Federal Regulations (CFR), Part 800 implements Section 106 of the NHPA. It defines the steps necessary to identify historic properties (those cultural resources listed in or eligible for listing in the NRHP), including consultation with federally recognized Native American tribes to identify resources with important cultural values, to determine whether or not they may be adversely affected by a proposed undertaking and the process for eliminating, reducing, or mitigating the adverse effects.

The content of 36 CFR 60.4 defines criteria for determining eligibility for listing in the NRHP. The significance of cultural resources identified during an inventory must be formally evaluated for historic significance in consultation with the ACHP and the California State Historic Preservation Officer to determine if the resources are eligible for inclusion in the NRHP. Cultural resources may be considered eligible for listing if they possess integrity of location, design, setting, materials, workmanship, feeling, and association.

Regarding criteria A through D of Section 106, the quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, cultural resources, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

- A. are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. are associated with the lives of persons significant in our past; or
- C. embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. have yielded or may be likely to yield, information important in prehistory or history [36 CFR 60.4].

### ***The National Historic Preservation Act Amendments***

The 1992 amendments to the NHPA enhance the recognition of tribal governments' roles in the national historic preservation program, including adding a member of an Indian tribe or Native Hawaiian organization to the ACHP. The 1992 amendments to the NHPA include the following:

- Clarify that properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined eligible for inclusion in the NRHP.
- Reinforce the provisions of the ACHP's regulations that require the federal agency to consult on properties of religious and cultural importance.

The 1992 amendments also specify that the ACHP can enter into agreement with tribes that permit undertakings on tribal land and that are reviewed under tribal regulations governing Section 106. Regulations implementing the NHPA state that a federal agency must consult with any Indian tribe that attaches religious and cultural significance to historic properties that may be affected by an undertaking.

### ***Archaeological Resources Protection Act***

The Archaeological Resources Protection Act of 1979 (ARPA) requires landholding federal agencies to notify federally recognized Indian tribes before a permit is issued for archaeological excavation on sites of religious or cultural importance to them in national parks, wildlife refuges, or forests, or on Indian lands. ARPA raised the penalty for looting objects older than 100 years to \$20,000 dollars for a first-time felony infraction. For a repeat infringement the fine was raised to \$100,000 and up to 5 years in prison.

Federally recognized tribes must be notified 30 days before issuing a permit for excavations on public land; upon request, the federal land manager must meet with them in those 30 days to discuss their concerns. On Indian lands, Indian Tribe or individual consent must be obtained before the permit is granted.

Uniform rules and regulations were published by the Departments of the Interior (43 CFR 7), Agriculture (36 CFR 296), and Defense (32 CFR 229), and the Tennessee Valley Authority (18 CFR 1313) in the January 6, 1984, Federal Register. Similar regulations were published for implementing ARPA on Indian lands (25 CFR 262) in the December 13, 1993, Federal Register.

The regulations also state that the federal agency also may notify any other Native American group known by the agency to consider the sites to be of cultural or religious importance. The intentional excavation of human remains, funerary objects, sacred objects, or objects of cultural patrimony from federal lands and tribal lands must follow both the requirements of ARPA and the Native American Graves Protection and Repatriation Act (NAGPRA). The Bureau of Indian Affairs will issue any ARPA permits needed for excavation on private lands within the exterior boundaries of Indian reservations.

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

NAGPRA became effective November 16, 1990. NAGPRA addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to human remains and certain cultural items with which they are affiliated. NAGPRA directs federal agencies and museums to identify, in consultation with Native Americans, the cultural affiliation of Native American human remains and associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony, in holdings or collections under their possession (i.e., physical

custody) or control (i.e., having sufficient legal interest). Ultimately, the intent is to repatriate the human remains and other cultural items to the appropriate lineal descendants or tribe. NAGPRA authorizes provisions for federal grants supporting activities of repatriation, and outlines penalties for non-compliance and illegal trafficking of funerary or sacred items. Such civil penalties are to be assessed by the Secretary of the Interior, and generally correspond with those defined in the ARPA.

### State

#### *California Environmental Quality Act*

CEQA requires that all private and public activities not specifically exempted be evaluated for their potential to cause environmental impacts, including impacts to historical resources. Historical resources are recognized as part of the environment under CEQA, which defines historical resources as “any object, building, structure, site, area, or place that is historically significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California” (Division I, California PRC, Section 5021.1[b]).

As described further below, the following CEQA statutes and CEQA Guidelines are relevant to the analysis of archaeological and historic resources:

1. California Public Resources Code Section 21083.2(g): Defines “unique archaeological resource.”
2. California Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5(a): Defines historical resources. In addition, CEQA Guidelines Section 15064.5(b) defines the phrase “substantial adverse change in the significance of an historical resource. It also defines the circumstances when a project would materially impair the significance of a historical resource.
3. California Public Resources Code Section 21074 (a): Defines “tribal cultural resources,” and Section 21074(b): defines a “cultural landscape.”
4. California Public Resources Code Section 5097.98 and CEQA Guidelines Section 15064.5(e): These statutes set forth standards and steps to be employed following the accidental discovery of human remains in any location other than a dedicated ceremony.
5. California Public Resources Code Sections 21083.2(b)-(c) and CEQA Guidelines Section 15126.4: These statutes and regulations provide information regarding the mitigation framework for archaeological and historic resources, including options of preservation-in-place mitigation measures; identifies preservation-in-place as the preferred manner of mitigating impacts to significant archaeological sites.

