

Appendix B

**Initial Study Milpitas Metro Specific Plan**

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# **INITIAL STUDY MILPITAS METRO SPECIFIC PLAN**

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# Acronyms and Abbreviations

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AB	Assembly Bill
BMP	best management practice
Cal OSHA	California Division of Occupational Safety and Health
CCA	Community Choice Aggregation
CCE	Community Choice Energy
CDFW	California Department of Fish and Wildlife
CEQA	California Environmental Quality Act
City	City of Milpitas
DTSC	California Department of Toxic Substances Control
EIR	environmental impact report
GHG	greenhouse gas emissions
HCP	habitat conservation plan
I-	Interstate
IS	Initial Study
LOP	Local Oversight Program
LOS	level of service
Metro Plan or Project	Milpitas Metro Specific Plan
MLD	Most Likely Descendant
NAHC	Native American Heritage Commission
National Register	National Register of Historic Places
NCCP	natural community conservation plan
NPDES	National Pollutant Discharge Elimination System
NWIC	Northwest Information Center
PCBs	polychlorinated biphenyls
PG&E	Pacific Gas & Electric
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SCCDEH	Santa Clara County Department of Environmental Health
SVCE	Silicon Valley Clean Energy
SCVURPP	Santa Clara Valley Urban Runoff Prevention Program
SCVWD	Santa Clara Valley Water District
SEIR	subsequent EIR
SRA	State Responsibility Area
SWRCB	State Water Resources Control Board
TASP	Transit Area Specific Plan
VMT	vehicles miles traveled



# Chapter 1 Introduction

This Initial Study (IS) has been prepared by the City of Milpitas, the lead agency under the California Environmental Quality Act (CEQA), to examine the potential environmental impacts of the Milpitas Metro Specific Plan (Metro Plan or Project), which is an update to the 2008 Transit Area Specific Plan (TASP). Compared to the TASP, the Metro Plan is expected to result in four basic changes (referred to as “Project Changes”). First, the Metro Plan would expand the geographic area of the plan area (Metro Plan Area) to include two additional areas that were not previously included in the plan area under the TASP (see Figure 1). Second, the Metro Plan would include changes to land use classifications and policies compared to the TASP. Third, compared to the TASP, the Metro Plan would yield an additional 7,000 dwelling units; 700 hotel rooms; 300,000 square feet of retail uses; 2.5 million square feet of office uses; and 500,000 square feet of industrial uses (as summarized in Table 1-1). Fourth, the Metro Plan would extend the planning horizon year by 10 years (from 2030 to 2040), compared to the TASP.

**Table 1 Comparison of Existing Growth Under the TASP and Additional Growth Under the Metro Plan**

<b>Land Use</b>	<b>2008 Existing Development</b>	<b>TASP Planned New Development</b>	<b>Total TASP Planned Development</b>	<b>Entitled by 2019<sup>1</sup></b>	<b>Additional Projected Development for Metro Plan by 2040</b>	<b>Total Planned Development (TASP plus Metro Plan)</b>
Dwelling Units	468	7,109	7,577	6,955	7,000	14,577
Office (sf)	52,780	993,843	1,050,000	10,630	3,000,000 <sup>2</sup>	4,050,000
Retail (sf)	1,970,000	287,075	2,240,000	186,500	300,000	2,540,000
Hotel (rooms)	292	350	642	0 <sup>3</sup>	700	1,342

<sup>1</sup> Entitled, under construction, or constructed/occupied.

<sup>2</sup> Includes 500,000 sf of industrial uses

<sup>3</sup> Currently there are concept plans for a high-rise hotel.

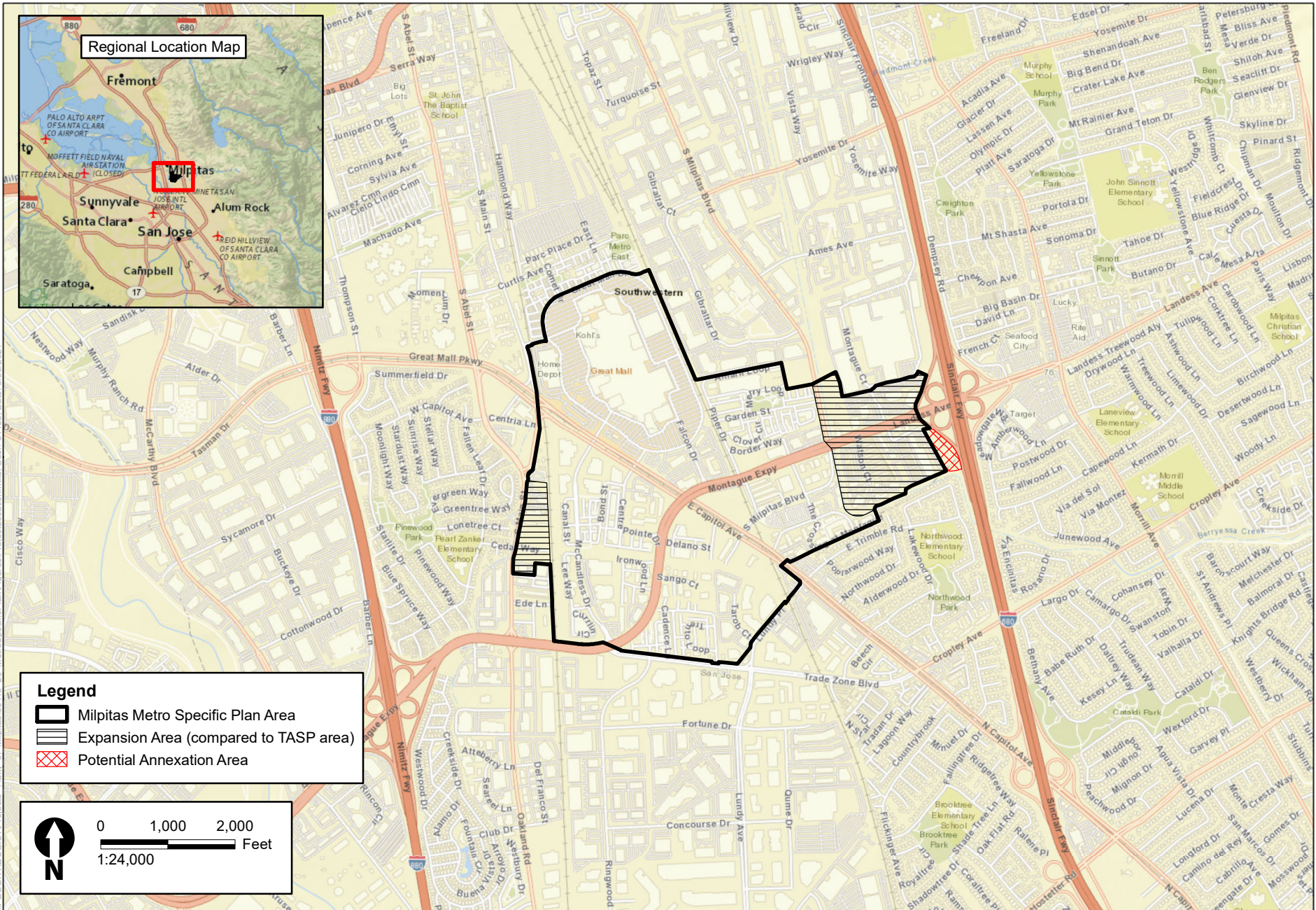
Note: The Metro Plan would also allow for a police station to be developed in the Innovation Subdistrict, with a potential location shown on Figure 2-4. The potential police station use is discussed in this Draft SEIR where relevant to the impact analysis.

sf = square feet

## CEQA Background

The City of Milpitas (City) adopted the TASP and certified the TASP Program Environmental Impact Report (Certified EIR) in 2008. Section 15162 of the State CEQA Guidelines provides that when an environmental impact report (EIR) has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified, shows any of the following:
  - (A) The project will have one or more significant effects not discussed in the previous EIR;
  - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.



**Figure 1**  
**Project Location Map**

When the lead agency determines that one or more of the above criteria has been met, a subsequent EIR (SEIR) can be prepared. The purpose of a SEIR is to inform decision makers and the general public of the environmental effects associated with major changes to a previously certified EIR. The SEIR process is intended to provide environmental information sufficient to evaluate major changes and to identify the potential for new significant environmental effects or a substantial increase in the severity of previously identified significant effects. A SEIR analysis focusses on the potential impacts of the changes to the project and does not reevaluate the project as a whole. A SEIR is subject to the same public notice and review requirements as any EIR. That includes submittal to the State Clearinghouse for state agency review.

The lead agency has determined that the Project Changes could result in new or substantially more severe effects that were not analyzed in the Certified EIR, and that substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, a SEIR has been prepared. This IS evaluates the potential impacts of the Project Changes and identifies the topics that are analyzed further in the SEIR.

## Impacts Identified by the Certified EIR

The TASP is a long-range planning document that envisioned the transformation of a light industrial area near the Milpitas Transit Center, totaling 437-acre, into a mixed-use, transit oriented, attractive and livable neighborhood with housing, offices, and shopping. The Certified EIR examined the potential impacts of future development from implementation of the TASP compared to then-existing conditions, including the potential impacts from additional residential units; additional office space, retail space, and hotels; and new jobs. Table ES-3 in the Certified EIR's Executive Summary contains a concise summary of all of the impacts of the TASP, including those found to be less than significant. The Certified EIR identified significant and unavoidable impacts from development under the TASP on the following resources.

- *Air Quality.* The Certified EIR found that new development under the TASP could increase population and vehicle miles traveled in the area at a rate greater than that assumed in regional air quality planning and therefore conflict with the implementation of the Bay Area Ozone Strategy.
- *Air Quality.* The Certified EIR found that implementation of the TASP would further contribute to the exceedance of regional air pollutant emissions for state and federal ambient air quality standards.

In addition to the significant and unavoidable impacts identified above, the Certified EIR identified significant and unavoidable impacts related to traffic level-of-service (LOS). Since the preparation of the Certified EIR, the Governor's Office of Planning and Research (OPR) implemented changes to the CEQA Guidelines pursuant to Senate Bill (SB) 743, including the addition of Guidelines Section 15064.3, which establishes that a project's effect on automobile delay shall not constitute a significant environmental impact, and that a project's transportation impacts shall instead be measured by the amount and distance of automobile travel attributable to the project, or vehicles miles traveled (VMT). As such, the Certified EIR's conclusions about LOS impacts are not addressed further in this document.

All other impacts in the Certified EIR were found to be less than significant and no mitigation measures were required. Although no mitigation measures were required, the Certified EIR did identify policies from the TASP, Midtown Specific Plan, and 1994 General Plan that would minimize impacts. Because the policies from the 1994 General Plan have been updated and the TASP policies will be updated in the Metro Plan, this IS considers whether these changes would be substantial and would result in a substantial increase in the severity of previously identified significant effects.

## Environmental Setting and Baseline

Project development characteristics are typically compared to the existing physical environment to isolate impacts caused by the project on its surroundings. In other words, the existing condition (also referred to as the environmental setting) is normally the baseline against which the project's impacts are measured to determine whether impacts are significant. However, because the focus of this IS is on changes relative to a certified EIR, the baseline used for this IS is the conditions associated with buildout of the Project in the Certified EIR. In other words, the environmental baseline for this IS is the full buildout of the TASP as identified in the Certified EIR.

## Project Setting

The Project setting for the Metro Plan is included in Chapter 3, *Setting, Impacts, & Mitigation Measures*, of the SEIR for the Metro Plan, to which this IS is appended.

## Project Description

The Project description for the Metro Plan is included in Chapter 2, *Project Description*, of the SEIR for the Metro Plan, to which this IS is appended.



## Environmental Topics Further Evaluated in the SEIR

As detailed in the checklist analysis on the following pages, the Project Changes could result in new or substantially more severe effects that were not analyzed in the Certified EIR, or substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR, with respect to the topics that are checked below (i.e., the Project Changes could result in at least one impact that is a “Potentially Significant Impact”). Accordingly, these topics are further evaluated in the SEIR.

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Aesthetics                           | <input type="checkbox"/> Agricultural and Forestry Resources | <input checked="" type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources                 | <input type="checkbox"/> Cultural Resources                  | <input type="checkbox"/> Energy  |
| <input type="checkbox"/> Geology/Soils                        | <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards and Hazardous Materials               |
| <input type="checkbox"/> Hydrology/Water Quality              | <input checked="" type="checkbox"/> Land Use/Planning        | <input type="checkbox"/> Mineral Resources                             |
| <input checked="" type="checkbox"/> Noise                     | <input checked="" type="checkbox"/> Population/Housing       | <input checked="" type="checkbox"/> Public Services                    |
| <input checked="" type="checkbox"/> Recreation                | <input checked="" type="checkbox"/> Transportation           | <input type="checkbox"/> Tribal Cultural Resources                     |
| <input checked="" type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Wildfire                            | <input checked="" type="checkbox"/> Mandatory Findings of Significance |

# I. Aesthetics

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Except as provided in Public Resources Code Section 21099, would the project:			
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings along a scenic highway?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Setting

### Environmental Setting

The environmental setting for the TASP Area is described on pages 3.2-1 and 3.2-2 of the Certified EIR. This discussion includes an overview of visual resources within the TASP Area; an overview of the visual features within the TASP Area, including street trees (mature trees along McCandless Drive and younger trees along Centre Point Drive and Great Mall Parkway); and an overview of view corridors (scenic foothills). The environmental setting of the TASP concluded that visual resources are well outside of the TASP Area. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review. Since the Certified EIR was prepared, many of the envisioned changes from the TASP have been implemented, including the opening of the Milpitas Bay Area Rapid Transit Station, the development of new residences, office space, retail spaces, a school, and parks. Nonetheless, the setting with regard to aesthetics within the TASP Area has not changed substantially since the Certified EIR was prepared. No new scenic resources or views have been introduced to the Metro Plan Area and the urban character of the Metro Plan Area is generally the same as what was identified in the Certified EIR.

The two expanded areas in the Metro Plan would have a similar environmental setting for aesthetics as described in the Certified EIR. The western expanded area along South Main Street includes businesses, predominantly automobile businesses, with driveways and parking lots, and very little landscaping, except for some street trees along Main Street. The eastern expanded area near



Interstate (I-) 680 includes businesses, predominantly storage units, with driveways, parking lots, and very few landscaped areas. Overall, consistent with the description in the Certified EIR, there are no visual resources within these expanded areas, and there are views of scenic foothills from locations throughout the Metro Plan Area, including from these two expanded areas.

## Regulatory Setting

The regulatory setting for aesthetics is described on page 3.2-3 of the Certified EIR. These regulations include goals from the Midtown Milpitas Specific Plan and the Tree Maintenance and Protection Ordinance of the City of Milpitas.<sup>1</sup> In addition, pertinent policies from the Midtown Specific Plan are described on page 3.2-5. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

On March 9, 2021, the City adopted an update to the 1994 General Plan, which is referred to as the 2040 General Plan. The Certified EIR identified that the Open Space and Conservation Element of the 1994 General Plan provides guiding principles and policies for their preservation and enhancement. Because the 2040 General Plan supersedes and replaces the 1994 General Plan, the policies from the 2040 General Plan would apply to the Metro Plan. Policies that would apply to the Metro Plan from the 2040 General Plan include the following:

- Policy CD 1-10. Minimize the visual impacts of public and private communication, service, and utility facilities by requiring the provider to incorporate sensitive site design techniques, including, but not limited to the placement of facilities in less conspicuous locations, the undergrounding of facilities wherever possible, and the screening of facilities.
- Policy UCS 6-3. Require that all new power and gas lines and transformers are installed underground where feasible and promote the undergrounding of existing overhead facilities.
- Policy UCS 7-7. Require that all new telecommunication lines are installed underground where feasible and promote the undergrounding of existing overhead facilities.

## Certified EIR Findings

The Certified EIR found that:

- The TASP could result in 24-story buildings along Great Mall Parkway and Montague Expressway, and 12-story buildings in the Piper/Montague subdistrict. These buildings could block views but that with implementation of the TASP policies identified in Table 2-2 (see Chapter 2, *Project Description* of the SEIR to which this IS is appended), ample views of the hills should be available and view corridors should remain. Compliance with standards and policies from the TASP (i.e., new parks, new trails, landscaped buffers, amenities, and other development standards) would ensure that less-than-significant impacts occur on the City's scenic views of the foothills, and visual character.
- Light and glare would be caused by new buildings, street lighting, and nighttime lighting. These light and glare impacts would be less than significant with implementation of the TASP Development Standards identified in Table 2-2 (see Chapter 2, *Project Description* of the SEIR to which this IS is appended).

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<sup>1</sup> The Certified EIR identified the "Tree Maintenance and Protection Ordinance of the City of Milpitas" as the "City's Tree and Planting Ordinance."

- No scenic resources are within the TASP Area except for the street trees on McCandless Drive. Although the majority of mature trees would remain in place with the TASP, some would likely be removed. The removal of mature trees would be compensated by the street trees and parks added through the TASP Area. In addition, the TASP includes policies calling for the retention of trees along McCandless Drive, Great Mall Parkway, and Centre Point Drive. Furthermore, mature trees are protected by the Tree Maintenance and Protection Ordinance of the City of Milpitas.

## Discussion

### Changes in Land Use Classifications and Policies

Table 2-2 in Chapter 2, *Project Description*, of the SEIR to which this IS is appended, provides a summary of the policies in the TASP related to aesthetics, as well as the policies in the Metro Plan related to aesthetics. In summary, Table 2-2 identifies the following updates that have been made in the Metro Plan:

- The Metro Plan does not include a policy related to placing utilities underground (TASP Development Standard). However, this requirement would still be fulfilled under the Metro Plan because developers would be required to comply with 2040 General Plan Policies CD 1-10, UCS 6-3, and UCS 7-7, which have similar requirements to place utilities underground.
- The Metro Plan includes policies related to constructing a network of trails, implementing landscaped setbacks, orienting façades, and planting trees and, although some of the text has been updated compared to TASP policies, there would be no substantial change in the requirements as identified in the TASP (TASP policies 6.41, 4.4, 4.6, 4.7, 4.13, 4.36, 4.37, 4.46, 4.51, 4.53)
- The Metro Plan does not include a policy related to the preservation of certain trees (TASP policies 4.59 and 4.67) because those trees on McCandless Drive and Great Mall Parkway have been removed. These TASP policies would not apply. However, future development would still be required to adhere to the Tree Maintenance and Protection Ordinance of the City of Milpitas.
- The Metro Plan does not include development standards related to lighting (the TASP included development standards, summarized in Table 2-2 in Chapter 2, *Project Description*, of the SEIR). However, future development in the Metro Plan Area would be required to adhere to Citywide Objective Development Standards that would have similar requirements regulating lightings, as the TASP (see Table 2-2).

