

Cultural Resources Reference Guide for Land
Development Projects

Campus Planning Office
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UC SAN DIEGO CULTURAL RESOURCE REFERENCE GUIDE
FOR LAND DEVELOPMENT PROJECTS

I. INTRODUCTION

The University of California (UC) San Diego (UC San Diego) campus and its vicinity has a rich cultural past. San Diego County is home to 18 federally recognized reservations, the largest concentration of reservations of any county in the United States. The La Jolla region is the traditional homeland of the Kumeyaay, Luiseño, Cupeño, and Cahuilla people and neighbor to several other tribal nations who have always visited and interacted with the local tribal nations. The La Jolla area is recognized as a sacred site critically important to the Kumeyaay, and the UC San Diego campus is built on lands known to contain sensitive archaeological and tribal cultural resources, particularly near the coast.

This Cultural Resource Reference Guide (CRRG) was developed by the Campus Planning office to guide campus leadership, planners, project managers, maintenance staff, and associated consultants in the necessary protocols when undertaking land development or maintenance projects with potential to disturb cultural resources. The CRRG demonstrates UC San Diego's strong commitment to avoiding and minimizing the impacts of land development and maintenance practices on sensitive cultural resources.

This guidance applies to projects undertaken within properties under the jurisdiction of UC San Diego and the UC Natural Reserve System (NRS) within San Diego County¹. The UC San Diego Campus Planning Office provides guidance associated with the protection of cultural resources from land management and development projects. The UC San Diego and/or NRS staff member responsible for carrying out a project must consult with Campus Planning to determine applicability of cultural resource regulations and the processes described herein in order to ensure compliance. The process for consultation is described below.

II. CULTURAL RESOURCES BACKGROUND

UC San Diego is responsible for and committed to avoiding or mitigating any significant impact to cultural resources during land development and maintenance activities it carries out. Protected cultural resources include unique archaeological resources, tribal cultural resources, and Native American human remains. An archaeological resource is typically defined as an artifact, object, or site related to a prehistoric or historic event, person, or group of people. Tribal cultural resources include sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe. Section V., Cultural Resources Regulations, of this document summarizes the applicable regulations that pertain to cultural resources on UC property.

III. APPLICABLE PROJECTS

An Archaeological Resources Report prepared for the 2018 Long Range Development Plan (LRDP)² Environmental Impact Report (EIR)³ identified, based on a records search and survey data, sensitive areas on campus in which ground disturbance should be avoided to preserve the sensitive resources

¹ All UC San Diego and NRS properties are ultimately under the purview of the UC Regents.

² <https://plandesignbuild.ucsd.edu/planning/lrdp/la-jolla.html>

³ <https://plandesignbuild.ucsd.edu/planning/lrdp/la-jolla.html#Environmental-Impact-Report>

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underlying the site, as well as areas that are highly sensitive and require further testing and/or monitoring. However, due to the highly sensitive nature of the entire campus area and its surroundings, it should be assumed that undocumented (or “unknown”) cultural resource sites exist outside of these mapped areas.

For properties not included in the 2018 LRDP EIR and where no recent cultural resource surveys have been conducted, a qualified archaeologist and Native American Monitor (NAM) will be retained to conduct a surface-level walking survey of the site to determine the presence of cultural materials on the ground surface before project plans can be approved.

When a project is submitted to Campus Planning for initial environmental review (or during initial project conception), potential impacts to cultural resources will be evaluated and a determination on the need for further review will be made at that time. The following criteria guide the initial environmental review by Campus Planning. Ultimately, it is the University’s expressed desire and policy to avoid impacts to cultural resources.

Criteria 1: Projects Within or Adjacent to Known Cultural Resource Sites

To avoid impacts to known cultural resources, all projects within or adjacent to a known, previously documented cultural resource site (regardless of past disturbance) are required to follow the cultural resource protection process outlined below. Activities that break or disturb the ground surface in any way, such as excavation, grading, trenching, hand-digging, planting, sign or fence installation, and erosion control projects, apply. Projects that have the potential to generate increased foot traffic (e.g., new bicycle or foot paths, trail heads, etc.) to a cultural resource site also apply.

