

# MITIGATION MONITORING AND REPORTING PROGRAM

## INTRODUCTION

Section 15097 of the California Environmental Quality Act (CEQA) requires all State and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a “mitigated negative declaration” or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring and Reporting Program (MMRP) for the 14789 Oka Road Project (proposed project). The intent of the MMRP is to ensure implementation of the mitigation measures identified within the Initial Study/Mitigated Negative Declaration (IS/MND) for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this MMRP shall be funded by the applicant.

## COMPLIANCE CHECKLIST

The MMRP contained herein is intended to satisfy the requirements of CEQA as they relate to the IS/MND for the proposed project, prepared by the Town of Los Gatos. This MMRP is intended to be used by Town staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the IS/MND that was prepared for the proposed project. The MMRP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

The proposed project IS/MND presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the proposed project. Mitigation is defined by CEQA Guidelines, Section 15370, as a measure that:

- Avoids the impact altogether by not taking a certain action or parts of an action;
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment;
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project; or
- Compensates for the impact by replacing or providing substitute resources or environments.

Monitoring and documenting the implementation of mitigation measures will be coordinated by the Town of Los Gatos. The applicant will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMRP. The Town will be responsible for monitoring compliance.

## MITIGATION MONITORING AND REPORTING PROGRAM

The following table indicates the item number, the checklist questions the measure is designed to address, the measure text, the monitoring agency, implementation schedule, and an area for sign-off indicating compliance.

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<b>Item Number</b>	<b>Checklist Question</b>	<b>Mitigation Measure</b>	<b>Monitoring Agency</b>	<b>Implementation Schedule</b>	<b>Sign-Off</b>
<b>IV. Biological Resources</b>					
IV-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?	<u><b>Nesting Raptors and Migratory Birds</b></u> IV-1 <i>If tree removal or ground disturbing activities are scheduled to commence during the breeding season (February 1st through August 31st), a pre-construction nesting bird survey shall be conducted by a qualified biologist within seven days prior to such activities to identify possible nesting activity. Survey results shall be submitted to the Town of Los Gatos Planning Division. If active nests are not found, further mitigation is not required. If one or more active nests are found, a construction-free buffer of suitable dimensions shall be established around any active raptor or migratory bird nest for the duration of the project, or until an on-site qualified biologist has determined that the chicks have fledged and are foraging independently from their parents. The buffer shall be identified on the ground with flagging or fencing. The buffer distance shall be determined by the on-site qualified biologist based on the species, level of disturbance activity, location of the nest, and the topography between the nest and the construction activity; the construction-free buffer shall consist of a minimum starting distance of 250 feet for raptors and 25 feet for other birds. Proof of compliance with this mitigation measure shall be provided to the Town of Los Gatos Planning Division.</i>	Town of Los Gatos Planning Division	Within seven days prior to tree removal or ground disturbing activities, if such activities are scheduled to commence during the nesting season (February 1 <sup>st</sup> through August 31 <sup>st</sup> )	
		<u><b>Special-Status Bat Species</b></u> IV-2 <i>Approximately 14 days prior to tree removal or structure demolition activities, a qualified</i>	Town of Los Gatos Planning	Approximately 14 days prior to tree	

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		<p><i>biologist shall conduct a habitat assessment for bats and potential roosting sites in trees to be removed, in trees within 50 feet of the development footprint, and within and surrounding any structures that may be disturbed by the project. These surveys will include a visual inspection of potential roosting features (bats need not be present) and a search for presence of guano within the project site, construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. Assumptions can be made on what species is present due to observed visual characteristics along with habitat use, or the bats can be identified to the species level with the use of a bat echolocation detector such as an “Anabat” unit. Potential roosting features found during the survey shall be flagged or marked.</i></p> <p><i>If no roosting sites or bats are found, a letter report confirming absence will be prepared and no further measures are required.</i></p> <p><i>If bats or roosting sites are found, a letter report and supplemental documents will be prepared prior to grading permit issuance and the following monitoring, exclusion, and habitat replacement measures will be implemented:</i></p> <p style="margin-left: 40px;"><i>a. If bats are found roosting outside of the nursery season (May 1 through</i></p>	Division	removal or structure demolition activities	