Under CEQA, a project may have a significant effect on the environment if it may cause “a substantial adverse change in the significance of an historical resource” (California Public Resources Code Section 21084.1; CEQA Guidelines Section 15064.5(b)). An “historical resource” is any site listed or eligible for listing in the CRHR. The CRHR listing criteria are intended to examine whether the resource in question: (a) is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage; (b) is associated with the lives of persons important in our past; (c) embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or (d) has yielded, or may be likely to yield, information important in pre-history or history.

The term “historical resource” also includes any site described in a local register of historic resources, or identified as significant in a historical resources survey (meeting the requirements of California Public Resources Code Section 5024.1(q)).

CEQA also applies to “unique archaeological resources.” California Public Resources Code Section 21083.2(g) defines a “unique archaeological resource” as any 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:

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

In 2014, CEQA was amended to apply to “tribal culture resources” as well. Specifically, California Public Resources Code Section 21074 provides guidance for defining tribal cultural resources as 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 California Register of Historical Resources. (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.

All historical resources and unique archaeological resources – as defined by statute – are presumed to be historically or culturally significant for purposes of CEQA (California PRC 21084.1; CEQA Guidelines Section 15064.5(a)). The lead agency is not precluded from determining that a resource is a historical resource even if it does not fall within this presumption (California PRC Section 21084.1; CEQA Guidelines Section 15064.5(a)). A site or resource that does not meet the definition of “historical resource” or “unique archaeological resource” is not considered significant under CEQA and need not be analyzed further (California PRC Section 21083.2(a); CEQA Guidelines Section 15064.5(c)(4)).

Under CEQA, a significant cultural impact results from a “substantial adverse change in the significance of an historical resource [including a unique archaeological resource]” due to the “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” (CEQA Guidelines Section 15064.5(b)(1); California PRC Section 5020.1(q)). In turn, the significance of a historical resource is materially impaired when a project:

1. Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register; or
2. Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
3. Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register as determined by a lead agency for purposes of CEQA.

(CEQA Guidelines Section 15064.5(b)(2)).



Pursuant to these sections, the CEQA first evaluates whether a project site contains any “historical resources,” then assesses whether that project will cause a substantial adverse change in the significance of a historical resource such that the resource’s historical significance is materially impaired.

When a project significantly affects a unique archeological resource, CEQA imposes special mitigation requirements. Specifically:

If it can be demonstrated that a project will cause damage to a unique archeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

1. Planning construction to avoid archeological sites.
2. Deeding archeological sites into permanent conservation easements.
3. Capping or covering archeological sites with a layer of soil before building on the sites.
4. Planning parks, greenspace, or other open space to incorporate archeological sites.

(California Public Resources Code Section 21083.2(b)(1)-(4).)

If these “preservation in place” options are not feasible, mitigation may be accomplished through data recovery (California PRC Section 21083.2(d); CEQA Guidelines Section 15126.4(b)(3)(C)). California Public Resources Code Section 21083.2(d) states that “[e]xcavation as mitigation shall be restricted to those parts of the unique archeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report.”

These same requirements are set forth in slightly greater detail in CEQA Guidelines Section 15126.4(b)(3), as follows:

- (A) Preservation in place is the preferred manner of mitigating impacts to archeological sites. Preservation in place maintains the relationship between artifacts and the archeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
- (B) Preservation in place may be accomplished by, but is not limited to, the following:
  1. Planning construction to avoid archeological sites;
  2. Incorporation of sites within parks, greenspace, or other open space;
  3. Covering the archeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site[; and][AJH2][GDB3]
  4. Deeding the site into a permanent conservation easement.
- (C) When data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provision for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken.

Note that, when conducting data recovery, “[i]f an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation” (CEQA Guidelines Section 15126.4(b)(3)). However, “[d]ata recovery shall not be required for an historical resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archeological or historic resource, provided that determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center” (CEQA Guidelines Section 15126.4(b)(3)(D)).

Finally, CEQA Guidelines Section 15064.5 assigns special importance to human remains and specifies procedures to be used when Native American remains are discovered. If Native American human remains or related cultural material are encountered, Section 15064.5(e) of the CEQA Guidelines (as incorporated from California PRC Section 5097.98) and Health and Safety Code Section 7050.5 define the subsequent protocol. In the event of the accidental discovery or recognition of any human remains, excavation or other disturbances shall be suspended of the site or any nearby area reasonably suspected to overlie adjacent human remains or related material. Protocol requires that a county-approved coroner be contacted in order to determine if the remains are of Native American origin. Should the coroner determine the remains to be Native American, the coroner must contact the NAHC within 24 hours. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating, with appropriate dignity, the human remains and any associated grave goods as provided in California Public Resources Code Section 5097.98 (14 CCR 15064.5(e)).

