

## 4.3 CULTURAL RESOURCES

This section of the Revised Draft Environmental Impact Report (EIR) evaluates the potential for the modified Dana Point Harbor Hotels Project (Modified Project) to impact cultural resources. Cultural resources are sites, buildings, structures, objects, and districts over 50 years old that may have traditional or cultural value for the historical significance they possess.

The information and analysis presented in this section are based on the City of Dana Point (City) General Plan Conservation/Open Space Element (August 1997); the *Record Search Results for the Dana Point Harbor Hotels Project in Dana Point, Orange County, California* (2020 Record Search Memorandum; LSA 2020); and the *Record Search Results for the Dana Point Harbor Hotels Project in Dana Point, Orange County, California* (2024 Record Search Memorandum; LSA 2025). The 2024 Record Search Memorandum is included as Appendix E of this Revised Draft EIR.

The term “site” is used in two contexts in this section:

- The “project site” should be interpreted to mean the approximately 9-acre site proposed for development. It should be noted that while the total project site acreage is approximately 13 acres as discussed throughout this Revised Draft EIR, the 4-acre difference is generally limited to hotel and boater parking areas in adjacent Planning Areas (PAs) to PA 3 which have been previously entitled under separate coastal development permits and with previous CEQA review. As such, no physical changes are proposed within these 4 acres under the Modified Project.
- A “cultural resources site” should be interpreted to mean the specific locations of documented cultural materials or artifacts.

### 4.3.1 Scoping Process

#### 4.3.1.1 Original Project Scoping

The City of Dana Point received eight comment letters during the public review period of the Initial Study/Notice of Preparation (IS/NOP) prepared for the Original Project. For copies of the IS/NOP comment letters, refer to Appendix A of this Revised Draft EIR. One comment letter included comments related to Cultural Resources.

The letter from the Native American Heritage Commission (NAHC) received on October 7, 2020, suggested that there may be cultural resources sensitive for Native Americans in the vicinity of the project site and recommended consultation with Native American tribes that are culturally affiliated with the project site.

#### 4.3.1.2 Modified Project Scoping

A Supplemental Notice of Preparation (NOP) for the Modified Project was circulated for public review from July 19, 2024, through August 19, 2024.

Copies of the Supplemental NOP and comment letters received in response to the Supplemental NOP are included within Appendix A of this Revised Draft EIR. One comment letter included comments related to cultural resources.

The letter from the NAHC received on July 30, 2024, recommended consultation with Native American tribes that are culturally affiliated with the project site.

### 4.3.2 Existing Environmental Setting

The Modified Project would be located in the same geographic location as the Original Project and would generally maintain the same ground disturbance limits; therefore, the existing environmental setting as described below is derived from that discussed in the 2021 Draft EIR.

The project site is located at 24800 Dana Point Harbor Drive and is currently developed with the Dana Point Marina Inn on the central portion of the project site and two boater services buildings with surface parking reserved for boaters on the southern portion of the project site.

According to available aerial photographs and historic maps of the project site, the project site was constructed between 1967 and 1977 (Nationwide Environmental Title Research [NETR] 2020). Aerial photographs dated to 1938, 1946, 1952, and 1967 show that the current project site was located offshore, before construction of the harbor. Historic maps dated to 1949, 1959, 1964, and 1970 depict the project site as located offshore. Dana Point Harbor in its mostly-current form appears in the 1977 aerial photograph and all more-recent photographs and does not appear until 1978 in topographic maps dated to 1978 and later. Geotechnical investigations conducted have confirmed that the project site was constructed using imported sediments or artificial fill (refer to the Preliminary Geotechnical Investigation [GMU 2019] provided in Appendix F of this Revised Draft EIR, which remains applicable to the Modified Project based on the findings of the Supplemental Geotechnical Letter, also provided in Appendix F to this Revised Draft EIR).