Therefore, although there have been changes and deletions to the policies in the TASP, similar measures would still be required by the existing 2040 General Plan, the Metro Plan, and through compliance with existing regulations. As summarized in Table 2-2 of the SEIR to which this IS is appended, the changes made to the TASP policies by the Metro Plan would not substantially change the overall requirements to minimize impacts on aesthetics. Therefore, these changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

## Public Resources Code Section 21099

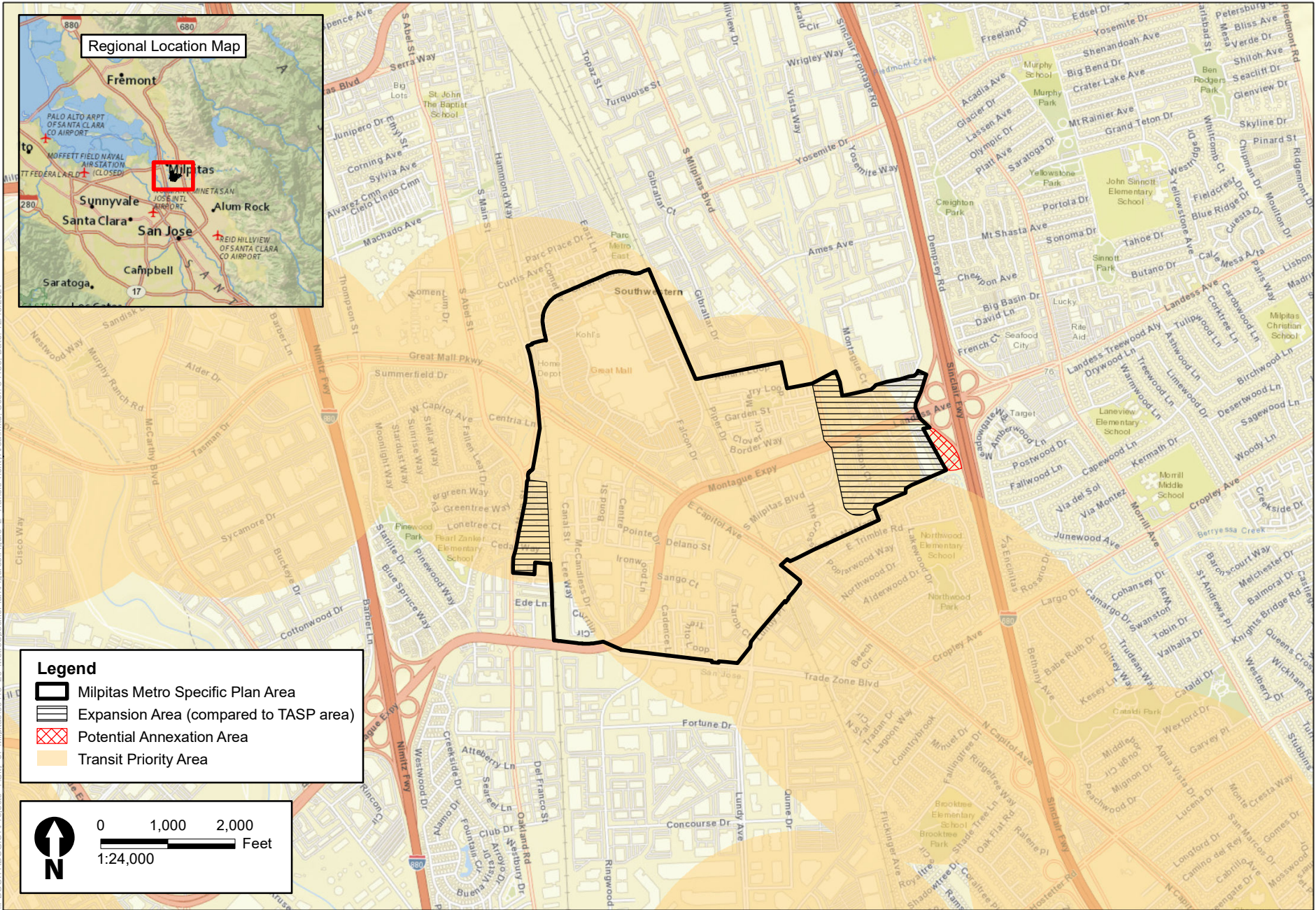
According to California Public Resources Code Section 21099, which was amended in 2013 pursuant to SB 743, visual resource impacts of residential, mixed-use residential, or employment center<sup>2</sup> projects on an infill site<sup>3</sup> within a Transit Priority Area<sup>4</sup> shall not be considered significant impacts on the environment. Most of the future development that would be constructed as a part of the Project Changes would meet the requirements in Public Resources Code Section 21099. First, except for the police station, and open space (discussed further below), the land uses identified in the Project Changes of the Metro Plan would be considered residential, mixed-use residential, or employment centers. Second, except for a few areas, the Metro Plan Area would be in a Transit Priority Area. Overall, development associated with the Metro Plan would be in proximity to transit, including light rail, buses, and Bay Area Rapid Transit. Figure 2 identifies the areas within the Metro Plan Area that are within a Transit Priority Area. Third, because the Metro Plan Area is a highly urbanized area that is predominantly built out, it is expected that most of the development would occur in infill sites. In summary, most of the future development that would be constructed as a result of the Project Changes would not result in significant aesthetic impacts pursuant to Public Resources Code Section 21099.

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<sup>2</sup> An “employment center project” is a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a TPA. (Public Resources Code Section (a)(1)).

<sup>3</sup> An “infill site” is a lot located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses. (Public Resources Code Section 20199(a)(4)).

<sup>4</sup> A Transit Priority Area is an area within 0.5 mile of a major transit stop that is existing or planned. (Public Resources Code Section (a)(7)).



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**Figure 2**  
**Transit Priority Area Map**

In addition, the Metro Plan includes updated land use designations that would allow for greater building heights than what was identified in the TASP, including the following:

- *Residential Retail High Density Mixed Use (RRMU)*. The Metro Plan identifies a maximum height of 85 feet for this land use, which is 10 feet higher than the height allowed by right under the TASP. The Metro Plan requires additional height step-downs if the development is near existing residentially zoned parcels.
- *Boulevard Very High Density Mixed Use (BVMU)*. The Metro Plan identifies a maximum height of 275 feet for this land use. The TASP identified a maximum height of 150 feet, with an additional 20 stories allowed with a conditional use permit. In summary, the Metro Plan increases the maximum height for this land use by 105 feet.
- *Multi-Family Very High Density Residential (VHD)*. The Metro Plan allows a maximum height of 85 feet for this land use, which is 10 feet higher than the maximum height of 75 feet allowed by right under the TASP.
- *Urban Residential (URR)*. This is a new land use designation under the Metro Plan that allows a maximum height of 75 feet.
- *Business Park Research & Development, Residential (BPRD-R)*. This is a new land use designation under the Metro Plan that allows a maximum height of 275 feet.

Although these land use designations would allow for taller buildings than what was identified in the TASP, as discussed above, most future buildings would not result in significant aesthetic impacts pursuant to California Public Resources Code Section 21099. These buildings, although taller than what was identified in the TASP, would have no impact on aesthetics.

## Exceptions to Public Resources Code Section 21099

There are some exceptions where Public Resources Code Section 21099 would not apply to the improvements and development proposed in the Project Changes. As such, this discussion focuses on the potential aesthetics impacts from the following features of the Metro Plan:

- Development of a police station
- Development of open space
- Development of infrastructure associated with the Metro Plan
- Development of the eastern portion of the eastern expanded (Innovation Subdistrict), which is next to I-680, is designated for Business Park Research & Development, Lower Density; and is just outside of a Transit Priority Area
- Development of the southwestern corner of the Metro Plan Area, which is designated for Permanent Open Space and Multi-Family Residential High Density and is just outside of a Transit Priority Area. It should be noted that the area designated for Multi-Family Residential High Density is not likely to be redeveloped because townhomes were recently constructed in that area consistent with the TASP.
- Development of a hotel if the hotel is located outside of a TPA. If the hotel is located within a TPA, the development of the hotel would not result in significant aesthetic impacts pursuant to Public Resources Code Section 21099.

Overall, the Metro Plan, like the TASP, is expected to improve the aesthetics of the area by adding open space with landscaping in an area with few green spaces. The Metro Plan would add open space compared to what was included in the TASP. The addition of open space due to the Metro Plan would improve the aesthetics of the area. There are no scenic vistas or scenic resources located within the Metro Plan Area. As such, the Metro Plan would have no impact on scenic vistas or scenic resources.

The infrastructure associated with the Metro Plan would primarily be underground, which would have no impact on aesthetics. The Metro Plan would, however, include at-grade features such as new roads and at-grade bridges. Because these at-grade features would not block any views, these at-grade features are not expected to have an impact on aesthetics. Overall, underground infrastructure and at-grade infrastructure would have no impact on aesthetics. The development associated with the hotel and police station and a portion of the development within the Innovation Subdistrict would add buildings within the Metro Plan Area. Furthermore, the Metro Plan would include an additional overhead pedestrian bridge. Like similar projects identified in the TASP, this development could result in limited blocking views of the scenic hills east of the Metro Plan Area. Nonetheless, the policies in the Metro Plan include requirements for setbacks that would allow views of hills, as well as development standards that would minimize visual impacts from development. Overall, with implementation of policies in the Metro Plan, impacts on scenic views of hills would be less than significant. Furthermore, the Metro Plan would adhere to the policies in the Metro Plan and 2040 General Plan that govern scenic quality. As such, the Metro Plan would have a less than significant impact related to conflicting with applicable zoning and regulations governing scenic quality.

Furthermore, like with the TASP, light and glare impacts caused by new buildings, street lighting, and nighttime lighting due to the Metro Plan would be less than significant with implementation of Citywide Objective Design Standards.

## Conclusion

The Certified EIR determined that the TASP would have a less-than-significant impact with regard to aesthetics. Based on the analysis above, with incorporation of the Project Changes, the Metro Plan would have a less-than-significant impact with regard to aesthetics. Therefore, the Project Changes would not result in a change to the Certified EIR's impact determination for impacts on aesthetics. Specifically, the Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. **Therefore, this topic is not discussed further in the SEIR.**

## II. Agricultural and Forestry Resources

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
<p>In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts on forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project, and forest carbon measurement methodology provided in the Forest Protocols adopted by the California Air Resources Board. Would the project:</p>			
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with existing zoning for, or cause rezoning of forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Setting

The Metro Plan Area is in a developed urban area without agricultural or forestry features. The California Department of Conservation 2016 map of important farmland identifies the Metro Plan

Area as Urban and Built-up Land.<sup>5</sup> In addition, there are no areas that are zoned for agricultural or forestry resources in the Metro Plan Area.

## Certified EIR Findings

The Certified EIR did not include an impact analysis or significance determination related to agricultural resources.

## Conclusion

Because there are no agricultural or forestry resources in the Metro Plan Area or areas zoned for agricultural or forestry resources, the Metro Plan would result in no impact on agricultural or forestry resources. The Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. **Therefore, this topic is not discussed further in the SEIR.**

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<sup>5</sup> California Department of Conservation. 2021. Santa Clara County Important Farmland 2018. Available: <https://filerequest.conservation.ca.gov/RequestFile/2834917>. Accessed: August 27, 2021.



### III. Air Quality

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:			
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Expose sensitive receptors to substantial pollutant concentrations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Result in other emissions (such as those leading to odors adversely affecting a substantial number of people)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on air quality that were not analyzed in the Certified EIR. As such, **air quality impacts due to the Project Changes are further evaluated in the SEIR.**

## IV. Biological Resources

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	Less than Significant Impact	No Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Setting

### Environmental Setting

The environmental setting for the TASP Area is described on pages 3.8-1 and 3.8-2 of the Certified EIR. This discussion includes an overview of the climate, vegetation communities, wildlife habitats, and occurrences and potential for special-status species within the TASP Area. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review. The setting with regard to biological resources within the TASP Area has not changed substantially since the Certified EIR was prepared.

The two expanded areas in the Metro Plan have similar habitat and a similar potential for special-status species as the TASP Area. Within these expanded areas, there are high levels of disturbance and no natural vegetation communities. The western expanded area along South Main Street is predominantly composed of developed habitat with ruderal habitat. A drainage channel directing water to Penitencia Creek is east of this expanded area and was discussed in the Certified EIR. The eastern expanded area near I-680 is predominantly composed of developed habitat. The developed habitat in the northeast corner of this expanded area, adjacent to the I-680 southbound off-ramp to Montague Expressway, is composed of trees and bushes including native species (e.g., coast-live and valley oaks, Fremont cottonwoods) and nonnative species (e.g., pepper trees, olive trees, glossy privets, Jacaranda trees, iceplant, sugar bush) that have been planted for ornamental value. Additionally, a drainage channel that diverts Berryessa Creek is along the entire western boundary and in the southwest corner of the expanded area.

On October 6, 2021, a desktop review and reconnaissance survey were conducted by an ICF biologist to determine whether areas of potential biological sensitivity are present in the two expanded areas. It was determined that the expanded areas contain trees and vegetation that could provide habitat for nesting raptors and other birds. Additionally, the western expanded area along South Main Street has ruderal habitat (i.e., vegetation in disturbed areas). Both areas with ruderal habitat are small and are surrounded by development. Buildings and trees in proximity to the ruderal areas provide predator perches, which reduce the potential for burrowing owl. Regardless, if small mammal burrows (e.g., California ground squirrel) or other refugia (e.g., small pipes or culverts) exist on the property, burrowing owls could be present.

In addition, as a result of expansions to the Metro Plan Area and the time elapsed since the preparation of the Certified EIR, ICF performed a record search in January 2022 using the California Natural Diversity Database (CNDDDB), to identify whether any new special-status species have been identified near the Metro Plan Area, since the Certified EIR was prepared. CNDDDB compiles recorded occurrences of special-status species within a given radius, which in this case was set to 1.5 miles from the center of the Metro Plan Area. Occurrences recorded within the Metro Plan Area were compared to previous recordings listed in the Certified EIR to measure the potential for special status species to occur in the Metro Plan Area.

According to the 2022 CNDDDB search, the following 3 special-status plant species and 11 special-status wildlife species were previously recorded in the Metro Plan Area:

- Plant Species
  - alkali milk-vetch

- robust spineflower
- Congdon's tarplant
- Wildlife Species
  - burrowing owl
  - California tiger salamander - central California distinct population segment (DPS)
  - great blue heron
  - western yellow-billed cuckoo
  - obscure bumble bee
  - Crotch bumble bee
  - western bumble bee
  - yellow rail
  - western ridged mussel
  - Northern California legless lizard
  - tricolored blackbird

Of the 14 total special-status species, six species were previously discussed in the Certified EIR. All three special-status plant species (alkali milk-vetch, robust spineflower, and Congdon's tarplant) were results of the previous CNDDDB search performed for the Certified EIR. Two wildlife species (burrowing owl and California tiger salamander) were also identified in the previous CNDDDB search in the Certified EIR. The great blue heron species was not identified in the CNDDDB search in the Certified EIR but was observed during the Certified EIR's reconnaissance survey.

## Regulatory Setting

The regulatory setting for biological resources is described on page 3.8-3 of the Certified EIR. These regulations include regulations protecting special-status species, including the federal Migratory Bird Treaty Act, California Fish and Game Code, and State CEQA Guidelines Section 15380; regulations protecting waters and wetlands, including regulations from the U.S. Army Corps of Engineers, regulations from the U.S. Environmental Protection Agency, and state policies and regulations on streams and wetlands; and regulations protecting trees, per the Tree Maintenance and Protection Ordinance of the City of Milpitas. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The Certified EIR identified 1994 General Plan policies relating to the protection of burrowing owl, non-listed nesting birds and raptors, and wetlands and other waters including:

- Policy 4.b-I-4: Require a biological assessment of any project site where sensitive species are present, or where habitats that support known sensitive species are present.
- Policy 4.b-I-5: Utilize sensitive species information acquired through biological assessments, project land use, planning and design.

On March 9, 2021, the City adopted an update to the General Plan, which is referred to as the 2040 General Plan. The 2040 General Plan supersedes and replaces the 1994 General Plan and the policies

from the 2040 General Plan would apply to the Metro Plan. The following actions from the 2040 General Plan that would apply to the Metro Plan are similar to the policies from the 1994 General Plan identified in the Certified EIR.

- Action CON-3b: Where sensitive biological habitats have been identified on or immediately adjacent to a project site, the project shall include appropriate mitigation measures identified by a qualified biologist, which may include, but are not limited to the following:
  - Pre-construction surveys for species listed under the State or Federal Endangered Species Acts, or species identified as special-status by the resource agencies, shall be conducted by a qualified biologist;
  - Construction barrier fencing shall be installed around sensitive resources and areas identified for avoidance or protection, and to reduce potential soil compaction in sensitive areas; and
  - Pre-Construction training of contractors and sub-contractors shall be conducted by a qualified biologist to identify and avoid protected species and habitat.
- Action CON-3c: Cooperate with State, federal and local agencies to ensure that development does not cause significant adverse impacts to existing riparian corridors; this includes continued compliance with the “Guidelines and Standards for Land Use Near Streams” from the Santa Clara Valley Water District and Title XI, Chapter 15 (Floodplain Management Regulations) of the Milpitas Municipal Code.

## Certified EIR Findings

The Certified EIR found that:

- Development of ruderal or barren vacant lots within the TASP Area or disturbance to adjacent suitable habitat could result in the direct loss of burrowing owls (designated a California Species of Special Concern) or active nests that are protected under California Fish and Game Code Section 3503.5. Loss of burrowing owl individuals or nests would result in a significant impact on biological resources. These impacts on burrowing owls would be less than significant with compliance with CDFW survey protocols and the implementation of the 1994 General Plan Policies 4.b-I-4 and 4.b-I-5, and TASP Policy 5.26.
- Non-listed special-status raptor and other bird species protected by California Fish and Game Code Sections 3503 and 3503.5 may nest on and near the TASP Area. It was found that construction activities associated with buildout of the TASP could cause direct mortality of nesting birds and their young or cause nest abandonment resulting in indirect loss of avian species. Impacts on non-listed special-status raptor and other bird species would result in a significant impact on biological resources. These impacts on birds would be less than significant with implementation of the 1994 General Plan Policies 4.b-I-4 and 4.b-I-5 and TASP Policies 5.27 and 5.28.
- Significant trees, including heritage trees, protected by the Tree Maintenance and Protection Ordinance of the City of Milpitas occur in the TASP Area. Loss of significant trees could result in significant impacts on biological resources. These impacts on significant trees would be less than significant with compliance with the Tree Maintenance and Protection Ordinance of the City of Milpitas and with implementation of TASP Policy 5.28.
- Wetland, creeks, and drainages, including Penitencia Creek, Berryessa Creek, and their tributaries protected under Section 404 of the Clean Water Act, occur in the TASP Area.

Temporary or permanent loss due to filling of wetlands or other waters and indirect impacts as a result of water quality degradation, lighting, introduction and spread of invasive exotic species, and increased activity of humans and pets could result in significant impacts. These impacts on wetlands and other waters would be less than significant by following design measures including requiring that setbacks from creeks are to be a minimum of 25 feet from top of bank; by coordinating with the U.S. Army Corps of Engineers, CDFW, the Regional Water Quality Control Board (RWQCB), and SCVWD (depending on the jurisdiction potentially affected) prior to new development in areas with potential federally or state-protected wetlands or waters; and with implementation of the 1994 General Plan Policies 4.b-I-4 and 4.b-I-5, and TASP Policy 5.32.

- Patches of riparian habitat associated with creeks, particularly along stretches of Penitencia and Berryessa Creeks, occur in the TASP Area. Construction of new development from the TASP could result in loss or degradation of this riparian habitat. These impacts on riparian habitat would be less than significant by coordinating with CDFW and SCVWD prior to new development in areas with potential riparian habitat as required by law, and with implementation of the 1994 General Plan Policies 4.b-I-4 and 4.b-I-5, and TASP Policy 5.30.

