

## **2.3 Cultural Resources**

This section evaluates the existing cultural resources relative to the Project area, including proposed off-site improvements and cultural resources that occur within the preserved open space easement (Lot 4-20 of the proposed TM), and the potential effects that implementation of the proposed Project may have on such resources. Cultural resources include historic sites, buildings, structures, objects, human remains, and tribal cultural resources.

Three comment letters were received during the NOP scoping period that addressed cultural resources (see Appendix A). These comments included the need for a recent cultural resources study (Thomas Ammon), a request from the Viejas Band of Kumeyaay Indians that a Native American Monitor be on site for ground disturbing activities, and that impacts to cultural resources located on Marathon Land and Cattle Company property be analyzed, if off-site grading would occur there (Marathon Land and Cattle Company). The Archaeological Inventory and Evaluation Report was prepared for the proposed Project by ASM Affiliates (August 2016), included in Appendix D of this SEIR. A Kumeyaay Native American Monitor will be selected prior to ground disturbance to be present during ground disturbing activities.

### **2.3.1 Existing Conditions**

#### **2.3.1.1 *Environmental Setting***

##### **Natural Environment**

The proposed Project is located on a relatively flat mesa that includes a large knoll or ridgeline that is a remnant Pleistocene terrace. This ridgeline dominates the central portion of the Project site. Areas surrounding the Pleistocene terrace include gently sloping areas away from the ridgeline, a ridgeline south of Johnson Canyon, and steep slopes leading into Johnson Canyon. Vegetation on the mesa, as well as areas located adjacent to or within canyons, includes coastal and inland sage scrub, chaparral, and grassland communities.

##### **Cultural Environment**

This section summarizes the existing cultural resources within the Project footprint. Cultural resources are the tangible or intangible remains or traces left by prehistoric or historical peoples who inhabited the San Diego region. Cultural resources can also include traditional cultural places, such as gathering areas, landmarks, and ethnographic locations (County of San Diego 2007).

Five cultural sites, (SDI-9975, SDI-12337, SDI-12730, P-37-031491 and Wetmore Outbuildings) were identified within the Project footprint. Site SDI-12337 consists of the combination of seven total sites (SDI-5352, SDI-9974, SDI-10072, SDI-10735, SDI-

17104, SDI-17105 and SDI-12337). Three of the sites (CA-SDI-9975, CASDI-12337 and CA-SDI-12730) are prehistoric and site types include quarries and temporary camps. P-37-031491 is historic and includes a segment of East Otay Mesa Road. Historic structures include the Whetmore Outbuildings. Based on the Sacred Lands check and consultation, no tribal cultural resources were identified.

### 2.3.1.2 Methodology

The presence and significance of existing cultural resources associated with the Sunroad - East Otay Mesa Specific Plan Amendment was determined using the methodologies outlined below.

- Archaeological site record and archival research was conducted at the South Coastal Information Center (SCIC) for the Project area and immediate vicinity (one mile radius). The site record and archival research consisted of reviews of archaeological site records and previous cultural studies.
- Various maps, including Proposed Project maps, United States Geological Survey (USGS) quadrangle maps, historic maps and prior reports were reviewed to identify cultural resources that had been previously recorded in the vicinity of the Proposed Project area.
- An intensive pedestrian field survey and field check was conducted for the entire Proposed Project footprint. Kumeyaay Native American monitors were present during the survey.
- A request for a Sacred Lands File search was sent to the Native American Heritage Commission (NAHC) for their consideration and input.
- Site record forms (including updates) were prepared and submitted to the SCIC Center.

The evaluation of cultural resources is in conformance with the County of San Diego RPO, Section 21083.2 of the Public Resources Code, and the CEQA. Statutory requirements of CEQA (Section 15064.5) were followed in evaluating the significance of the cultural resources.

### **Records Search Result**

According to the records on file at the SCIC, there have been 133 cultural resource studies conducted within a one-mile radius of the Project site, 30 studies addressed portions of the Proposed Project site. A total of 114 cultural resources have been documented within one mile of the Project site boundary. Five (SDI-9975, SDI-12337, SDI-12730, P-37-031491 and Whetmore Outbuildings) of the previously recorded cultural resources have been identified within the Project site

### **Survey Results**

The purpose of the cultural resources technical study was to relocate previously recorded resources and identify any new sites. A total of four cultural resources were encountered

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during the survey and field check of the Sunroad – East Otay Mesa Specific Plan Amendment development project. Of these identified resources, one is historic and three are prehistoric. The Whetmore Outbuildings were not relocated. All of these sites had been previously recorded. Neither new sites nor tribal cultural resources were identified.

Mr. Clint Linton from Red Tail Monitoring and Research, Inc. (Kumeyaay) provided the Kumeyaay Native American monitor during the survey of the Proposed Project which included Mr. Anthony LaChappa. No concerns were raised by the Mr. LaChappa during the survey.

### **Native American Consultation**

The proposed Project includes a Specific Plan Amendment to the East Otay Mesa Specific Plan, which triggers the requirement for Native American Consultation under Senate Bill (SB) 18 and Assembly Bill (AB) 52. County Planning Staff initiated both AB-52 and SB-18 Consultation and letters were sent to listed Tribes and organizations on October 9, 2015, May 9, 2016, July 18, 2016 and March 2, 2017. To date, the only response that was received was from Viejas Band of Kumeyaay Indians. They requested that cultural monitoring be made a part of the Project and that they be notified of inadvertent discoveries.

A Sacred Lands File (SLF) search was submitted to the NAHC on February 24, 2016, for any recorded Traditional Cultural Properties, Tribal Cultural Resources, or Native American heritage sites within the vicinity of the Project area. On February 24, 2016, Gayle Totton of the NAHC responded that the SLF search yielded negative results.