### 4.3.3 Regulatory Setting

This section includes federal, State, regional, and City regulations applicable to the Modified Project. As the ground disturbance limits of the Modified Project would be similar to those of the Original Project and would result in the development of the same types of uses on the project site, the following regulatory setting is derived from that discussed in the 2021 Draft EIR.

#### 4.3.3.1 Federal Regulations

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

#### 4.3.3.2 State Regulations

**California Environmental Quality Act (CEQA) Requirements.** CEQA defines a “historical resource” as a resource that meets one or more of the following criteria: (1) listed in, or determined eligible for listing in, the California Register of Historical Resources (California Register); (2) listed in a local register of historical resources as defined in Public Resources Code (PRC) Section 5020.1(k); (3) identified as significant in a historical resource survey meeting the requirements of PRC Section

5024.1(g); or (4) determined to be a historical resource by a project's lead agency (PRC Section 21084.1 and *State CEQA Guidelines* Section 15064.5(a)). A historical resource consists of:

“Any object, building, structure, site, area, place, record, or manuscript which a Lead Agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.... Generally, a resource shall be considered by the Lead Agency to be ‘historically significant’ if the resource meets the criteria for listing on the California Register of Historical Resources” *State CEQA Guidelines* Section 15064.5(a)(3).

In accordance with *State CEQA Guidelines* Section 15064.5(b), a substantial adverse change in the significance of a historical resource is a significant effect on the environment.

CEQA requires a lead agency to determine whether an archaeological cultural resource meets the definition of a historical resource, a unique archaeological resource, or neither (*State CEQA Guidelines* Section 15064.5(c)). Prior to considering potential impacts, the lead agency must determine whether an archaeological cultural resource meets the definition of a historical resource in *State CEQA Guidelines* Section 15064.5(c)(1). If the archaeological cultural resource meets the definition of a historical resource, it is treated like any other type of historical resource in accordance with *State CEQA Guidelines* Section 15126.4. If the archaeological cultural resource does not meet the definition of a historical resource, then the lead agency determines whether it meets the definition of a unique archaeological resource as defined in *State CEQA Guidelines* Section 21083.2(g). In practice, however, most archaeological sites that meet the definition of a unique archaeological resource will also meet the definition of a historical resource. Should the archaeological cultural resource meet the definition of a unique archaeological resource, it must be treated in accordance with *State CEQA Guidelines* Section 21083.2. If the archaeological cultural resource does not meet the definition of a historical resource or an archaeological resource, the effects to the resource are not considered significant effects on the environment (*State CEQA Guidelines* Section 15064.5(c)(4)).

**California Public Resources Code Section 5097.5.** PRC Section 5097.5 provides for the protection of cultural resources and prohibits the removal, destruction, injury, or defacement of archaeological features on any lands under the jurisdiction of State or local authorities. PRC Section 5097.5 also protects paleontological resources, which are evaluated in Section 4.5, Geology and Soils, of this Revised Draft EIR.

**California Health and Safety Code Section 7050.5.** California Health and Safety Code (HSC) Section 7050.5 states that in the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the remains are discovered has determined whether or not the remains are subject to the coroner's authority. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission (NAHC) within 24 hours of this identification. The NAHC will identify a Native American Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

**California Register of Historical Resources (PRC Section 5020 et seq. ).** State law also protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources in CEQA documents. A cultural resource is an important historical resource if it meets any of the criteria found in Section 15064.5(a) of the *State CEQA Guidelines*. These criteria are nearly identical to those of the National Register of Historic Places (National Register).

The State Historic Preservation Officer (SHPO) maintains the California Register. Properties listed, or formally designated eligible for listing, on the National Register are nominated to the California Register and then selected to be listed on the California Register, as are State Landmarks and Points of Interest.

#### 4.3.3.3 Regional Regulations

There are no regional or County of Orange regulations applicable to cultural resources relevant to the Modified Project.