CEQA (California PRC Section 21000 et seq.) is the primary state environmental law protecting fossils. CEQA requires that public agencies and private interests identify the environmental consequences of their proposed projects on any object or site of significance to the scientific annals of California (Division I, California PRC, Section 5020.1 [b]). Administrative regulations for the implementation of CEQA are set forth in California Code of Regulations Section 15000 et seq., commonly known as the “CEQA Guidelines.” The CEQA Guidelines define procedures, types of activities, persons, and public agencies required to comply with CEQA. Appendix G of the CEQA Guidelines contains an Environmental Checklist of questions that a lead agency should normally address if relevant to a project’s environmental impacts. CEQA Guidelines Section VII(f) of the Environmental Checklist asks a question directly applicable paleontological resources: “Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?” Fossils are significant examples of the major periods of California prehistory. To comply with CEQA, environmental impact assessments, statements, and reports must answer this question in the Environmental Checklist to determine the potential impact to paleontological resources with and without mitigation.

The CEQA lead agency having jurisdiction over a project is responsible for ensuring that paleontological resources are protected in compliance with CEQA and other applicable statutes. CEQA Section 21081.6 requires that the lead agency demonstrate project compliance with mitigation measures developed during the environmental impact review process.

### **California Public Resources Code Sections 5024 and 5024.5 (State-Owned Historical Resources)**

Sections 5024 and 5024.5 of the California Public Resources Code provide the following guidance:

- 5024 (a-h): Describes the process of inventorying and evaluating state-owned historical resources in consultation with the State Historic Preservation Officer (SHPO).
- 5024.5 (a-g): Describes the process of identifying adverse effects and development of alternatives and mitigation for state-owned historical resources in consultation with, and as determined by, the SHPO.

Under California Public Resources Code Sections 5024(f) and 5024.5, state agencies must provide notification and submit documentation to the SHPO early in the planning process for any project having the potential to affect state-owned historical resources on or eligible for inclusion in the Master List (buildings, structures, landscapes, archaeological sites, and other nonstructural resources). Under California Public Resources Code Section 5024(f), state agencies request the SHPO's comments on the project.

Under California Public Resources Code Section 5024.5, it is the SHPO's responsibility to comment on the project and to determine if it may cause an adverse effect (California Public Resources Code Section 5024.5), defined as a substantial adverse change in the significance of a historical resource (California PRC Section 5020.1(q)). In this case, historical resources are defined as resources eligible for or listed in the NRHP, and/or resources registered for or eligible for registering as a California Historical Landmark (Appendix 4.4-2).

### ***California Historical Landmark Criteria***

California Historical Landmarks are sites, buildings, features, or events that are of statewide significance and have anthropological, cultural, military, political, architectural, economic, scientific or technical, religious, experimental, or other value.

To be eligible for designation as a California Historical Landmark, a resource must meet at least one of the following criteria:

- The first, last, only, or most significant of its type in the state or within a large geographic region (Northern, Central, or Southern California).
- Associated with an individual or group having a profound influence on the history of California.
- A prototype of, or an outstanding example of, a period, style, architectural movement or construction or is one of the more notable works or the best surviving work in a region of a pioneer architect, designer, or master builder.

### ***California Register of Historical Resources***

In California, the term "historical resource" includes but is not limited to "any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California" (California Public Resources Code, Section 5020.1(j)). In 1992, the California legislature established the CRHR "to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change" (California PRC, Section 5024.1(a)). A resource is eligible for listing in the CRHR if the State Historical Resources Commission determines that it is a significant resource and that it meets any of the following criteria:

1. Associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
2. Associated with the lives of persons important in California's past.
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
4. Yielded, or may be likely to yield, information important in prehistory or history.

The CRHR protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources. The criteria for the CRHR are nearly identical to those for the NRHP, and properties listed or formally designated as eligible for listing in the NRHP are automatically listed in the CRHR, as are the state landmarks and points of interest. The CRHR also includes properties designated under local ordinances or identified through local historical resource surveys (California PRC, Section 5020 et seq.).

### **Local**

Because SDSU is a component of the California State University, which is a state agency, the proposed project is not subject to local government planning and land use plans, policies, or regulations. However, for informational purposes, SDSU has considered the following planning documents and the project's site location within, and relationship to, each. The proposed project would be subject to federal and state agency planning documents described above, but would not be subject to regional or local planning documents such as the City's General Plan, Mission Valley Community Plan, or City municipal zoning code.

### ***City of San Diego***

As previously stated, though CSU is not required to follow the City's historical resources evaluation protocol, which are set forth in the City of San Diego Historical Resources Guidelines (City of San Diego 2001), CSU has elected to use the protocol due to its applicability to the San Diego built environment. The City of San Diego Historical Resources Guidelines establish a development review process to review projects in the City. This process involves: (1) the implementation of the Historical Resources Regulations and (2) the determination of impacts and mitigation under CEQA. The Historical Resources Guidelines provide property owners, the development community, consultants and the general public with explicit guidelines for the management of historical resources located within the jurisdiction of the City.

