

# SCOPING REPORT

## **Koi Nation of Northern California Shiloh Resort and Casino Project**

Sonoma County, California

Lead Agency:

### **Bureau of Indian Affairs**

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## Attachments

Attachment A	Notice of Preparation
Attachment B	Notice Distribution
Attachment C	Scoping Comments

# Section 1 | Introduction

The Bureau of Indian Affairs (BIA) has initiated the preparation of an Environmental Assessment (EA) to analyze the potential environmental consequences of the Koi Nation of Northern California's (Koi Nation; Tribe) proposed fee-to-trust transfer for gaming purposes (Proposed Action) of an approximately 68.6-acre parcel (Project Site) in unincorporated Sonoma County, California, adjacent to the Town of Windsor. The Proposed Project includes the development of a casino, hotel, conference/event center, restaurant/bars, and supporting parking and infrastructure within the Project Site. The transfer of the Project Site into federal trust is a federal action that triggers the requirements of the National Environmental Policy Act (NEPA). For the purpose of the EA, the BIA will serve as the Lead Agency for compliance with NEPA. Public involvement for an EA is conducted at the discretion of the Lead Agency. The BIA elected to conduct a 30-day scoping comment period for the Proposed Project to solicit input from the public and agencies regarding the scope of the EA.

In anticipation of future environmental policies that the Tribe may adopt, the Tribe has requested that a Tribal Environmental Impact Report (TEIR) be prepared to analyze the potential off-reservation environmental impacts of the Proposed Project. The Koi Nation will serve as the Lead Agency for the TEIR. To reduce paperwork and eliminate redundancy, the TEIR will be prepared in coordination with the NEPA EA, resulting in a joint "EA/TEIR."

The purpose of the public scoping process was to identify potential environmental issues, concerns, reasonable mitigation measures, and alternatives to be considered in the EA/TEIR. This Scoping Report describes the EA/TEIR scoping process, explains the purpose and need for the Proposed Action, describes the Proposed Project and alternatives, summarizes the issues identified during the scoping process, and attaches comments received during the scoping comment period.

## 1.1 SCOPING PROCESS

The "scope" of an EA/TEIR is the range of environmental issues to be addressed, the types of project effects to be considered, and the range of project alternatives to be analyzed. A Notice of Preparation (NOP) describing the Proposed Project and announcing a 30-day scoping period was prepared and circulated for public and agency review on May 27, 2022. The NOP, included as **Attachment A**, was posted online at <https://www.shilohresortenvironmental.com/>, published in The Press Democrat newspaper, filed with the State Clearinghouse for distribution to state agencies, and was sent to various federal and local agencies through direct mailings (**Attachment B**). All comments received during the scoping process are included as **Attachment C**.

## 1.2 PUBLIC INVOLVEMENT

Public involvement opportunities provided during scoping included the public comment period. Comments were received in writing, via mail and e-mail.

### 1.2.1 Public Notice

The public was notified of scoping activities for the EA/TEIR through the publication of the NOP (**Attachment A**) online at <https://www.shilohresortenvironmental.com/>, publication of the NOP in The Press Democrat newspaper, filing of the NOP with the State Clearinghouse for distribution to state agencies, and direct mailing of the NOP to various federal and local agencies and interested parties (**Attachment B**).

### 1.2.2 Project Website

A project website, [www.shilohresortenvironmental.com](http://www.shilohresortenvironmental.com), was launched on May 27, 2022. The website provides information on the Proposed Action, EA/TEIR process, and public comment opportunities. It also provides documents developed to date, including the NOP and this Scoping Report. Additional documents, including the Draft and Final EA/TEIR, will be added to the website as they are developed.

### 1.2.3 Mail and Email

Through the public scoping notices, the public was invited to submit comments via mail or email during the public review period, which concluded on June 27, 2022. There were 262 letters submitted during the comment period (**Attachment C**).

# Section 2 | Alternatives

## 2.1 PURPOSE AND NEED

The purpose of the Proposed Action is to facilitate tribal self-sufficiency, self-determination, and economic development, thus satisfying both the Department of the Interior's (Department) land acquisition policy as articulated in the Department's trust land regulations at 25 Code of Federal Regulations (CFR) Part 151, and the principal goal of Indian Gaming Regulatory Act (IGRA) as articulated in 25 USC § 2701. The need for the Department to act on the Tribe's application is established by the Department's regulations at 25 CFR § 151.10(h) and 151.12.

The Tribe has indicated that the BIA's acquisition of the Project Site for gaming purposes will establish:

- the first trust property for the Tribe on its restored lands in accordance with IGRA; and
- its economic land base in order to promote the general welfare of the Koi Nation and its members, raise governmental revenues, and create jobs for its members.

## 2.2 PROPOSED PROJECT

The Koi Nation submitted an application to the BIA on September 15, 2021 requesting that the Secretary of the Interior take the approximately 68.6-acre Project Site into trust for the benefit of the Tribe, pursuant to Section 5 of the Indian Reorganization Act, 25 U.S.C. § 5108 and its implementing regulations. The Tribe's proposed Project Site is located outside of, but contiguous to, the Town of Windsor (**Figure 1** and **Figure 2**), and approximately 12 miles from the Koi Nation's tribal headquarters in Santa Rosa, California. The Project Site is bordered by Shiloh Road and residential parcels to the north, Old Redwood Highway and residential parcels to the west, and agricultural and commercial parcels in unincorporated Sonoma County to the south and east (**Figure 3**). Existing land uses on the Project Site consist of a residence and operating vineyard; Pruitt Creek bisects the central portion of the site.

The Koi Nation's Proposed Project consists of the development of a resort facility within the Project Site that includes a three-story casino with 2,750 gaming devices, 105 table games, a food court, five restaurants, and four service bars; a five-story, 400-room hotel with spa; approximately 74,000 square feet of ballrooms/meeting space; and a 2,800-seat event center. Parking for the resort facility would be provided on the ground floor of the casino facility (800 spaces); in a four-story parking garage (3,692 spaces); and on a paved surface parking lot (618 spaces). Other supporting infrastructure, including the proposed water treatment and wastewater treatment facilities, would be located on the southeastern portion of the Project Site. The riparian areas of Pruitt Creek will be primarily avoided by the proposed development. The portions of the Project Site outside of the riparian area and building footprint would be landscaped with existing vineyard areas maintained around the perimeter of the site to the extent feasible. A conceptual site plan for the Proposed Project is included as **Figure 4**.