The NAHC additionally provided a list of Native American tribal representatives who might have further knowledge of such sites or other information relating to the Project area. On March 7, 2016, ASM contacted those tribal representatives by letter to solicit further information regarding known Traditional Cultural Properties, Tribal Cultural Resources, and Native American heritage sites. On March 14, 2016, Clinton Linton of the Lipay Nation of Santa Ysabel responded via email questioning if there will be a pedestrian survey of the Project and if a Kumeyaay monitor will be present. He also stated that there are multiple resources in the area, likely within the Project, which raises the concern. On March 18, 2016, the Viejas Band of Kumeyaay Indians responded via email that they have reviewed the proposed Project and have determined that the Project site has cultural significance or ties to Viejas and that they request that a Native American Cultural Monitor be on site for ground disturbing activities. To date, no additional responses have been received.

### 2.3.1.3 Regulatory Framework

#### State

#### **California Register of Historical Resources (CRHR)**

California Public Resources Code Section 5024.1(a) establishes the CRHR. Section 5024.1 (c-f) provides criteria for CRHR eligibility listing. The CRHR considers a resource as “historically significant” and qualifying as a historical resource if it:

1. Is associated with events that have made a significant contribution to the broad patterns of local or regional history and cultural heritage of California or the United States.
2. Is associated with the lives of persons important to local, California, or national history.
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. Has yielded, or may be likely to yield, information important in prehistory or history.

These criteria do not preclude a lead agency from determining that a resource may be a historical resource as defined in Public Resources Code Sections 5020.1(j) and 5024.1.

#### **California Environmental Quality Act**

CEQA requires lead agencies to carefully consider the potential effects of a project on historical and unique archaeological resources. A “historical resource” includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript, which is historically or archaeologically significant (California Public Resources Code, Section 5020.1 (j)).

Section 15064.5 of the CEQA Guidelines specifies criteria for determining the significance of impacts to archaeological and historical resources. Section 15064.5 defines a “historical resource” as:

1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Pub. Res. Code 5024.1, Title 14 CCR, Section 4850 et seq.).
2. A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

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3. Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (14 CCR 4852) including the following:
  - a. Is associated with events that have made a contribution to the broad patterns of California 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 construction, or represents the work of an important individual or possesses high artistic values; or
  - d. Has yielded, or may be likely to yield, important information in prehistory or history.
4. The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to Section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in Section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be an historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1

If a cultural resource does not meet the definition of an "historic resource" under CEQA Guidelines Section 15164.5, it must be reviewed under CEQA Statutes Section 21083.2(g) that defines the significance of an archaeological site in terms of uniqueness. A unique archaeological resource means 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 one of the following criteria:

1. Contains information needed to answer important scientific questions and 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.

A non-unique archaeological resource indicates an archaeological artifact, object, or site that does not meet the previously listed criteria. Impacts to non-unique archaeological resources receive no further consideration under CEQA, other than the recording of its existence by the lead agency if it so elects.

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Human remains require special handling and must be treated with dignity. Procedures are provided in Section 15064.5(e) of the CEQA Guidelines, Section 5097.98 of the Public Resources Code and Section 87.429 of the County's Grading Ordinance. In the event of the discovery of human remains and/or funerary items, the following procedures, as outlined by the above statutes, regulations, and ordinances, shall be followed:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
  - a. The County Coroner must be contacted to determine that no investigation of the cause of death is required, and
  - b. If the Coroner determines that the remains are Native American:
    - i. The Coroner shall contact the NAHC within 24 hours.
    - ii. The NAHC shall identify the person or persons it believes to be the most likely descended (MLD) from the deceased Native American.
    - iii. The MLD may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code, Section 5097.98, or
2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
  - a. The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 24 hours after being notified by the commission;
  - b. The descendent identified fails to make a recommendation; or
  - c. The landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Similarly, Public Resources Code Section 5097.98 states that whenever the NAHC receives notification of Native American human remains from a County Coroner, the NAHC shall immediately notify the MLD. The MLD may, with permission from the owner of the land in which the human remains were found, inspect the site and recommend to the owner or the responsible party conducting the excavation work a means for treating and/or disposing of the human remains and any associated grave goods. The MLD is required to complete their site inspection and make their recommendation within 48 hours of their notification from the NAHC.

### **California Health and Safety Code**

California law protects Native American burials, skeletal remains, and associated grave goods, regardless of their antiquity, and provides for the sensitive treatment and disposition of those remains. Health and Safety Code, Section 7050.5, requires that if

human remains are discovered in any place other than a dedicated cemetery, no further disturbance or excavation of the site or nearby area reasonably suspected to contain human remains shall occur until the County Coroner has examined the remains (Section 7050.5b). If the Coroner determines or has reason to believe the remains are those of a Native American, the Coroner must contact the NAHC within 24 hours (Section 7050.5c).

### Local

#### **County of San Diego Local Register of Historic Resources**

The criteria for listing historical resources to the Local Register (Ordinance No. 9493) are consistent with those developed by the Office of Historic Preservation (OHP) for listing resources to the CRHR, but have been modified for local use in order to include a range of historical resources which specifically reflect the history and prehistory of San Diego County. Only resources that meet the criteria set out below may be listed or formally determined eligible for listing to the Local Register.

1. Are associated with events that have made a significant contribution to the broad patterns of San Diego County's history and cultural heritage;
2. Are associated with the lives of persons important to the history of San Diego County or its communities;
3. Embody the distinctive characteristics of a type, period, San Diego region, or method of construction, or represents the work of an important creative individual, or possess high artistic values; or
4. Have yielded, or may be likely to yield, information important in prehistory or history.