The Historical Resources Guidelines help to implement the City's Historical Resources Regulations contained in the Land Development Code (Chapter 14, Division 3, Article 2) in compliance with applicable local, state, and federal policies and mandates, including, but not limited to, the City's General Plan, CEQA, and NHPA Section 106. The intent of the Historical Resources Guidelines is to ensure consistency in the management of the City's historical resources, including identification, evaluation, preservation/mitigation and development.

The City's Historical Resources Guidelines (City of San Diego 2001) observe that:

Historical resources include all properties (historic, archaeological, landscapes, traditional, etc.) eligible or potentially eligible for the National Register of Historic Places, as well as those that may be significant pursuant to state and local laws and registration programs such as the California Register of Historical Resources or the City of San Diego Historical Resources Register. "Historical resource" means site improvements, buildings, structures, historic districts, signs, features (including significant trees or other landscaping), places, place names, interior elements and fixtures designated in conjunction with a property, or other objects of historical, archaeological, scientific, educational, cultural, architectural, aesthetic, or traditional significance to the citizens of the City. They include buildings, structures, objects, archaeological sites, districts or landscapes possessing physical evidence of human activities that are typically over 45 years old, regardless of whether they have been altered or continue to be used. Historical resources also include traditional cultural properties. The following definitions are based, for the most part, on California's Office of Historic Preservation's (OHP) Instructions for Recording Historical Resources and are used to categorize different types of historical resources when they are recorded

The purpose and intent of the Historical Resources Regulation of the Land Development Code (City of San Diego 2018) is outlined as follows: “To protect, preserve and, where, damaged, restore the cultural resources of San Diego. The regulations apply to all development within the City of San Diego when cultural resources are present within the premises regardless of the requirement to obtain Neighborhood Development Permit or Site Development Permit.”

The City’s General Plan Program EIR (City of San Diego 2007) states the following:

The Historical Resources Regulations require that designated cultural resources and traditional cultural properties be preserved unless deviation findings can be made by the decision maker as part of a discretionary permit. Minor alterations consistent with the U.S. Secretary of the Interior’s Standards are exempt from the requirement to obtain a separate permit but must comply with the regulations and associated cultural resources guidelines. Limited development may encroach into important archaeological sites if adequate mitigation measures are provided as a condition of approval.

Historical Resources Guidelines, located in the Land Development Manual, provide property owners, the development community, consultants and the general public explicit guidance for the management of cultural resources located within the City’s jurisdiction. These guidelines are designed to implement the cultural resources regulations and guide the development review process from the need for a survey and how impacts are assessed to available mitigation strategies and report requirements and include appropriate methodologies for treating cultural resources located in the City.

In general, the City’s ~~cultural resources regulations~~ Historical Resources Regulations build on federal and state cultural resources laws and guidelines in an attempt to streamline the process of considering impacts to cultural resources within the City’s jurisdiction, while maintaining that some resources not significant under federal or state law may be considered historical under the City’s guidelines. In order to apply the criteria and determine the significance of potential project impacts to a cultural resource, the project APE must be defined for both direct impacts and indirect impacts. Indirect impacts can include increased public access to an archaeological site, or visual impairment of a historically significant viewshed related to a historic building or structure.

### 4.4.3 Significance Criteria

The significance criteria used to evaluate the project impacts to cultural resources are based on Appendix G of the CEQA Guidelines. According to Appendix G of the CEQA Guidelines, a significant impact related to cultural resources would occur if the project would:

1. Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5.
2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.
3. Disturb any human remains, including those interred outside of dedicated cemeteries.

#### 4.4.4 Impacts Analysis

***Would the project cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?***

##### **Construction Impacts**

The proposed project would demolish the existing SDCCU Stadium and surrounding affiliated infrastructure to build a Mission Valley campus for SDSU, including a new multipurpose stadium, as well as creation of a River Park as contemplated by San Diego Municipal Code 22.0908.

The SDCCU Stadium (originally named San Diego Stadium, and later, San Diego Jack Murphy Stadium and Qualcomm Stadium) is one of the last remaining “cookie-cutter” type multipurpose stadiums in the United States and the only one built in Southern California. Of the 11 such stadiums built across the United States, only Robert F. Kennedy Memorial Stadium, the Oakland-Alameda County Coliseum, the now-vacant Astrodome, and the SDCCU Stadium remain. Therefore, it is a rare and dwindling resource type. ~~As mentioned above and detailed in the HAP 2015 report,~~ The stadium also had a profound influence on regional sports culture and civic history. Aside from being one of the more notable works designed by Frank L. Hope and Associates, the stadium also is an outstanding example of Brutalist architecture. As such, the SDCCU Stadium is recommended as eligible for listing as a California Historical Landmark. SDCCU Stadium remains substantially intact with virtually all of the original design elements and intent still visible throughout the structure and site. The architect’s report to the City in 1966 reveals that the design of the Stadium made room for possible expansion with its horse-shoe configuration. The design allowed for added seating capacity by enclosing the open end while maintaining the remainder of the seating bowl. The design intent was realized in the later 1984 and 1997 additions (Appendix 4.4-2).