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		<p><i>October 1), they will be evicted as described under (b) below. If bats are found roosting during the nursery season, they will be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. If the roost is determined to not be a maternal roost, then the bats will be evicted as described under (b) below. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone (or different size if determined in consultation with the CDFW) will be established around the roosting site within which no construction activities including tree removal or structure disturbance will occur until after the nursery season.</i></p> <p><i>b. If a non-breeding bat hibernaculum is found in a tree or snag scheduled for removal or on any structures scheduled to be disturbed by project activities, the individuals will be safely evicted, under the direction of a qualified bat biologist. If pre-construction surveys determine that there are bats present in any trees to be removed, exclusion structures (e.g.</i></p>			

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		<p><i>one-way doors or similar methods) shall be installed by a qualified biologist. The exclusion structures shall not be placed until the time of year in which young are able to fly, outside of the nursery season. Information on placement of exclusion structures shall be provided to the CDFW prior to construction.</i></p> <p><i>If needed, other methods conducted under the direction of a qualified bat biologist could include: carefully opening the roosting area in a tree or snag by hand to expose the cavity and opening doors/windows on structures, or creating openings in walls to allow light into the structures. Removal of any trees or snags and disturbance of any structures will be conducted no earlier than the following day (i.e., at least one night will be provided between initial roost eviction disturbance and tree removal/structure disturbance). This action will allow bats to leave during dark hours, which increases their chance of finding new roosts with a minimum of potential predation.</i></p>			
IV-e.	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	IV-3 <i>Prior to approval of final project improvement plans, the project applicant shall prepare a tree replacement plan for the three protected trees being removed to comply with the Town ordinances. The plan shall include the planting of suitable native species that align with the Town's guidelines for tree replacement. The tree replacement plan shall include the following standards and requirements:</i>	Town of Los Gatos Planning Division	Prior to the approval of final project improvement plans	

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		<ul style="list-style-type: none"> <li>• All replacement trees shall be planted within six months of the removal of the protected trees, preferably during the appropriate planting season to ensure high survival rates.</li> <li>• Newly planted trees shall receive regular watering, mulching, and protection from pests. A certified arborist shall monitor their health and provide necessary care during the first two years to ensure successful establishment.</li> <li>• With respect to Tree #375: the tree shall be replaced with six, 24-inch box Coast Live Oaks (<i>Quercus agrifolia</i>). The replacement trees shall be strategically planted within the property to ensure optimal growth conditions and to restore the ecological benefits provided by the removed tree. Each replacement tree shall be placed in locations that would not interfere with existing infrastructure or future construction plans.</li> <li>• With respect to Tree #17: the tree shall be replaced with three, 24-inch box native shade trees, such as Valley Oaks (<i>Quercus lobata</i>) or California Sycamores (<i>Platanus racemosa</i>). The foregoing species would be suitable to the local climate and would provide substantial ecological benefits. The trees shall be planted in designated</li> </ul>			

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		<p>areas that would allow for their full mature growth potential, ensuring the trees would not impede future development.</p> <ul style="list-style-type: none"> <li>• With respect to Tree #64: the tree, which is in poor health, shall be replaced with three, 24-inch box native trees, such as Black Walnuts (<i>Juglans hindsii</i>) or California Buckeyes (<i>Aesculus californica</i>). The replacement trees would enhance biodiversity and provide long-term benefits to the local environment. The planting locations shall be chosen to maximize the trees' chances of thriving without conflicting with existing or planned structures.</li> </ul> <p>Progress reports shall be submitted to the Town's Planning Division at regular intervals, detailing the health and growth of the replacement trees. Photos and site inspections shall accompany the reports to verify compliance with the replacement plan.</p>			
<b>V. Cultural Resources</b>					
V-b; V-c	Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5; or disturb any human remains, including those interred outside of dedicated cemeteries?	V-1 <i>If historic, archaeological, or paleontological resources are encountered during subsurface excavation activities, all construction activities within a 100-foot radius of the resource shall cease until a qualified archaeologist determines whether the resource requires further study. The Town shall require that the applicant include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Any</i>	Town of Los Gatos Planning Division	During construction, if historic, archaeological, or paleontological resources are encountered during subsurface excavation activities	