#### 4.3.3.4 Local Regulations

**City of Dana Point General Plan.** The City’s Conservation/Open Space Element (1997) of the General Plan addresses protection of the City’s heritage and cultural resources. The following goal related to cultural resources is presented in the Conservation/Open Space Element:

**Goal 8:** Encourage the preservation of significant historical or culturally significant buildings, sites, or features within the community.

**Dana Point Municipal Code.** Section 9.69.050(b)(7)(B) of the City’s Zoning Code (Title 9) requires the following information related to cultural resources regarding applications for coastal development permits:

“For sites adjacent to, containing or potentially containing cultural resources, an archaeological and/or paleontological survey prepared by a licensed archaeologist/paleontologist shall be required.”

**Dana Point Municipal Code.** Section 9.07.250 of the City’s Zoning Code (Title 9) provides a voluntary program that aides property owners who wish to preserve historic properties within the community by providing fiscal benefits or zoning and code incentives to preserve their properties.

**Dana Point Harbor District Regulations (DPHDR).** Land Use Plan policies for Dana Point Harbor that relate to cultural resources include “Paleontological and Archaeological Resource Policies” located in Section 8.8 of the DPHDR. Policies 8.8.1-1 through 8.8.1-3 require mitigation for adverse impacts to archaeological resources, recommend archaeological monitoring during grading where necessary, and provide for procedures in case of encountering human remains during ground-disturbing activities.

#### 4.3.4 Methodology

##### 4.3.4.1 2020 Record Search Memorandum

On September 14, 2020, a cultural resources records search for the Original Project was conducted for the project site and was documented in the 2020 Record Search Memorandum (LSA 2020) consistent with the requirements of Section 9.69.050(b)(7)(B) of the City's Zoning Code (Title 9). The records search was conducted at the South Central Coastal Information Center (SCCIC), located at California State University, Fullerton, by SCCIC staff. The purpose of the records search was to identify the extent of previous cultural resources and investigations within a 0.5-mile (800-meter) radius of the project site, and whether any archaeological or historic resources were recorded in or near the project site. Materials reviewed included prior cultural resource investigations, archaeological site records, historical maps, and listings of resources for the National Register, the California Register, California Points of Historical Interest, California Inventory of Historic Resources, California Landmarks, and National Historic Landmarks. Further, a search of the Sacred Lands File was conducted by the Native American Heritage Commission (NAHC) in Sacramento, California. The search was requested to determine whether any recorded Tribal Cultural Resources (TCRs) were known from the project site or vicinity.

##### 4.3.4.2 2024 Record Search Memorandum

Due to the age of the record search conducted for the Original Project and the accompanying 2020 Record Search Memorandum, a new cultural resource record search was conducted for the Modified Project at the SCCIC by SCCIC staff on November 12, 2024, consistent with the requirements of Section 9.69.050(b)(7)(B) of the City's Zoning Code (Title 9). The results of this 2024 record search are documented in the 2024 Record Search Memorandum (LSA 2025) (Appendix E to this Revised Draft EIR). The 2024 Record Search Memorandum describes the record search conducted at the SCCIC by SCCIC staff on November 12, 2024. The purpose of the second record search was to determine the extent of previous cultural resources investigations within a 1-mile (1600-meter) radius of the project site, in order to determine the type and number of resources and studies in and near the project site. The radius of the second record search was increased to 1.0 mile in order to verify the types of sites in the area and to bring the review up to a higher standard of resolution, usually reserved for the most intensive level of review. Materials reviewed for this record search included prior cultural resource studies, archaeological and historical site records, historical maps, and listings of resources for the National Register, the California Register, the California Points of Historical Interest, the California Inventory of Historic Resources, California Landmarks, and National Historic Landmarks.

##### 4.3.4.3 Results

The results of the 2024 Record Search Memorandum (Appendix E) indicate that no known resources were recorded within the project site and that just one cultural resource study was conducted within the project site. This study, a cultural resource survey conducted in 2003 for the Dana Point Harbor Revitalization Project, covers over 90 percent of the project site. Only a thin sliver along the northernmost edge of the project site was not surveyed.