According to the significance evaluation section of the 2015 HRTR (Appendix 4.4-2), the SDCCU Stadium is:

significant at the local level and eligible for historical listing in the National Register, the California Register, and the City of San Diego Historical Resources Register. Historic research and site evaluation reveal that the San Diego Stadium retains integrity to its 1967–1969 period of significance encompassing the construction of San Diego Stadium and the establishment of two professional sports teams, which marked a turning point in regional sports culture and civic history. It thus qualifies under National Register Criterion A, the California Register Criterion 1, and the City’s Historical Register Criterion A Resources.

In addition, San Diego Stadium is also significant for its architecture as a good example of Brutalist architectural style in San Diego with its monumental massing, sculptural quality utilizing exposed concrete, and repetition of forms. San Diego Stadium was also designed by renowned architectural engineering firm Frank L. Hope & Associates and Frank L. Hope, Jr. (Frank L. Hope, III), who contributed to several well recognized Modern landmarks in San Diego. During his tenure, the firm expanded its work both nationally and internationally becoming one of the oldest and largest local architectural firm of its time. San Diego Stadium is therefore eligible for listing under National Register Criterion C, the California Register Criterion 3, and the City’s Historical Register Criterion C and D Resources.

The SDSU Mission Valley Campus Master Plan project includes demolition of SDCCU Stadium, a historical resource recommended as eligible under national, state, and local historic designation criteria for its association with important events, as an outstanding example of Brutalist-style architecture, and for being designed by a master architect. Therefore, construction of the proposed project would cause an adverse change in the significance of a historical resource, as defined in CEQA Guidelines Section 15064.5, and therefore, result in a **potentially significant impact (Impact CUL-1)**.

### Operational Impacts

As described above under construction impacts, the proposed project would result in a significant impact due to the demolition of SDCCU Stadium, a historical resource. As stated in *League for Protection of Oakland's Architectural and Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, mitigation measures “do not reasonably begin to alleviate the impacts of [the historical resource’s] destruction. A large historical structure, once demolished, normally cannot be adequately replaced by reports and commemorative markers.” The court also concluded that the effects related to demolition of a historical resource cannot be reduced to a level of insignificance by incorporating design elements or features of the original historical resource into a new building.

The project involves construction and operation of an SDSU Mission Valley campus, including housing, hospitality, educational facilities, open space and recreation areas, a new multi-use stadium, and associated circulation and infrastructure. Where feasible, the applicant would salvage representative architectural features of the existing SDCCU Stadium for use within the future redevelopment of proposed facilities. However, as stated above, an impact to a historical resource cannot be reduced to a level of insignificance by incorporating design elements or features of the original historical resource. Therefore, operational impacts as a result of the proposed project are considered to be a **potentially significant impact (Impact CUL-2)**.

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

### Construction Impacts

No archaeological resources were identified through the SCIC records search, NAHC and tribal correspondence, or the intensive pedestrian survey of the area. The area has been substantially disturbed and is unlikely to contain intact archaeological deposits. However, due to the proximity of the proposed project to the San Diego River, the Kumeyaay trail system, and the prehistoric village of *Nipawai/Nipaguay*, there is an increased potential that buried cultural deposits, though disturbed, are located within the proposed project area. Likewise, through NAHC outreach letters and Assembly Bill 52 consultation, Kumeyaay tribal representatives expressed concern for possible buried tribal cultural resources within the proposed project area. Not only did they cite the proximity of *Nipawai/Nipaguay*, they identified the Kumeyaay trail system within Mission Valley and expressed concern that the proposed project APE likely overlays portions of the tribal cultural resources. However, there are no known surface manifestations of this resource adjacent to the APE. The surrounding area has been substantially developed, and increased pedestrian traffic and use by construction personnel would pose little risk to previously recorded archaeological resources in the vicinity.

Although the project site and surrounding area has been substantially disturbed, and there are no known surface manifestations of resources, construction related to the proposed project may have a direct impact to previously unidentified cultural resources. As such, Dudek recommends archaeological and Native American monitoring during initial ground-disturbing activities. Due to the possibility of encountering historical, archaeological, or Native American cultural material within the proposed project area during construction, the project could result in **potentially significant impacts (Impact CUL-3)**.

### Operational Impacts

As previously stated, no archaeological resources were identified through the SCIC records search, NAHC and tribal correspondence, or the intensive pedestrian survey of the area. However, due to the immediate proximity of the proposed project to the San Diego River, the Kumeyaay trail system, and the prehistoric village of *Nipawai/Nipaguay*, there is an increased probability that buried cultural deposits are located within the proposed project area. Operational/permanent activities related to the proposed project would not have a direct impact to previously identified archaeological resources since they would have been handled during initial discovery (during construction). Furthermore, the surrounding area has been substantially developed, and increased pedestrian traffic would pose little risk to previously recorded archaeological resources in the vicinity. After construction is finished, operational/permanent activities would **not result in significant impacts** to cultural resources.