## Discussion

### Changes in Land Use Classifications and Policies

Table 2-2 in Chapter 2, *Project Description*, of the SEIR to which this IS is appended, provides a summary of the policies in the TASP related to biological resources. In summary, Table 2-2 identifies the following updates that have been made in the Metro Plan:

- The Metro Plan does not include a policy for protecting burrowing owl, unlike the TASP (Policy 5.26). However, Action CON-3b from the 2040 General Plan requires mitigation when sensitive biological habitat has been identified on or immediately adjacent to a project site, providing protection for special-status species including burrowing owl. If pre-construction surveys are required for burrowing owl, per Action CON-3b, California Department of Fish and Wildlife (CDFW) protocols would be followed, as required.
- The Metro Plan includes a revised but comparable policy (Policy SC 9.1) as the TASP (Policy 5.27) to protect nesting birds and raptors.
- The Metro Plan does not include a comparable policy as the TASP (Policy 5.28) to protect trees along McCandless Drive and in the vicinity because those trees have been removed since preparation of the Certified EIR and because significant trees would be protected by following the Tree Maintenance and Protection Ordinance of the City of Milpitas.
- The Metro Plan does not include a policy for protecting creeks and riparian habitat from development near creeks, unlike the TASP (Policy 5.30). However, Action CON-3C from the 2040 General Plan requires cooperation with state, federal, and local agencies and compliance with the “Guidelines and Standards for Land Use Near Streams” from the Santa Clara Valley Water District (SCVWD) and Title XI, Chapter 15 (Floodplain Management Regulations) of the Milpitas Municipal Code to ensure development does not cause significant adverse impacts on existing riparian corridors.
- The Metro Plan includes the same policy (Policy SC 8.1) as the TASP (Policy 5.31) related to coordination with SCVWD.

- The Metro Plan includes the same policy (Policy SC 8.2) as the TASP (Policy 5.32) related to obtaining permits from SCVWD.
- The Metro Plan includes the same development standard SC 8.3) as the TASP (Policy 5.32) related to setbacks adjacent to creeks and drainage channels.

Therefore, although there have been changes and deletions to the policies in the TASP, similar measures would still be required by the 2040 General Plan, the Metro Plan, and through compliance with existing regulations. As summarized in Table 2-2 of the SEIR to which this IS is appended, the changes made to the TASP policies by the Metro Plan would not substantially change the overall requirements to minimize impacts on biological resources. Therefore, these changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

## **Geographic Expansion and Metro Plan Buildout: Population Growth and Employment**

Implementation of the Project Changes, including the geographic expansion of the Metro Plan Area and the additional population growth and employment from the Metro Plan buildout, would result in the construction of new development and associated infrastructure.

As described above, policies and regulations related to the protection of biological resource, that would apply to development under the Metro Plan include the following:

- 2040 General Plan Actions CON-3b and CON-3c
- Metro Plan Policies SC 8.1, SC 8.2, SC 8.3, SC 9.1
- Tree Maintenance and Protection Ordinance of the City of Milpitas

Because the environmental setting for biological resources has not changed substantially within the TASP Area (as described above), any new development or infrastructure associated with the Metro Plan located in that TASP Area would have the same impacts on biological resources as identified in the Certified EIR. There would be no new or substantially more severe impacts on biological resources from additional development or infrastructure located within that TASP Area.

The potential impacts from the geographic expansion were not considered in the Certified EIR. Because the environmental setting for the geographic expansion is the same as the TASP, the potential impacts from the geographic expansion are the same as described in the Certified EIR and would include impacts on burrowing owls, nesting raptors and other birds, riparian habitat, wetlands and other waters, and significant trees including heritage trees. As such, the potential impacts on special-status species (burrowing owls), nesting raptors and other birds, riparian habitat, wetland and other water, and significant trees due to the geographic expansion in the Metro Plan would be the same as what was identified in the Certified EIR and would not result in a change to the Certified EIR's impact determination.

Although additional special-status species were identified in the CNDDDB search, implementation of the Metro Plan is not expected to significantly impact these species because these species are unlikely to occur in the Metro Plan Area due to lack of suitable habitat. The great blue heron species was not identified in the CNDDDB search in the Certified EIR but was observed during the Certified EIR's reconnaissance survey. Ultimately, the recent occurrence of great blue heron was recorded west of I-880, far from the Metro Plan Area. Thus, the likelihood that the species is impacted by the

Metro Plan is low. Regarding the seven wildlife species not mentioned in the previous CNDDB search for the Certified EIR, the likelihood of these species occurring within the Metro Plan Area is very low. The western yellow-billed cuckoo nests in dense riparian habitat and is no longer found in the Bay Area. The various bee species would not occur in the Metro Plan Area since all the land is disturbed and developed. As for the yellow rail, western ridged mussel, northern California legless lizard, and tricolored blackbird, there is no habitat in the Metro Plan Area for these species. As such, the Metro Plan is not expected to impact these species.

In addition, the Metro Plan includes a new policy (relative to the TASP) to protect bats, including any special-status bats. New development that would be constructed as a part of the Metro Plan is expected to require the removal of some existing trees and the demolition of buildings. The Metro Plan includes Policy SC 9.3, which would require any future construction within the Metro Plan Area to implement measures to protect roosting bats during construction. The Metro Plan also includes two new policies (relative to the TASP) to protect birds after the buildout of new development associated with the Metro Plan. The Metro Plan would result in the buildout of tall buildings, including buildings that could reach 275 feet in height (in the Boulevard Very High Density Mixed Use and Business Park Research & Development, Residential land use designations). The Metro Plan includes Policy SC 9.2, which would include design requirements for buildings to minimize bird strikes. With the implementation of these policies, the Metro Plan would result in a less-than-significant impact on special-status bats and birds.

In addition, regarding impacts to wetlands and other waters, construction of the Metro Plan may occur in areas surrounding Berryessa Creek, drainage channels, and associated habitats. However, construction for the Metro Plan is not expected to impact the creek zone because the Metro Plan would include requirements for a minimum setback of 25 feet from top of bank for creeks and drainage channels (Metro Plan Policy SC 8.3) and would also be required to comply with the requirements from the Santa Clara Valley Water District (Metro Plan Policy SC 8.2). In addition, pedestrian/bicycle bridge footings over Berryessa Creek would meet Santa Clara Valley Water District requirements to avoid impacts within the creek channel. As such, the Metro Plan's impacts on wetlands and waters would be less than significant.

The Certified EIR did not include an impact analysis or significance conclusion regarding the potential to interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. The Metro Plan Area is mostly developed with no natural vegetation communities. Any common urban-adapted species that currently move through the Metro Plan Area would continue to be able to do so following construction. Although the area is mostly developed, there are protected wetlands and waters in addition to patches of riparian habitat that occur in the Metro Plan Area that are associated with creeks. Wetland and riparian vegetation provide habitat for fish and wildlife, and drainages provide resources utilized by wildlife. Such habitats can be used by fish and wildlife species for movement or nursery sites. Nonetheless, implementation of Action CON-3b in the 2040 General Plan and Policy SC 9.1 in the Metro Plan would protect burrowing owls and nesting birds that use that habitat. In addition, Action CON-3a and from the 2040 General Plan policies from the Metro Plan (Policies SC 8.1, SC 8.2, SC 8.3) require coordination with jurisdictional agencies and the implementation of development standards to minimize impacts on riparian areas and creeks. Therefore, the Metro Plan would result in a less-than-significant impact on the movement of fish and wildlife species or native wildlife nursery sites.



The Certified EIR did not include an impact analysis or significance conclusion regarding the potential to conflict with the provisions of an adopted habitat conservation plan (HCP), natural community conservation plan (NCCP), or other approved local, regional, or state HCP. Although the Certified EIR did not make a conclusion regarding this potential conflict, both the TASP Area and the Metro Plan Area are not within an adopted HCP, NCCP, or other approved local, regional, or state HCP area. Therefore, implementation of the Metro Plan would result in no new significant effect related to conflicts with an HCP, NCCP, or other conservation plan. Therefore, the Metro Plan would result in no impact related to conflicts with an HCP, NCCP, or other conservation plan.

## Conclusion

The Certified EIR determined that the TASP would have a less-than-significant impact with regard to biological resources. Based on the analysis above, with incorporation of the Project Changes, the Metro Plan would have a less-than-significant impact with regard to biological resources. Therefore, the Project Changes would not result in a change to the Certified EIR's impact determination for impacts on biological resources. Specifically, the Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## V. Cultural Resources

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Setting

### Environmental Setting

The environmental setting for the TASP Area relative to cultural resources (inclusive of built-environment<sup>6</sup> and archaeological resources) is described on pages 3.13-1 through 3.13-5 of the Certified EIR. This discussion includes a description of the TASP Area’s prehistoric and historic-era contexts; a description of previously recorded archaeological sites and built-environment resources within the vicinity of the TASP Area, including the Berryessa Creek Site (CA-SCL-593), based on a records search at the Northwest Information Center (NWIC) at Sonoma State University (which is part of the California Historical Resources Information System); the results of past historical resource inventories in Milpitas and additional investigations that evaluated built-environment resources in the TASP Area, including the Great Mall of the Bay Area at 459 Great Mall Drive; and a discussion of the National Register of Historic Places (National Register) and California Historical Landmarks programs, which confirmed that no built-environment resources within the TASP Area were formally designated under either program. The cultural resources section of the Certified EIR also addressed paleontological resources, which are discussed in Section VII, *Geology and Soils*, of this IS. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The environmental setting with regard to cultural resources within the TASP Area has changed since the Certified EIR was prepared. The Metro Plan Area is larger than the TASP Area and includes parcels west of Penitencia Creek, as well as parcels east of South Milpitas Boulevard. The Metro Plan

<sup>6</sup> “Built-environment resources” refer to buildings, structures, objects, and districts that support an understanding of human history through their historical, social, cultural, aesthetic/design, or construction value. The Certified EIR refers to this resource category as “historic resources.” For the purposes of this analysis, “built-environment historical resources” refers to the significant examples of built-environment resources that require special consideration and analysis during CEQA review.

Area thus includes potential archaeological and built-environment resources that were not within the TASP Area when the Certified EIR was prepared. Additionally, the Certified EIR reported on previously completed built-environment and archaeological investigations but did not include a comprehensive inventory of historic-aged built-environment resources in the TASP Area (i.e., built-environment resources over 50 years old, the age at which such resources typically have the potential to qualify as CEQA historical resources). Furthermore, because more than 10 years have passed since the completion of the Certified EIR, buildings previously within the TASP Area that were not yet of historic age when the Certified EIR was prepared may have reached the age that warrants evaluation as potential CEQA historical resources.

As a result of expansions to the Metro Plan Area and the time elapsed since the preparation of the Certified EIR, ICF conducted an updated NWIC records search to identify whether any cultural resources investigations have been conducted in the Metro Plan Area since the Certified EIR was prepared. Based on the results of the NWIC records search, no new built-environment or archaeological resource investigations or evaluations appear to have been conducted in the Metro Plan Area. However, one known archaeological resource, described in the Certified EIR as adjacent to the TASP Area, would be within the Metro Plan Area as a result of the expansion. ICF also reviewed the properties included in the City of Milpitas Cultural Resources Register and the Historic Sites Inventory, which are the City's local register of historical resources and historical resource inventory, respectively. Inclusion in either the register or the inventory may qualify a building, structure, object, or district as a significant CEQA historical resource.

## Built-Resources

Although the Metro Plan Area contains a substantial volume of residential and commercial buildings constructed after 2000, it also retains several older industrial buildings constructed in the 1950s, 1960s, and 1970s. Some of the earliest of these buildings are along South Main Street at the western edge of the Metro Plan Area. The expansive Great Mall of the Bay Area, which occupies the northern portion of the Metro Plan Area, was built in 1953 as an assembly plant for the Ford Motor Company. ICF conducted a desktop survey to identify those buildings in the Metro Plan Area that are currently over 50 years of age and reviewed past inventories and evaluations of those resources available from the City and the NWIC. The historic-aged buildings in the Metro Plan Area are presented in Table 2.

**Table 2. Historic-Aged Built-Environment Resources in the Metro Plan Area**

Property Address (Assessor's Parcel Number)	Property Name	Date Constructed	Past Evaluations	In TASP Area or Expansion Areas?
459 Great Mall Drive (086-24-063)	Great Mall of the Bay Area (formerly Ford Motor Company Assembly Plant)	1953	Included in local Historic Sites Inventory (1990); evaluated as not eligible for inclusion in the National Register (2006) and assigned status code 6Y (Determined ineligible for the National Register by consensus through Section 106 process)	In TASP Area

<b>Property Address (Assessor's Parcel Number)</b>	<b>Property Name</b>	<b>Date Constructed</b>	<b>Past Evaluations</b>	<b>In TASP Area or Expansion Areas?</b>
777 N. Capitol Avenue (092-06-027; 092-06-033)	N/A	1966	N/A	In TASP Area
1316 S. Main Street (083-36-003)	N/A	1962	N/A	In TASP Area
1362 S. Main Street (083-36-005)	N/A	1964	N/A	In TASP Area
1400 S. Main Street (083-36-009)	N/A	Prior to 1968	N/A	In Expansion Area
901 Montague Expressway (086-32-091)	N/A	1962	N/A	In TASP Area

Sources: City of Milpitas 2004,<sup>7</sup> 2018<sup>8</sup>; National Environmental Title Research, LLC 1968<sup>9</sup>; ParcelQuest 2021<sup>10</sup>; Supernowicz 2006.<sup>11</sup>

Based on the results of the desktop survey and review of past evaluations, the only building in the Metro Plan Area that has received evaluation in the past is the Great Mall of the Bay Area at 459 Great Mall Drive, which was originally included in the local Historic Sites Inventory when it was compiled in 1990. Although Section 15064.5(a)(2) of the State CEQA Guidelines provides that built-environment resources identified as significant in certain local surveys qualify as historical resources, the 1990 Historic Sites Inventory does not appear to meet the necessary requirements established in Public Resources Code Section 5024.1(g). Specifically, the Historic Sites Inventory does not meet the requirements that a survey be included in the State Historic Resources Inventory and be updated within the past 5 years. Furthermore, even if the Historic Sites Inventory were to meet these requirements, the former Ford Motor Company Assembly Plant was rehabilitated as a retail mall subsequent to the preparation of the Historic Sites Inventory in 1990. The EIR prepared for the rehabilitation project noted the building's change in use "would eliminate the 1950s plant setting, which is an important element in the City's 1950-to-1970 period of incorporation,

<sup>7</sup> City of Milpitas. 2004. Cultural Resources Register. Available: [https://www.ci.milpitas.ca.gov/\\_pdfs/plan\\_cultural\\_resources.pdf](https://www.ci.milpitas.ca.gov/_pdfs/plan_cultural_resources.pdf). Accessed November 18, 2021.

<sup>8</sup> City of Milpitas. 2018. City of Milpitas Historical Inventory. MilpitasGIS. Updated November 2021. Available: [https://milpitas-gis-milpitas.hub.arcgis.com/datasets/16ba365fcc3848f5837fc19114e607e3\\_0/about](https://milpitas-gis-milpitas.hub.arcgis.com/datasets/16ba365fcc3848f5837fc19114e607e3_0/about). Accessed November 18, 2021.

<sup>9</sup> National Environmental Title Research, LLC. 1968. Historic Aerials. 1400 S. Main Street, Milpitas, CA. Available: <https://www.historicaerials.com/>. Accessed November 18, 2021.

<sup>10</sup> ParcelQuest. 2021. Property reports. 777 N. Capitol Avenue, 1316 S. Main Street, 1362 S. Main Street, 901 Montague Expressway, Milpitas, CA. Available: [www.parcelquest.com/](http://www.parcelquest.com/). Accessed November 18, 2021.

<sup>11</sup> Supernowicz, Dana E. 2006. Great Mall of the Bay Area Building. P-43-001816. Historic Resource Associates. Department of Parks and Recreation forms 523A, 523B, 523J.

transformation, industrial growth, and social change.”<sup>12</sup> The building’s altered physical characteristics informed a later evaluation, prepared in 2006, that found the Great Mall of the Bay Area not eligible for listing in the National Register due to a loss of historical and architectural integrity. Given the analysis provided in the 1992 EIR and the negative finding of the 2006 evaluation, a preponderance of evidence demonstrates that the building would not qualify as a historical resource for CEQA on the basis of its evaluation for the 1990 Historic Sites Inventory.<sup>13,14,15,16</sup>

Apart from the Great Mall of the Bay Area, none of the historic-aged built-environment resources in the Metro Plan Area have previously been evaluated to determine whether they qualify as CEQA historical resources. Furthermore, during the lifespan of the Metro Plan, individual projects may be proposed for sites that contain additional buildings that reached 50 years of age subsequent to the completion of this IS and are not listed in Table 2, above.

### Archaeological Resources

The Certified EIR described two previously recorded archaeological resources adjacent to the TASP Area: CA-SCL-38 and CA-SCL-593 (the Berryessa Creek Site). As a result of the geographic expansion of the Metro Plan, CA-SCL-593 would be within the Metro Plan Area.

ICF conducted a desktop survey to identify potential archaeological resources and areas of heightened sensitivity. To this end, ICF archaeologists reviewed the earliest historical quadrangle maps available from the U.S. Geological Survey’s online topoView program.<sup>17</sup> ICF reviewed 7.5-minute and 15-minute quadrangle maps covering the Metro Plan Area, including maps ranging in dates from 1889 to 1966. Quadrangle map names and dates are listed in Table 3, along with the corresponding current map name.

**Table 3. Historical Quadrangle Maps Reviewed**

Historical Map Name	Date	Series	Current Map Name
San Jose	1889	15-minute	MILPITAS
San Jose	1897	15-minute	MILPITAS
San Jose	1899	15-minute	MILPITAS
San Jose	1943	15-minute	MILPITAS
San Jose	1947	7.5-minute	MILPITAS
Milpitas	1953	7.5-minute	MILPITAS
San Jose	1953	15-minute	MILPITAS

<sup>12</sup> City of Milpitas. 1992. *The Great Mall of the Bay Area Draft Environmental Impact Report*. December 21. Page 313.

<sup>13</sup> City of Milpitas. 1992. *The Great Mall of the Bay Area Draft Environmental Impact Report*. December 21.

<sup>14</sup> City of Milpitas. 2018. City of Milpitas Historical Inventory. MilpitasGIS. Updated November 2021. Available: [https://milpitas-gis-milpitas.hub.arcgis.com/datasets/16ba365fcc3848f5837fc19114e607e3\\_0/about](https://milpitas-gis-milpitas.hub.arcgis.com/datasets/16ba365fcc3848f5837fc19114e607e3_0/about). Accessed November 18, 2021.

<sup>15</sup> City of Milpitas and Architectural Resources Group. 2011. *Conceptual Historic Resources Masterplan for the City of Milpitas*. Adopted March 16, 1993. Available: [http://www.ci.milpitas.ca.gov/\\_pdfs/commissions/prcrc/2011/120511/item\\_01.pdf](http://www.ci.milpitas.ca.gov/_pdfs/commissions/prcrc/2011/120511/item_01.pdf). Accessed November 18, 2021. Page 31.

<sup>16</sup> Supernowicz, Dana E. 2006. Great Mall of the Bay Area Building. P-43-001816. Historic Resource Associates. Department of Parks and Recreation forms 523A, 523B, 523J.