Within 0.5 mile of the project site, the 2020 record search showed that an additional 28 cultural resources studies have been conducted. These studies consist of archaeological survey (20);

overview report (2); environmental planning (3); archaeological monitoring report (2); and an architectural evaluation (1).

Within 1.0 mile of the project site, the 2024 record search shows that 74 prior studies have been conducted. These consist of archaeological survey (57); archaeological test excavation (2); archaeological monitoring (3); record search/literature review (3); environmental planning (4); overview (2); architectural evaluation (2); and historic landmark studies (1). The large number of prior cultural studies in and near the project site indicates a high level of scrutiny of this area.

Prior studies are responsible for recording a large number of cultural resources. In total, the 2020 record search shows that 32 cultural resources have been previously recorded within 0.5 mile of the project site. These resources are historic buildings (26); historic-period structures (3); a sailing vessel (1); an historic-period viewpoint (1); and a prehistoric habitation site (1).

Within 1.0 mile of the project site, the 2024 record search shows that there are 77 recorded cultural resources: 67 historic and 10 prehistoric. The 10 prehistoric sites are: habitation sites (6); artifact scatters (2); a lithic scatter (1); and a lithic scatter with 1 abalone shell (1). The 67 historic sites are: buildings (56); a building ruin (1); structures (3); a railroad (1); a railroad depot (1); a remnant reinforced concrete groin (jetty; 1); a commemorative plaque (1); a sailing vessel (1); a roadway (State Route 1); and a wastewater treatment facility (1). The majority of the recorded historic buildings are residential "Woodruff Houses," constructed from 1928 to 1930 in the downtown area by real estate developer Sydney H. Woodruff, who earlier in the 1920s developed "Hollywoodland," now known as Hollywood.

Twenty three (23) of the recorded historic sites are National Register-listed. These sites are buildings (19); a building ruin (1); a railroad (1); a sailing vessel (1); and a commemorative plaque (1). Most of the National Register-listed buildings are Woodruff Houses. The commemorative plaque (site P-30-156545), is the marker for Dana Point, named for Richard Henry Dana, which is located atop the bluff overlooking the harbor from 34398 Blue Lantern (near Santa Clara Avenue). The marker is also California Historic Landmark No. 189.

Most of the recorded historic sites are situated atop the bluff to the north and northwest of the project site. The nearest 4 sites to the project site are all residential Woodruff Homes constructed in 1928, all National Register-listed, that are located from 250 to 400 feet (ft) north and northwest of the project site. The nearest archaeological site is a large habitation site with shell and stone tools situated atop the bluff between 800 ft and 0.75 mile west-northwest of the project site.

The majority, 6 of 10, of the prehistoric sites are habitations indicating that this area was used for occupational purposes and not just used for temporary food-gathering/processing. The large number of recorded historic resources, most of which are residential and commercial buildings, and many of which are National Register-listed, clearly identifies the intense significant post-1900 use of the lands within the project vicinity. Thus, the 2024 record search shows that the project vicinity has always been an area valued for habitation, both prehistorically and historically.

On September 9, 2020, a search of the Sacred Lands File by the NAHC was positive, indicating that a tribal cultural resource is known in or near the project site. Native American consultation with the

Juaneño Band of Mission Indians Acjachemen Nation was conducted and concluded during preparation of the 2021 Draft EIR. Additional details regarding Native American consultation are provided in Section 4.13, Tribal Cultural Resources, of this Revised Draft EIR.

#### 4.3.5 Thresholds of Significance

The thresholds for cultural resources impacts used in this analysis are consistent with Appendix G of the *State CEQA Guidelines*. The Modified Project may be deemed to have a significant impact with respect to cultural resources if it would:

- Threshold 4.3.1:** Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5.
- Threshold 4.3.2:** Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5.
- Threshold 4.3.3:** Disturb any human remains, including those interred outside of dedicated cemeteries.