***Would the project disturb any human remains, including those interred outside of dedicated cemeteries?***

### Construction Impacts

No human remains localities were identified through the SCIC records search, NAHC and tribal correspondence, or the intensive pedestrian survey of the area. However, through NAHC and Assembly Bill 52 consultation, Clint Linton, with the Lipay Nation of Santa Ysabel and representative of the Kumeyaay Cultural Repatriation Committee stated that Kumeyaay villages were often found where prehistoric trails met waterways. Due to the proposed project's geographic placement, buried village context, including human remains may be encountered during project-related ground disturbance. Although there are no known surface manifestations of this resource adjacent to the proposed project, and the surrounding area has been substantially developed, Dudek recommends archaeological and Native American monitoring during initial ground-disturbing activities. Should construction or other personnel encounter any previously undocumented human remains, the proposed project would result in a **potentially significant impact (Impact M-CUL-4)**.

### Operational Impacts

As previously stated, no human remains were identified through the SCIC records search, NAHC and tribal correspondence, or the intensive pedestrian survey of the area. Operational/permanent activities related to the proposed project would **not result in significant impacts** to previously identified human remains since they would have been handled during initial discovery (during construction). Furthermore, the surrounding area has been substantially developed and has defined routes of travel, none of which would be altered by the proposed project.

***Would the project result in a cumulative impact to cultural resources?***

Future probable proposed projects within the City may potentially contribute to cumulative impacts on cultural resources. In many cases, site redesign or use of fill could minimize these adverse impacts. Total avoidance of the cultural resources is not a reasonable expectation. Additionally, the increased human activity near cultural resources would lead to greater exposure and potential for illicit artifact collection and inadvertent impacts during construction. The City and County of San Diego both maintain guidelines and protocols for addressing project impacts to cultural resources. These include both systematic surveys in areas of high site location potential to identify resources and monitoring programs to ensure that construction work is halted if significant resources are discovered. Since no archaeological resources have been identified through the records searches, NAHC and tribal correspondence, or the intensive pedestrian survey of the area, and because the proposed project area has been substantially developed, the proposed project's contribution to cumulative impacts on archaeological resources would be **less than cumulatively significant**.



## 4.4.5 Summary of Impacts Prior to Mitigation

- Impact CUL-1** A significant impact to a historical resource would occur as a result of the proposed project due to the demolition of SDCCU Stadium, which is considered a historical resource. Therefore, mitigation is provided (see Section 4.4.6, Mitigation Measures, specifically mitigation measures **MM-CUL-1** through **MM-CUL-3**).
- Impact CUL-2** A significant impact to a historical resource would occur as a result of the proposed project due to the construction and operation of proposed facilities. Therefore, mitigation is provided (see Section 4.4.6, Mitigation Measures, mitigation measures specifically **MM-CUL-2** and **MM-CUL-3**).
- Impact CUL-3** A significant impact to an archaeological resource would occur as a result of the proposed project due to the possibility of encountering historical, archaeological or Native American cultural material within the proposed project area during construction. Therefore, mitigation is provided (see Section 4.4.6, Mitigation Measures, specifically mitigation measure **MM-CUL-4**).
- Impact CUL-4** A significant impact to human remains would occur as a result of the proposed project should construction or other personnel encounter any previously undocumented human remains. Therefore, mitigation is provided (see Section 4.4.6, Mitigation Measures, specifically mitigation measure **MM-CUL-5**).

## 4.4.6 Mitigation Measures

The recommended mitigation measures for impacts to a historical resource as a result of the proposed project are as follows:

- MM-CUL-1** **Documentation.** Prior to commencement of construction, the historical resource would be documented according to Historic American Buildings Survey (HABS) standards as detailed by the National Park Service Heritage Documentation Programs. The documentation would include a written report done in the outline format; HABS-quality photography of the exterior, interior, and overview shots of the historical resource; measured drawings; and video documentation. The documentation materials would be prepared by a qualified Architectural Historian(s) and an experienced HABS photographer(s). Copies of the resulting documentation would be submitted to the Library of Congress, the California State Historic Preservation Officer, the San Diego History Center, City of San Diego Historical Resources Section, and the San Diego Public Library. Under this mitigation option, survey work must be conducted prior to any ground disturbance or demolition. The documentation must be completed within 1 year of the initial date of demolition of the structure.
- MM-CUL-2** **Interpretive Displays.** Interpretive displays shall be installed in a publicly visible and accessible location(s) within the project site that describe the history and significance of the historical resource. Documentation prepared under MM-CUL-2 can be utilized in the interpretative displays. The content, design, and location of such signage may be done in consultation with the City's Historical Resources staff [AJH4][GDB5]. Work on the interpretative displays should be conducted in tandem with design and construction of the new facility to determine the appropriate location and size for the displays. The interpretative displays must be in place upon completion of the new facility located at the project site.