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		<p><i>previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation forms and evaluated for significance in terms of California Environmental Quality Act (CEQA) criteria by a qualified archaeologist. Potentially significant cultural resources consist of, but are not limited to, stone, bone, fossils, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites.</i></p> <p><i>If the resource is determined to be significant under CEQA, the Town and a qualified archaeologist shall determine whether preservation in place is feasible. Such preservation in place is the preferred mitigation. If such preservation is infeasible, the qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan for the resource. The archaeologist shall also conduct appropriate technical analyses, prepare a comprehensive written report and file the report with the appropriate information center (California Historical Resources Information System), and provide for the permanent curation of the recovered materials.</i></p>			
		<p>V-2 <i>If human remains, or remains that are potentially human, are found during construction, all work shall be halted immediately within 100 feet, and a professional archeologist shall ensure reasonable protection measures are taken to protect the</i></p>	<p>Town of Los Gatos Planning Division</p> <p>Santa Clara County Coroner</p>	<p>During construction, if human remains, or other remains that are potentially human, are found</p>	

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		<p><i>discovery from disturbance. The archaeologist shall notify the Santa Clara County Coroner (pursuant to Section 7050.5 of the State Health and Safety Code). The provisions of Section 7050.5 of the California Health and Safety Code, Section 5097.98 of the California Public Resources Code, and Assembly Bill (AB) 2641 will be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, then the Coroner will notify the Native American Heritage Commission (NAHC), which then will designate a Native American Most Likely Descendant (MLD) for the project (Section 5097.98 of the Public Resources Code). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the applicant does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the Public Resources Code). If an agreement is not reached, the qualified archaeologist or MLD must rebury the remains where they will not be further disturbed (Section 5097.98 of the Public Resources Code). This will also include either recording the site with the NAHC or the appropriate Information Center, using an open space or conservation zoning designation or easement, or recording a reinterment document with the county in which the property is located (AB 2641). Work cannot resume within the no-work radius until the lead agency, through consultation as appropriate,</i></p>	<p>NAHC, if the Santa Clara County Coroner determines remains are Native American</p>		

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		<i>determines that the treatment measures have been completed to the Town's satisfaction.</i>			
<b>VII. Geology and Soils</b>					
VII-aiii; VII-aiv; VII-c	Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: seismic-related ground failure, including liquefaction; or landslides; or be located on expansive soil, as defined in Table 18-1B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<p>VII-1 <i>Prior to approval of any building permits, the project Civil Engineer shall show on the project plans that the project design adheres to all engineering recommendations provided in the site-specific Geotechnical Investigation prepared for the proposed project by Cornerstone Earth Group to ensure that the recommended standards are incorporated into the project design and construction, including all relevant CBSC standards, to the satisfaction of the Town's Engineer. Such recommendations shall include, but are not limited to, the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Foundations shall be designed to tolerate the anticipated total and differential settlements, consistent with Section 8: Foundations, of the Geotechnical Investigation;</i></li> <li>• <i>Surficial soils underlying on-site locations intended for project improvements, including buildings and pavement areas, shall be removed to avoid settlement;</i></li> <li>• <i>The removed surficial soils shall be replaced with engineered fill, consistent with Section 6: Earthwork, of the Geotechnical Investigation; and</i></li> <li>• <i>Compliance with all applicable 2022 California Building Code (CBC) standards shall be required, as</i></li> </ul>	Town of Los Gatos Building Division and Engineering Division	Prior to approval of any building permits for the project	