The Initial Study prepared for the Original Project in September 2020, included as Appendix B to this Revised Draft EIR, substantiated that there would be no impacts associated with Threshold 4.3.1. The project site was already developed with the Dana Point Marina Inn, two boater buildings, landscaping, parking, and associated infrastructure. The Dana Point Marina Inn was not identified in the *City of Dana Point Historic Resources Inventory Update Survey Report* (City of Dana Point 2016) as a historic resource, and the Office of Historic Preservation did not identify historic resources on the project site. In addition, the Initial Study prepared for the Original Project substantiated that impacts associated with Threshold 4.3.3 would be less than significant and that there are no known human remains interred on the project site. As the Modified Project would be located on the same site as the Original Project and no new historic resources or human remains have been identified within the site, the conclusions of the Initial Study prepared for the Original Project remain the same for the Modified Project. As such, these thresholds will not be addressed in the following analysis.

#### 4.3.6 Project Impacts

The following impact analysis is based on the existing conditions of the project site and is primarily focused on construction activities, including demolition of the existing buildings and ground-disturbing activities. In addition, the following impact analysis is not dependent on project-specific design elements, such as building massing/scale or number of units. As such, supported by the 2024 Record Search Memorandum (Appendix E to this Revised Draft EIR), the following analysis of the Modified Project is partially derived from the analysis prepared for the Original Project in the 2021 Draft EIR.

- Threshold 4.3.2: Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?**

**Less Than Significant Impact.** While the 2024 Record Search Memorandum identified 77 cultural resources within 1.0 mile of the project site, just 10 of those resources are prehistoric archaeological

sites, and all but one of these sites are located more than 0.5 mile away from the project site. The one prehistoric site near the project site is approximately 800 feet from the project site and is situated atop the bluff overlooking Dana Point Harbor. Furthermore, aerial photographs and historic maps indicate that the project site was located offshore before the Dana Point Harbor was constructed. Geotechnical investigations have shown that the project site is underlain by artificial fill and marine deposits, which in turn overlie bedrock of the Capistrano Formation (GMU 2019). The depths of these materials vary slightly under each proposed hotel, but generally, most of the area of disturbance is underlain by approximately 15 to 30 ft of surficial soils consisting of artificial fill atop marine deposits. A small area near Dana Point Harbor Drive has no fill and consists of Capistrano Formation only. Given that the project site was constructed using artificial fill, the likelihood of encountering intact subsurface archaeological cultural resources during ground-disturbing construction activities associated with the Modified Project is low.

The NAHC Sacred Lands File search conducted in 2020 for the Original Project indicated that some type of tribal cultural resource may exist in or near the project site. As described in further detail in Section 4.13, Tribal Cultural Resources, of this Revised Draft EIR, the City consulted with the Juaneño Band of Mission Indians Acjachemen Nation regarding the Original Project as recommended by the NAHC, and the consultation resulted in the City and the tribal representative agreeing upon Standard Conditions to address tribal concerns. In addition, under the Modified Project, the Supplemental NOP was provided to the same Native American contacts that received the NOP prepared for the Original Project. This additional outreach effort did not yield any new concerns or consultation requests.

Geotechnical investigations have shown that the project site is underlain by approximately 15 to 30 ft of surficial soils consisting of artificial fill and marine deposits, which in turn overlie Capistrano Formation bedrock (GMU 2019). Based on consultation with the Juaneño Band of Mission Indians Acjachemen Nation-Belardes, it was determined that there is the potential for tribal cultural resources and other archaeological resources to be present within the artificial fill on site, based on the origin of the fill material. Program EIR No. 591 included Standard Condition of Approval 4.11-1 (SCA 4.11-1) to recommend monitoring for archaeological resources where earth-moving or disturbing activities would occur. The monitoring requirements from SCA 4.11-1 would also be required for the Modified Project, as provided with minor modifications and updates in Standard Condition 4.3-2 (SC 4.3-2) below. With implementation of SC 4.3-2, impacts would be considered less than significant under the Modified Project, and no mitigation is required.