Criteria 2: Projects Within Areas That have No Known Resources/Lack of Recorded Sites

There is potential to unintentionally discover unknown resources that have not been previously recorded to underlie project sites throughout the campus and NRS lands. To protect potential impacts to unknown cultural resources that may be present on a project site, projects that meet the criteria below are subject to further review by a qualified archaeologist and NAM and potentially construction monitoring.

- Within areas of natural deposition or undisturbed land: excavation, trenching, or digging activities apply; some small, low-impact projects such as sign/post installation may not apply but are subject to review.
- Within previously disturbed sites where the previous disturbance did not exceed 3 feet below the pre-development ground surface: most excavation, trenching, or digging activities that would excavate to a greater depth than the previous disturbance apply; some small, low-impact projects such as sign/post installation or minor potholing may not apply but are subject to review.

Campus Planning will review each project to determine if any of these criteria are met; for projects that meet these criteria, the steps outlined below apply and additional cultural resource requirements may be required.

There are some exceptions; please see below for the two types of projects that may be exempt from further review:

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Exemption 1: Past Disturbance

Projects are exempt from cultural resource protection requirements if they are not within a known cultural site and evidence of past disturbance (e.g., prior grading plans) indicates that the entirety of the site has been previously excavated to a depth of at least 3 feet or to bedrock. Three feet is the standard measurement for assessing intact cultural resources, based on depths in which cultural resources are typically found in the San Diego area. Where native soils have been removed to depths of over 3 feet, there is little likelihood that in-tact cultural resources would be present underneath the site. This evidence must be provided to Campus Planning before the cultural resource requirements can be waived. If there is not sufficient documentation regarding the previous disturbance of the project site, further review is necessary.

Exemption 2: Negative Cultural Resource Survey

For projects in areas of natural deposition and no known cultural resource sites, a surface-level, walking survey may be first conducted by a qualified archaeologist and NAM to determine the potential presence of cultural resources. If the survey is negative and the archaeologist and the NAM are in agreement that there is no need for further examination, monitoring of the project may be waived.

IV. PROCESS

Step 1: Determine Need for Consultation

All projects shall be reviewed by Campus Planning to determine whether they meet the above criteria. Unless they meet either of the exemptions listed above, projects would move on to the following step, which outlines the need to consult with an archaeological and NAM firm to review project plans and develop a monitoring plan.

Based on prior examinations of the campus and its surroundings, there are areas already known to contain highly sensitive cultural resources, such as documented tribal sacred sites. Campus Planning will notify the Project Manager if the site is within one of such areas identified in the cultural resources report prepared for the 2018 LRDP. In these cases, formal meetings and agreements with the applicable local native nation or its designated tribal organization may be required before a project may proceed, and there are select locations where ground disturbance is outright prohibited. The need for a formal tribal consultation process is extremely site- and project-specific and subject to coordination by multiple campus departments/offices (including Campus Planning; Equity, Diversity, and Inclusion; Government Relations; and Office of the Chancellor), and would be required in addition and parallel to the following steps below.

Step 2: Consultation

The Project Manager⁴, in coordination with Campus Planning, shall consult with an archaeological and NAM firm. Campus Planning maintains a list of firms that may be contacted. The firm must employ local NAMs and Registered Archaeologists with experience in San Diego County. The consultation shall

⁴ The Project Manager is the UC San Diego or NRS staff member responsible for carrying out the project.

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include a brief summary of the project and request a professional opinion on whether further action (e.g., survey, design review, monitoring, avoidance/minimization measures) are required. If the NAM and archaeologist do not recommend monitoring at the project location due to lack of potential to unearth resources, the decision shall be provided in an email and/or memo to Campus Planning. No further steps would be required in this case.

If the NAM and archaeologist determine the project has the potential to unearth resources, the following steps apply.

Step 3: Avoidance and Monitoring Plan

The NAM and archaeologist shall be retained under a contract authorization agreement by the party carrying out the project (e.g., campus department, NRS, etc.), with a copy to Campus Planning. The NAM and archaeologist shall review project plans and recommend measures to avoid or minimize potential impacts to cultural resources. Impact avoidance is always required for known significant cultural resources such as sacred sites. The Project Manager shall provide evidence that recommendations have been incorporated into project plans to Campus Planning before final plans are approved.

