



Maitland City Council

Section 140 Excavation Report
[s140/2021/010]

Former Morpeth Courthouse
123 Swan Street, Morpeth





Section 140 Excavation Report

Former Morpeth Courthouse

Prepared for
Maitland City Council
by Eureka Heritage

Project No 200302_ExcavationReport

Report written by:

A handwritten signature in black ink, appearing to read "Sue Singleton". The signature is written in a cursive style with a long horizontal stroke extending to the right.

© Sue Singleton

Heritage Consultant & Archaeologist

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Cover Illustration: Left: Photograph of Morpeth Courthouse c1930s.
Right: Sketch of front elevation of the Morpeth Courthouse from the 1862 plan.

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1	s140 Excavation Permit s140/2021/010
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3	Survey Results with RL

1 Introduction

1.1 Background

Maitland City Council (MCC) engaged Eureka Heritage (Eureka) to carry out a revised historical archaeological assessment, and application for an excavation permit under s140 of the NSW Heritage Act 1977 for archaeological management during ground works located at the rear of the former Morpeth Courthouse. The works are associated with the replacement of the rear boundary fence and include an upgrade of drainage.

The commission complies with Consent Conditions (6) and (7) of the Notice of Determination (DA/2019/834) issued by Maitland City Council on 28 January 2020:

EXCAVATION PERMITS

6. Prior to the commencement of works, the Applicant must apply to the Heritage Office for an excavation permit under section 140 of the Heritage Act 1977.

7. The Applicant shall comply with the conditions and requirements of any excavation permit issued under Section 140 of the Heritage Act 1977 and shall ensure that allowance for compliance with these conditions and requirements is incorporated into the development program.

A number of previous archaeological investigations have taken place in the rear yard of the Morpeth Courthouse (Nexus 2005, 2009; Eureka 2013). Previous archaeological investigations were carried out to facilitate works designed to improve the movement of water and drainage across the rear yard of the courthouse to avoid ingress beneath the building. Such works were deemed urgent in order to control issues of rising damp within the courthouse walls. The works proposed within the current research design has been designed to complement previous archaeological works. When combined with results of previous archaeological investigation¹ a more complete understanding of the archaeology of the site will be gained.

The primary purpose and objective in obtaining the current excavation permit was to confirm the presence or otherwise of any structural remains of the rear wall of the c1862/63 police stables located at the rear of the courthouse. An eastern privy, not previously archaeologically investigated, was included within the remit of the current excavation permit along with the inclusion of minimal disturbance to the known archaeological works (consisting of the western, northern and eastern footings of the police stables, and the centrally located subsurface brick cistern), in order to complete a survey to AHD (not carried out during previous archaeological investigation).

The s140 Excavation Permit s140/2021/010 was issued under delegated authority on 9 April 2021 (refer **Appendix 1**) and fieldwork took place over three days in May 2021.

¹ Eureka Heritage, 2014. *Excavation Report Application Number 2013/s140/09. Former Morpeth Court House 125 Swan Street, Morpeth.* Prepared for Maitland City Council.

1.2 Study Area Location

Morpeth is a well-known historical township and tourist attraction, located on the south bank of the Hunter River and is within the Maitland Local Government Area. Morpeth is a short seven kilometres north-east of Maitland via Morpeth Road. Newcastle is about 30 kilometres to the south-east and Sydney is located about 150 kilometres to the south. The Morpeth township sits on the southern bank of the Hunter River with the historical Morpeth Bridge providing a river crossing connecting Morpeth to Hinton. A regional location plan is provided in **Figure 1.1**. A site location plan is shown in **Figure 1.2** and an aerial view showing the study area is provided in **Figure 1.3**.



Figure 1.1 – Regional Location Plan showing township of Morpeth.
Source: Created in Google Earth



Figure 1.2 – Aerial view of the Morpeth township showing the location of the Morpeth Courthouse.
Source: Created from base map from Spatial Information Exchange.



Figure 1.3 – Aerial view of the Morpeth Courthouse showing the project area just prior to commencement of excavation. Trench line shown in blue.

Eureka Drone Imagery.

1.3 Prior to Excavation

Prior to the archaeological excavation, MCC removed the rear boundary timber fence and relocated the stored building materials. In addition, the well-established castor oil weeds were removed but the more substantial weed trees impacting the fence line were lopped and the root systems left undisturbed. Views of the site before and after the removal of the fence are provided in **Figure 1.4** to **Figure 1.7**.

A shed/garage formerly occupied the area upon which the court house police stables stood. A now demolished shed/garage stood on the fence line of the north-eastern corner of the neighbouring property, directly adjacent to the boundary fence. Both these sheds were demolished many years ago. There have also been at least two rear boundary fences constructed since the 1960s thus indicating that the likelihood of disturbance in this area is high.

It has also come to light that a rear masonry wall with return, a mirror of that still standing on the western boundary, was demolished sometime after a survey of 1966. This survey has only recently come to light and is presented as **Figure 1.8**. The survey clearly identifies that the new fence was built upon the “remains of the old wall”.



Figure 1.4 – Looking west across the rear yard in March 2020.
Photograph by Eureka.



Figure 1.5 – Looking east across the rear yard in March 2020.
Photograph by Eureka.