#### **4.3.7 Level of Significance Prior to Mitigation**

Consistent with the Original Project, impacts to archaeological resources would be considered less than significant under the Modified Project, and no mitigation is required.

#### **4.3.8 Standard Conditions and Mitigation Measures**

The Modified Project would comply with existing PRC Section 5097.98 requirements as described in Standard Condition 4.3-1 (SC 4.3-1), below. In addition, the Modified Project would comply with SC 4.3-2, which includes conditions to monitor for subsurface archaeological and tribal cultural resources similar to those provided in SCA 4.11-1 of Program EIR No. 591.



**Standard Condition 4.3-1**

**Human Remains.** If human remains are encountered during construction, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the Orange County Coroner has made a determination of origin and disposition pursuant to California Public Resources Code (PRC) Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be Native American, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and non-destructive analysis of human remains and items associated with Native American burials.

**Standard Condition 4.3-2**

**Cultural Resource Monitoring.** Prior to issuance of any grading permit, the Project Applicant shall provide written evidence that a County-certified archaeologist and Native American monitor have been retained to observe grading activities within areas where artificial fill may be disturbed and to salvage and catalogue archaeological and/or tribal cultural resources, as necessary. The archaeologist and Native American monitors shall be present at the pre-grading conference, shall establish procedures for resource surveillance, and shall establish, in cooperation with the Project Applicant, procedures for temporarily halting or redirecting work to permit the sampling, identification, and evaluation of the artifacts as appropriate. Once grading and foundation preparation activities commence, should it be determined there is a low likelihood of encountering subsurface cultural resources, the option to reduce archaeological and Native American monitoring hours shall be provided to the Project Applicant, upon presenting written concurrence from the archaeological and Native American monitors to the County of Orange and the City of Dana Point. If archaeological or tribal cultural resources are found to be significant, the archaeologist shall determine appropriate actions, in cooperation with OC Parks, the State Office of Historic Preservation (SHPO), and the City of Dana Point, for exploration and/or salvage.

The Project Applicant shall obtain approval of the archaeologist's follow-up report from the Director of OC Parks. The report shall include the period of inspection, an analysis of any artifacts found, and the present repository of the artifacts. Excavated finds shall be made available for curatorial purposes to the County of Orange, or its designee, on a first refusal basis. These actions, as well as final

mitigation and disposition of the resources, shall be subject to the approval of the Director of OC Parks.

#### **4.3.9 Level of Significance after Mitigation**

No impacts to historical resources would occur under the Modified Project. SC 43-1 would reduce potential impacts to human remains to a less than significant level. SC 4.3-2 would reduce potential impacts to archaeological resources to a less than significant level. No significant unavoidable impacts to archaeological resources or human remains would occur with implementation of these standard conditions. All anticipated impacts to cultural resources would be considered less than significant under the Modified Project.

#### **4.3.10 Cumulative Impacts**

As defined in Section 15130 of the *State CEQA Guidelines*, cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects. The cumulative impact area for cultural resources for the Modified Project is the City of Dana Point.

Potential impacts of the Modified Project to unknown cultural resources, when combined with the impacts of past, present, and reasonably foreseeable projects in the City of Dana Point, could contribute to a cumulatively significant impact due to the overall loss of archaeological artifacts and cultural resources unique to the region. However, each development proposal received by the City is required to undergo environmental review pursuant to CEQA. If there were any potential for significant impacts to archaeological resources, an investigation would be required to determine the nature and extent of the resources and identify appropriate mitigation measures. When resources are assessed and/or protected as they are discovered, impacts to these resources are less than significant.

Consistent with the Original Project, the Modified Project would have a less than significant impact related to unknown cultural resources. As such, the Modified Project, in conjunction with other development in the City, would not result in a significant cumulative impact to unique archaeological resources and previously undiscovered buried human remains.