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

The following goals and policies identified in the County of San Diego General Plan (August 2011) Conservation and Open Space Element are applicable to the Proposed Project:

1. **Goal COS-7: Protection and Preservation of Archaeological Resources.** Protection and preservation of the County's important archaeological resources for their cultural importance to local communities, as well as their research and educational potential.
  - a. **Policy COS-7.1: Archaeological Protection.** Preserve important archaeological resources from loss or destruction and require development to include appropriate mitigation to protect the quality and integrity of these resources.
  - b. **Policy COS-7.2: Open Space Easements.** Require development to avoid archaeological resources whenever possible. If complete avoidance is not

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- possible, require development to fully mitigate impacts to archaeological resources.
- c. **Policy COS-7.3: Archaeological Collections.** Require the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner.
  - d. **Policy COS-7.4: Consultation with Affected Communities.** Require consultation with affected communities, including local tribes to determine the appropriate treatment of cultural resources.
  - e. **Policy COS-7.5: Treatment of Human Remains.** Require human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains will be done in consultation with the Most Likely Descendant (MLD) and under the requirements of Federal, State, and County Regulations.
  - f. **Policy COS-7.6: Cultural Resource Data Management.** Coordinate with public agencies, tribes, and institutions in order to build and maintain a central database that includes a notation whether collections from each site are being curated, and if so, where, along with the nature and location of cultural resources throughout the County of San Diego.
2. **Goal COS-8: Protection and Conservation of the Historical Built Environment.** Protection, conservation, use, and enjoyment of the County's important historic resources.
- a. **Policy COS-8.1: Preservation and Adaptive Reuse.** Encourage the preservation and/or adaptive reuse of historic sites, structures, and landscapes as a means of protecting important historic resources as part of the discretionary application process, and encourage the preservation of historic structures identified during the ministerial application process.
  - b. **Education and Interpretation.** Encourage and promote the development of educational and interpretive programs that focus on the rich multicultural heritage of the County of San Diego.

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

The RPO requires that cultural resources be evaluated as part of the County's discretionary environmental review process for certain permit types. If cultural resources are found to be significant pursuant to the RPO, they must be preserved. The RPO prohibits development, trenching, grading, clearing, and grubbing, or any other activity or use that damages significant prehistoric or historic site sites.



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Pursuant to the RPO, significant prehistoric or historic sites are sites that provide information regarding important scientific research questions about prehistoric or historic activities that have scientific, religious, or other ethnic value of local, regional, state, or federal importance. Such locations include, but are not limited to:

1. Any prehistoric or historic district, site, interrelated collection of features or artifacts, building, structure, or object either:
  - a. Formally determined eligible or listed in the National Register of Historic Places by the Keeper of the National Register; or
  - b. To which the Historic Resource (“H” Designator) Special Area Regulations have been applied; or
2. One-of-a-kind, locally unique, or regionally unique cultural resources which contain a significant volume and range of data and materials; and
3. Any location of past or current sacred religious or ceremonial observances which is either:
  - a. Protected under Public Law 95-341, the American Indian Religious Freedom Act or Public Resources Code §5097.9, such as burial(s), pictographs, petroglyphs, solstice observatory sites, sacred shrines, or religious ground figures; or
  - b. Other formally designated and recognized sites which are of ritual, ceremonial, or sacred value to any prehistoric or historic ethnic group.

### **County of San Diego Grading Ordinance**

The Grading Ordinance requires that projects involving grading, clearing, and/or removal of natural vegetation obtain a grading permit, unless the project meets one or more of the exemptions listed in Section 87.202 of the Grading Ordinance. The grading permit is discretionary and requires compliance with CEQA. In the event that human remains or Native American artifacts are encountered, Section 87.429 requires that grading operations be suspended in the affected area and the operator is required to inform the County Official. The project must comply with the requirements of Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.99.

### **Traditional Cultural Properties/Tribal Cultural Resources**

#### *Native American Heritage Values*

Federal and state laws mandate that consideration be given to the concerns of contemporary Native Americans with regard to potentially ancestral human remains, associated funerary objects, and items of cultural patrimony. Consequently, an important element in assessing the significance of the study site has been to evaluate the likelihood

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that these classes of items are present in areas that would be affected by the proposed Project.

Potentially relevant to prehistoric archaeological sites is the category termed Traditional Cultural Properties (TCP) in discussions of cultural resource management (CRM) performed under federal auspices. According to Patricia L. Parker and Thomas F. King (1998), “Traditional” in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community’s historically rooted beliefs, customs, and practices.

The County of San Diego Guidelines identifies that cultural resources can also include TCPs, such as gathering areas, landmarks, and ethnographic locations in addition to archaeological districts (2007). These guidelines incorporate both State and Federal definitions of TCPs. Generally, a TCP may consist of a single site, or group of associated archaeological sites (district; traditional cultural landscape), or an area of cultural/ethnographic importance.

The Traditional Tribal Cultural Places Bill of 2004 requires local governments to consult with Native American representatives during the project planning process. The intent of this legislation is to encourage consultation and assist in the preservation of “Native American places of prehistoric, archaeological, cultural, spiritual, and ceremonial importance” (County of San Diego 2007). It further allows for tribal cultural places to be included in open space planning. State Assembly Bill 52, in effect as of July 1, 2015, introduces the Tribal Cultural Resource (TCR) as a class of cultural resource and additional considerations relating to Native American consultation into CEQA. As a general concept, a TCR is similar to the federally-defined TCP, however incorporates consideration of local and state significance and required mitigation under CEQA. A TCR may be considered significant if included in a local or state register of historical resources; or determined by the lead agency to be significant pursuant to criteria set forth in PRC §5024.1; or is a geographically defined cultural landscape that meets one or more of these criteria; or is a historical resource described in PRC §21084.1, a unique archaeological resources described in PRC §21083.2, or is a non-unique archaeological resource if it conforms with the above criteria.