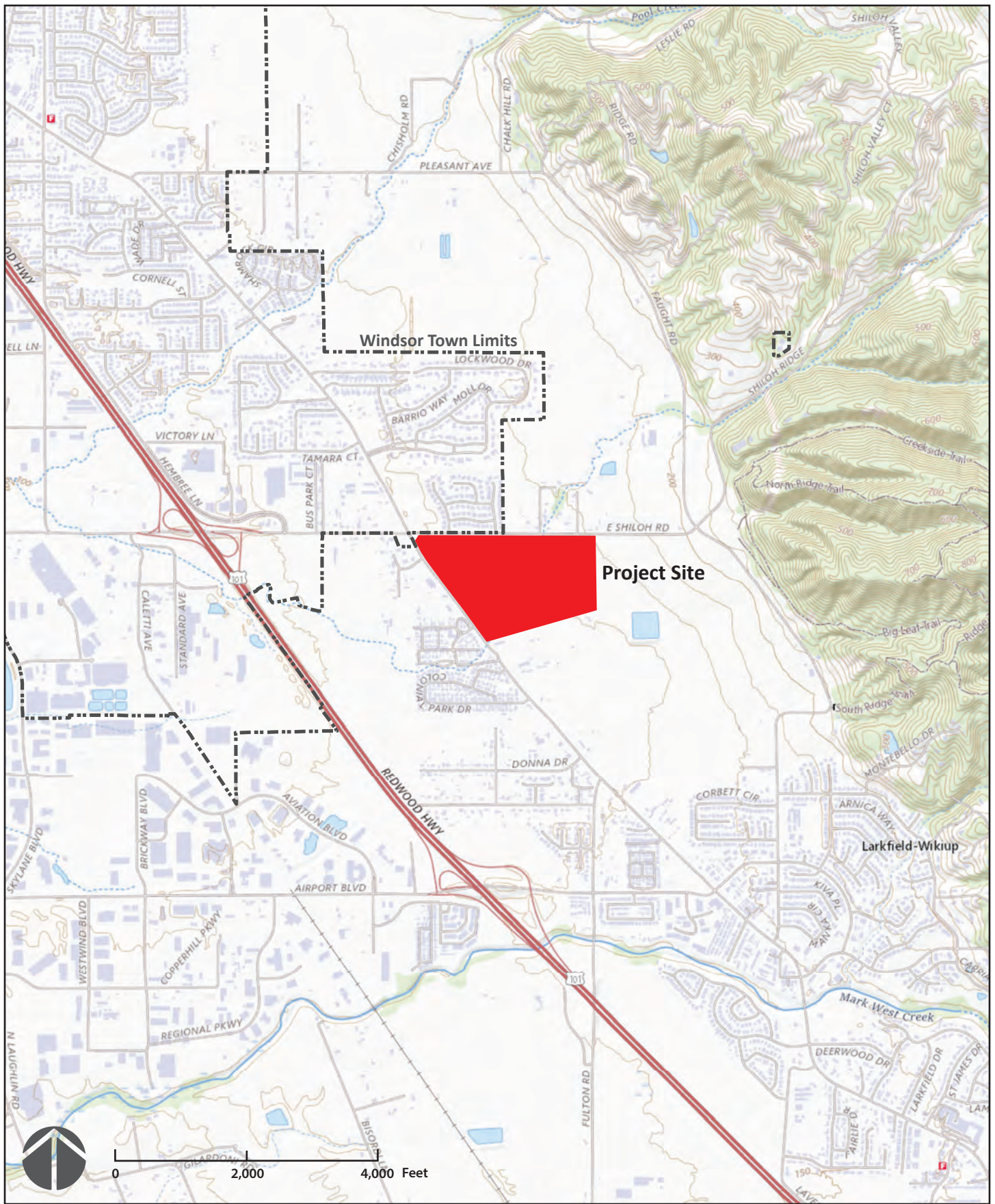




Source: Maxar imagery (4/16/2021)

**FIGURE 1**  
REGIONAL LOCATION





Source: USGS The National Map (June 2020)

**FIGURE 2**  
SITE AND VICINITY





Source: Maxar imagery (4/16/2021)

**FIGURE 3**  
PROJECT SITE AERIAL





**FIGURE 4**



Water supply to serve the Project is proposed through the use of on-site wells, and wastewater would be treated via a proposed on-site tertiary wastewater treatment plant (WWTP). Recycled water generated by the proposed on-site WWTP would be reused for toilet/urinal flushing, cooling systems, and for irrigation of the vineyards and landscaping, thereby reducing the potable water demands of the Proposed Project. During dry periods, excess recycled water would either be stored on-site in detention basin(s) or could be utilized to irrigate nearby agricultural fields and parks; during the rainy season, the tertiary treated effluent would be discharged to Pruitt Creek in accordance with a National Pollutant Discharge Elimination System (NPDES) permit from the U.S. Environmental Protection Agency (EPA). Access to the site may be provided through new driveways on Shiloh Road and Old Redwood Highway.

## 2.3 ALTERNATIVES IDENTIFIED BY THE PUBLIC

During the EA/TEIR scoping period, several potential alternatives to the Koi Nation's Proposed Project were identified by commenters. Specifically, comments suggested the analysis of:

### On-Site Alternatives

- A reduced intensity alternative;
- A non-gaming alternative – winery, restaurant, hotel, and showroom;
- An on-site alternative that utilizes public water and/or wastewater;
- An alternative that would develop housing;
- Alternative configurations of the Proposed Project; and
- A no-action alternative or continued use of the Project Site as a vineyard.

### Off-Site Alternatives

- An alternative in an industrial or commercial area;
- An alternative outside of Sonoma County;
- An alternative on a site immediately off U.S. Highway 101 (US 101) on Shiloh Road on a parcel that has had a development sign for years;
- An alternative near the light rail line;
- An alternative closer to the Santa Rosa airport; and
- An alternative located within the Tribe's former rancheria and/or aboriginal territory in Lake County.

As discussed below, these alternatives were considered by the BIA and either chosen for full evaluation in the EA/TEIR or eliminated from further consideration.

## 2.4 ALTERNATIVES TO BE ANALYZED WITHIN THE EA/TEIR

The EA/TEIR will evaluate a reasonable range of alternatives to meet the purpose and need for the Proposed Action. Based on the results of an extensive screening analysis, summarized in more detail within the Alternatives Evaluation Report (under separate cover), the following alternatives will be evaluated within the EA/TEIR: Alternative A – Proposed Resort and Casino Project; Alternative B – Reduced Intensity Resort and Casino; Alternative C – Non-Gaming Winery Resort; and Alternative D – No Action. Under Alternatives A, B, and C, the Project Site would be transferred from fee to federal trust status. Other

anticipated federal actions include, but are not limited to, approval of a gaming management contract by the National Indian Gaming Commission (NIGC) for Alternatives A and B and issuance of a National Pollutant Discharge Elimination System (NPDES) permit by the U.S. Environmental Protection Agency (USEPA) for the regulation of discharge of tertiary treated wastewater into Pruitt Creek for Alternatives A, B, and C in accordance with the Clean Water Act. **Table 1** identifies and summarizes the alternatives to be analyzed in detail in the EA/TEIR.