Prior to project mobilization, a monitoring plan shall be agreed upon and the Project Manager shall contract with the archaeological and NAM consulting firm to complete the monitoring work. A copy of the Native American and Archaeological Monitoring Plan shall be approved by Campus Planning. For smaller efforts, the monitoring plan may be in the form of a proposal or scope-of-work. See the example monitoring plan in the following section. For larger efforts within highly sensitive areas, a more detailed plan may be necessary.

Step 4: Pre-activity Meeting and Commencement of Monitoring

A pre-activity meeting shall be held with all appropriate personnel, including the NAM, archaeologist, Campus Planning representative, Project Manager, contractor, and other appropriate staff, to educate on requirements of the monitoring program. Monitoring shall begin at the first ground disturbance; the Project Manager and contractor are responsible for ensuring appropriate monitoring personnel are on site prior to ground disturbance.

Step 5: Protocols for Discovery

In the event of a discovery, activities shall be halted or diverted to allow for preliminary evaluation of potentially significant tribal cultural resources by the NAM and archaeologist. Preliminary findings shall be immediately communicated with Campus Planning and provided for review by the appropriate tribal nation or its designated tribal organization. Appropriate actions shall be determined in coordination with the tribal nation and/or designated tribal organization, and UC San Diego⁵.

If the discovery contains human remains, UC San Diego Campus Planning shall notify the San Diego County coroner immediately, per Section 5097.98 of the California PRC and Section 7050.5 of California's Health and Safety Code. If the remains are determined by the coroner to be Native American, the coroner is required to immediately contact the Native American Heritage Commission (NAHC) and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the

⁵ UC San Diego coordination shall include Campus Planning; Equity, Diversity, and Inclusion; Government Relations; and Office of the Chancellor.

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remains. Following the coroner's findings, the NAHC shall immediately notify those persons it believes to be most likely descended from the deceased. The Most Likely Descendant (MLD) from the affiliated tribal nation shall recommend the ultimate treatment and disposition of the remains and take appropriate steps to ensure that additional human remains are not disturbed.

Any materials associated with a tribal cultural resource that are removed from their original context shall be returned to the tribal nation or other appropriate reburial location as agreed to by the tribal nation and/or MLD.

Step 6: Completion of Monitoring

The NAM and archaeologist shall provide notification, in writing, to Campus Planning of the close of monitoring activities and summary of findings. If monitoring activities ceased prior to the completion of the top 3 feet of ground disturbance, justification and written approval by the archaeologist and NAM shall be provided.

Sample Monitoring Plan

- i. A NAM and qualified archaeologist shall attend a pre-activity meeting with the Project Manager, construction and/or grading contractor, and crew members (as applicable) to discuss monitoring requirements.
- ii. The NAM and archaeological monitor shall monitor the first 3 feet of excavation (or other agreed upon depth) within native soils.
- iii. Monitoring may cease prior to reaching the agreed upon depth at the discretion of the NAM and archaeological monitor, with justification of the decision to cease monitoring made in writing to Campus Planning.
- iv. The NAM shall have the authority to temporarily halt or divert any activity to prevent disturbance if a potential artifact is discovered.
- v. If an artifact or human remains are discovered, the appropriate discovery and repatriation processes shall be followed, in accordance with all applicable federal and state laws as well as University policy, including the mitigation program identified in the 2018 LRDP EIR (Mitigation Measures Cul-5B and Cul-5C).

V. CULTURAL RESOURCES REGULATIONS

State and Federal Laws

The following regulations pertain to cultural resources on UC property⁶:

- **California Environmental Quality Act (CEQA):** The CEQA requires agencies to determine whether a project may have a significant effect on unique cultural resources and make reasonable efforts to preserve these resources or provide mitigation measures. In compliance with this statute, UC San Diego has developed an Environmental Impact Report (EIR) for the 2018 Long Range Development Plan (LRDP), which provides a framework for handling projects that may have adverse impacts on sensitive cultural resources. See the subsection below for the

⁶ Brief summaries of applicable regulations are provided for informational purposes only and may not be an exhaustive list or complete description.

full text of mitigation measures from the 2018 LRDP EIR that apply to cultural resource monitoring and discoveries made during construction.