Figure 1.6 – Remnant masonry wall of rear boundary, requiring support, in March 2020.
Photograph by Eureka.



Figure 1.7 – Looking east across rear yard following demolition and removal of the timber fence.
Photograph by Scott Warner, MCC.

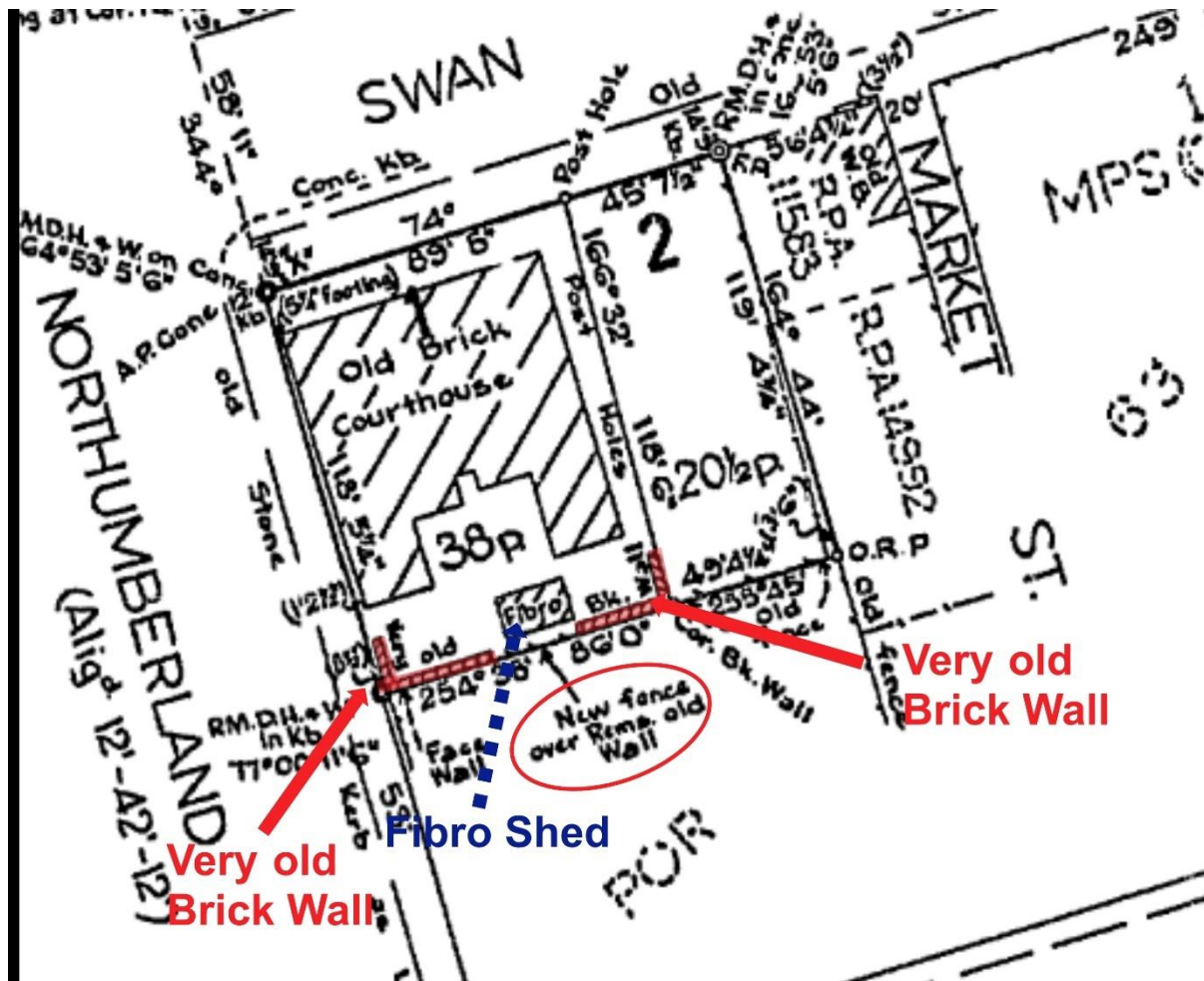


Figure 1.8 – 1966 Survey showing fibro shed in the rear yard of the court house and “very old brick walls”.

1.4 Review of Anticipated Archaeological Significance

Previous archaeological investigation considered that the archaeological resources and remnant structural works contained in the rear yard of the former Morpeth Courthouse were historically significant to the local area for a demonstrated association with a mid-19th century architecturally designed government-built courthouse. Significance was further enhanced as the courthouse was constructed on privately owned and donated land to service a court of petty sessions for the private township of Morpeth².

There is a demonstrated historical association between the establishment of the Morpeth Courthouse and locally significant historical figure, Edward Charles Close, the founder of the private township of Morpeth, and a leader across the cultural spheres of the time, including his strong advocacy for law and order. Social significance to the present day is

² Eureka Heritage, 2014. *Excavation Report Application Number 2013/s140/09. Former Morpeth Court House, 125 Swan Street, Morpeth.* Prepared for MCC.

supported through community acknowledgement of the site's significance through the interpretation of the site as a courthouse and its' use of the site as a local museum run by community volunteers.