<sup>17</sup> [ngmdb.usgs.gov/topoview](http://ngmdb.usgs.gov/topoview)

Historical Map Name	Date	Series	Current Map Name
San Jose	1956	7.5-minute	MILPITAS
Milpitas	1961	7.5-minute	MILPITAS
San Jose	1961	15-minute	MILPITAS
San Jose	1962	7.5-minute	MILPITAS
San Jose	1966	7.5-minute	MILPITAS

ICF archaeologists reviewed historical aerial photos available from University of California, Santa Barbara's online FrameFinder library.<sup>18</sup> Based on the desktop survey, the Metro Plan Area used to be farmland with a few scattered structures until the Ford Motor Plant was built. Although the structures depicted on the historical maps are no longer extant, undiscovered archaeological resources associated with these structures may exist within the Metro Plan Area.

As described in the Certified EIR, the TASP Area is within an alluvial fan between Lower Penitencia and Berryessa Creeks. Although the Metro Plan Area is expanded from the TASP Area, the underlying sediment is consistent, based on a review of soil survey maps available from University of California, Davis's online soil survey browser, SoilWeb.<sup>19</sup> Alluvial fans are areas of active disposition and, as such, a site that has been subject to human use could be buried by an episode of deposition. Therefore, the presence of Holocene-aged alluvial sediment indicates a potential for buried archaeological deposits across the Metro Plan Area.<sup>20</sup>

The Certified EIR indicated the potential for buried archaeological deposits due to the TASP Area's proximity to Penitencia and Berryessa Creeks. Numerous researchers have studied the spatial relationship between archaeological resources and fresh water sources.<sup>21,22,23,24</sup> These studies have observed that as distance to fresh water decreases, the frequency of archaeological sites and range of archaeological site types increases. The Metro Plan Area is close to both Penitencia and Berryessa Creeks; therefore, there is increased potential for buried archaeological deposits. The desktop survey conducted for this IS supports the Certified EIR's findings that there is a moderate to high potential for encountering undiscovered archaeological resources.

<sup>18</sup> mil.library.ucsb.edu/ap\_indexes/FrameFinder

<sup>19</sup> casoilresource.lawr.ucdavis.edu/gmap

<sup>20</sup> Dibblee, T. W. and J. A. Minch. 2005. Geologic Map of the Milpitas Quadrangle, Alameda & Santa Clara Counties, California. Department of the Interior, United States Geological Survey, Washington, D.C.

<sup>21</sup> Christenson, L. E. 1990. *The Late Prehistoric Yuman People of San Diego County California: Their Settlement and Subsistence System*. Unpublished PhD Dissertation, Department of Anthropology, Arizona State University.

<sup>22</sup> Robbins-Wade, M. 1990. *Prehistoric Settlement Pattern of Otay Mesa, San Diego County, California*. Unpublished Masters thesis, Department of Anthropology, San Diego State University.

<sup>23</sup> Lothrop, J. C., J. F. Custer and C. De Santis. 1987. *Phase I & II Archaeological Investigations of the Route 896 Corridor, Route 4 – West Chestnut Hill Road to Summit Bridge Approach, NW Castle County, Delaware*. Prepared for the Delaware Department of Transportation.

<sup>24</sup> Ingbar, E., and J. Hall. 2014. *A Western Oregon Cultural Resource Forecast Model for USDI Bureau of Land Management*. Prepared for Bureau of Land Management.

## Sacred Lands File & Senate Bill 18

As a result of expansions to the Metro Plan Area and the time elapsed since the preparation of the Certified EIR, ICF conducted an updated Sacred Lands File search and additional outreach under SB 18.

On October 11, 2021, ICF reached out to the Native American Heritage Commission (NAHC), to request a Sacred Lands File search and again on November 29, 2021, to request a list of Tribes under SB 18. The results of the Sacred Lands File search were negative. ICF followed up with the NAHC to obtain the SB 18 list but a response was not received until February 2, 2022. As such, in order to begin the consultation process, the City of Milpitas provided ICF with an SB 18 contact list for a Master Plan that the NAHC had provided to the City on December 28, 2021. The list included the following ten Native American contacts:

- Valentin Lopez, Amah Mutsun Tribal Band
- Irenne Zwierlein, Amah Mutsun Tribal Band of Mission San Juan Bautista
- Ann Marie Sayers, Indian Canyon Mutsun Band of Costanoan
- Charlene Nijmeh, Muwekma Ohlone Indian Tribe of the SF Bay Area
- Katherine Perez, North Valley Yokuts Tribe
- Dee Dee Manzanares Ybarra, Rumsen Am:a Tur:ataj Ohlone
- Andrew Galvan, The Ohlone Indian Tribe
- Kenneth Woodrow, Wuksache Indian Tribe/Eshom
- Corrina Gould, The Confederated Villages of Lisjan
- Quirina Luna Geary, Tamien Nation

On February 2, 2022, letters were sent via certified mail to each of the ten contacts on the list provided by the City informing them of the Metro Plan and inviting them to consultation under SB 18. On February 18, 2022, the NAHC responded to ICF's request and returned a SB 18 list that included three additional Native American contacts:

- Kanyon Sayers-Roods, Indian Canyon Mutsun Band of Costanoan
- Monica Arellano, Muwekma Ohlone Indian Tribe of the SF Bay Area
- Timothy Perez, North Valley Yokuts Tribe

On February 18, 2022, letters were sent via certified mail to the three contacts (Kanyon Sayers-Roods, Monica Arellano, and Timothy Perez) that had not received letters previously.

On February 25, 2022, since no responses had yet been received, ICF reached out to each of the contacts via email and included the original letter as an attachment. The email sent to Monica Arellano was returned with a message stating the email was undeliverable as the recipient's mailbox was full and could not accept messages.

On March 1, 2022, Katherine Perez (North Valley Yokuts Tribe) responded via email. Ms. Perez, on behalf of the North Valley Yokuts Tribe, stated that the Metro Plan Area was sensitive and recommended that projects within the Metro Plan Area be monitored by both a Native American Monitor and a qualified archaeologist. No additional information was requested. ICF forwarded Ms.

Perez's response to the City of Milpitas. The City reviewed Ms. Perez's recommendations and incorporated them as a policy in the Metro Plan (Policy SC 7).

On March 7, 2022, ICF on behalf of the City, responded to Ms. Perez to inform her that the City would be incorporating her recommendations as policies in the Metro Plan. No other responses were received, so on March 9, 2022, ICF reached out via phone call to the contacts that had not yet responded. On March 9, 2022, ICF archaeologist Megan Watson spoke with Dee Dee Manzanares Ybarra (Rumsen Am:a Tur:ataj Ohlone) on the phone. Ms. Ybarra stated she would need to review the original letter and would reach out once she had an opportunity to do so. Later in the day, Ms. Ybarra sent an email to ICF stating that the Rumsen Am:a Tur:ataj would be declining the opportunity to consult on the Metro Plan as the location of the Metro Plan Area was outside of the Rumsen Ohlone territory.

On March 9, 2022, ICF archaeologist Megan Watson spoke with Valentin Lopez (Amah Mutsun Tribal Band) on the phone. Mr. Lopez stated that the Amah Mutsun Tribal Band would be declining the opportunity to consult on the Metro Plan as the City of Milpitas was outside of the Tribe's territory.

ICF archaeologist Megan Watson left voicemail messages for the other Native American contacts (except for Monica Arellano, as her voicemail was full) providing them with information regarding the Metro Plan and encouraging them to reach out with questions, comments, and concerns.

On March 17, 2022, Kanyon Sayers-Roods (Indian Canyon Mutsun Band of Costanoan) responded via email. ICF forwarded Ms. Sayers-Roods' response to the City of Milpitas. Ms. Sayers-Roods, on behalf of the Indian Canyon Mutsun Band of Costanoan Ohlone People, accepted the City of Milpitas' invitation to consult on the Metro Plan. Ms. Sayers-Roods stated that the Metro Plan Area "overlaps or is near the management boundary of potentially eligible cultural sites." She also provided preliminary recommendations including:

1. A Native monitor and archaeologist should be present on-site at all times during any/all ground disturbing activities.
2. A Cultural Sensitivity Training should be conducted at the beginning of each project.
3. A specialized consultation provided by their company, Kanyon Konsulting, LLC should be conducted as the project commences.
4. An approach to Indigenous Cultural Awareness/History should be developed. Such an approach may include:
  - a. Signs or messages with information about the history, ecology, and resources of the land. Examples include a commemorative plaque, a page on the website, a mural, a display, or an educational/cultural center.
  - b. A commitment to consultation with the Native Peoples of the territory. Examples include a Land Acknowledgment on the website, or cultural displays about Indigenous Science and Technology, such as cultural resources, botanical knowledge, and cultural sharing of Traditional Ecological Knowledge.
  - c. Advocation and support for indigenous lead movements and efforts, which may be achieved by informing the community about local present Indigenous communities.

The City is consulting with the Indian Canyon Mutsun Band of Costanoan Ohlone under SB 18. To date, no other responses have been received.



## Regulatory Setting

The regulatory setting for cultural resources is described on pages 3.13-6 through 3.13-9 of the Certified EIR. This discussion includes the following: an overview of the National Historic Preservation Act; state-level regulations and cultural resources programs, including the California Register of Historical Resources, State CEQA Guidelines, California Health and Safety Code, NAHC, and California Historical Resources Information System; the results of the Sacred Lands File search, which were negative; a description of the outreach conducted under SB 18 in support of the Certified EIR; and descriptions of the Cultural Resources Register, as established by the City of Milpitas General Plan, and the City of Milpitas Cultural Resources Preservation Program. In addition, pertinent policies from the General Plan, Midtown Plan, and TASP are described on pages 3.13-11 and 3.13-13. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The Certified EIR identified that the 1994 General Plan provides guiding principles and policies for the preservation and enhancement of cultural resources.

On March 9, 2021, the City adopted an update to the 1994 General Plan, which is referred to as the 2040 General Plan. Because the 2040 General Plan supersedes and replaces the 1994 General Plan, the policies from the 2040 General Plan would apply to the Metro Plan. The following 2040 General Plan policies relate to built-environment and archaeological resources.

- Goal CD-1: Strengthen Milpitas's identity and sense of place by reinforcing the community's distinctive, high-quality community form, natural landscape, and character.
- Policy CD 1-4: Recognize, enhance, celebrate and preserve, where possible, natural features and ecosystems, and protect cultural and historic resources.
- Goal CON-4: Preserve and protect prehistoric, historic, archaeological, and paleontological resources in Milpitas.
- Policy CON 4-1: Review proposed developments and work in conjunction with the California Historical Resources Information System, Northwest Information Center at Sonoma State University, to determine whether project areas contain known archaeological resources, either prehistoric and/or historic-era, or have the potential for such resources.
- Policy CON 4-2: If found during construction, ensure that human remains are treated with sensitivity and dignity, and ensure compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.
- Policy CON 4-3: Work with Native American representatives to identify and appropriately address, through avoidance or mitigation, impacts to Native American cultural resources and sacred sites during the development review process.
- Policy CON 4-4: Consistent with State, local, and tribal intergovernmental consultation requirements such as SB 18 and AB 52, the City shall consult as necessary with Native American tribes that may be interested in proposed new development and land use policy changes.
- Action CON-4a: Require a cultural and archaeological survey prior to approval of any project which would require excavation in an area that is sensitive for cultural or archaeological resources. If significant cultural or archaeological resources, including historic and prehistoric resources, are identified, appropriate measures shall be implemented, such as documentation and conservation, to reduce adverse impacts to the resource.

- Action CON-4b: Require all development, infrastructure, and other ground-disturbing projects to comply with the following conditions in the event of an inadvertent discovery of cultural resources or human remains:
  - If construction or grading activities result in the discovery of significant historic or prehistoric archaeological artifacts or unique paleontological resources, all work within 100 feet of the discovery shall cease, the Planning Department shall be notified, the resources shall be examined by a qualified archaeologist, paleontologist, or historian for appropriate protection and preservation measures; and work may only resume when appropriate protections are in place and have been approved by the Planning Department.
  - If human remains are discovered during any ground-disturbing activity, work shall stop until the Planning Department and the County Coroner have been contacted; if the human remains are determined to be of Native American origin, the Native American Heritage Commission (NAHC) and the most likely descendants have been consulted; and work may only resume when appropriate measures have been taken and approved by the Planning Department.
- Goal CON-5: Protect and enhance historic resources- including places, buildings, or landmarks with historic, architectural, cultural, and/or aesthetic significance.
- Policy CON 5-1: Protect significant historic resources and use these resources to promote a sense of place and history in Milpitas through implementation of the Milpitas Cultural Resources Preservation Program (Municipal Code, Title XI, Chapter 4), the Conceptual Historic Resources Master Plan, the conservation and preservation of the City’s historical collection at the Milpitas Community Museum, and other applicable codes, regulations, and area plans.
- Policy CON 5-2: Evaluate the condition of historical buildings, the costs of rehabilitation, and the feasibility of preservation or conservation alternatives when considering the demolition or movement of historic structures; when possible, encourage the adaptive re-use of the historic structure.
- Policy CON 5-3: Provide readily available public information on the Mills Act and encourage people to renovate historic homes in disrepair using property tax savings available through the Mills Act.

## Certified EIR Findings

The Certified EIR found that:

- The TASP could result in new development on parcels within the TASP Area, which may involve the demolition of existing built-environment resources. None of the built-environment resources within the TASP Area, however, were previously evaluated as significant CEQA historical resources. The TASP furthermore did not propose redevelopment on the site of the Great Mall of the Bay Area, which had previously been listed in the City of Milpitas’s Historic Sites Inventory. The Certified EIR concluded that federal, state, and local laws—as well as policies contained in the Milpitas General Plan, Midtown Plan, and TASP—would adequately protect significant built-environment resources from demolition or insensitive alteration, thus ensuring the TASP would have a less-than-significant impact on built-environment historical resources.
- The Certified EIR describes two previously documented archaeological resources adjacent to the TASP Area. These resources are not within the TASP Area; however, the Certified EIR identified that new development within the TASP Area may affect undiscovered archaeological resources and human remains during ground-disturbing activities. The Certified EIR concluded that federal, state, and local laws—as well as policies contained in the TASP—would adequately

protect significant archaeological resources and would ensure that the TASP would have a less-than-significant impact on archaeological resources.

## Discussion

### Changes in Land Use Classifications and Policies

Table 2-2 in Chapter 2, *Project Description*, of the SEIR to which this IS is appended, provides a summary of the policies in the TASP related to cultural resources, as well as the policies in the Metro Plan related to cultural resources. In summary, Table 2-2 identifies the following updates that have been made in the Metro Plan:

- The Metro Plan includes a policy for comprehensively evaluating built-environment resources on a project-level basis, which includes determining CEQA historical resource status via recordation on Department of Parks and Recreation inventory forms and, if required, assessing potential project impacts (Metro Plan Policy SC 1). This policy has similarities to TASP Policy 5.33, which requires project-level review of impacts that may be caused by proposed alteration or demolition projects on the property containing the Great Mall of the Bay Area building. However, the Metro Plan policy applies to all historic-aged built-environment resources within the entire Metro Plan Area rather than being limited to the Great Mall of the Bay Area property.
- The Metro Plan includes a similar policy to TASP Policy 5.34 requiring archaeological monitoring (Metro Plan Policy SC 7).

Therefore, although there have been changes to the policies in the TASP, similar measures would still be required by the 2040 General Plan, the Metro Plan, and through compliance with existing regulations. As summarized in Table 2-2 of the SEIR to which this IS is appended, the changes made to the TASP policies by the Metro Plan would not substantially change the overall requirements to minimize impacts on cultural resources. Therefore, these changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

### Geographic Expansion and Metro Plan Buildout: Population Growth and Employment

Implementation of the Project Changes, including the geographic expansion of the Metro Plan Area and the additional population growth and employment from the Metro Plan buildout, would result in the construction of new development and associated infrastructure. The discussion below focuses on the impacts from this additional buildout.

As described above, policies and regulations related to the protection of cultural resources, that would apply to development under the Metro Plan include the following:

- 2040 General Plan Actions CON-4a and CON-4b
- Metro Plan Policies SC 1 and SC 7
- Section 7050.5 of the California Health and Safety Code
- Section 5097.98 of the California Public Resources Code

## Built Resources

Implementation of the Project Changes is anticipated to result in new construction that produces additional housing units, commercial office and retail space, and hotel rooms. New construction and ground disturbance could occur throughout the Metro Plan Area, including in the two expansion areas.

However, as described previously, the environmental setting for the Metro Plan is not the same as for the TASP relative to cultural resources. Potential impacts on cultural resources resulting from future development in the expansion areas were not considered in the Certified EIR. In addition, the Certified EIR did not consider new development's potential to cause impacts on previously unevaluated historic-aged (more than 50 years old) built-environment resources throughout the TASP Area, which could be identified as significant historical resources in the future. The majority of historic-aged built-environment resources do not appear to have previously received evaluation as historical resources under CEQA, such that their historical resource status remains unknown.

Future development occurring as a consequence of the Metro Plan would involve changes in the built environment to accommodate future population and employment growth within the Metro Plan Area. Future projects associated with the Metro Plan may include demolition of existing buildings, as well as additions and/or rehabilitations of existing buildings, to construct new residential units, commercial space, or hotel rooms. According to Section 15064.5(b)(1)-(2) of the State CEQA Guidelines, projects would cause significant effects on the environment if they demolish or adversely alter the physical characteristics that qualify built-environment historical resources for inclusion in applicable historical registers. Section 15064.5(b)(3) of the State CEQA Guidelines specifically notes that projects complying with the Secretary of the Interior's Standards, a set of federal-level guidance for sensitive preservation and rehabilitation work, do not materially impair the significance of the resource and thus have a less-than-significant impact.

It is possible that projects in the Metro Plan Area could be proposed for sites containing significant built-environment resources that are identified in future investigations. To facilitate the identification of significant historical resources, Metro Plan Policy SC 1 establishes a review process that evaluates the historical significance of historic-aged built-environment resources in the Metro Plan Area at the time a future project is proposed. In the event that any such resource is determined eligible for listing in a historical resource register and therefore qualifies for special consideration under CEQA, Metro Plan Policy BD SC 1 requires that the project design be assessed for its conformance with the Secretary of the Interior's Standards. The documentation of conformance with the Secretary of the Interior's Standards would ensure that future projects occurring as a result of the Metro Plan would have a less-than-significant impact on built-environment historical resources, which is consistent with the impact determination made by the Certified EIR. Any project that does not adhere to the Secretary of the Interior's Standards would be required to undergo separate, project-level CEQA review that may involve preparation of an EIR. For the purposes of the current analysis, the policies of the Metro Plan would ensure that impacts of the Metro Plan would be the same as those identified in the Certified EIR and would not result in a change to the Certified EIR's impact determination.

## Archaeological Resources

### Known Archaeological Resources

Future projects associated with the Metro Plan would include ground-disturbing activities within an area already analyzed in the Certified EIR (i.e., TASP Area), as well as within two areas that were not previously considered in the Certified EIR (i.e., the western expansion area and the eastern expansion area). Based on the results of the desktop survey, one known archaeological resource (CA-SCL-593), described in the Certified EIR as adjacent to the TASP Area, would be within the Metro Plan Area as a result of the expansion. Ground-disturbing activities in the expansion areas could potentially affect this resource, along with any associated human remains.