**MM-CUL-3** **Salvage of Materials.** Prior to demolition, representative architectural features shall be evaluated ~~may be identified by a qualified Architectural Historian~~ and, if feasible, salvaged for use within the future redevelopment (i.e., new stadium, future buildings, or open space areas, etc.). Should use of some or all of the salvaged architectural features within the project site not be feasible, the remaining architectural features may be donated to various historical and/or archival institutions.

The following mitigation measures would reduce the potential for impacts on cultural resources:

**MM-CUL-4** In order to mitigate impacts to cultural resources to a level that is less than significant, procedures for proper treatment of unanticipated archaeological finds must comply with the California Environmental Quality Act (CEQA) Guidelines. Adherence to the following requirements during initial earth-disturbing activities will ensure the proper treatment of unanticipated archaeological or Native American cultural material:

1. ~~An~~ qualified archaeological monitor and a Qualified Kumeyaay Native American Cultural monitor shall be present full-time during all initial ground-disturbing activities. If proposed project excavation later presents evidence suggesting a decrease in cultural sensitivity, the monitoring schedule can be reduced pending archaeological, Native American, and San Diego State University (SDSU) consultation.
2. In the event that previously unidentified potentially significant cultural resources are discovered, the archaeological monitor, Native American monitor, construction or other personnel shall have the authority to divert or temporarily halt ground disturbance operations in the area of the find. The archaeological monitor shall evaluate and minimally document isolates and clearly insignificant deposits in the field. More significant deposits shall be evaluated by the cultural Primary Investigator in consultation the Native American monitor and SDSU staff. For significant cultural resources, a Research Design and Data Recovery Program to mitigate impacts shall be prepared by the qualified archaeologist and approved by SDSU, then carried out using professional archaeological methods. The Research Design and Data Recovery Program shall include (1) reasonable efforts to preserve (avoidance) “unique” cultural resources or Sacred Sites pursuant to CEQA Section 21083.2(g) as the preferred option; (2) the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources, including procedures for the temporary storage, permanent curation, and/or repatriation of cultural resources based on consultation with Native American stakeholders. Construction activities will be allowed to resume in the affected area only after proper evaluation.

**MM-CUL-5** In order to mitigate impacts to human remains to a level that is less than significant, procedures for proper treatment of unanticipated finds must comply with the California Environmental Quality Act (CEQA) Guidelines. In the event of discovery of unanticipated human remains, personnel shall comply with California Public Resources Code Section 5097.98, CEQA Section 15064.5, and Health and Safety Code Section 7050.5 during earth-disturbing activities:

- a. If any human remains are discovered, the construction personnel or the appropriate representative shall contact the County Coroner and SDSU. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin. If the remains are determined to be of Native

American origin, the most likely descendent, as identified by the Native American Heritage Commission, shall be contacted by the property owner or their representative in order to determine proper treatment and disposition of the remains. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the most likely descendent regarding their recommendations as required by California Public Resources Code Section 5097.98 has been conducted. California Public Resources Code Section 5097.98, CEQA Section 15064.5, and Health and Safety Code Section 7050.5 shall be followed.