Previous assessment considered that any archaeological resources might address research questions specific to the historical use of the site, and enhance knowledge that in turn, may contribute to an understanding of the way in which law and order was carried out in mid-19th century Morpeth.

Should they be intact, it was anticipated archaeological remains of the southern footings of the stables building and eastern privy (particularly artefact-bearing deposits) would attain a level of local significance at best for their historical, social and potential research values, considered to be of representative value.³

1.5 Excavation Team & Authorship

This report was written by Excavation Director Sue Singleton of Eureka Heritage who was assisted in the field by Phill Williamson, field hand and drone operator. Scott Warner was Project Manager for Maitland City Council. Excavation was carried out by Cramps Earthmoving and Excavator Contractors. Survey was carried out using total station by the team at David Cant Surveyors. Peter Donn, Architect, greatly assisted with survey graphics and in the provision of site plans.

³ Eureka Heritage, 2021. *Revised Archaeological Assessment Archaeological Research Design Section 140 Permit Application, Former Morpeth Courthouse.* Prepared for MCC.

2 Historical Background⁴

The early regional context is set in 1820s Morpeth and Maitland during an era when the area was opened to free settlement. This was the period following the relocation of the convict settlement from Newcastle to Port Macquarie. Initially a small group of carefully selected ex-convicts were allowed to take up land for the purpose of farming in what was to become Wallis Plains. In the late 1820s speculative colonials (a combination of ex-convict, ex-military and new arrivals) took up opportunities in farming, and in merchant trading and commercial enterprises that soon followed, and the townships of Morpeth, and the separate townships of East and West Maitland emerged. Law and order in the expanding colony was an issue first managed locally by appointed magistrates, usually the wealthy landholders of the area.

2.1 Morpeth and its' founder – Edward Charles Close

It has been well established that the history of Morpeth is linked to that of pioneering land grantee, Edward Charles Close. E C Close was born in India in 1790, the son of a British merchant. He was educated in England before enlisting at eighteen as an officer in the 48th Regiment of Foot. Following service in the Peninsular Wars he arrived in NSW in 1817 and was stationed first in Sydney before moving to Newcastle where he served as an engineer on the harbour working to improve the safety in harbour navigation.⁵ Close resigned his commission in 1821 and made an application to the government for a grant of land.

In 1822, Close was granted 2,560 acres at Morpeth in two portions, one of 1,030 acres and one of 1,020 acres with an additional 560 acres added to the estate lands at a later date. To establish his holding, Close was assigned 10 convicts and received 10 government cows⁶. Close called his land holding *Illulaung*. Close established the private township of Morpeth on his land holding in 1834 and it developed into a thriving port and gateway to the Hunter Valley up until the arrival of the railway to Maitland in the 1857 and the extension of the line to Morpeth in 1864.

To set the historical scene, Morpeth was a port town, a stopover for a wide cross-section of humanity. There were seamen from all over the world arriving and departing regularly. Policemen, railway workers, military personnel, factory workers, timber getters, travelling salesmen, immigrants and farmers with government workers and builders. Bullock drivers in large numbers stopped over on their journeys transporting stock and goods for trade. Such a gathering place attracted inns and hotels, prostitutes and gamblers.

In the result, Morpeth, in line with many of the townships that arose along transport and trade routes, became a vortex of misdemeanours and crimes ranging from murder, drunkenness, fighting, lewd behaviour, theft, cattle rustling, wife beating and horse stealing⁷.

The many facets of the history of Edward Close and his township of Morpeth is extensively explored in many publications and previous reports. For this reason, it is not repeated

⁴ Reproduced from Eureka, 2014.0

⁵ Australian Dictionary of Biography: E.C.Close ; Morisset to Goulburn enclosing Closes memorial. Hunter, 1997.

⁶ Beaumont, 2009.

⁷ Beaumont, 2009.

here. However, an abridged timeline is provided in **Table 2.1** below to help contextualize the history of the Morpeth Courthouse within the history of the Morpeth township. The sections below explore the history of the law and order, and the construction and function of the Morpeth Courthouse to provide context where it is relevant to the current study and application.

**Table 2.1. – Abridged historical timeline:
Morpeth township and the Morpeth Courthouse.**

Date	Detail
1821	Lt Edward Charles Close granted land at Green Hills on the banks of the Hunter River. Close developed the land for a private township.
1823	Edward Close was appointed as a Magistrate to the Court of Petty Sessions. He held hearings in his cottage (present site of the Morpeth School of Arts).
1834	<ul style="list-style-type: none"> – Township became known as Morpeth and first allotments sold. Remained a private township until 1841. – Morpeth became the Hunter Valley’s busiest port until the construction of the Great Northern Railway that saw rail transport replace river transport.
1836	J Campbell established Campbell’s Stores for trade of imported drapery, iron-mongery and groceries.
1848	<ul style="list-style-type: none"> – Population had grown to about 600 with two churches, three schools, five inns, five stores and 17 dwellings. – Customs officer appointed. All incoming goods were placed in bond storage until cleared.
1858	A Court House was established in a cottage provided by Lt Close.
1860	<ul style="list-style-type: none"> – Four hundred pounds allocated to construction of a Police Office at Morpeth on a site donated by Lt Close. The site was already occupied by two cottages and a smithy. – Plans drawn up for Police Office but decision made to construct a court house instead. – Plans for court house drawn up by Mortimer Lewis Junior, Government’s Clerk of Works for the Hunter.
1860s	Mr William Arnott (Arnott’s Biscuits) established a bakery in premises above Hughes Soap Factory.
1862	<ul style="list-style-type: none"> – Tenders called for construction of the court house. – Courtroom and west wing completed by October. Post office and telegraph office also established in court house building.
1863	Police stables completed at rear of Courthouse.
1864	The Northern Rail Line extended to Morpeth, known as the Morpeth Line.
1879	East wing constructed.
1881	Post Office moved to existing site in Swan Street.
1902	<ul style="list-style-type: none"> – Bathroom addition to rear of Courthouse. – Cells constructed at rear of east wing.
1954	Court no longer held in Morpeth and court house became a repository of the Maitland City Library.
1971	Court House renovated for use as a museum and branch library.
1999-present	Branch library closed but the court house continued in use as local historical museum.