The policies found in the 2040 General Plan provide measures to reduce adverse impacts on cultural resources. Action CON-4a requires surveys prior to approval of any project that would require excavation in an area that is sensitive for cultural or archaeological resources. The 2040 General Plan also calls for appropriate measures to be implemented in the event that significant cultural or archaeological resources are encountered. Conformance with Action CON-4a of the 2040 General Plan would mitigate impacts on significant resources, including on CA-SCL-593, through conservation and documentation. Conservation would require either avoidance or preservation in place; however, if the resource cannot be avoided or preserved, the project archaeologist would perform documentation. Standards for archaeological documentation are provided by the Secretary of the Interior. In compliance with Action CON-4b of the 2040 General Plan, these protection measures must be approved by the Planning Department prior to construction or grading. In addition, similar to the TASP, the Metro Plan includes a policy (Metro Plan Policy SC 7) requiring archaeological monitoring. Given the presence of one known archaeological resource within the Metro Plan Area, monitoring would be appropriate in order to reduce impacts on archaeological resources to less-than-significant levels.

The Certified EIR concluded that federal, state, and local laws and policies in the TASP would adequately protect significant archaeological resources, ensuring that the TASP would have a less-than-significant impact on archaeological resources. As discussed, the setting with regard to cultural resources in the TASP Area has changed since the Certified EIR was prepared, and one known archaeological resource has been identified within the Metro Plan Area. Nonetheless, implementation of the 2040 General Plan (Actions CON-4a and CON-4b) and Metro Plan Policy SC 7 would ensure that impacts on known archaeological resources due to ground-disturbance from the Metro Plan would be reduced to less-than-significant levels. Therefore, the Metro Plan would have a similar impact on archaeological resources as what was identified in the Certified EIR.

### Unknown Archaeological Resources

The Certified EIR identified that “there is a moderate to high likelihood that unrecorded Native American cultural resources exist in the [TASP] Area.” Likewise, based on the results of the desktop survey, there is a moderate to high potential for encountering as-yet undiscovered archaeological resources within the Metro Plan Area. As such, the Metro Plan would have a similar potential to affect as-yet undiscovered archaeological resources as the TASP.

Action CON-4a of the 2040 General Plan requires surveys prior to approval of any project that would require excavation in an area that is sensitive for cultural or archaeological resources. Monitoring would also be required by Metro Plan Policy SC 7 and would reduce impacts on unknown

archaeological resources. Action CON-4b from the 2040 General Plan provides guidance for the inadvertent discovery of previously unknown archaeological resources. In compliance with Action CON-4b, should an unknown resource be encountered, all work within 100 feet of the discovery shall cease, and the Planning Department will be notified. The resource shall be examined by a qualified archaeologist, and the archaeologist will work with the Planning Department to implement the appropriate protection measures (either conservation or documentation) before work is resumed. Implementation of the 2040 General Plan (Action CON-4a and CON-4b) and Metro Plan Policy SC 7 would ensure that impacts on unknown archaeological resources (due to ground disturbance from implementation of the Metro Plan) would be reduced to less-than-significant levels.

The Certified EIR concluded that federal, state, and local laws and policies in the TASP would adequately protect significant unknown archaeological resources, ensuring that the TASP would have a less-than-significant impact on archaeological resources. The Metro Plan would also be required to adhere to federal, state, and local laws, as well as actions in the 2040 General Plan (Actions CON-4a and CON-4b) and Metro Plan Policy SC 7, which would have similar requirements as the TASP to protect significant unknown archaeological resources. Therefore, the Metro Plan would have a similar impact on unknown archaeological resources as what was identified in the Certified EIR.

### **Human Remains**

Similar to the TASP, future projects associated with the Metro Plan would include ground-disturbing activities that could potentially affect human remains. Based on the results of the desktop survey, human remains were identified in association with CA-SCL-593, which would be within the Metro Plan Area (as a result of the expansion). In addition, the desktop survey indicated there was a moderate to high potential for encountering as-yet undiscovered archaeological resources containing human remains within the Metro Plan Area.

Monitoring would be required by Metro Plan Policy SC 7 and would reduce impacts related to encountering human remains. In the event that human remains are discovered, Action CON-4b of the 2040 General Plan states that work shall stop until the Planning Department and the County Coroner have been contacted and the appropriate measures have been taken and approved by the Planning Department. In compliance with Action CON-4b, if the human remains are determined to be of Native American origin, the NAHC and MLDs must be consulted. Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code (if the remains are Native American) also provide guidance for the treatment of human remains. Compliance with state laws (Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code), the 2040 General Plan (Action CON-4b in support of Goal CON-4), and Metro Plan Policy SC 7 would ensure that impacts on human remains due to ground disturbance from the Metro Plan would be reduced to less-than-significant levels.

The Certified EIR concluded that federal, state, and local laws and policies in the TASP would adequately protect human remains, ensuring that the TASP would have a less-than-significant impact on archaeological resources. The Metro Plan would also be required to adhere to federal, state, and local laws, as well as actions in the 2040 General Plan (Action CON-4b) and Metro Plan Policy SC 7, which would have similar requirements as the TASP to protect human remains. Therefore, the Metro Plan would have a similar impact on unknown archaeological resources as what was identified in the Certified EIR.

## Conclusion

The Certified EIR determined that the TASP would have a less-than-significant impact with regard to cultural resources. Based on the analysis above, with incorporation of the Project Changes, the Metro Plan would have a less-than-significant impact with regard to cultural resources. Therefore, the Project Changes would not result in a change to the Certified EIR's impact determination for impacts on cultural resources. Specifically, the Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## VI. Energy

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	Less than Significant Impact	No Impact
Would the project:				
a. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Setting

### Environmental Setting

Energy was not a topic analyzed in the Certified EIR. The Office of Planning and Research (OPR) did not incorporate energy as a resource area in the CEQA Appendix G checklist until December 2018 during a comprehensive update to the CEQA Guidelines. Thus, a complete environmental setting for energy consumption within the TASP Area was not prepared previously. Nonetheless, energy consumption was discussed in both the Utilities and Service Systems and Greenhouse Gases and Climate Change sections of the Certified EIR. The Greenhouse Gases and Climate Change section describes “Emissions from Use of Electricity” on page 3.12-3. The Utilities and Service Systems section describes electricity and natural gas providers on pages 3.11-11 and 3.11-12. As expressed in these sections, the majority of the homes and businesses in the TASP Area use energy from Pacific Gas & Electric (PG&E). PG&E obtains energy from power plants and natural gas fields in northern California and from energy it purchases from outside its service area. These energy sources comprise utility companies in other western states, including northwest hydroelectric power sources, and Mexico. This information is incorporated by reference pursuant to Section 15150 of the State CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

California’s per capita rate of energy usage has remained relatively constant since the 1970s, with an annual growth rate of 0.9 percent between 1997 and 2010.<sup>25</sup> However, since publication of the Certified EIR, energy efficient and renewable energy technology has, and continues to, develop rapidly in order to achieve local, State, and federal energy goals. According to the 2040 General Plan EIR, electricity and natural gas is still provided to the City by PG&E. PG&E is now expected to achieve at least 60 percent renewables by 2030, and 100 percent zero-carbon electricity by 2045 (in compliance with SB 100). Therefore, PG&E has started supplementing their electricity with power

<sup>25</sup> City of Milpitas. 2020. Draft Environmental Impact Report for the Milpitas General Plan Update. November 2.



from Silicon Valley Clean Energy (SVCE). SVCE is known as Community Choice Aggregation (CCA) or Community Choice Energy (CCE) and is a community-owned electricity provider that provides municipal, residential, and commercial electricity customers with clean, carbon free electricity options from sources like solar, wind and hydropower. Anyone that lives or owns a business in the City may participate in SVCE and PG&E delivers the electricity over existing utility lines. As of 2020, Milpitas customers have a 97 percent participation rate in the SVCE Program, which further reduces emissions associated with energy consumption.<sup>26</sup>

## Regulatory Setting

As mentioned above, energy was not a resource area analyzed in the Certified EIR but was a topic mentioned in the Utilities and Service Systems and Greenhouse Gases and Climate Change sections. Nevertheless, no energy-related regulations are listed within these sections of the Certified EIR.

Federal regulations relevant to energy include the Energy Policy and Conservation Act; the Energy Policy Act of 1992 (EPAct); and the Energy Policy Act of 2005. State regulations relevant to energy include the Warren-Alquist Act; the Energy Action Plan: the State of California Energy Action Plan; Assembly Bill 1493; Assembly Bill 1007; the Bioenergy Action Plan – Executive Order #S-06-06; EO S-13-08; Senate Bill 743; Executive Order B-48-18: Zero-Emission Vehicles; Assembly Bill 2076; Executive Order #S-01-07; Senate Bill 97; Senate Bill 375; Executive Order B-30-15; Advanced Clean Cars Program; Executive Order N-79-20; and the California Building Energy Efficiency Standards.<sup>27</sup>

Locally, the City adopted a Climate Action Plan (CAP) in 2013 to make Milpitas a more sustainable community and provide guidance for adapting to anticipated effects of climate change. The 2013 CAP looks at five key sectors— energy use, vehicle miles, waste production, water usage, and off-road activities offering best practices to achieve greenhouse gas (GHG) emissions reduction in Milpitas. The City is currently working on updating the 2013 CAP with a planned draft release in spring of 2022. This CAP update will focus on the City’s goal to achieve carbon neutrality by 2040 and will discuss the different pathways of doing so. However, this CAP update has not been publicly adopted as of the writing of this Draft SEIR.

On March 9, 2021, the City also adopted an update to the General Plan, which is referred to as the 2040 General Plan. The 2040 General Plan supersedes and replaces the 1994 General Plan; therefore, the following actions and policies from the 2040 General Plan would apply to the Metro Plan:

- Policy CON 1-1: Ensure that new development is consistent with the energy objectives and targets identified by the City’s Climate Action Plan (CAP).
- Policy CON 1-2: Ensure all development projects comply with the mandatory energy efficiency requirements of the California Green Building Standards Code (CALGreen).
- Policy CON 1-3: Support innovative green building best management practices including, but not limited to, LEED certification, and encourage project applicants to exceed the most current “green” development standards in the California Code of Regulations (CCR), Title 24, as feasible.

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<sup>26</sup> City of Milpitas. 2020. Draft Environmental Impact Report for the Milpitas General Plan Update. November 2.

<sup>27</sup> Ibid.

- Policy CON 1-4: Require large-scale industrial and manufacturing energy users to implement an energy conservation plan as part of the project review and approval process.
- Policy CON 1-9: Encourage site planning and building techniques that promote energy conservation. Where feasible, encourage projects to take advantage of shade, prevailing winds, landscaping, sunscreens, building orientations, and material choices that reduce energy use.
- Action CON-1e: Continue to review all new public and private development projects to ensure compliance with the California Code of Regulations (CCR), Title 24 standards as well as the energy efficiency standards established by California Green Building Standards Code (CALGreen), the General Plan, and the Milpitas Municipal Code Chapter 20 Green Building Regulations.
- Action CON-1f: Continue to require all development project applications for new buildings to include a completed LEED or CalGreen Mandatory Measures Checklist.

## Certified EIR Findings

Energy was not a resource area analyzed in the Certified EIR, but was a topic analyzed as part of the Greenhouse Gases and Climate Change section. Impact 3.12-2 states that “development under the proposed Transit Area Specific Plan will result in a substantial increase in the total amount of energy consumed by residential and non-residential users in [the] Transit Area.” This section of the Certified EIR found that:

- Buildout under the TASP would increase the total demand for electrical energy in the TASP Area. Total consumption of electrical energy was anticipated to increase from 10 million to 169 million kWh, an increase of 159 million kWh of electrical power.
- Implementation of TASP policies which encourage and support energy efficiency and green building techniques would reduce this impact to a level that is less than significant.

Nonetheless, the Certified EIR did not include a conclusion of the TASP’s impact related to wasteful, inefficient, or unnecessary consumption of energy resources or conflicts with state or local plan for renewable energy or energy efficiency.

## Discussion

### Changes in Land Use Classifications and Policies

Overall, the Metro Plan has updated the policies related to energy to promote sustainability. The Metro Plan requires building design features that reduce energy consumption and increase renewable energy generation. This includes the electrification of all new developments by prohibiting natural gas infrastructure (Policies CB 7.2.2 and CB 7.2.3), installation of photovoltaic solar systems and implementing solar management plans (Policies CB 7.2.1 and Policy CB 7.3.1), onsite renewable energy generation (Policy CB 7.3), and overall energy reduction uses (Policy CB 7.2). Although there have been changes and deletions to the policies in the TASP, as explained further below, implementation of these policies would help ensure that impacts on energy are less than significant. Therefore, changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

## Geographic Expansion and Metro Plan Buildout: Population Growth and Employment

Implementation of the Project Changes, including the geographic expansion of the Metro Plan Area and the additional population growth and employment from the Metro Plan buildout, would result in the construction of new development and associated infrastructure. The discussion below focuses on the impacts from this additional buildout.

As described above, policies and regulations related to energy that would apply to development under the Metro Plan, include the following:

- Policies CON 1-1, CON 1-2, CON 1-3, CON 1-4, and CON 1-9; and actions CON-1e and CON-1f from the 2040 General Plan
- Metro Plan Policies CB 7.1, CB 7.2, CB 7.2.1, CB 7.2.2., CB 7.2.3, CB 7.3, CB 7.3.1, CB 7.3.2, and CB 7.4.
- California Green Building Standards Code (CALGreen)
- Milpitas Municipal Code Chapter 20 Green Building Regulations
- Titles 24 of the California Code of Regulations

### Energy Resources

As with the TASP, energy (e.g., fuels and electricity) would be required during construction of the Metro Plan for operation of construction equipment, employee and haul truck trips, lighting, and heat. The specific size, location, construction techniques, and scheduling that would be utilized for each individual development project occurring in the Metro Plan Area is not currently known. With an anticipated buildout year of 2040, development of the various land uses associated with the Metro Plan would occur over an extended period of time and would depend on factors such as local economic conditions, market demand, and other financing considerations. As such, without specific project-level details it is not possible to develop a refined inventory of energy resources.<sup>28</sup>

Nonetheless, the Metro Plan is in compliance with applicable federal, state, and local regulations regulating energy usage. Future projects would be required to comply with California's latest Title 24 building energy efficiency standards, as well as the City's Municipal Code Chapter 20 Green Building Regulations. In addition, the Metro Plan incorporates more stringent policies to further prevent wasteful, inefficient, or unnecessary consumption of energy. During construction, the Metro Plan requires that all off-road heavy-duty construction equipment use high-performance renewable diesel (Metro Plan Policy CB 7.4). Additionally, Metro Plan Policies CB 7.2.2 and CB 7.2.3 requires complete electrification of residential and nonresidential buildings (unless other uses are essential to the key functions of an internal business).

The City has also taken steps to improve the availability of clean, carbon free electricity options from sources like solar, wind and hydropower. SVCE, the local CCA, in conjunction with PG&E, would maintain sufficient capacity to serve residential and commercial electricity customers within the Metro Plan Area. Since 2017, SVCE has committed over 1 billion dollars to build new renewable

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<sup>28</sup> Project-level information includes details such as the size and scale of the project to be constructed, construction schedule, equipment fleet, construction worker crew estimates, and demolition and grading quantities.

energy plants (City 2020). The Metro Plan requires new buildings to include the most impactful methods for reducing energy uses and greenhouse gas emissions (Metro Plan Policy CB 7.2); thus, energy usage within the Metro Plan Area may even reduce over time.

Therefore, although the Metro Plan would include geographic expansions and population/employment increases, the Metro Plan would not result in the wasteful, inefficient, or unnecessary consumption of energy resources and impacts would be less than significant.

### **State or Local Plans for Renewable Energy or Energy Efficiency**

The Metro Plan has been designed in compliance with the 2040 General Plan. In addition, the Metro Plan has been prepared to be consistent with the updated CAP that the City is planning to release in spring 2022. The Metro Plan acknowledges that the Metro Plan “implements the Climate Action Plan by ensuring that new development is not only aligned with citywide energy efficiency and emission reduction goals, but also serves as an early example of the implementation of critical policies.” Policies required by the Metro Plan would ensure compliance with the CAP that the City is planning to release in spring 2022 and the 2040 General Plan goals and policies. The overall objective of the Metro Plan is to promote higher density and intensity development to provide an opportunity for advancing sustainability measures related to accessibility, energy use, and resource management. This objective aligns with many State and local plans designed to lead a state-wide reduction in energy consumption. For example, CARB’s 2017 Scoping Plan Update calls for walkable communities and transit-oriented development.<sup>29</sup> The Association of Bay Area Governments/ Metropolitan Transportation Commission’s Final Plan Bay Area 2050 also focuses on promoting more compact, mixed-use residential and commercial neighborhoods situated near transit.<sup>30</sup> Buildout of the Metro Plan would not result in new significant impacts or significant impacts of increased severity with respect to state or local plans for renewable energy or energy efficiency. This is a less than significant impact.

## **Conclusion**

As described above, implementation of policies in the Metro Plan and existing regulations would ensure that impacts related to the wasteful, inefficient, or unnecessary consumption of energy resources and conflicting with plans for renewable energy or energy efficiency would be less than significant. The Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR**

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<sup>29</sup> California Air Resources Board. 2017. California’s 2017 Climate Change Scoping Plan. November. Available: [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf). Accessed: February 2022

<sup>30</sup> Association of Bay Area Governments and Metropolitan Transportation Commission. 2021. Plan Bay Area 2050. Available: <https://www.planbayarea.org/digital-library/plan-bay-area-2050>. Accessed: February 9, 2022.

## VII. Geology and Soils

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:			
1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Strong seismic ground shaking?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Landslides?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Setting

### Environmental Setting

The environmental setting for the TASP Area for geology and soils is described on pages 3.5-1 through 3.5-8 of the Certified EIR. This discussion includes an overview of the following: geology and soils in the Bay Area and in the TASP Area; seismic activity in the Bay Area, including active

faults close to the TASP Area; liquefaction hazards; surface fault rupture; earthquake-induced settlement; soil erosion and soil loss; slope instability and landslides; expansive soils; the Milpitas Fire Department Office of Emergency Services; the Strategic Action for Emergencies Program; and the Earthquake Preparedness Program. In addition, the environmental setting for paleontological resources is described on pages 3.13-5 and 3.13-6 of the Certified EIR. This discussion includes an overview of the fossils found in Santa Clara County and the City of Milpitas. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The setting with regard to geology and soils within the TASP Area has not changed substantially since the Certified EIR was prepared. The two expanded areas in the Metro Plan have the same physical setting for geology and soils, including paleontological resources, as what was identified for the TASP in the Certified EIR.

## Regulatory Setting

The regulatory setting for geology and soils is described on pages 3.5-8 to 3.5-9 of the Certified EIR. These regulations include the Alquist-Priolo Earthquake Fault Zoning Act; the Seismic Hazards Mapping Act, which requires a geotechnical investigation be conducted and appropriate mitigation be applied before a development permit is granted for a site within a seismic hazard zone<sup>31</sup>; the California Building Code; Title II, Chapter 13 of the City Municipal Code (Grading, Excavation, Paving, and Erosion Control Ordinance), which regulates grading, excavation, paving, and earthwork through grading plans, erosion control plans, and implementation of best management practices (BMPs); Title I, Chapter 1, Section 8 of the City Municipal Code, which requires that a preliminary soils report accompany a building permit; and policies in the 1994 General Plan related to seismic and geologic hazards and emergency services. The regulatory setting for paleontological resources is described on pages 3.13-6 to 3.13-9. These regulations include state and local regulations that protect cultural resources, including paleontological resources. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The Certified EIR identified 1994 General Plan policies relating to geology and soils, including:

- Policy 5.a-I-3: Require projects to comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual.
- Policy 5.d-I-2: Design critical public facilities to remain operational during emergencies.