In 1990 the NPS and Advisory Council for Historic Preservation introduced the term ‘TCP’ through National Register Bulletin 38 (Parker and King 1990). A TCP may be considered eligible based on “its association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintaining the continuing cultural identity of the community” (Parker and King 1990:1). Strictly speaking, Traditional Cultural Properties are both tangible and intangible; they are anchored in space by cultural values related to community-based physically defined “property referents” (Parker and King 1990:3). On the other hand, TCPs are largely ideological, a characteristic that may present substantial problems in the process of delineating specific boundaries. Such a property’s extent is based on community conceptions of how the

surrounding physical landscape interacts with existing cultural values. By its nature, a TCP need only be important to community members, and not the general outside population as a whole. In this way, a TCP boundary, as described by Bulletin 38, may be defined based on viewscape, encompassing topographic features, extent of archaeological district or use area, or a community's sense of its own geographic limits. Regardless of why a TCP is of importance to a group of people, outsider acceptance or rejection of this understanding is made inherently irrelevant by the relativistic nature of this concept.

### **2.3.2 Analysis of Project Effects and Determination as to Significance**

#### **2.3.2.1 Guidelines for Determination of Significance**

Based on the County of San Diego Guidelines for Determining Significance – Cultural Resources and CEQA, the Project would result in a significant impact relative to cultural resources if the Project would:

1. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the State CEQA Guidelines.
2. Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5 of the State CEQA Guidelines.
3. Disturb any human remains, including those interred outside of formal cemeteries.
4. Propose activities or uses damaging to significant cultural resources as defined by the Resource Protection Ordinance and fails to preserve those resources.
5. Cause a substantial adverse change in the significance of a tribal cultural resource. This shall include the destruction or disturbance of a tribal cultural resource.

The significance guidelines listed above have been selected for the following reasons:

Guidelines 1 and 2 are derived directly from CEQA. Sections 21083.2 of CEQA and 15064.5 of the State CEQA Guidelines recommend evaluating historical and archaeological resources to determine whether or not a proposed action would have a significant effect on unique historical or archaeological resources. Guideline 3 is included because human remains must be treated with dignity and respect and CEQA requires consultation with the “Most Likely Descendant” as identified by the NAHC for any project in which human remains have been identified.

Guideline 4 was selected because cultural resources are protected under the Resource Protection Ordinance. Any project that would have an adverse impact (direct, indirect, and cumulative) on significant cultural resources as defined by this Guideline would be considered a significant impact.

The fifth guideline was selected because CEQA requires that tribal cultural resources be evaluated to determine whether or not a proposed action would have a significant effect.

Any project that would have an adverse effect (direct, indirect, and cumulative) on a significant tribal cultural resource as defined by CEQA would be considered a significant impact.

### **2.3.2.2 1994 East Otay Mesa Specific Plan EIR**

The 1994 EIR included an analysis of cultural regulations pertinent at the time of adoption, as well as existing conditions and impacts related to the East Otay Mesa Specific Plan project. The 1994 EIR identified that implementation of the Specific Plan had the potential to impact 51 archaeological sites within the East Otay Mesa Specific Plan area. As documented in the 1994 EIR, the 51 archaeological sites required a determination of importance through testing. Disturbance of important sites would result in a significant impact of the East Otay Mesa Specific Plan. Three of the sites (CA-SDI-5352, CA-SDI-9975 and CA-SDI-12730) were determined to be located within the Project site.

Mitigation for cultural resources from the 1994 EIR remains valid, where parameters of the mitigation measures fall within Project boundaries, except where superseded by supplemental environmental documents and/or mitigation included within this section. The 1994 EIR mitigation measures are located on pages 4.4-17 and 4.4-18 of the 1994 EIR. These mitigation measures would reduce Project impacts to below a level of significance.

### **2.3.2.3 2000 East Otay Mesa Specific Plan Sunroad Centrum SEIR**

Subsequent to the 1994 EIR, the 2000 SEIR was prepared for the East Otay Mesa Specific Plan Sunroad Centrum project. The 2000 SEIR analyzed impacts of the Sunroad Centrum project on cultural resources, referencing the 1999 letter report prepared by Gallegos & Associates.

As stated above, the 1994 EIR identified three cultural sites (CA-SDI-5352 [incorporated into CA-SDI-12337], CA-SDI-9975 and CA-SDI-12730) as located within the Project site. The 2000 SEIR provided additional analysis for two of those sites. CA-SDI-12730 was identified as significant; the portion of CA-SDI-5352 tested for the Gallegos report prepared for the Project was determined to be not significant.

Analysis within the 2000 SEIR concluded that no direct impacts would result to Site CA-SDI-12730, as this site is located within the open space preserve easement on the Project site. Off-site improvements to Otay Mesa Road would impact Site CA-SDI-5352. However, the 2000 SEIR contained mitigation for both cultural sites that remain relevant and applicable. The 2000 SEIR mitigation measures are located on pages 2-45 through 2-47 of the 2000 SEIR. These mitigation measures would be required for the proposed Project and reduce Project impacts to below a level of significance.

### 2.3.2.4 2012 Sunroad Otay Tech Centre Addendum

In 2012, an Addendum was prepared for the Sunroad Otay Tech Centre. The 2012 Addendum analyzed impacts of the Sunroad Otay Tech Centre project on cultural resources. Analysis within the 2012 Addendum depended upon the 2009 Gallegos & Associates letter report and upheld the analysis and conclusions of the 2000 SEIR. The 2012 Addendum analyzed the historic structure identified as an outbuilding from the 1940s or early 1950s associated with the Westmore family. Because of the recent age of the structure and its temporary nature, the building was not identified as significant. No new mitigation was required. The proposed Project would not change the conclusions in the 2012 Addendum. No new impacts would occur as a result of the proposed Project, and no new mitigation measures would be required.

As discussed above, all of the previous mitigation measures remain applicable.

### 2.3.2.5 Proposed Project

Based on the 2016 Archaeological Inventory and Evaluation Study, three cultural resources, one historic road and one historic structure have been recorded within the Project area.