2.2 The Rise of Colonial Justice in New South Wales

Until the 1820s court sittings were casual affairs with cases often heard in pubs or the homes of judges and magistrates. Sydney's courthouse was not completed until 1827. It was much later before country courthouses became a priority⁸.

The year 1823 saw the appointment of local magistrates in many country areas. Those appointed were mainly wealthy landowners who held large estates and their service as magistrates was unpaid. Appointed magistrates administered local law and order, and recruited and directed police, along with the supervision of convict assignments and tickets of leave⁹.

Edward Close was appointed as a magistrate in 1823 and heard cases in his own home, the wooden bungalow, formerly located on the site of the present School of Arts in High Street¹⁰. Close found being a local magistrate was an onerous and thankless task, and soon tired of the number of cases that required his time. Upon complaining to the Colonial Secretary, Close was sacked, and was likely relieved to be able to concentrate on his own enterprises.

By 1832, paid police magistrates took over from the appointed landowner magistrates, although country landholders were still appointed to the bench of magistrates to oversee petty sessions in their own areas.¹¹ Morpeth was only ever a court of petty sessions, with serious matters being referred to a higher court in either Maitland, Newcastle or Sydney¹².

Edward Denny Day¹³, appointed magistrate in 1837, was based at Maitland, and is known to have heard the court of petty sessions and police matters at Morpeth until 1841 when he retired from the role.

By 1858, the government recognised the need for a permanent courthouse in Morpeth. In 1860, frustrated by the lack of commitment by the government to begin construction, Close donated the land on the corner of Swan and Northumberland for the purpose. This was also supported by Edward Denny Day who, in a letter, urged the Department of Public Works to commit to the project. The government accepted Close's offer of land¹⁴ and responsibility for the design of the Morpeth Courthouse was handed to Mortimer Lewis Junior¹⁵ of the Government Architect's Office.

2.3 The Morpeth Courthouse 1862

Following a number of reviews, the final design for the Morpeth Courthouse included provisions for the conduct of court, the police station and the telegraph and post office¹⁶.

⁸ Beaumont, 2009, pp.21.

⁹ Ibid.

¹⁰ *Morpeth School of Arts, Conservation Management Plan 2019*, prepared by Placemark & Eureka for Maitland City Council.

¹¹ Beaumont, 2009, pp.22.

¹² Ibid.

¹³ Edward Denny Day is a significant historical figure known for his association with the arrest and conviction of eleven white men responsible for the Myall Creek massacre.

¹⁴ Close had reported that two cottages and a blacksmith located on the site would need to be demolished prior to the construction of the courthouse.

¹⁵ Son of the Colonial Architect, Mortimer Lewis.

¹⁶ Beaumont, 2009.

The final plans for the courthouse comprised a central courtroom flanked by a wing on each side with the police station and magistrates to be housed in one wing and the telegraph and post office in the other (Beaumont, 2009). The construction of the Morpeth Courthouse took place in 1862 and was overseen by its designer, Mortimer Lewis Junior. Although completed by September of 1862, the courthouse still required furnishing and the police stables were still under construction. For these reasons, Court was not held in the courthouse until well into 1863.¹⁷

An annotated plan of the Morpeth Courthouse dated 1902 shows modifications overlaid on the original plan of 1862 and provides a snapshot view of the phases of construction (see **Figure 2.1**). An underground well/cistern is shown in the centre of the rear courtyard area with underground plumbing shown extending from the rear roof down pipes. The amendments of 1902 show a bathroom extension in the north western corner of the courtyard. It is interesting to note that even in historical times, excavation of the site during construction was considered difficult by the builder, William Cain, due to the rise in land at the rear of the building on the southern side. Additional costs were imposed due to the need to remove earth from the site in order to construct the footings¹⁸.

The historical plans show the Police stables in close proximity to the rear wings of the courthouse (refer to **Figure 2.1**). The dimensions of stables building are shown approximately 30' (9m) x 10' (3m) and by reference to the plan, appeared capable of accommodating five horses. Two privies, or cesspits, are illustrated at the eastern and western ends of the stables building. An ash pit is shown adjacent to the stables in the south western corner of the court house site. An unspecified structure is shown in the south eastern corner of the plan.