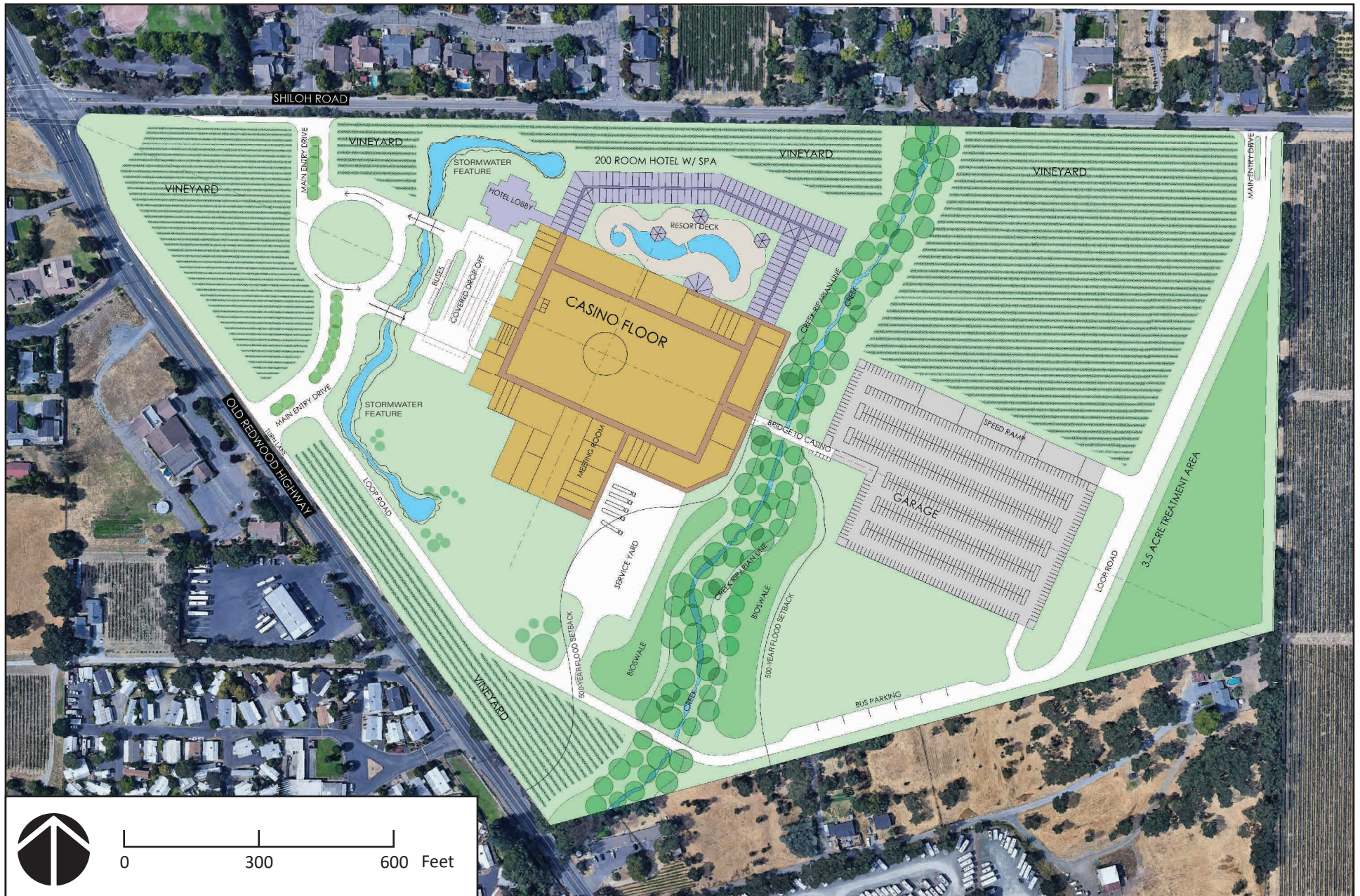
**TABLE 1: SUMMARY OF ALTERNATIVES**

<b>Alternative</b>	<b>Description</b>
Alternative A – Proposed Resort and Casino Project	Alternative A is the Tribe’s Proposed Project. See description in Section 2.2 of this report and <b>Figure 4</b> .
Alternative B – Reduced Intensity Resort and Casino Project	As with Alternative A, Alternative B would involve the fee-to-trust transfer of the Project Site and subsequent development of a resort and casino facility; however, under Alternative B the intensity of the development would be reduced compared to Alternative A. Alternative B would include the development of a casino as proposed in Alternative A; a three-story, 200-room hotel with spa (half the number of rooms proposed under Alternative A); approximately 33,000 square feet of ballrooms/meeting space (approximately 41,000-square-feet less than Alternative A); a four-story parking garage (3,692 spaces); and associated infrastructure ( <b>Figure 5</b> ). Alternative B would not include the development of the 2,800-seat event center and surface parking lot proposed under Alternative A.
Alternative C – Non-Gaming Winery Resort	Alternative C would involve the fee-to-trust transfer of the Project Site and subsequent development of a winery and hotel that would include a visitor center, a 200-room hotel with spa, a restaurant, and associated parking and infrastructure ( <b>Figure 6</b> ).
Alternative D – No Action Alternative	NEPA Section 1502.14(d) requires analysis of the No Action Alternative. Under the No Action Alternative, none of the development alternatives considered within the EA/TEIR would be implemented. The No Action alternative assumes that the Project Site would not be taken into trust and the existing land uses on the Project Site would remain unchanged, including continued operation of the vineyard.

## 2.5 ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER CONSIDERATION

During the NEPA process, federal agencies are required to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources” (NEPA Section 102(2)(E)). The Council on Environmental Quality (CEQ) indicates that what constitutes a “reasonable range” of alternatives depends on the nature of the proposal and the facts in each case (CEQ, 1986), and that “[r]easonable alternatives means a reasonable range of alternatives that are technically and economically feasible, and meet the purpose and need for the proposed action” (1508.1(z)). Alternatives other than the No Action/No





Source: Dale Partners

**FIGURE 5**  
REDUCED INTENSITY RESORT AND CASINO PROJECT





Source: Dale Partners

**FIGURE 6**  
NON-GAMING SITE PLAN



Development Alternative were screened based on five criteria: 1) extent to which they meet the purpose and need for the Proposed Action; 2) feasibility from a technical and economic standpoint; 3) feasibility from a regulatory standpoint (including ability to meet the requirements for establishing connections to newly acquired lands for the purposes of the “restored lands”); 4) ability to avoid or minimize environmental impacts; and 5) ability to contribute to a reasonable range of alternatives. The alternatives considered but rejected from full analysis are listed in **Table 2**. These alternatives were eliminated because they were deemed infeasible or would not fulfill the stated purpose and need of the Proposed Action (see **Section 2.1**). A more detailed explanation of the alternatives screening process is provided in the Alternatives Evaluation Report.