Guideline for the Determination of Significance:

*Would the proposed project cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5 of the State CEQA Guidelines? This shall include the destruction or disturbance of an important archaeological site or any portion of an important archaeological site that contains or has the potential to contain information important to history or prehistory.*

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Site SDI-12337 is a temporary camp that includes formerly mentioned site SDI-5352, in combination with five other sites (SDI-9974, SDI-10072, SDI-10735, SDI-17104 and SDI-17105). SDI-12337 covers a large portion of the Project area. It is located both within the development area and open space. During the 2016 survey, the site was relocated and it was noted that dense grasses and other vegetation obscured the ground surface over much of the site. Where patches of cleared ground were present, artifacts were observed. The site boundary was expanded to include a number of artifacts on the east side as well as a lithic concentration of volcanic artifacts. Based on the current survey and prior work, SDI-12337 is determined to not be a significant resource pursuant to CEQA or RPO; however, it is considered an important resource under County Guidelines for its research potential. All research potential has been exhausted through current and prior investigations.

Within the Open Space Area shown in Figure 2.3-1, *Vernal Pool/Wetland Creation Area*, five basins would be created for use as vernal pools, within a portion of SDI-12337 that

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was recommended as not eligible to the CRHR, Local Register and County RPO, but that is an important resource under County of San Diego guidelines for determining significance. Curation of artifacts collected during the testing programs and monitoring of all grading would reduce the impacts to this resource within the Open Space area to less than significant. If requested by the Native American monitor, repatriation of any prehistoric materials, collected by the Native American monitor during construction monitoring will be repatriated to landscaped areas within the public park or within the parkways along the public streets, within an area and depth that will not be disturbed by future ground disturbance.

Direct impacts to SDI-12337 would occur to the portion of the site within the development area (**Impact CR-1**). ~~Direct impacts will be avoided for the portion of the site that is within open space; however, there is the potential for indirect impacts from construction activity, increased accessibility, and vandalism. Based on the current survey and prior work, SDI-12337 is determined to not be a significant resource pursuant to CEQA or RPO; although, it is considered an important resource under County Guidelines for its research potential. All research potential has been exhausted through current and prior investigations. Because SDI-12337 is not a significant resource, mitigation is not required. There is the potential for subsurface deposits. Proposed conditions of approval include the dedication of open space, temporary fencing along the open space boundary and an archaeological monitoring program. Prior collections have been curated at the San Diego Archaeological Center. With the implementation of these measures, the monitoring program, impacts to SDI-12337 would be~~ are less than significant and the site is not significant.

SDI-9975 is a prehistoric quarry area and lithic material procurement site. Only a small portion of the south side of the site is within the current Project area. During the 2016 survey, artifacts were not observed due to steep slopes and dense and tall grasses. A data recovery program was conducted in 2003 by Gallegos to mitigate for prior discretionary approvals. Based on current and prior investigations, SDI-9975 contains high research potential; therefore, it is considered to be a significant resource pursuant to CEQA and is considered an important resource under County Guidelines. However, it is not considered RPO significant.

SDI-9975 is located outside of the area of potential effect. The site is located with the Open Space easement and would not be affected by the proposed Project. ~~To avoid direct impacts, the site will be dedicated within open space (**Impact CR-1**).~~ In addition, temporary fencing along the open space boundary and an archaeological monitoring program will be made conditions of approval. Prior collections have been curated at the San Diego Archaeological Center. ~~With implementation of these measures, impacts to SDI-9975 will be reduced to less than significant~~ would not occur.

A portion of SDI-12730 is located within the Project area. The site has been disturbed by U.S. Border Patrol and off-highway vehicle enthusiasts' uses. Artifacts were identified during the 2016 survey. The areas immediately surrounding the southern boundary of the site were surveyed intensively; however, thick grasses following winter rains offered very little ground visibility and no other artifacts were identified. Based on current and prior

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investigations, SDI-12730 contains high research potential; therefore, it is considered a significant resource pursuant to CEQA and is considered an important resource under County Guidelines. However, it is not considered RPO significant.

~~SDI-12730 is located outside of the area of potential effect. To avoid direct impacts (Impact CR-2), the site will be and within the dedicated open space. In addition, temporary fencing along the open space boundary and an archaeological monitoring program will be made conditions of approval. Prior collections have been curated at the San Diego Archaeological Center. With implementation of these measures, impacts to SDI-12730 will be reduced to less than significant would not occur.~~

Guideline for the Determination of Significance:

*Would the proposed Project cause a substantial adverse change in the significance of a historical resource as defined in §15064.5 of the State CEQA Guidelines? This shall include the destruction, disturbance or any alteration of characteristics or elements of a resource that cause it to be significant in a manner not consistent with the Secretary of Interior Standards.*

### **Historic Resources**

A historic structure was previously identified in the far southeastern corner of the Project area by Gallegos (2008). ASM failed to relocate the historic structure. A small square concrete planter, approximately four feet by five feet, filled with vegetation, was present in the southeast corner. The concrete planter was not large enough to have been a foundation of the historic structure. It is presumed that the historic structure has been removed from the Project area. Based on the current survey and prior work, the historic structure (Wetmore Outbuilding) is determined to not be a significant resource pursuant to CEQA, RPO, and County Guidelines because all research potential has been exhausted through current and prior investigations.

P-37-031491 consists of historic Otay Mesa Road alignment, a segment of which is within the Project area. It was recorded by Robbins-Wade in 2010 as a paved, undivided two-lane highway, running east-west and updated by Gunderman later in 2010 in the same condition as the previous recordation. During the ASM survey, Otay Mesa Road was relocated in the same condition as its previous recordation and consisted of a modernly paved, two-lane highway, running east-west. The northern half, the west bound lane, is within the Project area.

P-37-31491 is not recommended as eligible for CRHR listing or significant under CEQA, as a modernly paved, undivided two lane highway it has not been determined to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California or San Diego County. Therefore, it is recommended that the site is not a significant resource pursuant to the guidelines of the CRHR, CEQA, and the Local Register, nor is the site significant under the County RPO. Under the County of San Diego's Guidelines for

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Determining Significance, P-37-31491 is an important resource; however, the Project would not have an impact to the resource.