On March 9, 2021, the City adopted an update to the General Plan, which is referred to as the 2040 General Plan. The 2040 General Plan supersedes and replaces the 1994 General Plan and the policies from the 2040 General Plan would apply to the Metro Plan. The following actions from the 2040 General Plan that would apply to the Metro Plan are similar to the policies from the 1994 General Plan identified in the Certified EIR.

- Policy SA 3.2: Ensure that critical facilities are properly supplied and equipped to provide emergency services.

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<sup>31</sup> The entirety of the TASP and the Metro Plan are within a Liquefaction Zone, which is considered a Seismic Hazard Zone. As such, all future development would be required to prepare a geotechnical report.

- Policy SA 3.3: Ensure that critical facilities are designed and constructed to withstand the “maximum probable” seismic events and still remain capable of service use to provide emergency assistance after a major disaster.
- Action CON 4b: Require all development, infrastructure, and other ground-disturbing projects to comply with the following conditions in the event of an inadvertent discovery of cultural resources or human remains:
  - If construction or grading activities result in the discovery of significant historic or prehistoric archaeological artifacts or unique paleontological resources, all work within 100 feet of the discovery shall cease, the Planning Department shall be notified, the resources shall be examined by a qualified archaeologist, paleontologist, or historian for appropriate protection and preservation measures; and work may only resume when appropriate protections are in place and have been approved by the Planning Department.
  - If human remains are discovered during any ground disturbing activity, work shall stop until the Planning Department and the County Coroner have been contacted; if the human remains are determined to be of Native American origin, the Native American Heritage Commission (NAHC) and the most likely descendants have been consulted; and work may only resume when appropriate measures have been taken and approved by the Planning Department.

## Certified EIR Findings

The Certified EIR found that:

- Future development and infrastructure associated with the TASP could be susceptible to ground shaking generated during an earthquake and secondary seismic hazards, such as liquefaction. The following requirements would ensure potential impacts related to ground shaking and liquefaction are less than significant: the California Building Code; building permit applications, which require a preliminary soils report, per the City’s Municipal Code; a geotechnical investigation and incorporation of appropriate mitigation measures for development within a seismic hazard zone, consistent with the Seismic Hazards Mapping Act; and General Plan Policy 5.a-I-3.
- Future development could be subject to soil expansion, settlement, and erosion during construction. The following requirements that would ensure potential impacts related to impacts on geologic hazards, such as expansive soils, differential settlement, and erosion are less than significant: building permit applications, which require a preliminary soils report; and National Pollutant Discharge Elimination System (NPDES) General Construction Permit requirements, including preparing a Stormwater Pollution Prevention Plan.
- A large earthquake would place serious demands on the emergency services provided by the City. Compliance with the California Building Code, Seismic Hazards Mapping Act, and the General Plan (Policy 5.d-I-2) would reduce impacts from ground shaking on future structures and infrastructure in the TASP Area. Compliance with those regulations, as well as policies in the TASP (Policies 6.50, 6.52, 6.53, and 6.54) would reduce potential impacts on emergency services during emergencies to a less-than-significant level.
- Fossils have been found in the City and, as such, there is the potential to encounter paleontological resources during construction of new development that could result in the destruction of fossil remains. Nonetheless, impacts on paleontological resources would be less than significant with implementation of TASP Policy 5.35, which requires monitoring by a

qualified paleontologist, halting construction in the event fossils are encountered, notifying the City's Planning Department, evaluating fossils for scientific significance, and recovering fossils.

## Discussion

### Changes in Land Use Classifications and Policies

Table 2-2 in Chapter 2, *Project Description*, of the SEIR to which this IS is appended, provides a summary of the policies in the TASP related to geology and soils. In summary, Table 2-2 identifies the following updates that have been made in the Metro Plan:

- The Metro Plan includes policies related to conducting a “standards of cover” analysis to determine the Metro Plan’s precise impact on the Fire Department’s staffing, hiring of additional fire department staff and equipment, siting requirements for a new fire station, updates to the City’s emergency and disaster response plans, and hiring of additional police staff. Although some of the text has been updated compared to TASP policies, there would be no substantial change in the requirements related to the fire and police services as identified in the TASP (TASP Policies 6.50, 6.51, 6.52, 6.53, and 6.54).
- The Metro Plan does not include a policy related to the protection of paleontological resources (TASP Policy 5.35). However, this requirement would still be fulfilled under the Metro Plan because developers would be required to comply with 2040 General Plan Action CON 4b, which has similar requirements to minimize impacts on paleontological resources.

Therefore, although there have been changes and deletions to the policies in the TASP, similar measures would still be required by the existing 2040 General Plan, the Metro Plan, and through compliance with existing regulations. As summarized in Table 2-2 of the SEIR to which this IS is appended, the changes made to the TASP policies by the Metro Plan would not substantially change the overall requirements to minimize impacts on geology and soils, including paleontological resources. Therefore, these changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

### Geographic Expansion and Metro Plan Buildout: Population Growth and Employment

Implementation of the Project Changes, including the geographic expansion of the Metro Plan Area and the additional population growth and employment from the Metro Plan buildout, would result in the construction of new development and associated infrastructure. The discussion below focuses on the impacts from this additional buildout.

As described above, policies and regulations related to the protection of geology and soils, including paleontological resources, that would apply to development under the Metro Plan include the following:

- California Building Code requirements
- The City’s Municipal Code (Title I, Chapter 1, Section 8), which requires a preliminary soils report
- The Seismic Hazards Mapping Act, which requires a geotechnical investigation and incorporation of appropriate mitigation measures



- Metro Plan Policies ICS 8.1, 8.2, ICS 8.3, ICS 8.4, ICS 8.5, and ICS 9.1
- 2040 General Plan Action CON 4b

As described in the *Setting* section above, the Metro Plan Area, including the two expanded areas, would have the same physical setting for geology, soils, and paleontological resources as the TASP. As such, the new development and infrastructure associated with the Metro Plan would be subject to the same geological hazards as the TASP (ground shaking from earthquakes, liquefaction, earthquake-induced settlement, and erosion) and could potentially disturb paleontological resources. The Metro Plan would also be subject to the regulatory requirements listed above, including requirements in the California Building Code; preparation of a preliminary soils report per the City's Municipal Code; preparation of a geotechnical investigation and incorporation of appropriate mitigation measures, per the Seismic Hazards Mapping Act; and policies in the 2040 General Plan and Metro Plan.

Because the setting for the Metro Plan is the same as the setting in the TASP, the Metro Plan would include similar kinds of development and infrastructure as the TASP, and the Metro Plan would be subject to the same or comparable regulatory requirements as the TASP, the impacts identified in the Certified EIR for geology, soils, and paleontological resources would be the same for the Metro Plan.

Overall, through adherence to existing regulations and policies in the 2040 General Plan and the Metro Plan, the Project Changes are expected to result in a less-than-significant impact on geology, soils, and paleontological resources. The Project Changes would not result in any new impacts or more severe impacts, beyond what was identified in the Certified EIR, related to geology, soils, and paleontological resources.

## Conclusion

The Certified EIR determined that the TASP would have a less-than-significant impact with regard to geology and soils, including paleontological resources. Based on the analysis above, with incorporation of the Project Changes, the Metro Plan would have a less-than-significant impact with regard to geology and soils, including paleontological resources. Therefore, the Project Changes would not result in a change to the Certified EIR's impact determination for impacts on geology and soils, including paleontological resources. Specifically, the Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## VIII. Greenhouse Gas Emissions

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on greenhouse gas emissions that were not analyzed in the Certified EIR. As such, **greenhouse gas emission impacts due to the Project Changes are further evaluated in the SEIR.**

## IX. Hazards and Hazardous Materials

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	Less than Significant	No Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Setting

### Environmental Setting

The environmental setting for the TASP Area is described on pages 3.4-1 through 3.4-6 of the Certified EIR. The environmental setting discussion is centered around historical land uses within the TASP Area and the activities associated with these land uses, specifically historical activities that could pose potential environmental, health, and safety risks. An electronic environmental database search was used to identify any reported hazardous materials spills and releases within the TASP Area. Environmental databases reviewed included the California Department of Toxic Substances Control's (DTSC) EnviroStor and Cal-Sites, State Water Resources Control Board's (SWRCB) GeoTracker, and the Santa Clara County Department of Environmental Health's (SCCDEH) Local Oversight Program (LOP) and Cortese databases. The environmental database review identified 28 sites with known hazardous material releases within the TASP Area. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review. Updates to the environmental setting for the Metro Plan, including the setting for the expanded areas for the Metro Plan, are identified below.

There is potential for additional hazardous materials listings associated with hazardous material spills and releases to be within the two new expanded areas in the Metro Plan. A supplemental environmental database search was conducted within these areas via DTSC's EnviroStor and Cal-Sites, SWRCB's GeoTracker, and the SCCDEH LOP databases (all cleanup sites under SCCDEH oversight are required to submit their information to the SWRCB's GeoTracker website). The following six sites were identified during the supplemental environmental database search as being within the two new expanded areas in the Metro Plan:

- Cordova Printed Circuits, Inc., 1648 Watson Court – DTSC EnviroStor Tiered Permit site. The site status is listed as *Inactive - Needs Evaluation*. The *Inactive - Needs Evaluation* status identifies non-active sites where DTSC has determined a Preliminary Endangerment Assessment, or other evaluation is required. Impacted media and contaminants of concern were not disclosed.
- South Valley Circuits, Inc., 1603 Watson Court – DTSC EnviroStor Tiered Permit site. The site status is listed as *Inactive - Needs Evaluation*. Impacted media and contaminants of concern were not disclosed.
- Jones Chemical, 985 Montague Expressway – SWRCB GeoTracker Cleanup Program Site. The site status is listed as *Open - Site Assessment as of 6/1/2018*. Contaminants are listed as volatile organic compounds in aquifer used for drinking water, groundwater, and soil vapor.
- Hulligan Property, 1446 South Main Street – SWRCB GeoTracker Leaking Underground Storage Tank Cleanup Site. The site status is listed as *Completed - Case Closed as of 10/13/1995*. The site was listed as exhibiting gasoline impacted soil.
- Kaiser Experimental Lab, 1600 South Main Street - DTSC EnviroStor Evaluation site. The site status is listed as *Refer: 1248 Local Agency as of 8/27/2009*. The *Refer: 1248 Local Agency* site status identifies sites that were referred to a local agency (through the SB 1248 determination process) to supervise the cleanup of a simple waste release. Impacted media includes both soil and groundwater. Contaminants include chromium, copper, lead, magnesium, mercury, nickel, and zinc.

- Milpitas Senior Housing Project, 1600 South Main Street - SWRCB GeoTracker Cleanup Program Site. The site status is listed as *Completed - Case Closed as of 11/20/2009*. The contaminant of concern was listed as lead, found in onsite soils only.

The Certified EIR identified that the potential for a school being located within the TASP Area; however, no existing schools were identified within the TASP Area in the Certified EIR. Since the preparation of the Certified EIR, Mabel Mattos Elementary School, which is located within the Metro Plan Area has opened and is operational.

## Regulatory Setting

The regulatory setting for hazards and hazardous materials is described in pages 3.4-6 through 3.4-10 of the Certified EIR. These regulations include the federal Resource Conservation and Recovery Act, which regulates recycling and recovery, spills, generation, and disposal of hazardous materials; California's Hazardous Materials Release Response Plans and Inventory Law, which regulates storage of hazardous materials and emergency response; the Milpitas Toxic Gas Ordinance, which regulates hazardous materials in aboveground storage tanks and underground storage tanks, and the handling, dispensing, and potential release of toxic gases; the Multi-Hazard Emergency Plan, which is maintained by the Milpitas Fire Department; the Santa Clara Countywide Household Hazardous Waste program, which provides designated collection items for various household hazardous wastes; the California Environmental Protection Agency and DTSC, which regulate the generation, transportation, treatment, storage, and disposal of hazardous waste; local enforcement of hazardous waste laws by the Milpitas Fire Department and SCCDEH; regulations related to remediation of contaminated sites under the oversight of SCCDEH with the cooperation of the RWQCB; federal and state laws, which regulate occupational safety and are enforced by the California Division of Occupational Safety and Health (Cal OSHA) and the federal Occupational Safety and Health Administration; Bay Area Air Quality Management District and Cal OSHA regulations related to asbestos as a hazardous air pollutant and as a potential worker safety hazard; DTSC regulations related to polychlorinated biphenyls (PCBs); Cal OSHA and U.S. Department of Housing and Urban Development standards and guidelines related to lead; federal regulations pertaining to the transport of hazardous materials and hazardous wastes by all modes of transportation; and policies from the Midtown Milpitas Specific Plan. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The Certified EIR identified that the Safety Element of the 1994 General Plan provides guiding principles and policies for the protection from and handling of hazardous materials, in addition to protections from exposure to contaminated media associated with historical hazardous materials releases. The guiding principles and policies identified in the Certified EIR are included below.

- Guiding Principle 5.d-G-1: Use the City's Emergency Management Plan as the guide for emergency management in the Planning Area.
- Policy 5.d-I-2: Design critical public facilities to remain operational during emergencies.
- Guiding Principle 5.c-G-1: Provide high quality, effective and efficient fire protection services for the Milpitas area residents.
- Policy 5.c-I-1: Maintain a response time of four minutes or less for all urban service areas.
- Policy 5.c-I-2: Maintain mutual aid agreements with other agencies in the County.

- Policy 5.c-I-3: Require automatic fire sprinklers for all new development in the Hillside Area that is not within 1.5 miles of an existing or planned fire station, and fire-resistive construction and compliance with California high-rise building requirements for buildings over three stories in height.
- Policy 5.d-I-1: Maintain and upgrade the Emergency Management Plan as necessary.

On March 9, 2021, the City adopted an update to the General Plan, which is referred to as the 2040 General Plan. The 2040 General Plan supersedes and replaces the 1994 General Plan and the policies from the 2040 General Plan would apply to the Metro Plan. The following actions and policies from the 2040 General Plan that would apply to the Metro Plan are similar to the policies from the 1994 General Plan identified in the Certified EIR.

- Policy SA 3.1: Ensure that new critical facilities in Milpitas are located in areas that minimize exposure to potential natural hazards.
- Policy SA 3.2: Ensure that critical facilities are properly supplied and equipped to provide emergency services.
- Policy SA 3.3: Ensure that critical facilities are designed and constructed to withstand the “maximum probable” seismic events and still remain capable of service use to provide emergency assistance after a major disaster.
- Policy SA 3.6: Maintain effective mutual aid agreements for fire, medical response, and other functions as appropriate.
- Policy SA 4.1: Provide adequate funding for police and fire facilities and personnel to accommodate existing and future citizens’ needs to ensure a safe and secure environment for people and property throughout the city.
- Policy SA 4.9: Ensure that fire and emergency medical services meet existing and future demand by maintaining a response time of four minutes or less for all urban service areas.
- Goal SA-5: Protect citizens from hazardous materials.
- Policy SA 5-1: Require hazardous waste generated within Milpitas to be disposed of in a safe manner, consistent with all applicable local, state, and federal laws.
- Policy SA 5-2: Hazardous materials shall be stored in a safe manner, consistent with all applicable local, state, and federal laws.
- Policy SA 5-3: Ensure that businesses in Milpitas that handle hazardous materials prepare and file a Hazardous Materials Business Plan (HMBP), and Hazardous Materials Inventories. The HMMP and Inventory shall consist of general business information, basic information on the location, type, quantity, and health risks of hazardous materials, and emergency response and training plans.
- Policy SA 5-4: Use the environmental review process to comment on Hazardous Waste Transportation, Storage and Disposal (TSD) Facilities proposed in the Milpitas Planning Area and throughout the County to request a risk assessment and ensure that potentially significant, widespread, and long-term impacts on public health and safety of these facilities are identified and mitigated, as such impacts do not respect jurisdictional boundaries.
- Policy SA 5-5: As feasible, minimize the use of toxic cleaning supplies and products in civic facilities, and minimize the City’s use of pesticides, herbicides and fertilizers during landscaping and outdoor municipal operations.
- Policy SA 5-6: Encourage residents and businesses to minimize the use of toxic materials and products including the application of pesticides, herbicides and fertilizers.
- Action SA-5a: Require that applications for discretionary development projects provide detailed information regarding the potential for the historical use of hazardous materials on the site,

including information regarding the potential for past soil and/or groundwater contaminations. If warranted, identify and require mitigation measures to ensure the exposure to hazardous materials from historical uses has been mitigated to acceptable levels consistent with U.S. Environmental Protection Agency (EPA) and/or DTSC standards.

- Action SA-5d: Require that Business License applications for businesses that use, store, or sell hazardous materials be reviewed by the County Department of Environmental Health to ensure operations comply with all applicable local, state, and federal laws and do not pose a risk to the public.

## Certified EIR Findings

The Certified EIR found that:

- At the time of the TASP preparation, an environmental database review conducted via DTSC's EnviroStor and Cal-Sites, SWRCB's GeoTracker, and the SCCDEH LOP and Cortese databases identified 28 sites with known hazardous material releases within the TASP Area. Of the 28 sites identified, 21 sites were listed as *no further action* or *case closed*, did not require additional remediation, and were not considered a threat to proposed future land uses in the Project area. The seven remaining cases were *open cases* indicating that remediation activities have not been completed and/or the concentrations of contaminants currently exist above regulatory thresholds. Implementation of TASP policies including Policy 5.20 to address potential hazardous materials impacts affecting human health and to require remediation of contaminated sites, along with Policy 5.22 requiring Risk Management Plans at sites with known contamination, would reduce potential impacts to less-than-significant levels.
- The Certified EIR determined that existing structures to be demolished in the TASP Area could potentially include hazardous building materials such as asbestos, PCBs, or lead-based paint. Implementation of Policy 5.21 to address hazardous building materials such as asbestos, PCBs or lead; adherence to Section 19827.5 of the California Health and Safety Code requiring compliance with notification requirements under federal regulations; and compliance with Titles 8 and 17 of the California Code of Regulations, which include work practice standards related to lead exposure and the evaluation and abatement of lead in public and residential buildings, would reduce potential impacts to less-than-significant levels.
- Future commercial, residential, and light industrial land uses associated with the TASP would involve the use, transport, and disposal of hazardous substances including paints, polishes, petroleum-based products, household cleaning agents, solvents, gardening chemicals, pool chemicals, and ammonia. Installation of aboveground storage tanks and underground storage tanks could also occur as part of TASP development. The Certified EIR concluded that due to mandatory compliance with federal, state, and local regulations, potential impacts associated with future hazardous material use, transport, and disposal would be less than significant.
- Under the TASP, an elementary or K-8 school would be potentially constructed within the TASP Area. A 2006 preliminary environmental assessment of the potential school site indicated that existing hazardous material conditions within the site and the surrounding area do not pose a threat of hazardous material contamination to the site. Although onsite contamination was unlikely, the Certified EIR stated that implementation of TASP policies, such as Policy 5.20 and Policy 5.22, would address potential hazardous materials impacts related to existing site contamination within the Project area, including the school site in question. As such, the

Certified EIR concluded that potential impacts on future school sites would be less than significant.

- The TASP is not expected to impair the implementation of or interfere with the City's Multi-Hazard Emergency Plan.

## Discussion

### Changes in Land Use Classifications and Policies

Table 2-2 in Chapter 2, *Project Description*, of the SEIR to which this IS is appended, provides a summary of the policies in the TASP related to hazardous materials. The Metro Plan does not include policies related to hazardous materials. However, as shown in Table 2-2, requirements from the 2040 General Plan and existing regulations would still include similar requirements as those identified in the TASP.