**TABLE 2: ALTERNATIVES CONSIDERED BUT ELIMINATED FROM FURTHER CONSIDERATION**

Suggested Alternative	Reason for Elimination from Consideration
An on-site alternative that utilizes public water and/or wastewater	The Project Site is outside of the Town of Windsor's Urban Growth Boundary. Policy LU-7.10 of the Town of Windsor's 2040 General Plan states that sewer, water, and other Town services shall not be extended to new development outside the Urban Growth Boundary nor shall service to existing development outside the Urban Growth Boundary be expanded unless the Town Council makes a number of findings in regard to the Proposed Project. The Town's letter submitted during the scoping period stated that "[t]he subject property is not within the Town of Windsor or the Windsor Water District boundaries and is therefore not available to be served by the Town of Windsor or Windsor Water District services (supply or reclamation)." Therefore, this alternative was found to be technically infeasible and was eliminated from further consideration.
Alternative configurations of the Tribe's Proposed Project	<p>As shown in the site plan for Alternative A, Proposed Project (<b>Figure 4</b>), the casino-resort building, parking garage, and surface parking area are located outside of the riparian corridor of Pruitt Creek and the 500-year floodplain. The central location of these facilities within the Project Site allows for a buffer area of vineyards between the proposed development and existing uses to the north and east of the Project Site. The “Treatment Area,” which would contain the water and wastewater treatment, storage, and associated infrastructure, is located in the southeastern corner of the Project Site, the furthest point on the Project Site from the majority of the residential uses in the vicinity.</p> <p>Alternative configurations of the Proposed Project that would be located outside of the riparian corridor of Pruitt Creek and the 500-year floodplain, and maintain distance from the majority of sensitive receptors, would be generally in the same building footprint shown on <b>Figure 4</b>; therefore, an alternative configuration is likely to have substantially similar environmental impacts in comparison to the Proposed Project. If there is a significant impact from the Proposed Project, project design changes and/or mitigation will be considered to avoid or reduce the impact. Consequently, this alternative was eliminated from further consideration as it would not avoid or minimize environmental impacts or contribute to a reasonable range.</p>
An on-site alternative that develops housing rather than the Proposed Project	As described in <b>Section 2.1</b> , the Tribe has requested that the BIA acquire the Project Site into trust for gaming and economic development so that it may establish its economic land base in order to promote the general welfare of the Koi Nation and its members, raise governmental revenues, and create jobs for

Suggested Alternative	Reason for Elimination from Consideration
	<p>its members. The Tribe does not currently have sources for governmental revenues that would be sufficient to finance the construction of tribal housing on this Project Site and it would be speculative to assume that the Tribe could establish sufficient revenue in the near future without the development of an economic development project at another site (see discussion of the infeasibility of Off-Site Alternatives below). Consequently, this alternative was eliminated from further consideration as it does not meet the purpose and need and is infeasible from an economic standpoint.</p>
Off-Site Alternatives	<p>The Tribe does not own, nor does it have an option to own, an off-site property that would be suitable for the proposed development.</p> <p>The Tribe has submitted substantial evidence to the BIA regarding its lengthy and thorough evaluation of alternative sites that ended with the purchase of the Project Site. While a “Restored Lands” opinion has not yet been issued by the BIA, the site ultimately chosen as the Project Site appears to meet certain regulatory requirements for “restored lands” in that it is within 25 miles of the Tribe’s headquarters as well as where a significant number of residents reside. It was also determined to be a suitable size for development and was otherwise unencumbered by designated critical habitat and Williamson Act constraints.</p> <p>Consideration of a highly speculative circumstance under which the Tribe would be able to purchase an alternative site that could be developed with an economic enterprise with which to fund the tribal government would not aid in expanding the range of alternatives in a manner that promotes informed decision-making. Consideration of such an alternative would speculate that the Tribe would be able to purchase said site, and that the financial benefits of developing such a site would accomplish the purpose and need for the Proposed Action.</p> <p>Therefore, consideration of an alternative site was rejected from full analysis as it would not meet the definition of a reasonable alternative that is feasible from an economic and technical standpoint, and thus would not accomplish the purpose and need for the Proposed Action.</p>



# Section 3 | Issues Identified During Scoping

## 3.1 INTRODUCTION

The following section lists each of the major issue areas and areas of controversy raised by members of the public or government agencies during the scoping process described in **Section 1.1**. Specific issues and questions are discussed in each section and along with the anticipated scope of the issue to be discussed in the EA/TEIR. General comments, concerns, and questions not falling within one of the major issue areas below, or topics that do not fall within the scope of the EA/TEIR, are discussed in **Section 3.2.17 Procedural and Non-NEPA Issues**. Additional issues not specifically raised but which the Bureau of Indian Affairs (BIA) and Tribe intend to address in the EA/TEIR also are discussed. Copies of the comment letters submitted during the scoping process appear in **Attachment C**. Comments received after the close of the scoping comment period are not included in this attachment but were reviewed and did not raise new, substantive comments on the scope of the EA/TEIR.

## 3.2 ISSUES IDENTIFIED DURING SCOPING

This section contains a summary of substantive comments received during the NEPA scoping process relating to the scope of the EA/TEIR. These comment summaries are categorized by issue area. A general summary of the expected scope of the EA/TEIR for each issue area is also provided. Comments regarding potential alternatives to the Proposed Project are discussed in **Section 2.3**.

### 3.2.1 Geology and Soils

#### Comments

The following comments regarding geology and soils were provided during scoping:

- The EA/TEIR should study the impact of the Project on earthquake and liquefaction risks to those located at the casino (e.g., patrons, employees, vendors) and to the surrounding neighborhood;
- The EA/TEIR should study the potential for off-site mud flow damage from land alteration of the Project Site; and
- The impacts from site grading and development should be assessed.

#### Scope

The EA/TEIR will include a description of the geological, topographic, and soil conditions on the Project Site, as well an analysis of potential impacts resulting from all alternatives on these resources. The impact from potential earthquakes in the area will be addressed. Mitigation measures, if warranted, will be discussed in the EA/TEIR.

### 3.2.2 Water Resources

#### Comments

The following comments regarding water resources were provided during scoping:

- The EA/TEIR should assess impacts to nearby off-site wells, including Town of Windsor wells at Esposti Park and north of the Project Site;
- The Project wells, wastewater treatment plant, detention basin should not be constructed within the protection zone around the Town of Windsor wells;
- The use of recycled water on landscaping should not be allowed within the protection zone around the Town of Windsor wells;
- A well interference study and hydrogeologic testing should be completed to ensure there are no adverse effects to surrounding wells;
- It is recommended that Project wells be located in the southeastern portion of the Project Site, furthest from Town of Windsor wells;
- The EA/TEIR should address impacts to water quality;
- The EA/TEIR should discuss how drainage and water discharge will be monitored for pollution;
- The EA/TEIR should discuss the potential for erosion and increased sediment discharge to Pruitt Creek from the Project, including the proposed discharge point;
- The EA/TEIR should clarify how the discharge will comply with water quality standards, the federal antidegradation rule, State discharge regulations for the North Coast Regional Water Quality Control Board, and/or EPA discharge regulations;
- The EA/TEIR should include an analysis of potential stormwater impacts and mitigation measures to reduce any increase in peak runoff, such as low impact development best management practices;
- The EA/TEIR should discuss how the Project will keep trash from flowing downstream via Pruitt Creek and the storm drain system;
- The EA/TEIR should assess stormwater runoff and groundwater impacts from increased impermeable surfaces;
- The EA/TEIR should identify who will operate the wastewater treatment plant, their qualifications, and the wastewater treatment plant Operation & Maintenance Program;
- The EA/TEIR should include a comprehensive water/wastewater assessment, and explain how the Proposed Project's impacts can be mitigated through funding implementation actions identified in the Groundwater Sustainability Plan or through other mitigation measures;
- The EA/TEIR should analyze the ability of wastewater treatment plant treated effluent to offset potable water demands;
- The EA/TEIR should discuss how the Project will impact water availability;
- The EA/TEIR should address the impact of the Project on drought conditions and what restrictions would be placed on the Project during drought conditions;
- The EA/TEIR should include an analysis of the cumulative impacts on groundwater by developing a water balance analysis and evaluating Project impacts to groundwater sustainability relative to groundwater levels, groundwater storage, groundwater quality, depletion of interconnected surface water, and land subsidence;
- The EA/TEIR should evaluate impacts to the aquifer and groundwater levels;
- The EA/TEIR should assess the potential for off-site groundwater contamination from Project construction, underground pipes, the wastewater treatment plant, and other elements of the Project;

- The Project should implement best management practices for water use efficiency and conservation;
- The EA/TEIR should assess the risk to people on the Project Site from dam failure due to an earthquake, flood or other events;
- The EA/TEIR should discuss the potential for the Project to increase off-site flooding and sediment transport;
- The EA/TEIR should identify the floodplain and floodway on the Project Site and Project impacts to groundwater recharge and floodplain storage capacity from loss of floodplain acreage;
- The EA/TEIR should discuss whether coordination with the Federal Emergency Management Agency is required for the Project; and
- The EA/TEIR should assess impacts to the Russian River.

## Scope

The EA/TEIR will include a description of watersheds, drainage patterns, floodplains, groundwater conditions, and water quality on the Project Site and the surrounding vicinity, as well as analysis of potential impacts resulting from all alternatives on these resources. The EA/TEIR will address issues related to site drainage, storm-water runoff, water consumption, and wastewater generation, including impacts to surface water and groundwater quality. Mitigation measures to avoid impacts to water quality and water resources, if warranted, will be recommended in the EA/TEIR.

### 3.2.3 Air Quality

#### Comments

The following comments regarding air quality were provided during scoping:

- The EA/TEIR should analyze air quality impacts during construction and subsequent operation, including impacts from vehicle emissions;
- The EA/TEIR should include an analysis addressing Vehicle Miles Traveled / Greenhouse Gas (VMT/GHG) impacts. Mitigation to offset the increases in GHG due to the Project should include a detailed analysis by a qualified consultant and comprehensive plan on how to address impacts through agreed upon mitigation measures;
- The EA/TEIR should assess increased GHG emissions and impacts related to climate change;
- The EA/TEIR should assess cumulative air quality impacts with respect to the location in a non-attainment area;
- The EA/TEIR should study the public health impacts during construction and operation of the Project from increased vehicle traffic including idling vehicles, commercial trucks, off-road construction equipment, delivery trucks, buses, shuttles, and passenger vehicles;
- The EA/TEIR should study the public health impact of air pollution on the nearby neighborhoods from increased particulate matter, toxic air contaminants, carbon dioxide, nitrogen oxides and other foreseeable air pollutants;
- The EA/TEIR should address the potential cumulative health impacts from Project emissions, vehicle emissions from roadways and freeways and other industrial uses in the vicinity;
- The EA/TEIR should discuss if the Project would be a smoke-free facility;
- The EA/TEIR should discuss the potential for the Project to result in unwanted odors; and
- The EA/TEIR should study the impacts of wildfire smoke/unhealthy air quality on visitors to the area.

## Scope

The EA/TEIR will include a description of the regional climate, existing air quality, and pollutants of concern in the vicinity of the Project Site, as well as an analysis of the potential impacts that could result from implementation of each of the proposed alternatives. The Proposed Project is currently proposed to be a smoke-free facility and the EA/TEIR will discuss indoor air quality. Potential impacts associated with GHG and climate change will be analyzed within the cumulative section of the EA/TEIR in accordance with CEQ guidelines. Mitigation measures, if warranted, will be recommended in the EA/TEIR.

### 3.2.4 Biological Resources

#### Comments

The following comments regarding biological resources were provided during scoping:

- The EA/TEIR should assess impacts to wildlife and wildlife corridors, including the wildlife corridor along Pruitt Creek;
- The EA/TEIR should discuss impacts to Pruitt Creek which is designated as critical habitat and essential fish habitat for protected salmonids;
- The EA/TEIR should provide baseline habitat assessments for special-status plant, fish and wildlife species with the potential to be located in the Project area;
- The EA/TEIR should assess which special-status species are likely to occur on or near the Project site (including Burke's goldfields, Sebastopol meadowfoam congested headed hayfield tarweed, burrowing owl, western pond turtle and steelhead), and whether they could be impacted by the Project;
- The BIA should consider consultation pursuant Section 7 of the Endangered Species Act;
- The EA/TEIR should discuss obstruction of movement corridors, fish passage, or access to water sources and other core habitat features;
- The EA/TEIR should describe the setting and potential impacts to aquatic habitats, such as wetlands, vernal pools, and/or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site;
- The EA/TEIR should assess impacts to Valley Oak habitat;
- The EA/TEIR should discuss loss or modification of breeding, nesting, dispersal, and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g., snags, rock outcrops, overhanging banks);
- The EA/TEIR should utilize aerial imagery; historical and recent survey data; field reconnaissance; scientific literature and reports; the USFWS' Information, Planning, and Consultation System; findings from positive occurrence databases such as the California Natural Diversity Database; and sensitive natural community information available on Sonoma County fine scale vegetation and habitat map;
- It is recommended that applicable survey protocols be used for special-status species with potential to occur, for example botanical surveys should occur during the blooming period for special-status plant species with the potential to occur;
- The EA/TEIR should assess potential indirect impacts on adjacent habitat;
- The EA/TEIR should analyze cumulative impacts to biological resources associated with increased development both on and off of tribal lands for reasonably anticipated future projects;
- The EA/TEIR should discuss permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, and human presence;



- Project-specific measures should be incorporated as enforceable conditions to reduce impacts to biological resources;
- The use of proactive measures, such as best management practices, surveys, construction windows, low impact development plans, testing and monitoring, are encouraged to avoid, minimize and mitigate potentially significant environmental effects; and
- The EA/TEIR should discuss whether the Project would result in an increase in rodents from a reduction in beneficial predators.