Guideline for Determination of Significance:

*Would the proposed Project disturb any human remains, including those interred outside of formal cemeteries?*

### **Human Remains**

No evidence of human remains, including those interred outside of formal cemeteries, was discovered during the records search, literature review, field survey, or site testing and evaluation. There is no indication that the project site was used by Native Americans for religious, ritual, or other special activities and therefore impacts to Native American burial sites are not expected.

Guideline for Determination of Significance:

*Would the proposed Project propose activities or uses damaging to significant cultural resources as defined by the Resource Protection Ordinance and fails to preserve those resources?*

### **Tribal Cultural Resources**

No information has been obtained through Native American consultation or communication with the Native American monitors during fieldwork that any of the evaluated sites are culturally or spiritually significant. No Traditional Cultural Properties that currently serve religious or other community practices are known to exist within the Project area. During the current archaeological evaluation, no artifacts or remains were identified or recovered that could be reasonably associated with such practices. All prehistoric artifactual material consisted of common flaked stone and ground stone items, and those in very limited quantities at all sites. No Tribal Cultural Resources were identified or reported from the Native American contacts.

### **Subsurface Deposits**

Within the Project footprint, there is the potential for subsurface deposits. Direct impacts (**Impact CR-31**) would be potentially significant with the implementation of the proposed Project. Proposed conditions of approval include an archaeological monitoring program. With the implementation of this measure impacts to buried deposits are less than significant.

Only a portion of SDI-12337 (not significant), would be impacted by the proposed Project design. The balance of the site would be dedicated in open space. The historic structure is no longer present within the Project area, and the remaining two sites, SDI-9975 and SDI-12730, also would be dedicated in the open space easement and would not be



impacted. The segment of Otay Mesa Road (not significant) that is within the Project site would be directly impacted.

### 2.3.3 Cumulative Impact Analysis

According to CEQA, the importance of cultural resources comes from the research value and the information that they contain. Therefore, the issue that must be explored in a cumulative analysis is the cumulative loss of that information. For sites considered less than significant, the information is preserved through recordation. Significant sites that are placed in open space easements avoid impacts to cultural resources and also preserve the data. Significant sites that are not placed within open space easements preserve the information through recordation, test excavations and data recovery programs that would be presented in reports and filed with the County of San Diego and the South Coastal Information Center. Analysis of artifact collections from any potentially significant site would also be preserved in reports and would also be available to other archaeologists for further study.

The cumulative study area includes East Otay Mesa and was selected because it represents a naturally circumscribed geographic area between the Otay River Valley to the north, the international border with Mexico to the south, the San Ysidro Mountains to the east, and the more developed western Otay Mesa to the west. The cumulative study area consists of a relatively flat mesa bounded by a steep mountainous area on the eastern edge and a major river valley to the north and a largely developed area to the west. The natural environment of the cumulative study area includes some undeveloped portions of the ancestral Kumeyaay territory and historically the flatter portions of the cumulative study area were used for agriculture. Related projects within this geographic extent are capable of collectively contributing, along with the current Project's impact area, to impacts to prehistoric resources associated with the Kumeyaay and historic sites. Prehistoric and historic settlement patterns can be very broad; therefore, it is prudent to consider a large study area when evaluating cumulative impacts.

The cumulative study area includes East Otay Mesa and was selected because of the prehistoric, ethnohistoric and historic use of the area. In general, small habitation sites and lithic procurement areas characterize the cumulative study area; however, the Otay River Valley and its tributaries contain temporary camps and villages. The ethnohistoric village of 'Utay (Otay) is located just outside of the cumulative study area, along the northern bank of the Otay River, at the confluence of the Otay River Valley and O'Neal Canyon, approximately 2.5 miles north of the Project area. Otay is recorded as a major settlement within the larger district of Santo Domingo on the edge of Otay River. The actual number and type of resources that might be adversely affected by cumulative projects is impossible to precisely define as a comprehensive inventory of each project within the cumulative study area is not available. The current Project identified 114 cultural resources within the Project area and one-mile record search radius. The vast majority of these resources were prehistoric lithic scatters. Other resource types identified within the Project area and one-mile record search radius were prehistoric quarries, habitation debris, bedrock milling features, shell scatters, and isolates, historic trash

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scatters, and historic built environment resources. San Diego County CEQA Guidelines require a systematic inventory of all cultural resources as a component of permit processing, preservation of significant resources where feasible, and mitigation through data recovery for the significant resources that cannot otherwise be avoided by project redesign.

The proposed Project's impacts to cultural resources would be reduced to less than significant through mitigation measures that include archaeological monitoring, open space dedication, temporary fencing, and recordation. The proposed Project and those projects identified within the cumulative impact study area are primarily mitigated by the recordation of information and the preservation of the most important resources. This reduces the potential for cumulative effects and the proposed Project would not considerably contribute to a significant cumulative impact to cultural resources.

The 1994 EIR analyzed cumulative impacts. That analysis is applicable to the proposed Project. The 1994 EIR conducted a review of the various cultural site types present within East Otay Mesa, as well as for the surrounding area, which indicated that lithic scatters and small temporary camps are the most common site types present. These types of sites vary from small concentrations to sites that extend over several acres. As a somewhat common resource within the region, these site types are less likely to be cumulatively impacted due to their relative prevalence. Local developments within which these sites are common and include Otay Ranch, Rancho San Miguel, Salt Creek Ranch, and Eastlake. While small habitation sites occur within the East Otay Mesa study area, there are no known permanent villages or large residential complexes. The ethnohistoric village of Utay (Otay) is located along the northern bank of the Otay River Valley, directly to the north of the cumulative study area. Cumulative impacts to villages or residential sites within the region will be minimal because the known village locations are proposed for open space (within Otay Ranch) or are not threatened by development.