It appears from the plan, and from historical resources, that the stables and privies were constructed in 1862/63. The date of demolition of the stables was thought to be as late as 1970s¹⁹ when a garage (now also demolished) was constructed in the rear yard. Anecdotal information places the filling in of the underground cistern, for safety reasons, at around the 1970s also.

However, literature review during the current study has found evidence that can now more conclusively date demolition of the stables to the 1950s as demonstrated in **Figure 2.2** and **Figure 2.3** below.

¹⁷ Beaumont, 2009.

¹⁸ Beaumont, 2009.

¹⁹ Eureka, 2012.

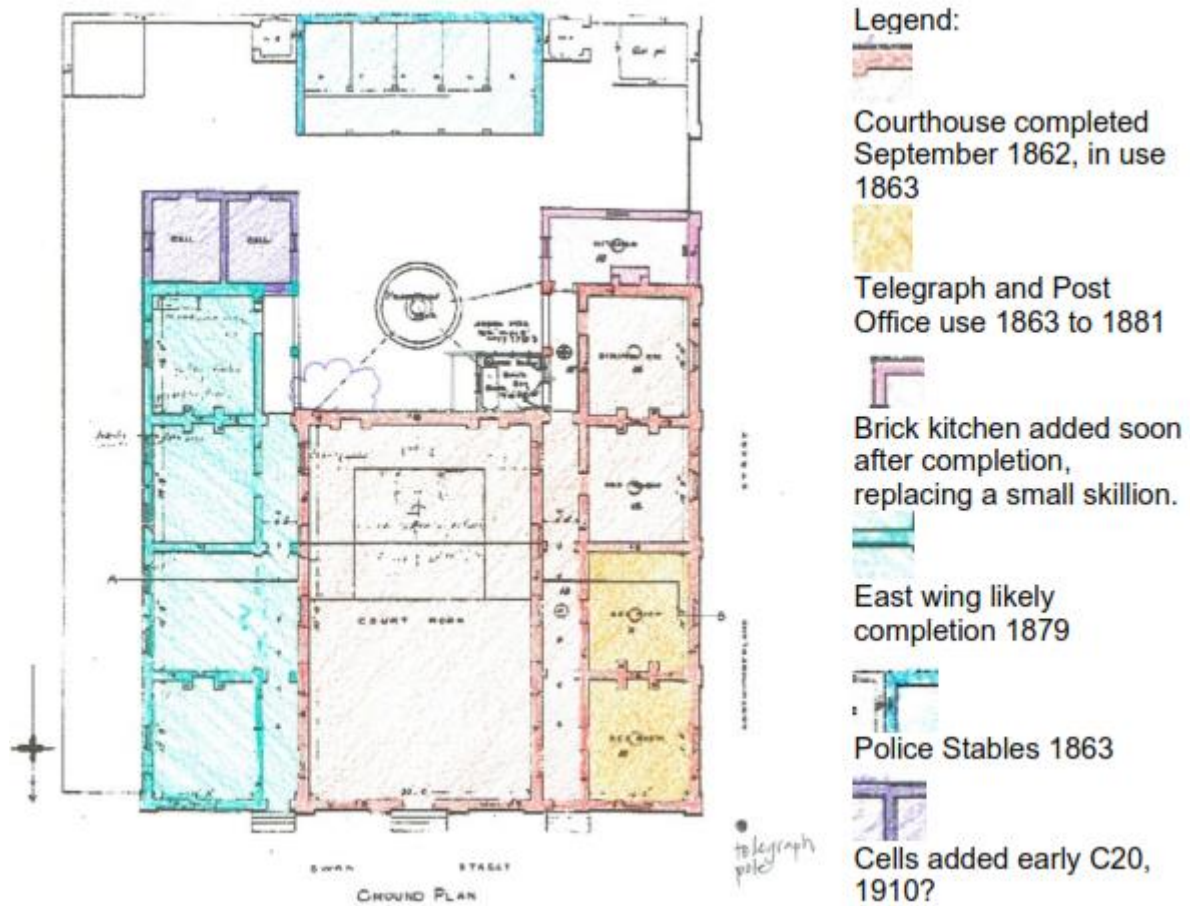


Figure 2.1 – Phases of construction and use of the Morpeth Courthouse 1862 to c1910.
Source: Image 27, Placemark, 2019.



Figure 2.2 – Morpeth Courthouse in the 1940s with aerial view mid-1940s at left and in plan c1949 at right highlighting stables in yellow.
Source: SOHI, Placemark, 2019 (Images 28 and 29).