## Scope

The EA/TEIR will include a description of the habitat, waters of the U.S., and special status species (including federal- and state-listed species) on the Project Site, as well as the assessment of reasonably foreseeable impacts of the alternatives on these resources. The EA/TEIR will discuss applicable survey protocols for special-status species. The BIA will comply with consultation requirements under Section 7 of the Endangered Species Act. Mitigation measures, if warranted, will be discussed in the EA/TEIR.

### 3.2.5 Cultural and Paleontological Resources

#### Comments

The following comments regarding cultural and paleontological resources were provided during scoping:

- The requirements of Section 106 of the National Historic Preservation Act (NHPA) would be applicable to the Project, including consultation with tribes, the State Historic Preservation Officer, and Tribal Historic Preservation Officers on the Area of Potential Effect, identification and evaluation of cultural and historic resources, and the Project's impacts;
- Consultation with tribes that are traditionally and culturally affiliated with the geographic area of the Project is recommended to occur as early as possible to avoid inadvertent discoveries of Native American human remains and to protect tribal cultural resources;
- The EA/TEIR should discuss paleontological resources;
- Cultural sensitivity training is recommended prior to the start of construction; and
- The EA/TEIR should discuss impacts to tribal cultural resources.

## Scope

The EA/TEIR will contain a cultural resources analysis that identifies historical and archaeological resources located within the Project Site. Any reasonably foreseeable impacts to historical and archaeological resources will be analyzed within the EA/TEIR. The EA/TEIR process will include a cultural records search. The BIA will comply with the consultation requirements under Section 106 of the NHPA. Mitigation measures, if warranted, will be discussed in the EA/TEIR.

### 3.2.6 Socioeconomic and Environmental Justice

#### Comments

The following comments regarding socioeconomics and environmental justice were provided during scoping:

- The EA/TEIR should study the economic impacts of the Project on existing and planned casinos in the area (River Rock Casino, Graton, Cloverdale);
- The EA/TEIR should discuss the potential for the Project to reduce property values;
- The EA/TEIR should evaluate the potential for online gaming to affect the viability of the Project;
- The EA/TEIR should discuss the potential for the Project to increase property insurance costs due to increased wildfire risks;
- The EA/TEIR should assess financial impacts on local indigenous tribes and tribal members;
- The EA/TEIR should assess the potential for the Project to exacerbate the effects of workforce shortage on local businesses;
- The EA/TEIR should study impacts to the local housing supply and homelessness;
- The EA/TEIR should study the impacts of the Project on gambling addiction;
- The EA/TEIR should assess public safety risks from criminal activity associated with increased visitors;
- The EA/TEIR should study the impacts on the local economy, including local businesses, and potential for increased bankruptcies; and
- The EA/TEIR should address impacts to nearby churches (Shiloh Neighborhood Church and Christ Evangelical Lutheran).

#### Scope

The EA/TEIR will include a description of the socioeconomic conditions of the Tribe and surrounding communities. The EA/TEIR will analyze reasonably foreseeable and disproportionate impacts of the alternatives on minority and low-income populations, and analyze socioeconomic issues such as employment, housing, local business revenue, substitution effects, property values, problem gambling, and crime rates. Mitigation measures, if warranted, will be recommended in the EA/TEIR.

### 3.2.7 Transportation

#### Comments

The following comments regarding transportation were provided during scoping:

- The EA/TEIR should assess the impacts of Project traffic on local roadways and neighborhoods including the following specific roadways: US 101, Old Redwood Highway, Shiloh Road, Faught Road, Airport Boulevard, River Road, Mark West Springs Road, and Pleasant Avenue;
- The EA/TEIR should study the potential for the Project to impact wildfire evacuation routes including, but not limited to, Shiloh Road, East Shiloh Road, Old Redwood Highway, and US 101;
- The EA/TEIR should study the safety impacts to bicyclists and pedestrians from Project traffic on study area roadways including, but not limited to, the US 101/Shiloh Road Interchange and the Old Redwood Highway/Shiloh Road intersection;

- The EA/TEIR should discuss the improvements needed to maintain traffic flow on study area roadways;
- The Project should maintain access to pedestrians, bicycles and transit facilities;
- The EA/TEIR should study the impacts of Project traffic during school drop off/pick up hours;
- The EA/TEIR should study the impacts of Project traffic on bicycle races, recreational bicycle riders, and tours;
- The EA/TEIR should study the impacts of Project traffic on nearby parks, including during sports seasons;
- The EA/TEIR should discuss the potential for casino parking overflow to affect nearby parks and churches;
- The Project should be contingent on the extension of the Sonoma-Marín Area Rail Transit line to Windsor and the construction of a new train station at Shiloh Road;
- The EA/TEIR should study the potential for the Project to deteriorate roadways and increase maintenance needs;
- The EA/TEIR should clarify the intensity of special events/receptions to be held at the Project Site and how the associated traffic, travel demand and VMT will be mitigated;
- The EA/TEIR should clarify if the Project will include shuttle/bus service;
- For the US 101/Shiloh Road Interchange, the EA/TEIR should: utilize the Town of Windsor's LOS D standard, include a queueing analysis, and ensure traffic does not back up into adjacent intersections or onto the US 101 mainline;
- For the Shiloh Road Corridor, the EA/TEIR should: analyze traffic during weekday and weekend peak hours, analyze traffic during Project peak hours, include a mechanism for acquiring land from property owners to accommodate mitigation within the public right of way, and provide east-west connectivity for bicyclists/pedestrians/transit;
- For the Old Redwood Highway/Shiloh Road intersection, the EA/TEIR should: study both signalized and roundabout mitigation options, and ensure that improvements are sufficient to accommodate cumulative traffic under year 2040 conditions;
- For Shiloh Road, the EA/TEIR should identify the infrastructure improvements necessary to maintain moderate-speed traffic flow (vs. high speed) compatible with non-auto modes, including arterial traffic calming strategies;
- For the Old Redwood Highway Corridor, the EA/TEIR should: determine the intersection geometry and control needed to maintain acceptable traffic operation and ensure that adjacent intersections continue to function acceptably, and determine physical improvements needed to accommodate vehicle/pedestrian/bicycle/transit modes along Old Redwood Highway within one-half mile in either direction of the Proposed Project's access point;
- The EA/TEIR should include a vehicle miles traveled (VMT) analysis;
- The EA/TEIR should discuss the Project's total increase in regional VMT generated by both guests and employees, as well as the corresponding homebased VMT per employee performance metric;
- Mitigation should support the use of transit and active transportation modes;
- The EA/TEIR should include a figure of walking, biking and vehicle conditions at the Project Site and within the study area;
- The EA/TEIR should evaluate the Project's primary and secondary effects on pedestrians, bicyclists, travelers with disabilities and transit performance;
- The EA/TEIR should identify measures to reduce auto-generated travel including transportation demand management (TDM) measures for employees and visitors;
- The EA/TEIR should consider the traffic policies in the Windsor 2040 General Plan; and

- The EA/TEIR should estimate the fair share costs of regional transit and active transportation improvements necessitated by the Project and identify viable funding sources such as development and/or transportation impact fees.