#### 4.4.7 Level of Significance After Mitigation

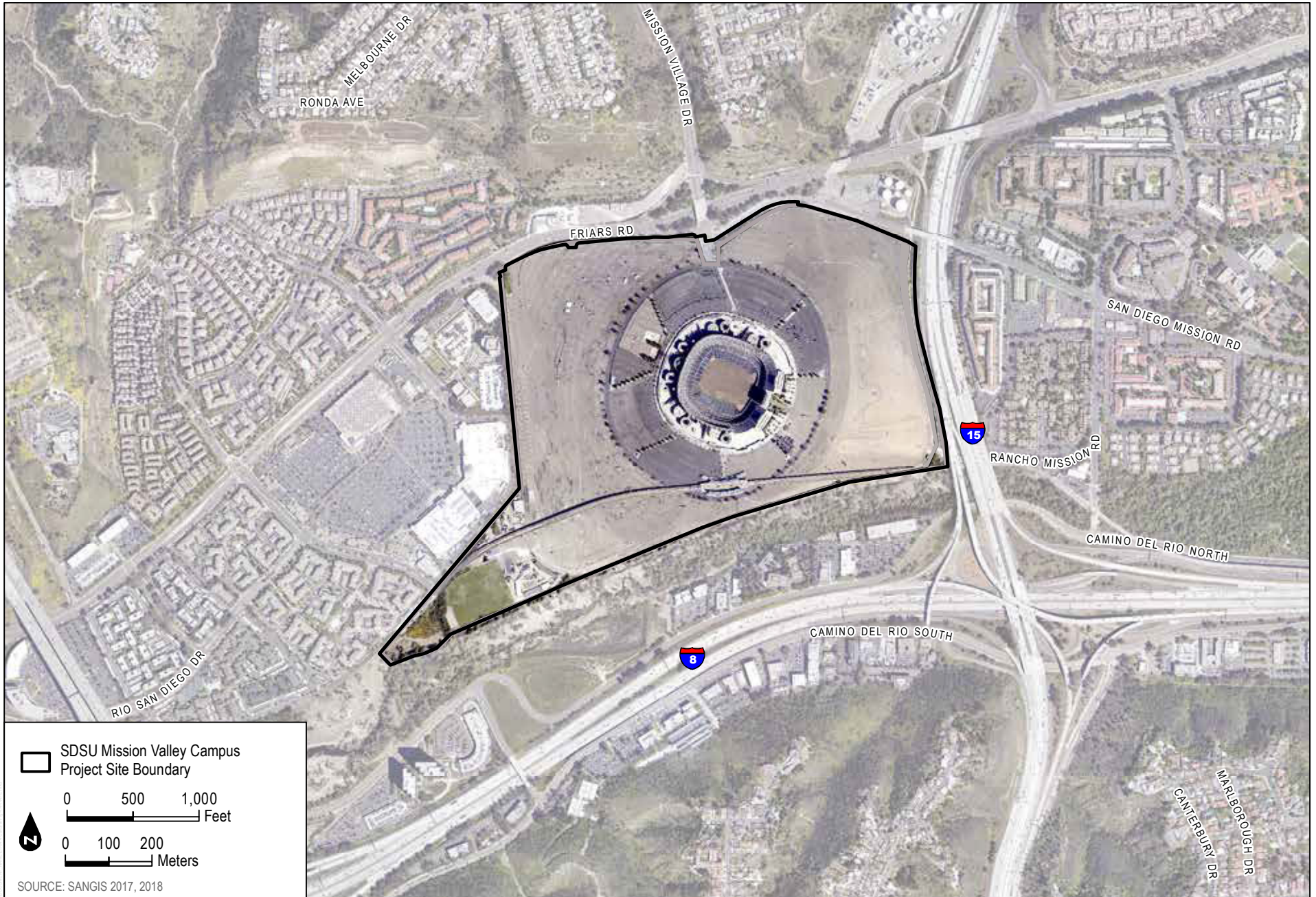
Implementation of the proposed project would result in substantial adverse change in the significance of a historical resource during both construction and operation. Implementation of mitigation measures **MM-CUL-1** through **MM-CUL-3** during construction (**Impact CUL-1**), and **MM-CUL-2** and **MM-CUL-3** during operation (**Impact CUL-2**), are recommended to reduce the level of impact to historical resources. Avoidance of a historical resource through project redesign would be preferred mitigation. This mitigation, however, is not feasible, as it would be inconsistent with subsection (j) of SDMC Section 22.0908, Sale of Real Property to SDSU, which provides that sale of the Stadium to SDSU “*Shall result in the demolition, dismantling, and removal of the existing Stadium and construction of a new Joint Use Stadium.*” Rehabilitation of the existing Stadium would also be inconsistent with the directives of SDMC Section 22.0908(j), quoted above. Further, this option would be inconsistent with Project Objectives listed in Section 2.2, specifically Objective 5 (“Create a new, 35,000-capacity multi-purpose stadium as the “home” for SDSU Division I collegiate football and other events”) and Objective 7 (“Demolish the existing stadium in accordance with Section 22.0908”), and would limit the ability to achieve other project objectives including Objective 6 (“Provide a new SDSU campus research and innovation village with up to approximately 1.6 million square feet ...”) and Objective 9 (“Provide up to 4,600 residence in a variety of market-rate, workforce, student, faculty, staff and affordable housing...”). Therefore, while mitigation in the form of documentation, interpretive displays, and architectural salvage, would help reduce impacts to a historical resource; the demolition of SDCCU Stadium, a historical resource, and construction and operation of proposed facilities would remain **significant and unavoidable**.

Construction of the proposed project would result in a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5 (**Impact CUL-3**). A significant impact to an archaeological resource would occur as a result of the proposed project due to the possibility of encountering historical, archaeological or Native American cultural material within the proposed project area during construction. However, implementation of mitigation measure **MM-CUL-4** during initial earth-disturbing activities would assure the proper treatment of unanticipated archaeological or Native American cultural material. Therefore, impacts to archaeological resources during construction of the proposed project would be **less than significant with mitigation incorporated**. After construction is finished, operational/permanent activities would **not result in significant impacts** to archaeological resources.

Construction of the proposed project would result in potential impacts to human remains (**Impact CUL-4**). A significant impact to human remains would occur as a result of the proposed project should construction or other personnel encounter any previously undocumented human remains. However, implementation of mitigation measure **MM-CUL-5** would assure proper treatment of unanticipated finds during construction activities, and compliance with applicable regulations. Therefore, impacts to cultural resources during construction of the proposed project would be **less than significant with mitigation incorporated**. After construction is finished, operational/permanent activities would **not result in significant impacts** to cultural resources.

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