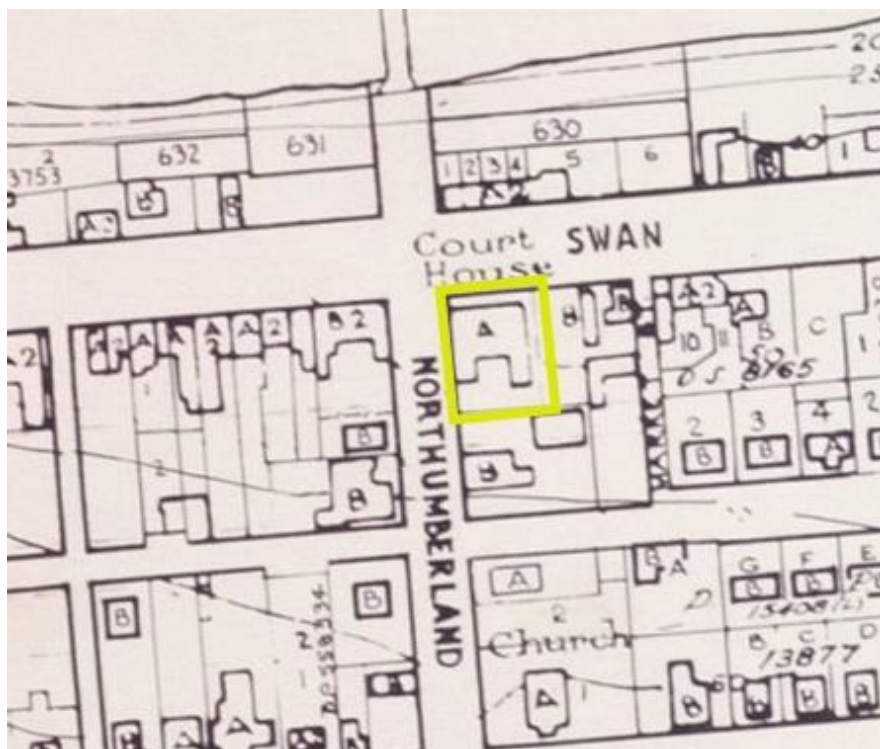


Figure 2.3 – Morpeth c1960 showing footprint of courthouse without the rear stables structure. With reference to Figure 2.1, this is evidence that the stables were demolished sometime between 1949 and 1960.

Source: Northumberland County District Four Chain Series Sheet 23 held by Maitland City Council library.

For the founder of Morpeth, Edward Close, former appointed magistrate and active advocate for law and order, it must have been very satisfying to see construction of the Courthouse completed on his donated land in 1862. At this point in time, the railway had reached Morpeth; the School of Arts was officially opened in September of 1863²⁰, and the Newcastle Diocese held its first synod there in 1865.

Morpeth was well and truly established as a private township of status within the emerging colony through the construction of an architecturally designed courthouse. Close enjoyed the success of his private township for a mere four years as he died suddenly in 1866 leaving a legacy that survives today.

²⁰ Built on the site of their first cottage and where Close, as appointed magistrate, had held the court of petty sessions prior to construction of the courthouse.

3 Archaeological Excavation

3.1 Aims & Objectives

The primary objective of this approved archeological excavation was to complement previous archaeological investigation to essentially provide clarity in the confirmation of the presence or otherwise of the rear wall of c1862 police stables and eastern privy.

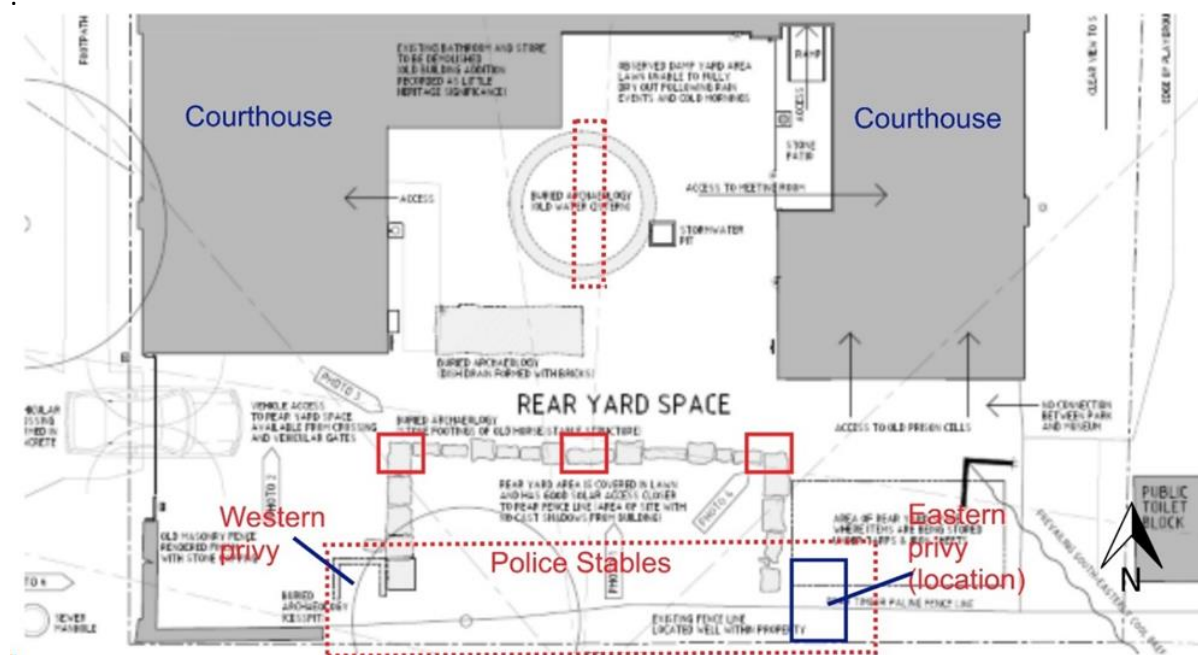
In addition, previously discovered archaeological works of the eastern, western and northern stables footings, the western privy and central underground cistern would be exposed in order to carry out survey to AHD.