## Scope

The EA/TEIR will include a description of the local traffic conditions, including an analysis of existing study area roadways and intersections with the potential to be significantly impacted by traffic resulting from the alternatives. Bicycle, pedestrian, and transit conditions in the vicinity of the Project Site will be described and impacts to these facilities will be assessed. The EA/TEIR will additionally provide an estimate of the total daily trips and peak hour trips generated by the alternatives and include an analysis of any reasonably foreseeable impacts to study area roadways and intersections.

### 3.2.8 Land Use

#### Comments

The following comments regarding land use were provided during scoping:

- The EA/TEIR should discuss consistency of the Proposed Project with surrounding land uses including, but not limited to, housing, mobile home parks, Shiloh Neighborhood Church, Esposti Park, Shiloh Regional Park, elementary schools within two miles of the Project Site;
- The EA/TEIR should discuss consistency of the Proposed Project with the Town of Windsor General Plan, the Sonoma County General Plan, and the Shiloh Road Vision Plan;
- The EA/TEIR should discuss the impacts from the Proposed Project on the Windsor/Larkfield/Santa Rosa Community Separator, in which the Proposed Project is located;
- The EA/TEIR should discuss potential environmental impacts that were not addressed in the Town of Windsor General Plan Environmental Impact Report (EIR) and Sonoma County General Plan EIR;
- The EA/TEIR should analyze impacts associated with the conversion of agricultural land/open space on the Project Site;
- The EA/TEIR should discuss the applicability of off-reservation land use plans, policies, habitat conservation plans, and/or natural community conservation plans to off-site mitigation;
- The EA/TEIR should assess impacts to airports/air traffic; and
- The EA/TEIR should discuss encroachments to Sonoma County stream and riparian corridor setback zones.

## Scope

The EA/TEIR will identify existing land use policies applicable to the Project Site, including zoning and land use regulations. The EA/TEIR will assess potential conflicts with nearby airports. The potential for land use conflicts to be caused by the alternatives will also be included within the analysis within the EA/TEIR. Mitigation measures, if warranted, will be discussed in the EA/TEIR.



### 3.2.9 Public Services

#### Comments

Scoping comments requested that the following issues related to public services be evaluated and/or addressed in the EA/TEIR:

- The EA/TEIR should discuss which jurisdictions will be providing public services;
- The EA/TEIR should include an analysis of the Proposed Project's impact to existing response times, staffing, and equipment needs for public safety services, including fire, police, and medical response to surrounding neighborhoods;
- The response time analysis in the EA/TEIR should consider high traffic volume times on US 101, Old Redwood Highway and local streets;
- The EA/TEIR should include an analysis of the Proposed Project's impact to emergency evacuations;
- The EA/TEIR should discuss the potential for the Proposed Project to impact safety or increase crime in nearby neighborhoods;
- The EA/TEIR should analyze the potential for the Proposed Project to increase fire risks from the removal of vineyards;
- The EA/TEIR should address the increased public safety risk from intoxicated drivers associated with the Project;
- The EA/TEIR should discuss the impacts of the Proposed Project on parks, including Esposti Park and Shiloh Regional Park, during regular periods and during organized activities/special events;
- The EA/TEIR should discuss the impacts of the Proposed Project on schools within two miles of the Project Site;
- The EA/TEIR should discuss the impacts of the Proposed Project on solid waste facilities;
- The EA/TEIR should discuss how litter will be addressed and prevented from entering Pruitt Creek;
- The EA/TEIR should discuss the impact of power outages on the Project; and
- The EA/TEIR should study the impacts of the Proposed Project on Pacific Gas and Electric facilities, existing power customers and power outages.

#### Scope

The EA/TEIR will include a description of the public services utilized in the project vicinity, including utilities, solid waste collection and disposal, schools, parks, fire protection, law enforcement, and emergency medical services. All development alternatives would utilize private, on-site water and wastewater facilities. The EA/TEIR will provide an analysis of any reasonably foreseeable impacts to these services within the study area. Mitigation measures, if warranted, will be recommended in the EA/TEIR.

### 3.2.10 Noise

#### Comments

The following comments regarding noise were provided during scoping:

- The EA/TEIR should assess noise impacts on the surrounding community from
  - Construction activities;
  - Operational activities;
  - Entertainment activities;
  - Parking garage operation;
  - Service vehicles;
  - Sirens and alarms; and
  - Increased traffic on adjacent roadways;
- The EA/TEIR should analyze the impact of Proposed Project noise on the health of people in neighborhood (e.g., sleep disturbance), neighboring pets, farm animals, and wildlife;
- The EA/TEIR should analyze the impacts of noise on Esposti Park and Shiloh Regional Park; and
- The EA/TEIR should consider that the nearby Mayacamas foothills have the potential to amplify noise resulting from the Proposed Project.

#### Scope

The EA/TEIR will include a description of the surrounding ambient noise environment. The EA/TEIR will provide an analysis of any reasonably foreseeable impacts to sensitive noise receptors in the vicinity of the Project Site. The indirect impacts of noise on wildlife will be addressed in the Biological Resources section. Mitigation measures, if warranted, will be recommended in the EA/TEIR.

### 3.2.11 Hazards/Hazardous Materials

#### Comments

The following comments regarding hazards and hazardous materials were provided during scoping:

- The EA/TEIR should assess the impacts of hazards emissions and hazardous materials during construction and operation phases; and
- The EA/TEIR should assess the potential for the Proposed Project to increase wildfire risks, particularly due to loss of vineyards as a firebreak.

#### Scope

The EA/TEIR will include a description of the potential hazardous materials on-site and in the vicinity of the Project Site. The EA/TEIR will disclose incidences of past and current hazardous materials incidents and involvements, if any. The EA/TEIR will address the potential for impacts associated with hazardous materials, or the use of these materials during construction and operation of the alternatives. The EA/TEIR will address wildfire risks. Mitigation measures, if warranted, will be recommended in the EA/TEIR.

### 3.2.12 Aesthetics

#### Comments

The following comments regarding aesthetics were provided during scoping:

- The EA/TEIR should disclose the height of buildings;
- The EA/TEIR should analyze the change to the visual appearance of the area from the Proposed Project's conversion of vineyards/open space for residents and tourists;
- The EA/TEIR should discuss the impacts of the Proposed Project to the scenic value of special athletic events along Old Redwood Highway, Shiloh Road, Faught Road, and Fulton Road;
- The EA/TEIR should discuss the impacts from construction lighting for the Proposed Project;
- The EA/TEIR should discuss impacts to scenic vistas and scenic corridors including, but not limited to, US 101, Old Redwood Highway, Shiloh Road, Faught Road, River Road, Esposti Park, and Shiloh Regional Park; and
- The EA/TEIR should discuss the potential for the project to increase light pollution and effect views of the nighttime sky.