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		<p style="text-align: center;"><i>detailed in Section 7 of the Geotechnical Investigation.</i></p> <p><i>All grading and project improvement plans shall be reviewed by a licensed engineer and approved by the Town of Los Gatos Building Division and the Parks and the Town of Los Gatos Engineering Division.</i></p>				
<b>X. Hydrology and Water Quality</b>						
X-a; X-ci; X-cii; X-ciii	Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality; or 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 which would: Result in substantial erosion or siltation on- or off-site, substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite, or Create or contribute runoff water which would exceed the	X-1	<p><i>Prior to any ground-disturbing activities, the project applicant shall prepare and submit an erosion and sediment control plan for review and approval by the Town of Los Gatos Engineering Division of the Parks and Public Works Department. A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the San Francisco Bay Regional Water Quality Control Board for projects disturbing more than one acre. A maximum of two weeks is allowed between clearing of an area and stabilizing/building on an area if grading is allowed during the rainy season. Interim erosion control measures, to be carried out during construction and before installation of the final landscaping, shall be included. Interim erosion control methods shall include, but are not limited to: silt fences, fiber rolls (with locations and details), erosion control blankets, Town standard seeding specification, filter berms, check dams, retention basins, etc. The project contractor shall provide erosion control measures as needed to protect downstream water quality during winter months. The grading, drainage,</i></p>	Town of Los Gatos Engineering Division	Prior to any ground-disturbing activities	

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	capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<i>erosion control plan and SWPPP shall be prepared in compliance with applicable measures contained in the amended provisions C.3 and C.14 of most current Santa Clara County National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP). Monitoring for erosion and sediment control is required and shall be performed by the Qualified SWPPP Developer (QSD) or Qualified SWPPP Practitioner (QSP) as required by the Construction General Permit. Stormwater samples are required for all discharge locations and projects may not exceed limits set forth by the Construction General Permit Numeric Action Levels and/or Numeric Effluent Levels. A Rain Event Action Plan (REAP) shall be developed 48 hours prior to any likely precipitation event, defined by a 50 percent or greater probability as determined by the National Oceanic and Atmospheric Administration (NOAA), and/or whenever rain is imminent. The QSD or QSP must print and save records of the precipitation forecast for the project location area from (<a href="https://www.cpc.ncep.noaa.gov/">https://www.cpc.ncep.noaa.gov/</a>) which shall accompany monitoring reports and sampling test data. A rain gauge is required on-site. The Town of Los Gatos Engineering Division shall conduct periodic NPDES inspections of the site throughout the recognized storm season to verify compliance with the Construction General Permit and Stormwater ordinances and regulations.</i>			

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<b>XIII. Noise</b>					
XIII-a	Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<p><i>XIII-1 Prior to approval of grading permits, the following criteria shall be established and noted on grading plans, subject to review and approval by the Town:</i></p> <ul style="list-style-type: none"> <li>• <i>Ensure that construction activities are limited to the hours of 8:00 AM to 6:00 PM on weekdays and between the hours of 9:00 AM and 4:00 PM on Saturdays. Construction shall not be permitted on Sundays or holidays;</i></li> <li>• <i>Temporary eight-foot noise barriers shall be constructed along the north and south property lines of the project site to shield adjacent sensitive receptors and residential land uses from ground-level construction equipment and activities. The noise barriers shall be solid over the face and at the base of the barrier to provide a five dBA noise reduction;</i></li> <li>• <i>Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment;</i></li> <li>• <i>Unnecessary idling of internal combustion engines shall be strictly prohibited;</i></li> <li>• <i>Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If the equipment must be</i></li> </ul>	Town of Los Gatos Engineering Division	Prior to approval of grading permits	