- **Assembly Bill 52:** This bill provides both federally and non-federally recognized tribes the right to formal consultation with project lead agencies. As a lead agency, UC San Diego must engage in consultation on projects when any tribe requests formal consultation.
- **Native American Graves Protection and Repatriation Act:** NAGPRA is a federal law that provides a process for museums and agencies to return certain Native American cultural items to lineal descendants and culturally affiliated Native American tribes and organizations. It establishes the ownership of cultural items excavated or discovered on federal or tribal land and provides for repatriation of these items when requested by the appropriate descendant of the tribe. The Act also applies to Native American cultural items if they come under the control of an institution that received federal funding.
- **California Native American Graves Protection and Repatriation Act (CalNAGPRA):** The CalNAGPRA requires all state agencies and museums that receive state funding and that have possession or control over collections of human remains or cultural items, as defined, to complete an inventory and summary of these remains and items on or before January 1, 2003. The Act provides a process for the identification and repatriation of these items to the appropriate tribes.
- **Health and Safety Code Section 7050.5:** This code establishes that any person who knowingly mutilates, disinters, wantonly disturbs, or willfully removes any human remains in or from any location without authority of law is guilty of misdemeanor. In addition, upon any discovery or recognition of 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 County coroner has inspected and made a determination on the remains. The coroner has two days to make his/her inspection from the time of notification. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes or suspects the remains to be those of a Native American, he or she shall contact, by telephone within 24 hours of the determination, the Native American Heritage Commission.
- **Health and Safety Code Sections 8010-8011:** This code provides consistent state policy to ensure that all California Native American human remains and cultural materials are treated with dignity and respect.
- **California Public Resources Code Section 5097 et seq.:** State law addresses the disposition of Native American burials in archaeological sites and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during the construction of a project; and establishes the Native American Heritage Commission (NAHC) to resolve disputes regarding the disposition of such remains. When the NAHC receives notification of a discovery of Native American human remains from the County coroner, the code requires it to immediately notify those persons it believes to be most likely descended from the deceased Native American (also referred to as the Most Likely Descendant).
- **Native American Historic Resource Protection Act:** This law makes it a misdemeanor punishable by up to a year in jail to deface or destroy a Native American historic or cultural site that is listed or may be eligible for listing in the CRHR.

UC Policy on Native American Cultural Affiliation and Repatriation

As of July 31, 2020, the UC adopted as a fundamental value the repatriation of Native American and Native Hawaiian human remains and cultural items (funerary objects, sacred objects, and objects of cultural patrimony), in accordance with state and federal law. The policy describes how UC will pursue this value and comply with federal NAGPRA and CalNAGPRA.

UC San Diego La Jolla Campus 2018 LRDP EIR Mitigation Measures

The following requirements from 2018 LRDP EIR Mitigation Measures Cul-2E, Cul-5B, and Cul-5C provide further detail on monitoring, discovery, and reporting requirements. Note that these measures predate this guidance document, and archaeological monitoring shall no longer occur without the presence of a NAM. In cases of discovery, the wishes of the applicable Native American tribe shall always outweigh reporting and recordation procedures otherwise not required by a state or federal law.

Cul-2E: Archaeological Monitoring.

- i. Prior to beginning any work that requires monitoring:
 - a. a preconstruction meeting shall be held that includes the qualified archaeologist, Project Manager and/or Grading Contractor, and other appropriate personnel so the archaeologist can make comments and/or suggestions concerning the archaeological monitoring program to the Project Manager and/or Grading Contractor.
 - b. the qualified archaeologist shall (at that meeting or subsequently) submit to the Project Manager a copy of the site/grading plan (reduced to 11 x 17 inches) that identifies areas to be monitored as well as areas that may require delineation of grading limits.
 - c. the archaeologist shall also coordinate with the Project Manager on the construction schedule to identify when and where monitoring is to begin and including the start date for monitoring.
- ii. The qualified archaeologist shall be present during grading/excavation as detailed in Cul-2D and shall document such activity on a standardized form. A record of activity shall be sent to the Environmental Planner and Project Manager each month.
- iii. Discoveries
 - a. Discovery Process – In the event of a discovery, and when requested by the qualified archaeologist, or the Archaeological Principal Investigator (PI) if the archaeological monitor is not qualified as a PI, the Environmental Planner and Project Manager shall be contacted and shall divert, direct, or temporarily halt ground-disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant archaeological resources. The PI shall also immediately notify Campus Planning of such findings at the time of discovery.
 - b. Determination of Significance – The significance of the discovered resources shall be determined by the PI in consultation with Campus Planning and the Native American Community, as appropriate. Campus Planning must concur with the evaluation before grading activities will be allowed to resume. For archaeological resources considered significant by the PI, a Research Design and Data Recovery Program shall be prepared, approved by Campus Planning, and carried out to mitigate impacts before ground-disturbing activities in the area of discovery will be allowed to resume.