The predicted archaeological resource was assessed as having historical and social significance, and research potential at the local level. The focus of the archaeological program was to identify the survival of the archaeological resources anticipated to be present, and the compilation of archaeological data from previous archaeological investigations with a revised survey that forms a single reference document for this site.

3.2 Archaeological Excavation Results

Archaeological excavation was undertaken in a manner consistent with the s140 Conditions of Approval. A plan showing the areas of approved targeted archaeological excavation is provided in **Figure 3.1**. Mechanical excavation was carried out by a small 6 tonne excavator with mud bucket.

Excavation was monitored using shallow scrapes/spits were used to avoid inadvertent damage to any sub-surface remnants and to identify any areas of artefact deposits. Spoil was inspected for artefacts.



**Figure 3.1 - Site plan showing areas of targeted archaeological excavation
As approved in s140/2021/10.**

3.3 Rear footings of c1862 Police Stables

A trench was excavated along the anticipated line of the foundations of the rear wall of the stables building, commencing at the intact western masonry wall (**Figure 3.2**). Excavations revealed that although some sandstone blocks of the footings survived, the footings were highly disturbed.

Disturbance occurred largely through construction of the rear boundary fence shown in the survey plan of 1966. Additional disturbance occurred when a garage/shed was constructed with the footprint of the former stables building (refer **Figure 1.8**). The garage/shed was subsequently demolished, possibly at the same time the rear fence was again reconstructed in the early 1990s.

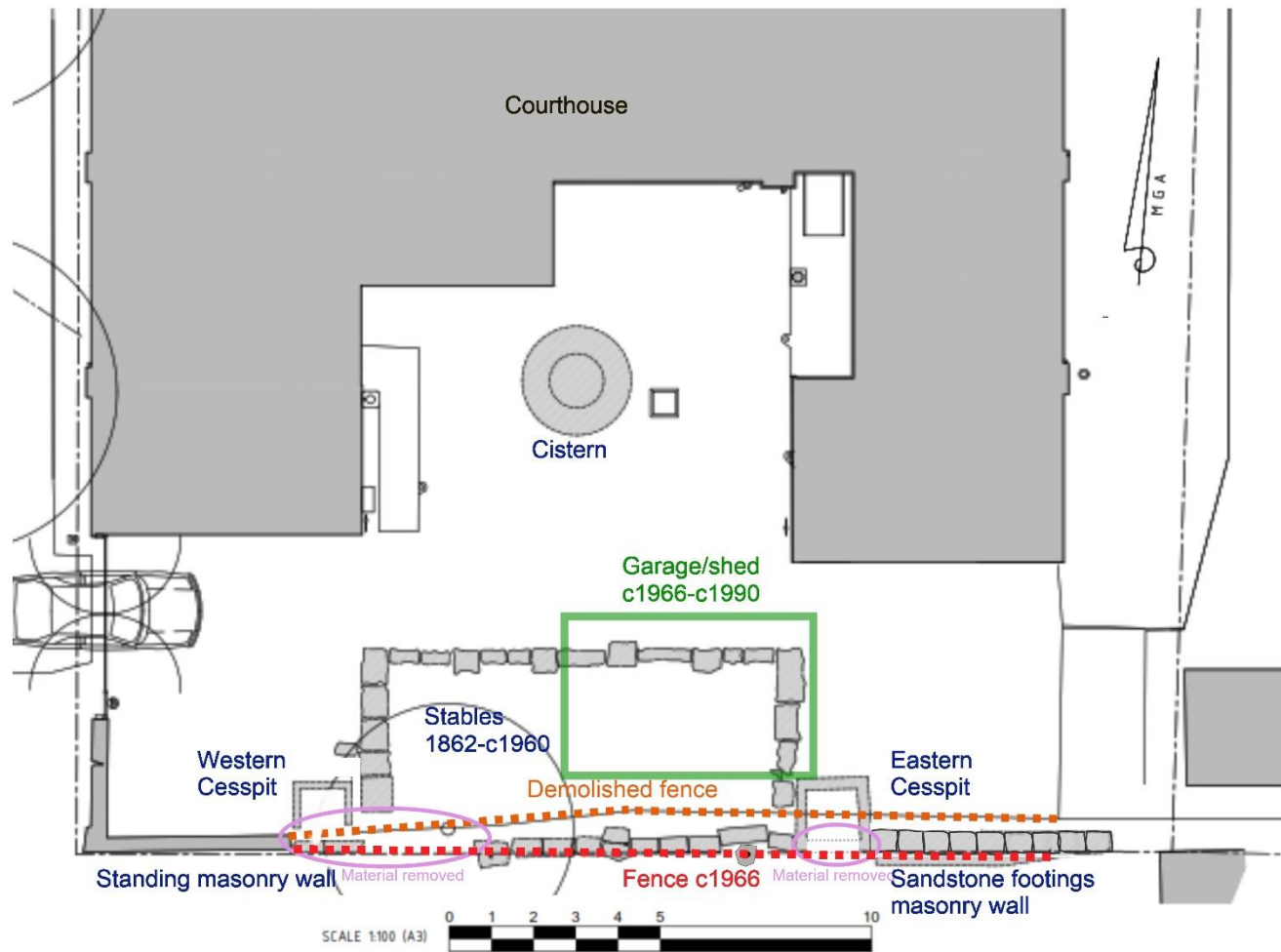


Figure 3.2 – Aerial view of completed excavation demonstrating a high level of disturbance, particularly at the western extreme of the footings where the sandstone blocks have been removed. Arrows indicate disturbance for post holes c1966 when a fence was constructed on the