Therefore, although there have been changes and deletions to the policies in the TASP, similar measures would still be required by the existing 2040 General Plan and through compliance with existing regulations. The changes made to the TASP policies by the Metro Plan would not substantially change the overall requirements to minimize impacts on hazards and hazardous materials. Therefore, these changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

### Geographic Expansion and Metro Plan Buildout: Population Growth and Employment

Implementation of the Project Changes, including the geographic expansion of the Metro Plan Area and the additional population growth and employment from the Metro Plan buildout, would result in the construction of new development and associated infrastructure. The discussion below focuses on the impacts from this additional buildout.

As described above, policies and regulations related to the hazards and hazardous materials, that would apply to development under the Metro Plan include the following:

- Policies SA 3.6, SA 4.1, SA 4.9, and SA 5-1 through SA 5-6, and Actions SA-5a and SA-5d from the 2040 General Plan
- Section 19827.5 of the California Health and Safety Code
- Titles 8 and 17 of the California Code of Regulations

### Hazardous Materials

Future development associated with the Metro Plan would involve the use, transport, and disposal of hazardous substances similar to what is described in the Certified EIR for the TASP Area. General Plan goals, policies, and actions such as Policy SA 5-1 through Policy SA 5-6 and Action SA-5d would apply to the use, handling, and disposal of hazardous materials. Consistent with the conclusions in the Certified EIR, the Project Changes would have a less-than-significant impact on hazards related to the routine transport, use, or disposal of hazardous materials.



Population growth could result in the increased use of and exposure to hazardous materials; however, the types and use of hazardous materials would be the same as what was previously described in the Certified EIR for the TASP Area. General Plan goals, policies, and actions such as Policy SA 5-1 through Policy SA 5-6 and Action SA-5d would apply to the use, handling, and disposal of hazardous materials and would reduce potential impacts to less-than-significant levels. Consistent with the conclusions in the Certified EIR, operation of development associated with the Project Changes would have a less-than-significant impact on hazards related to the routine transport, use, or disposal of hazardous materials.

As described above under *Setting*, six sites were identified during the supplemental database review in the Metro Plan expansion areas; these sites were not evaluated in the Certified EIR. Out of the six sites, two have received closure from the applicable oversight agency, and two others are inactive and in need of an evaluation. The remaining two sites include an active site exhibiting volatile organic compound-impacted groundwater and soil vapor, and a site exhibiting metal impacts on both soil and groundwater. As such, construction activities occurring within the Metro Plan expansion areas could occur in areas exhibiting impacted soils or groundwater. However, future development in the Metro Plan Area would adhere to applicable General Plan goals, policies, and actions (presented above), such as Action SA-5a, which requires development projects to provide detailed information regarding historical onsite use of hazardous materials and information regarding historical releases associated with the site. It also requires the identification and implementation (as necessary) of mitigation measures to ensure the exposure to hazardous materials from historical uses has been mitigated to acceptable levels consistent with U.S. Environmental Protection Agency and/or DTSC standards. Implementation of Policy SA 5-1 would require hazardous waste generated as a result of the remediation of a contaminated site to be disposed of appropriately, and consistent with all applicable local, state, and federal laws. Policy SA 5-1 along with Section 19827.5 of the California Health and Safety Code and Titles 8 and 17 of the California Code of Regulations would also apply to the demolition of buildings within the expansion areas and would address hazardous building material waste such as asbestos, PCBs, or lead. Potential impacts on construction personnel and the surrounding environment would be less than significant. Consistent with the conclusions in the Certified EIR, the Project Changes would have a less-than-significant impact on hazards related to reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, as well as from being located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Since the preparation of the Certified EIR, Mabel Mattos Elementary School has opened and is operational. As such, any future construction near Mabel Mattos Elementary School associated with the Metro Plan could result in the emission or handling of hazardous materials near a school. Nonetheless, adherence to the same policies and regulations identified above that regulate the use, transport, disposal, and handling of hazardous materials would ensure that impacts on schools would be less than significant. Therefore, implementation of the Metro Plan would not result in new significant impacts or significant impacts of increased severity with respect to impacts on schools.

## Emergency Response Plan

The Certified EIR identified that the TASP is not expected to impair the implementation of or interfere with the City's Multi-Hazard Emergency Plan. Implementation of the Project Changes would result in additional development and infrastructure in the Metro Plan Area. Nonetheless, the

2040 General Plan EIR identifies that the 2040 General Plan would ensure “that the City’s emergency access routes, emergency contact lists, and public information regarding designated facilities and routes are regularly reviewed to ensure that up to date information is available to the City and the public in the event of an emergency.”<sup>32</sup> Consistent with the conclusions in the Certified EIR, implementation of the Project Changes would have a less-than-significant impact on emergency planning.

### **Airport Land Use Plan**

The Certified EIR did not include an impact analysis or significance conclusion regarding safety hazards or excessive noise impacts related to being within an airport land use plan area or within 2 miles of a public airport or public use airport. Nonetheless, the closest airport to the TASP Area or the Metro Plan Area (including the two expanded areas) is the San Jose International Airport, which is more than 2 miles away from the TASP Area or Metro Plan Area. In addition, no lands in the City are within an airport land use plan area.<sup>33</sup> As such, the Metro Plan would have no impact on safety hazards or excessive noise related to being within an airport land use plan area or within 2 miles of a public airport or public use airport. Therefore, implementation of the Metro Plan would not result in new significant impacts or significant impacts of increased severity with respect to being located in an airport land use plan or near an airport.

### **Wildland Fires**

The Certified EIR did not include an impact analysis or significance conclusion regarding exposing people or structures to a significant risk of loss, injury, or death involving wildland fires. Nonetheless, the area surrounding both the TASP Area or the Metro Plan Area (including the two expanded areas) is generally developed and lacking features that normally elevate wildland fire risks (e.g., dry vegetation, steeply sloped hills). The 2040 General Plan includes several policies that would ensure that the City is prepared to respond to any emergency related to fires, including Policies SA 3.6, SA 4.1, and SA 4.9. Because of the urban setting of the Metro Plan Area and because of the 2040 General Plan policies that would ensure that the City is prepared for emergencies, the impact due to wildland fires would be less than significant for the Metro Plan. Therefore, implementation of the Metro Plan would not result in new significant impacts or significant impacts of increased severity with respect to wildland fires.

## **Conclusion**

The Certified EIR determined that the TASP would have a less-than-significant impact with regard to hazards and hazardous materials. Based on the analysis above, with incorporation of the Project Changes, the Metro Plan would also have a less-than-significant impact with regard to hazards and hazardous materials. Therefore, the Project Changes would not result in a change to the Certified EIR’s impact determination for impacts on hazards and hazardous materials. Specifically, the Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or

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<sup>32</sup> City of Milpitas. 2020. *Draft Environmental Impact Report for the Milpitas General Plan Update*. November 2. Page 3.8-35.

<sup>33</sup> City of Milpitas. 2020. *Draft Environmental Impact Report for the Milpitas General Plan Update*. November 2. Page 3.10-22.

substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## X. Hydrology and Water Quality

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	Less than Significant Impact	No Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner that would:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
1. Result in substantial erosion or siltation on- or off-site;	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite;	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Impede or redirect floodflows?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Setting

### Environmental Setting

The environmental setting for the TASP Area is described on pages 3.10-1 through 3.10-6 of the Certified EIR. This discussion includes an overview of drainage in the TASP Area, the watershed in the TASP Area, precipitation, the storm drain system, flooding, water quality, and groundwater within and around the TASP Area. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review. The setting with regard to hydrology and water quality within the TASP Area has not changed substantially since the Certified EIR was prepared. The information in the Certified EIR regarding groundwater wells is correct but it should be noted that the City plans to expand its groundwater capabilities by operating two new groundwater wells, the Curtis Well and the McCandless Well. The Design for the Curtis Well began in 2020 and the McCandless Well is expected to be completed in 2020.<sup>34</sup> The two expanded areas in the Metro Plan have the same physical setting for hydrology and water quality as what was identified for the TASP in the Certified EIR.

### Regulatory Setting

The regulatory setting for hydrology and water quality is described on pages 3.10-6 to 3.10-8 of the Certified EIR. These regulations include the National Flood Insurance Act of 1986 and the Flood Disaster Protection Act of 1973, which are implemented through the National Flood Insurance Program and the City's Building Code; the federal Clean Water Act and the state Porter-Colone Water Quality Control Act, which are administered by the San Francisco RWQCB; the NPDES permit administered by the RWQCB; the Santa Clara Valley Urban Runoff Prevention Program (SCVURPP) Stormwater Management Plan; the City's Zoning Ordinance, which implements NPDES requirements; the Milpitas Sanitary Code, which prohibits the discharge of polluted waters; the City's Municipal Code, which requires developers with developments in a floodplain to submit a permit application showing the development plans, in particular the measures that will be taken to prevent flood hazards or elevate buildings out of the floodplain; policies in the 1994 General Plan; policies in the Midtown Specific Plan; policies from the Santa Clara Valley Water Resources Protection Collaborative; and BMPs, which are typically required through the development review process on a case-by-case basis. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

Since the preparation of the Certified EIR, the Sustainable Groundwater Management Act was passed in California. Per the Sustainable Groundwater Management Act, all of California's 515 groundwater basins are classified into one of four categories: High, Medium, Low, or Very Low Priority. The City is within the Santa Clara Valley Subbasin, which is identified as a High-Priority groundwater basin.<sup>35</sup> In 2016, SCVWD prepared the Groundwater Management Plan for the Santa Clara and Llagas Subbasins. This Groundwater Management Plan describes SCVWD's comprehensive groundwater management framework, including existing and potential actions to achieve basin

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<sup>34</sup> City of Milpitas. 2021. *Water Master Plan*. March 2021. Prepared by West Yost.

<sup>35</sup> California Department of Water Resources. 2020. SGMA Basin Prioritization Dashboard. Santa Clara Valley. Available: <https://gis.water.ca.gov/app/bp-dashboard/final/#>. Accessed October 2021.

sustainability goals and ensure continued sustainable groundwater management.<sup>36</sup> This plan satisfies the objectives of the Sustainable Groundwater Management Act.

The Certified EIR identified 1994 General Plan policies relating to hydrology and water quality including:

- Policy 4.d-G-1: Protect and enhance the quality of water resources in the Planning Area.
- Policy 4.d-I-1: Continue implementing the National Pollutant Discharge Elimination System (NPDES) requirements of the Regional Water Quality Control Board – this is implemented through Chapter 16 of the City’s Zoning Ordinance.

On March 9, 2021, the City adopted an update to the General Plan, which is referred to as the 2040 General Plan. The 2040 General Plan supersedes and replaces the 1994 General Plan and the policies from the 2040 General Plan would apply to the Metro Plan. The following actions from the 2040 General Plan that would apply to the Metro Plan are similar to the policies from the 1994 General Plan identified in the Certified EIR.

- Policy UCS 4-2: Require all development projects to demonstrate how storm water runoff will be detained or retained on-site and/or conveyed to the nearest drainage facility as part of the development review process and as required by the San Francisco Bay Region Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit.
- Policy UCS 4-3: Require all future development projects to analyze their drainage and stormwater conveyance impacts and either demonstrate that the City’s existing infrastructure can accommodate increased stormwater flows, or make the necessary improvements to mitigate all potential impacts.
- Policy UCS 4-4: Applicable projects shall incorporate BMPs and Low Impact Development (LID) measures to treat stormwater before discharge from the site. The facilities shall be sized to meet regulatory requirements.
- Policy UCS 4-5: Applicable projects shall control peak flows and duration of runoff to prevent accelerated erosion of downstream watercourses.
- Policy UCS 4-14: Construction sites shall incorporate measures to control erosion, sedimentation, and the generation of runoff pollutants to the maximum extent practicable. The design, scope and location of grading and related activities shall be designed to cause minimum disturbance to terrain and natural features. (Title II, Chapter 13 of the Municipal Code).
- Action SA 2a: As part of the development review process continue to require new developments to prepare hydraulic and storm drainage studies as necessary to define the net increase in storm water run-off resulting from construction and operation, and require mitigation to reduce identified impacts. Drainage and grading plans shall identify BMP protections and include standards established and recommended by the City that shall be incorporated into development.
- Action SA 2c: Continue to review projects in flood hazard areas to ensure compliance with Milpitas Municipal Code Title XI, Chapter 15 – (Floodplain Management Regulations).
- Action SA 2g: Require developers to adequately fund the costs of drainage facilities needed for surface runoff generated as a result of new development.

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<sup>36</sup> Santa Clara Valley Water District. 2016. *2016 Groundwater Management Plan Santa Clara and Llagas Subbasins*. November. Available: <https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2016%20Groundwater%20Management%20Plan.pdf>. Accessed: October 2021.

- Action USC 4e: Continue to implement a comprehensive municipal stormwater pollution-prevention program in compliance with requirements of the Santa Clara Valley Urban Runoff Prevention Program (SCVURPPP) and the C.3 Stormwater Handbook.
- Action USC 4f: Work cooperatively with local, state, and federal agencies to comply with regulations, reduce pollutants in runoff, and protect and enhance water resources in the Santa Clara Basin through implementation of the Santa Clara Valley Urban Runoff Prevention Program (SCVURPPP).

## Certified EIR Findings

The Certified EIR found that:

- The TASP is not expected to substantially affect groundwater levels or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table. The City is served by a municipal water system that does not depend on local groundwater. Because of this and because the TASP Area is almost fully developed, the Certified EIR concluded that significant impacts on groundwater systems are not expected to occur.
- The TASP would not substantially alter the course of a stream or river in a manner that would result in substantial erosion or siltation on- or offsite. The TASP would maintain approximately the same drainage pattern, utilizing street gutters and storm drains that would remain in the same place as they are currently. The Certified EIR concluded that this significance criterion is not relevant to the TASP and is therefore not discussed in the Impacts and Mitigations Measures section of the Certified EIR.
- The TASP Area is not subject to inundation by seiche, tsunami, or mudflow. The Certified EIR concluded that this significance criterion is not relevant to the TASP and is therefore not discussed in the Impacts and Mitigations Measures section of the Certified EIR.
- Impacts associated with construction activities (i.e., grading, excavation, soil stockpiling) could result in erosion, entrainment of sediment in runoff, sedimentation, localized ponding, flooding, and potential release of chemicals. Impacts on water quality were found to be less than significant after implementation of General Plan Policies 4.d-G-1 and 4.d-I-1 and TASP Policies 5.36 and 5.37.
- Impacts associated with buildout of the TASP could include increased discharge of pollutants in stormwater due to the new residents and additional vehicular traffic, which would result in pollutants in runoff. The Certified EIR also concluded that the TASP would overall decrease runoff due to addition of more landscaped areas and parks. Impacts on water quality from buildout of the TASP were found to be less than significant after implementation of Storm Drainage Plans by developers; compliance with the NPDES permit; General Plan Policies 4.d-G-1 and 4.d-I-1; TASP Policies 5.36, 6.5, 6.7; and actions from Table 7-1 of the Certified EIR.
- Impacts associated with constructing development within a Federal Emergency Management Agency–designated 100-year floodplain were found to be less than significant after compliance with the requirements in the City’s Municipal Code, the City’s development standards, and TASP Policies 6.1, 6.2, 6.3, 6.4, 6.6, and 6.7. The Certified EIR also identified that regional flooding mitigation will be conducted by SCVWD and the U.S. Army Corp of Engineers, and that localized flooding mitigations will be handled by individual developers in accordance with a developer-funded and City-approved Storm Drainage Plan for each subdistrict.

## Discussion

Since the preparation of the Certified EIR, the thresholds identified in Appendix G of the State CEQA Guidelines have been updated for hydrology and water quality. The discussion below is based on the updated thresholds in Appendix G of the State CEQA guidelines.

### Changes in Land Use Classifications and Policies

Table 2-2 in Chapter 2, *Project Description*, of the SEIR to which this IS is appended, provides a summary of the policies in the TASP related to hydrology and water quality. In summary, Table 2-2 identifies the following updates that have been made in the Metro Plan:

- The Metro Plan does not include a policy requiring projects that disturb more than 1 acre to prepare a Stormwater Pollution Prevention Plan (TASP Policy 5.36). However, this requirement would still be fulfilled under the Metro Plan because developers would be required to comply with the Construction General Permit.
- The Metro Plan does not include a policy requiring projects that disturb more than 1 acre to prepare a Stormwater Control Plan (TASP Policy 5.37). However, this requirement would still be fulfilled under the Metro Plan because developers would be required to comply with the NPDES Permit that includes this requirement.
- The Metro Plan includes policies related to flooding and storm drains; although some of the text has been updated compared to TASP policies, there would be no substantial change in the requirements related to minimizing impacts from flooding and on storm drains as identified in the TASP (TASP Policies 6.1, 6.2, 6.3, 6.4, and 6.5).

Therefore, although there have been changes and deletions to the policies in the TASP, similar measures would still be required by the existing 2040 General Plan, the Metro Plan, and through compliance with existing regulations. As summarized in Table 2-2 of the SEIR to which this IS is appended, the changes made to the TASP policies by the Metro Plan would not substantially change the overall requirements to minimize impacts on hydrology and water quality. Therefore, these changes in policies would not result in new significant impacts or more severe significant impacts than what was identified in the Certified EIR.

### Geographic Expansion and Metro Plan Buildout: Population Growth and Employment

Implementation of the Project Changes, including the geographic expansion of the Metro Plan Area and the additional population growth and employment from the Metro Plan buildout, would result in the construction of new development and associated infrastructure. The discussion below focuses on the impacts from this additional buildout.

As described above, policies and regulations related to hydrology and water quality, that would apply to development under the Metro Plan include the following:

- NPDES Permit
- Construction General Permit
- National Flood Insurance Program



- Milpitas Municipal Code Title XI, Chapter 15 – (Floodplain Management Regulations).
- SCVURPPP.
- Metro Plan Policies ICS 1.1, ICS 1.2, ICS 1.3, ICS 2.1, ICS 2.2, CB 4.5.8.

## Water Quality

The Certified EIR concluded that impacts on water quality from construction would be minimized to a less-than-significant level by future developments complying with General Plan Policies 4.d-G-1 and 4.d-I-1 and TASP Policies 5.36 and 5.37, which require compliance with existing regulations, including NPDES and the Construction General Permit. The construction associated with the Project Changes would be similar to what was described in the Certified EIR (i.e., grading, excavation, soil stockpiling, use of chemicals) and construction of future development associated with the Project Changes would be required to adhere to the same regulations as described for the TASP in the Certified EIR. As such, construction impacts on water quality due to the Project Changes would be less than significant and the same as identified in the Certified EIR.

The Certified EIR concluded that impacts from the TASP buildout, including discharge of pollutants into stormwater due to new residents and additional vehicular traffic, would be less than significant after implementation of Storm Drainage Plans by developers; compliance with the NPDES permit; compliance with 1994 General Plan Policies 4.d-G-1 and 4.d-I-1 and TASP Policies 5.36, 6.5, 6.7; and actions from Table 7-1 of the Certified EIR. Buildout associated with the Project Changes would be similar to the TASP buildout and would result in the same pollutants potentially discharged into stormwater. Buildout associated with the Project Changes would be required to adhere to the same regulations and similar policies for the TASP in the Certified EIR. Although the Metro Plan does not include a policy requiring the preparation of Storm Drainage Plans, these plans would not be necessary to reduce the impacts related to discharge into stormwater. First, the Metro Plan is expected to overall decrease stormwater runoff due to the addition of open space and parks, which would increase pervious areas and reduce runoff. Second, water quality would be protected by other regulations. As such, impacts on water quality due to buildout of the Project Changes would be less than significant and the same as identified in the Certified EIR.