#### Scope

The EA/TEIR will include a description of the Project Site and surrounding land uses and community character. The EA/TEIR will provide an analysis of any reasonably foreseeable impacts to aesthetics within the study area. Mitigation measures, if warranted, will be recommended in the EA/TEIR.

### 3.2.13 Indirect Effects

#### Comments

Comments regarding indirect impacts for specific issue areas (e.g., lighting, noise) are incorporated into the respective issue area summaries above. The following additional comments regarding indirect impacts were provided during scoping:

- The EA/TEIR should discuss all indirect impacts (temporary and permanent), including reasonably foreseeable impacts, that may occur with implementation of the Proposed Project; and
- The EA/TEIR should discuss growth-inducing impacts from the Proposed Project.

#### Scope

The EA/TEIR will provide an analysis of any reasonably foreseeable indirect and growth inducing effects from implementation of the alternatives under consideration. Mitigation measures, if warranted, will be discussed in the EA/TEIR.

### 3.2.14 Cumulative Impacts

#### Comments

Comments regarding cumulative impacts for specific issue areas (e.g., biological resources, air quality) are incorporated into the respective issue area summaries above. The following additional comments regarding cumulative impacts were provided during scoping:

- The EA/TEIR should identify reasonably foreseeable future projects in the Proposed Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project's contribution to the impact; and
- The EA/TEIR should study cumulative impact of environmental issues during construction and over the next 50 years.

#### Scope

"Cumulative impacts" refer to the effects of two or more projects that, when combined, are considerable or compound other environmental effects. The EA/TEIR will address the cumulative impacts of all alternatives in connection with past, present, and reasonably foreseeable future actions and projects. The general time frame for consideration of cumulative impacts is anticipated to extend to 2040. The EA/TEIR will identify appropriate mitigation measures if warranted.

### 3.2.15 Mitigation Measures

#### Comments

A comment was received that the Proposed Project's fair share contribution, financing, scheduling, implementation responsibilities, and lead agency monitoring should be fully discussed for all proposed mitigation measures.

#### Scope

The EA/TEIR will discuss the responsible party and timing of each mitigation measure. The fair share contribution will be discussed where applicable.

### 3.2.16 Procedural and Non-NEPA Issues

#### Comments

The following procedural and non-NEPA comments were raised during scoping:

- Commenters stated that the BIA should not move forward with the EA without first making a restored lands determination;
- Commenters discussed whether the Tribe has a "significant historical connection" to the Proposed Project Site;
- Commenters requested the completion of an EIS instead of EA;
- Commenters requested an extension of the scoping comment period;

- Commenters requested an in-person and/or virtual public scoping meeting and noticing of the meeting in newspapers and media of local circulation;
- Commenters discussed compliance with State laws and regulations including the California Environmental Quality Act, Assembly Bill 52 and Senate Bill 18, California Endangered Species Act, Fish and Game Code;
- The BIA should give notice of the NEPA process to the Santa Rosa Plain Groundwater Sustainability Agency, BAAQMD, the California Department of Forestry and Fire Protection, the California Board of Forestry and Fire Protection, the California Department of Emergency Services, and FEMA;
- The EA/TEIR should identify local, state, and federal agencies consulted during the preparation of the EA/TEIR and any required permits and standards applicable to the Project; and
- Commenters discussed the authority of State agencies over the Project Site including the California Department of Fish and Wildlife and Bay Area Air Quality Management District (BAAQMD);
- Commenters expressed general support or opposition to the Proposed Project; and
- Commenters raised questions regarding the standards applicable to the Tribal EIR.

## Response

### *Restored Lands and Historic Connection*

The Indian Gaming Regulatory Act (IGRA) was enacted in 1988 to regulate the conduct of Indian gaming and to promote tribal economic development, self-sufficiency, and strong tribal governments. IGRA generally prohibits gaming on lands acquired in trust after 1988, unless certain exceptions found in Section 20 of IGRA, 25 USC. § 2719, are met. Here, the relevant exception being requested is the restored lands exception that allows gaming on land acquired in trust after 1988 if the lands are taken in trust as part of “the restoration of lands for an Indian tribe that is restored to Federal recognition” (25 USC. § 2719 (b)(1)(B)(ii) and (iii)). The Section 20 exceptions are implemented through regulations found in 25 CFR Part 292. In addition to its fee-to-trust application under 25 CFR 151, the Tribe submitted a restored land request under 25 CFR Part 292 for a restored lands determination<sup>1</sup>. The processes for the fee-to-trust application and consideration of a restored lands determination are independent from the NEPA process. As stated within 40 CFR 1500.1(c), “the NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.” In order to fully analyze the potential physical environmental effects of the Proposed Action, the NEPA document must assume that the Proposed Project Site can be utilized for gaming in accordance with federal law. Further evidence to support the issuance of a restored land opinion is based on the requirements of IGRA, and outside of the scope of the NEPA analysis.

### *EA versus EIS*

The BIA has determined that an EA is the appropriate level of NEPA document at this time. Under NEPA, an EA is the document that provides sufficient analysis for determining whether a proposed action may or will have a significant impact on the quality of the human environment. If the EA shows that the Proposed Project would result in unmitigable significant impacts, then the BIA will initiate the preparation of an EIS. If the EA does not reveal any significant and unmitigable impacts, a Finding of No Significant Impact (FONSI) will be prepared.

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<sup>1</sup> <https://www.koinationsonoma.com/documents/>

### *Comment Period Extension and Notice Procedures*

NEPA does not require that an NOP be issued or that a scoping comment period be conducted for an EA. Accordingly, in the interest of efficiency for an environmental review process that is just beginning, the scoping comment period was not extended beyond 30 days, which ended on June 27, 2022. An additional opportunity for public and agency review and input will be provided during the 45-day review period for the Draft EA/TEIR. Notice of Availability of the Draft EA/TEIR will be sent to all interested agencies and parties, including all individuals who provided their contact information during the scoping period. Information in the NEPA process can also be found at <https://www.shilohresortenvironmental.com/>.

### *Consideration of State and Local Regulations, Consultation with Federal, State and Local Agencies*

The EA/TEIR will be prepared in accordance with applicable requirements, including those set out in NEPA (42 U.S.C. 4321 et seq.); the Council on Environmental Quality (CEQ) Regulations for Implementing NEPA (40 CFR Sections 1500 – 1508); and the BIA's NEPA Guidebook (59 IAM 3-H). State and local regulations will be discussed to the extent required under the NEPA process. The Draft EA/TEIR will identify local, state, and federal agencies consulted during the preparation of the EA/TEIR and any required permits and standards applicable to the Project.

### *TEIR Requirements*

The EA/TEIR will define the standards used by the Tribe for the TEIR.



## Section 4 | EA Schedule and Public Review

The public review period for the Draft EA/TEIR will be for a minimum of 45 days. Following public comment on the Draft EA/TEIR, the BIA may issue a Finding of No Significant Impact (FONSI) or initiate preparation of an EIS. No decision on the Proposed Action will be made for at least 30 days after a FONSI is released.