Any impacts to significant cultural resources within the cumulative study area have been or will be mitigated through preservation of sites in open space easements, redesign of the Project footprints to avoid sites, recordation of all sites within the Project footprints through survey, testing and data recovery, and/or curation or repatriation of all artifacts collected during testing and data recovery programs. Similarly, the proposed Project's impacts to cultural resources have been reduced to less than significant levels through mitigation measures that include preservation of sites in open space easements, archaeological monitoring of all earth disturbing activities, recordation of all sites within the Project footprint, temporary fencing during Project construction, and the curation or repatriation of all artifacts collected during the testing and monitoring programs. Because cultural resources impacts from the proposed Project and any of cumulative projects identified within the East Otay Mesa cumulative impact study area would be mitigated by the collection, recordation, curation and/or repatriation and the preservation of the most important resources, required mitigation will be implemented. Access to archived research materials of the ancestral Kumeyaay territory relative to the East Otay Mesa and historic use will be made available for future generations. This reduces the potential for cumulative effects. Therefore, any individual or incremental impacts to cultural resources

resulting from the proposed Project, when combined with the impacts from other past, present, and future projects in the cumulative study area, would not considerably contribute to cumulative impact to cultural resources.

### 2.3.4 Significance of Impacts Prior to Mitigation

A total of two cultural resources (SDI-12337 portion, P-37-031491) will be impacted with the implementation of the proposed Project. Both SDI-12337 and P-37-031491 were determined to be not significant. Historic structures are not significant and were not relocated during the current survey. The table below identifies the significance of impacts prior to mitigation.

Site Number	Site Significance	Impact	Significance of Impact
SDI-9975	Significant - CEQA	Avoided	Not Significant
SDI-12337	Not Significant	Direct	Not Significant
SDI-12730	Significant - CEQA	Avoided	Not Significant
Historic Structure	Not Significant	Direct	Not Significant
P-37-031491	Not Significant	Direct	Not Significant
Buried Deposits	Potentially Significant	Direct	Potentially Significant

**Impact CR-1:** ~~Direct impacts to SDI-9975 would occur to the portion of the site within the development area~~

**Impact CR-2:** ~~Direct impacts to SDI-12730 would occur to the portion of the site within the development area~~

**Impact CR-31:** Direct impacts to subsurface deposits within the Project footprint are potentially significant.

### 2.3.5 Mitigation

Impacts to SDI-9975 and SDI-12730 are avoided through their location within the Biological Open Space Easement, which has been dedicated to the County of San Diego and incorporates cultural resources that are to be preserved.

The following mitigation measures ~~are~~ is proposed to reduce impacts to cultural resources to less than significant:

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~~M-CR-1: To mitigate for direct impacts to SDI 9975 and SDI 12730 the following shall be implemented:~~

- ~~• A Biological Open Space Easement shall be dedicated to the County of San Diego which incorporates cultural resources that are to be preserved.~~
  - ~~• Prior to any ground disturbance, temporary fencing shall be installed along the southern open space boundary where earth disturbing activities are within 100 feet of the open space easement. Placement of the fencing shall be coordinated by a California licensed surveyor in consultation with the Project Archaeologist and Kumeyaay Native American monitor. If the wetland creation is within 50 feet of CA SDI 9975 or CA SDI 12730, temporary fencing including an adequate buffer shall be installed. The fencing shall be installed under the supervision of the Project Archaeologist and Kumeyaay Native American monitor.~~

**M-CR-21:** To mitigate for direct impacts that could occur to unknown ~~to~~ subsurface deposits as a result of project grading and construction, an archaeological monitoring program will be implemented that consists of the following:

- Pre-Construction
  - Pre-construction meeting to be attended by the Project Archaeologist and Kumeyaay Native American monitor to explain the monitoring requirements.
- Construction
  - Monitoring. Both the Project Archaeologist and Kumeyaay Native American monitor are to be onsite during earth disturbing activities. The frequency and location of monitoring of native soils will be determined by the Project Archaeologist in consultation with the Kumeyaay Native American monitor. Both the Project Archaeologist and Kumeyaay Native American monitor will evaluate fill soils to ensure that they are negative for cultural resources
  - If cultural resources are identified:
    - Both the Project Archaeologist and Kumeyaay Native American monitor have the authority to divert or temporarily halt ground disturbance operations in the area of the discovery.
    - The Project Archaeologist shall contact the County Archaeologist.
    - The Project Archaeologist in consultation with the County Archaeologist and Kumeyaay Native American shall determine the significance of discovered resources.
    - Construction activities will be allowed to resume after the County Archaeologist has concurred with the significance evaluation.
    - Isolates and non-significant deposits shall be minimally documented in the field. Should the isolates and non-significant deposits not be collected by the Project Archaeologist, the Kumeyaay Native

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American monitor may collect the cultural material for transfer to a Tribal curation facility or repatriation program.

- If cultural resources are determined to be significant, a Research Design and Data Recovery Program shall be prepared by the Project Archaeologist in consultation with the Kumeyaay Native American monitor and approved by the County Archaeologist. The program shall include reasonable efforts to preserve (avoid) unique cultural resources of Sacred Sites; the capping of identified Sacred Sites or unique cultural resources and placement of development over the cap if avoidance is infeasible; and data recovery for non-unique cultural resources. The preferred option is preservation (avoidance).
- Human Remains.
  - The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
  - 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 Descendant (MLD), as identified by the Native American Heritage Commission (NAHC), 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 MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
  - Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
  - If needed any repatriation will be performed in landscaped areas within the public park or within the parkways along the public streets, within an area and depth that will not be disturbed by future ground disturbance.
- Rough Grading
  - Upon completion of Rough Grading, a monitoring report shall be prepared identifying whether resources were encountered. A copy of the monitoring report shall be provided to the South Coastal Information Center and any culturally-affiliated tribe who requests a copy.
- Final Grading
  - A final report shall be prepared substantiating that earth-disturbing activities are completed and whether cultural resources were

encountered. A copy of the final report shall be submitted to the South Coastal Information Center and any culturally-affiliated tribe who requests a copy.