Overall, through adherence to existing regulations and policies in the Metro Plan, the Project Changes are expected to result in a less-than-significant impact on water quality, would not violate water quality standards or waste discharge requirements, and would not conflict with or obstruct implementation of a water quality control plan. The Project Changes would not result in any new impacts or more severe impacts, beyond what was identified in the Certified EIR, related to water quality.

## Groundwater and Groundwater Quality

The Certified EIR concluded that impacts on groundwater would be less than significant because: (1) the City does not depend on local groundwater, and (2) the TASP Area is almost fully developed and would not affect groundwater recharge.

Since the preparation of the Certified EIR, changes have been made relative to groundwater management. First, the City has identified that two new groundwater wells would be developed to expand the City's water capabilities for the future, and second, the Sustainable Groundwater Management Act was passed. Like the TASP Area, the Metro Plan Area (including the two expanded

areas) is within a highly developed, urbanized areas and the buildout of new development (which is expected to implement more vegetated areas than currently exist) would not affect groundwater recharge. In addition, although the City is expected to use groundwater in the future, implementation of the Metro Plan is not expected to impede implementation of the Groundwater Management Plan by SCVWD. In fact, the Metro Plan would be in line with some programs identified in the Groundwater Management Plan to maintain a reliable groundwater supply, including water conservation and use of recycled water (see Metro Plan Policy ICS 3.4). In addition, the Groundwater Management Plan identifies working with the SCVURPP, of which the City of Milpitas is a member, in order to protect groundwater quality. The 2040 General Plan identifies actions (Actions USC 4e and USC 4f) that require implementation of the SCVURPP. As such, implementation of the Project Changes would result in a less-than-significant impact on groundwater and groundwater quality and would not decrease groundwater supplies, interfere substantially with groundwater recharge, impede sustainable groundwater management of the groundwater basin, or conflict with the Groundwater Management Plan.

Implementation of the Metro Plan would result in no new significant effect on groundwater or groundwater quality, and the impact would not be more severe than the impacts identified in the Certified EIR.

### **Alteration to Drainage Patterns**

The Certified EIR concluded that the TASP would not substantially alter the course of a stream or river and that it would maintain a similar drainage pattern with street gutters and storm drains. In addition, the Certified EIR concluded that implementation of the TASP would increase the area of pervious surfaces through the addition of parks and vegetated areas.

Similarly, the Project Changes would not alter the course of a stream or river. Although there are creeks in the Metro Plan Area, buildout is not expected to alter the course of a stream or a river. Furthermore, the Project Changes would maintain a similar drainage pattern as the drainage pattern anticipated from buildout of the TASP, including through street gutters and storm drains. In addition, the Project Changes would increase the area of pervious surfaces through the addition of vegetated areas associated with new developments and through the additions of parks and open space. As such, the Project Changes are expected to result in a less-than-significant impact related to the alteration of existing drainage patterns and in less-than-significant impacts from erosion, siltation, flooding due to increased runoff, exceeding the capacity of stormwater drainage systems due to runoff, and impeding or redirecting floodflows.

The Project Changes would not result in any new impacts or more severe impacts, beyond what was identified in the Certified EIR, related to alteration of existing drainage patterns.

### **Flood Hazard**

The Certified EIR concluded that impacts from placing development within flood hazards would be less than significant after compliance with the City's Municipal Code, the City's development standards, and TASP Policies 6.1, 6.2, 6.3, 6.4, 6.6, and 6.7.

Under the Metro Plan, development could occur within those areas identified as being within a flood hazard in the Certified EIR. In addition, the Project Changes would result in additional areas where development could occur under the TASP. The western expanded area is adjacent to but not within a

flood hazard area. A small portion of the eastern expanded area is within a flood hazard area. Overall, development under the Metro Plan would be required to adhere to the same requirements to minimize flooding impacts as the TASP, including from existing regulations (City's Municipal Code and City's Development Standards) and from Metro Plan policies. With implementation of these regulations and polices—as well as implementation of the SCVURPP, which would protect water quality—the potential impacts related to the risk of release of pollutants due to flooding in flood hazard areas would be less than significant for the Metro Plan.

Since the preparation of the Certified EIR, the thresholds for flooding impacts have been updated in Appendix G of the State CEQA Guidelines. As such, the Certified EIR did not consider the risk of release of pollutants due to flooding in flood hazard areas. Nonetheless, implementation of the Metro Plan would result in no new significant effect on flooding. Implementation of the Metro Plan would not result in new significant impacts or significant impacts of increased severity with respect to flooding.

### **Tsunami and Seiche**

Like the TASP Area, the Metro Plan Area, including the expansion areas, would not be within an area subject to flooding by tsunami or seiche. As such, there would be no risk of release of pollutants due to inundation from tsunami or seiche. The Project Changes would not result in any new impacts or more severe impacts, beyond what was identified in the Certified EIR, related to risk of release of pollutants due to inundation from tsunami or seiche.

## **Conclusion**

The Certified EIR determined that the TASP would have a less-than-significant impact with regard to hydrology and water quality. Based on the analysis above, with incorporation of the Project Changes, the Metro Plan would have a less-than-significant impact with regard to hydrology and water quality. Therefore, the Project Changes would not result in a change to the Certified EIR's impact determination for impacts on hydrology and water quality. Specifically, the Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## XI. Land Use and Planning

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Physically divide an established community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on land use and planning that were not analyzed in the Certified EIR. As such, **land use and planning impacts due to the Project Changes are further evaluated in the SEIR.**

## XII. Mineral Resources

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Setting

The Existing Conditions Report for the Milpitas General Plan identifies four areas that have been identified by the State Geologist as containing Regionally Significant Construction Aggregate Resources.<sup>37</sup> These four areas are in the foothills outside City limits.<sup>38</sup> In addition, the Existing Conditions Report for the Milpitas General Plan identifies five aggregate mines in Santa Clara County.<sup>39</sup> None of these areas or aggregate mines are within the Metro Plan Area.

### Certified EIR Findings

The Certified EIR did not include an impact analysis or significance determination related to mineral resources.

### Conclusion

Because there are no mineral resources in the Metro Plan Area, the Metro Plan would result in no impact on mineral resources. The Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

<sup>37</sup> City of Milpitas. 2018. *Milpitas General Plan Update Existing Conditions Report*. June. Available: <https://milpitas.generalplan.org/content/documents-and-maps>. Accessed: September 2021.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

### XIII. Noise

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in a local general plan or noise ordinance, or applicable standards of other agencies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Generate excessive groundborne vibration or groundborne noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Be located within the vicinity of a private airstrip or an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on noise that were not analyzed in the Certified EIR. As such, **noise impacts due to the Project Changes are further evaluated in the SEIR.**

## XIV. Population and Housing

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Induce substantial unplanned population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Displace a substantial number of existing people or housing units, necessitating the construction of replacement housing elsewhere?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on population and housing that were not analyzed in the Certified EIR. As such, **population and housing impacts due to the Project Changes are further evaluated in the SEIR.**

## XV. Public Services

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:			
Fire protection?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Schools?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other public facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on public services that were not analyzed in the Certified EIR. As such, **public services impacts due to the Project Changes are further evaluated in the SEIR.**



## XVI. Recreation

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on recreation that were not analyzed in the Certified EIR. As such, **recreation impacts due to the Project Changes are further evaluated in the SEIR.**

## XVII. Transportation

	Potentially New Significant Impact or Substantially More Severe Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Result in inadequate emergency access?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On September 27, 2013, SB 743 was signed into law, supporting previous climate-focused and transportation legislation, including the Sustainable Communities and Climate Protection Act of 2008 (SB 375) and the California Global Warming Solutions Act of 2006 (AB 32). SB 743 introduced fundamental changes in the assessment of transportation impacts through the CEQA process. These changes include the elimination of auto delay (measured as Level of Service, or LOS) as a basis for determining significant transportation impacts. SB 743 included amendments that revised the definition of “infill opportunity zones” to allow cities and counties to opt out of traditional LOS standards established by CMPs and required the California Governor’s Office of Planning and Research (OPR) to update the State CEQA Guidelines and establish “criteria for determining the significance of transportation impacts of projects within transit priority areas.” As part of the new CEQA guidelines, the new criteria “shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” SB 743-compliant CEQA analysis became mandatory on July 1, 2020. Since the CEQA transportation analysis in the Certified EIR predated SB 743, potentially significant impacts were defined differently (i.e., in terms of vehicle delay) at that time and vehicle miles traveled (VMT) was not evaluated, as is currently required. CEQA Guidelines section 15064.3 establishes VMT as the most appropriate measure of transportation impacts. CEQA Guidelines section 15064.3(b)(1) states the following:

*Land Use Projects. Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects within one-half mile of either an existing major transit stop or a stop along an existing high quality transit corridor should be presumed to cause a less than significant transportation impact. Projects that decrease vehicle miles traveled in the project area compared to existing conditions should be presumed to have a less than significant transportation impact.*

It is expected that the Metro Plan would have less than significant VMT impacts because the majority of the Metro Plan Area is located within one-half mile of a major transit stop (Milpitas Transit

Center). Nonetheless, the Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on transportation that were not analyzed in the Certified EIR. As such, **transportation impacts due to the Project Changes are further evaluated in the SEIR.**

## XVIII. Tribal Cultural Resources

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:			
a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Setting

The environmental and regulatory setting for the TASP Area is described in the Certified EIR on pages 3.13-1 through 3.13-9 of the *Cultural Resources* section. However, the Certified EIR does not include a discussion of Assembly Bill (AB) 52, which defines tribal cultural resources, because AB 52 had not yet been adopted at the time the Certified EIR was prepared. Thus, no tribal cultural resources were formally designated under the TASP. This information is incorporated by reference pursuant to Section 15150 of the CEQA Guidelines. Refer to Chapter 1, *Introduction*, of the SEIR to which this IS is appended for the location where the Certified EIR is available for public review.

The regulatory setting with regard to tribal cultural resources within the TASP Area has changed since the Certified EIR was prepared. In September 2014, tribal cultural resources were identified as a distinct CEQA environmental category with the adoption of AB 52. For all projects subject to CEQA that received a notice of preparation, notice of negative declaration, or mitigated negative declaration on or after July 1, 2015, AB 52 requires the lead agency on a proposed project to consult with the geographically affiliated California Native American tribes. The legislation creates a broad new category of environmental resources, “tribal cultural resources,” which must be considered

under CEQA. AB 52 requires a lead agency to not only consider the resource's scientific and historical value but also whether it is culturally important to a California Native American tribe.

AB 52 defines tribal cultural resources as sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are included or determined to be eligible for inclusion in the California Register of Historical Resources; included in a local register of historical resources, as defined in Public Resources Code Section 5020.1(k); or determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to the criteria of Public Resources Code Section 5024.1(c) (CEQA Section 21074).

AB 52 also sets up an expanded consultation process. For projects initiated after July 1, 2015, lead agencies are required to provide notice of the proposed projects to any tribe that is traditionally and culturally affiliated with the geographic area that requested to be informed by the lead agency, following Public Resources Code Section 21018.3.1(b). If, within 30 days, a tribe requests consultation, the consultation process must begin before the lead agency can release a draft environmental document. Consultation with the tribe may include discussion of the type of review necessary, the significance of tribal cultural resources, the significance of the project's impacts on the tribal cultural resources, and alternatives and mitigation measures recommended by the tribe. The consultation process will be deemed concluded when either (1) the parties agree to mitigation measures or (2) any party concludes, after a good-faith effort, that an agreement cannot be reached. Any mitigation measures agreed to by the tribe and lead agency must be recommended for inclusion in the environmental document. If a tribe does not request consultation, or to otherwise assist in identifying mitigation measures during the consultation process, a lead agency may still consider mitigation measures if the agency determines that a project will cause a substantial adverse change to a tribal cultural resource.

No tribes have requested to be informed of CEQA projects in the City pursuant to Public Resources Code Section 21018.3.1(b). Therefore, the City is not required to notify tribes of new CEQA projects pursuant to AB 52.

On March 9, 2021, the City adopted an update to the 1994 General Plan, which is referred to as the 2040 General Plan. The 1994 General Plan does not address tribal cultural resources. However, the 2040 General Plan, which supersedes and replaces the 1994 General Plan, does provide guidance for the preservation of tribal cultural resources and the policies from the 2040 General Plan would apply to the Metro Plan. The following 2040 General Plan policies relate to tribal cultural resources.

- Goal CON-4: Preserve and protect prehistoric, historic, archaeological, and paleontological resources in Milpitas.
- Policy CON 4-2: If found during construction, ensure that human remains are treated with sensitivity and dignity, and ensure compliance with the provisions of California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.
- Policy CON 4-3: Work with Native American representatives to identify and appropriately address, through avoidance or mitigation, impacts to Native American cultural resources and sacred sites during the development review process.
- Policy CON 4-4: Consistent with State, local, and tribal intergovernmental consultation requirements such as SB 18 and AB 52, the City shall consult as necessary with Native American tribes that may be interested in proposed new development and land use policy changes.

- Action CON-4b: Require all development, infrastructure, and other ground-disturbing projects to comply with the following conditions in the event of an inadvertent discovery of cultural resources or human remains:
  - If construction or grading activities result in the discovery of significant historic or prehistoric archaeological artifacts or unique paleontological resources, all work within 100 feet of the discovery shall cease, the Planning Department shall be notified, the resources shall be examined by a qualified archaeologist, paleontologist, or historian for appropriate protection and preservation measures; and work may only resume when appropriate protections are in place and have been approved by the Planning Department.
  - If human remains are discovered during any ground-disturbing activity, work shall stop until the Planning Department and the County Coroner have been contacted; if the human remains are determined to be of Native American origin, the Native American Heritage Commission (NAHC) and the most likely descendants have been consulted; and work may only resume when appropriate measures have been taken and approved by the Planning Department.

The TASP did not provide any policies related to tribal cultural resources, as the Certified EIR was prepared prior to the implementation of AB 52 in 2015. Furthermore, the Metro Plan does not include a policy pertaining to tribal cultural resources. However, the 2040 General Plan and State regulations do provide policies and actions to protect tribal cultural resources.

## Certified EIR Findings

The Certified EIR did not address tribal cultural resources, as it was prepared prior to the implementation of AB 52 in 2015. However, in support of the Certified EIR, a Native American contact list was requested from the NAHC in April 2006. A letter describing the TASP was sent to the tribal contacts on this list but no comments or concerns were received.

## Discussion

As described above, the setting with regard to tribal cultural resources has changed since the Certified EIR. For projects initiated after July 1, 2015, lead agencies are required to provide notice of the proposed projects to any tribe that is traditionally and culturally affiliated with the geographic area that requested to be informed by the lead agency. The 2040 General Plan, adopted by the City in 2021, provides policies and actions to protect tribal cultural resources in compliance with AB 52.

Implementation of the Metro Plan is anticipated to result in new construction that produces additional housing units, commercial office and retail space, and hotel rooms. Ground disturbance associated with new construction could result in temporary or permanent construction-related impacts on tribal cultural resources during ground disturbance. Potential impacts on tribal cultural resources resulting from future development in the expansion areas were not considered in the Certified EIR. However, to date, the City has not received any requests from tribes to be notified of projects under AB 52. Accordingly, no tribal cultural resources have been identified within the Metro Plan Area. Accordingly, there would be no impact on tribal cultural resources.

## Conclusion

The Certified EIR did not address tribal cultural resources. However, based on the analysis above, the Metro Plan would have no impact on tribal cultural resources. The Project Changes would not

result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## XIX. Utilities and Service Systems

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
Would the project:			
a. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The Project Changes, which include the additional buildout associated with the Metro Plan and the expansion of the geographic area of the Metro Plan, could result in new or substantially more severe effects on utilities and service systems that were not analyzed in the Certified EIR. As such, **utilities and service systems impacts due to the Project Changes are further evaluated in the SEIR.**

## XX. Wildfire

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
If located in or near State Responsibility Areas or lands classified as Very High Fire Hazard Severity Zones, would the Project:			
a. Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Setting

According to maps prepared by the California Department of Forestry and Fire Protection, the Metro Plan is in a local responsibility area that is classified as a Non-Very High Fire Hazard Severity Zone.<sup>40</sup> The closest State Responsibility Area (SRA) is to the east of the City limits in the hilly terrain. The Metro Plan is approximately 2 miles from an SRA that is classified as a High SRA.

### Certified EIR Findings

Since the preparation of the Certified EIR, the thresholds identified in Appendix G of the State CEQA Guidelines have been updated for wildfire. When the Certified EIR was prepared, Appendix G of the State CEQA Guidelines did not include these current thresholds. As such, the Certified EIR did not include an impact analysis or significance determination to the current wildfire CEQA thresholds.

<sup>40</sup> California Department of Forestry and Fire Protection. 2008. Santa Clara County Very High Fire Hazard Severity Zones in LRA. October. Available: [https://osfm.fire.ca.gov/media/6764/fhszl\\_map43.pdf](https://osfm.fire.ca.gov/media/6764/fhszl_map43.pdf). Accessed September 2021.



## Conclusion

The area surrounding the Metro Plan is generally developed and lacking features that normally elevate wildland fire risks (i.e., dry vegetation, steeply sloped hills). Because the Project site is not within or near an SRA or Very High Fire Hazard Severity Zone, there would be no impact. The Project Changes would not result in new or substantially more severe effects that were not analyzed in the Certified EIR, and no substantial changes in circumstances have occurred that could result in new or substantially more severe effects that were not analyzed in the Certified EIR. Therefore, **this topic is not discussed further in the SEIR.**

## XXI. Mandatory Findings of Significance

	Potentially New Significant Impact or Substantially More Severe Significant Impact	Impact Adequately Addressed in Certified EIR	No Impact
a. Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Does the project have impacts that are individually limited but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Checklist Item A

Section IV, *Biological Resources*, identifies that the Project Changes would have a less-than-significant impact with regard to biological resources and would not result in a change to the Certified EIR’s impact determination for impacts on biological resources. There are very few biological resources in the Metro Plan Area and, as such, the Metro Plan would have a less-than-significant impact relative to impacts on the quality of the environment, fish and wildlife habitat and populations, plant and animal communities, and rare or endangered plants or animals. The Project Changes would not result in a change to the Certified EIR’s impact determination for impacts on biological resources.

Section V, *Cultural Resources*, identifies that the Project Changes would have a less-than-significant impact on cultural resources, including historical and archaeological resources, and would not result in a change to the Certified EIR’s impact determination for impacts on cultural resources. The Metro Plan includes policies to protect cultural resources and would not eliminate important examples of the major periods of California history or prehistory.

Nonetheless, the Metro Plan may have the potential to degrade the quality of the environment in terms of **air quality and greenhouse gas emissions. This will be addressed in the SEIR.**

## Checklist Item B

The Project would not contribute to cumulatively considerable impacts on most resource areas. However, because there are potential impacts on air quality, greenhouse gas emissions, land use and planning, noise, population and housing, public services, recreation, transportation, and utilities and service systems, **cumulative impacts will be addressed in the SEIR.**

## Checklist Item C

There are potential impacts on air quality and noise; as such, there is a potential that human beings could be adversely affected either directly or indirectly by air pollutants or noise. **Potentially adverse effects on human beings will therefore be addressed in the SEIR.**