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		<p><i>located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors;</i></p> <ul style="list-style-type: none"> <li>• <i>Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction;</i></li> <li>• <i>Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors;</i></li> <li>• <i>Control noise from construction workers' radios to a point where radio noise is not audible at existing residences bordering the project site; and</i></li> <li>• <i>Designate a disturbance coordinator responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include the number in the notice</i></li> </ul>			

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		<p style="text-align: center;"><i>sent to neighbors regarding the construction schedule.</i></p> <p style="text-align: center;"><i>Proof of compliance with the above measures shall be submitted to the Town of Los Gatos Building Department for review.</i></p>			
XIII-b	Generate excessive groundborne vibration or groundborne noise levels?	<p>XIII-2 <i>Prior to commencement of project construction activities, the project applicant shall prepare a Construction Vibration Plan to reduce construction vibration levels to less than or equal to 0.5 in/sec PPV. The project contractor shall ensure compliance and implementation of the plan throughout the construction period. All plan tasks shall be in accordance with industry-accepted standard methods. The Construction Vibration Plan shall be submitted to the Town of Los Gatos Community Development Department and include, but not be limited to, the following measures:</i></p> <ul style="list-style-type: none"> <li>• <i>A list of all heavy construction equipment known to produce high vibration levels to be used for this project (e.g., dozers, graders, excavators, saws, trucks, and vibratory rollers) shall be submitted to the Town, as well as a list of smaller equipment (less than 18,000 pounds) to be used near the northern project site boundaries.</i></li> <li>• <i>A smaller vibratory roller similar to a Caterpillar model CP433E vibratory compactor shall be used when compacting materials within 30 feet of any adjacent residential buildings. For</i></li> </ul>	Town of Los Gatos Building Division	Prior to the commencement of project construction activities	

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		<p><i>all other equipment, smaller equipment (less than 18,000 pounds) shall be used within areas 15 feet adjacent to existing residential buildings. The smaller equipment shall be individually identified among the list of equipment as a subset of equipment allowed for use at the project site boundaries.</i></p> <ul style="list-style-type: none"> <li>• <i>Avoid dropping heavy equipment and using vibratory rollers within 30 feet of the sensitive receptors adjoining the project site. Use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent buildings to the north.</i></li> <li>• <i>Select orchard tree removal methods that do not involve large impact tools within 15 feet of the shared property line with the residences to the north. Portable jackhammers, saws, or grinders shall be used to minimize impacts to the ground.</i></li> <li>• <i>Designate a Disturbance Coordinator responsible for registering and investigating claims of excessive vibration. The contact information of the coordinator shall be clearly posted on the construction site.</i></li> </ul>			
<b>XVII. Transportation</b>					
XVII-c; XVII-d	Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision	XVII-1 <i>Prior to approval of final improvement plans, the plans shall include all relevant recommendations as included in the Transportation Analysis prepared by Hexagon</i>	Town of Los Gatos Engineering Division	Prior to approval of final improvement plans	

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	(b); or result in inadequate emergency access?	<p><i>Consultants, Inc., for the proposed project. Such recommendations shall include, but not be limited to, the following:</i></p> <ul style="list-style-type: none"> <li>• <i>Large landscaping trees planted near the project site entrances shall be maintained so that the tree canopies are above 10 feet high to preserve sightlines and ensure the sight of exiting drivers is not obstructed; and</i></li> <li>• <i>Red curb equal to at least one car length shall be striped adjacent to both sides of each entrance road along Oka Road.</i></li> </ul> <p><i>The foregoing recommendations shall be incorporated into the project design and construction to ensure the sight of drivers exiting the project site and driving along Oka Road shall not be obstructed. All project improvement plans shall be reviewed by a licensed engineer and approved by the Town of Los Gatos Engineering Division and the Town's Engineer.</i></p>			
<b>XVIII. Tribal Cultural Resources</b>					
XVIII-a; XVIII-b	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	XVIII-1 <i>Implement Mitigation Measures V-1 and V-2.</i>	See Mitigation Measures V-1 and V-2	See Mitigation Measures V-1 and V-2	

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	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: 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 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 Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.				