- Disposition of Cultural Material.
  - The final report shall include evidence that all prehistoric materials have been curated at a San Diego curation facility or Tribal curation facility that meets federal standards per 36 CFR Part 79, or alternatively have been repatriated to a culturally affiliated tribe.
  - The final report shall include evidence that all historic materials have been curated at a San Diego curation facility that meets federal standards per 36 CFR Part 79.
  - If requested by the Native American monitor, repatriation of any prehistoric materials ~~, collected by the Native American monitor during construction monitoring~~ will be repatriated to landscaped areas within the public park or within the parkways along the public streets, within an area and depth that will not be disturbed by future ground disturbance after artifact analysis is completed.

### 2.3.6 Conclusion

The proposed Project's impacts to cultural resources have been analyzed within the 1994 EIR, the 2000 SEIR, and the 2012 Addendum. Within these documents, Project impacts have been mitigated to below a level of significance.

A Project-specific analysis was prepared to determine impacts of the proposed Otay 250 – Sunroad East Otay Mesa Business Park Specific Plan Amendment Project. Two sites (SDI-9975 and SDI-12730) were determined significant under CEQA (**Impacts CR-1 and CR-2**). The Project design places both of those sites in dedicated open space; therefore, no adverse change in the site's significance will occur as a result of Project implementation. Three sites (SDI-12337, P-37-031491 and Historic Structures) were determined not significant. The Historic Structures were not relocated, P-37-031491 will be directly impacted, and only a portion of CA-SDI-12337 will be impacted with the balance of the site located within open space.

There is the potential for inadvertent disturbance during Project grading and construction (**Impact CR-1**). Mitigation for these indirect impacts will be implemented through the requirement of temporary fencing and archaeological monitoring. Site documentation prepared during the survey and monitoring phases will be archived at a local repository. Cultural materials will either be curated at a local repository or repatriated to a culturally-affiliated tribe. With the inclusion of these mitigation measures, Project impacts will be reduced to less than significant.

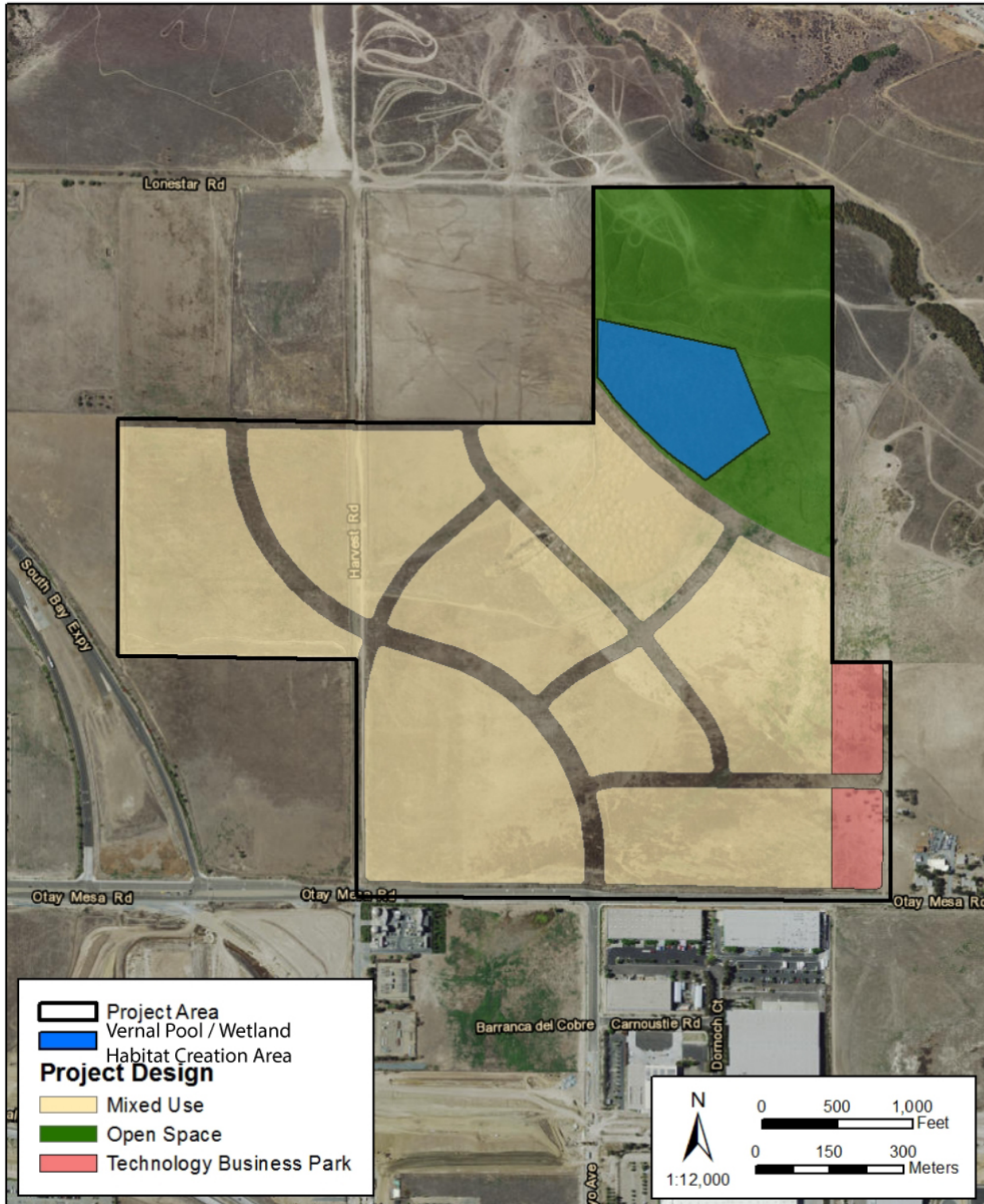


FIGURE 2.3-1. VERNAL POOL/WETLAND CREATION AREA