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- iv. If human remains are discovered, work shall halt in that area and the procedures detailed in the California Health and Safety Code (Section 7050.5) and the California PRC (Section 5097.98) and will be followed.
- v. Notification of Completion – The qualified archaeologist shall notify Campus Planning, as appropriate, in writing of the end date of monitoring.
- vi. Handling and Curation of Significant Artifacts and Letter of Acceptance
 - a. The qualified archaeologist shall ensure that all significant cultural remains collected are cleaned, catalogued, and permanently curated with an appropriate institution; that a letter of acceptance from the curation institution has been submitted to Campus Planning; that all artifacts are analyzed to identify function and chronology as they relate to the history of the area; that faunal material is identified as to species; and that specialty studies are completed, as appropriate.
 - b. Curation of artifacts associated with the survey, testing, and/or data recovery for this project shall be completed in consultation with Campus Planning and the Native American representative, as applicable.
- vii. Final Results Reports (Monitoring and Research Design and Data Recovery Program) – Prior to completion of the project, two copies of the Final Results Report (even if no significant resources were found) and/or evaluation report, if applicable, which describe the results, analysis, and conclusions of the archaeological monitoring program (with appropriate graphics) shall be submitted to Campus Planning for approval. For significant archaeological resources encountered during monitoring, the Research Design and Data Recovery Program shall be included as part of the Final Results Report.
- viii. Recording Sites with State of California Department of Park and Recreation – The qualified archaeologist shall record (on the appropriate State of California Department of Park and Recreation forms-DPR 523 A/B) any significant or potentially significant resources encountered during the Archaeological Monitoring Program and submit such forms to the SCIC with the Final Results Report.

Cul-5B: Native American Monitoring. Activities with the potential to cause a substantial adverse change to the significance of a tribal cultural resource (TCR) shall be monitored by a Native American tribal representative. Where the TCR is also considered a historical resource under CEQA, monitoring by a qualified archaeologist may also be required.

- i. Prior to any work that requires monitoring:
 - a) UC San Diego shall enter into a Tribal Monitoring Agreement with the tribe. This agreement will specify procedures for the proper treatment of any tribal cultural resources and/or Native American human remains discovered during the monitoring. The agreement will also specify the roles and authorities of the Native American monitors and other participants.
 - b) A preconstruction meeting shall be held that includes tribal representatives, archaeologist, Construction Manager and/or Grading Contractor, and other appropriate personnel so the tribal representative can make comments and/or suggestions concerning the Archaeological Monitoring Program to the Construction Manager and/or Grading Contractor.
- ii. Discoveries
 - a) Discovery Process – In the event of a discovery, the tribal representative, in consultation with the Construction Project Manager, may divert, direct, or temporarily halt ground-

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disturbing activities in the area of discovery to allow for preliminary evaluation of potentially significant tribal cultural resources. The tribal representative shall also immediately notify Campus Planning of such findings at the time of discovery.

- b) Determination of Significance – The significance of the discovered resources shall be determined by the tribal representative in consultation with Campus Planning and the Native American Community, as appropriate. Campus Planning must concur with the evaluation before grading activities will be allowed to resume.

Cul-5C: Repatriation. All materials associated with a TCR that are removed from their original context shall be returned to the tribe. If the materials are to be reburied on UC San Diego property, UC San Diego shall enter into an agreement with the tribe on an appropriate reburial location. The location shall be one that will not be subjected to ground-disturbing activities in the future. The reburial location will be documented as a reinternment location, and the tribe may file it as such with the NAHC, County, City, and the California Historical Resources Information System. The site of any reburial of Native American human remains shall be kept confidential and not be disclosed pursuant to the California Public Records Act, California Government Code §§ 6254.10, 6254(r).