Concrete footings for post holes, remnants of the c1966 fence, had caused disturbance to the remnants of the stable's footings by displacing stones at three locations (shown by arrows **Figure 3.2**). Invasive tree roots were present, particularly at the eastern extreme of the trench, where weeds and trees located on the adjacent property had been allowed to become well established. Along with sediment build up against the fence of the neighbouring property, disturbance was also apparent through the absence of artefacts along the entire trench until the point at which the brickwork of the eastern cesspit was exposed. See **Figure 3.3** to **Figure 3.8**.

3.4 Eastern Cesspit

The structural works of the eastern cesspit were exposed at the anticipated location on the eastern extreme of the stable footings (refer **Figure 3.3**). Comprised of hand-made bricks with diamond frog, the brickwork was relatively intact with bricks fragile from water logging. A section of brickwork along the southern boundary had been removed.



**Figure 3.3 – Site Plan showing footprint of 20th Century shed and fence lines
Over results of combined excavation results in 2013 and 2021.**



**Figure 3.4 – Rear wall stable’s footings, looking south-west
And surviving western masonry wall at upper right of view.**



**Figure 3.5 – Stable’s footings looking south-east.
Scale 200mm inc.**



Figure 3.6 – Rear wall stable's footings, looking west.



**Figure 3.7 – Brickwork of eastern cesspit, looking south.
Scale 200mm inc.**



**Figure 3.8 – Eastern cesspit in relation to stables footing and eastern wall footings.
Looking west. Scale 200mm inc.**

3.5 Eastern wall footings

Exposed adjacent to the brickwork of the eastern cesspit were substantial sandstone blocks forming the footing of a former masonry wall in the south-east corner, a mirror of the standing wall at the south-west corner. This location of this wall is shown on the 1966 survey (refer **Figure 1.8**).

The footings were intact, although water logged, with modern concrete intrusions in the sub-soil above, placed for the posts of the c1966 fence (**Figure 3.9**). Artefacts were recovered from the spoil during excavation and were a mix of 19th and 20th century items indicating the area had been turned over and disturbed perhaps more than once. Adjacent to the footings, loose bricks formed a retaining barrier of sorts, likely put in place by the neighbouring property and are not of historical significance (**Figure 3.10**).



Figure 3.9 – Sandstone footing of eastern masonry wall, looking east. Remnants of concrete for fence post holes shown by arrows.



Figure 3.10 – Sandstone footings of eastern masonry wall, looking west.

3.6 Existing Archaeological Works & Survey

Mechanical excavation to re-expose particular points of the structural relics of the eastern, northern and western footings of the stables was approved with the research design and endorsed s140/2021/010 in order to carry out a survey to AHD, and to tie the location of archaeological works to the courthouse buildings.

In 2013, excavated works had been covered with geofabric and clean sand prior to backfilling with top soil – see **Figure 3.11** to **Figure 3.13**. This assisted with the easy re-location of the works for survey. Following survey, the re-exposed works were recovered with new geofabric and backfilled. Survey results including levels to AHD are included as **Appendix 2**.



Figure 3.11 – Domed brick cover of the underground cistern located in the rear yard of the Morpeth Courthouse during excavation in 2013.

Source: Eureka Heritage, 2014.



Figure 3.12 – Extent of sandstone footings of the c1862/63 Police Stables, At conclusion of 2013 excavation, looking south-east and showing RL taken in 2021.

Source: Eureka Heritage, 2014.



Figure 3.13 – Left: Brick footings of the western cesspit adjoining the sandstone footings of the police stables, at conclusion of excavation in 2013. Scale 200mm inc. Right: Brickwork of rear wall western cesspit excavated in 2021 showing RL.
Source: Eureka Heritage, 2014.

3.7 Contexts

A context is defined as the physical evidence of an event. A total of twelve contexts were identified as mapped in **Figure 3.14**. A Harris Matrix is also presented in **Figure 3.15** to demonstrate the stratigraphic relationship/s between the contexts.

As the context plan is a combination of both the 2013 and the 2021 excavations, the year of excavation has been used as a prefix to the context number to distinguish between the two phases of excavation. **Table 3.1** provides a key and descriptor of the contexts.

Table 3.1 -Description of Contexts

Context	Description
2013-01/ 2021-01	Grass cover, top soil, sediment build, and highly disturbed sub-soil, of open yard
2013-02	Sub-surface structure - brick cistern with domed roof
2013-03	Fill placed in cistern at time of abandonment c1970s
2013-04	Sandstone footings c1862/63 stables - northern, eastern and western walls
2021-04	Sandstone footings c1862/63 stables - southern wall
2013-05	Brickwork forming western cesspit
2021-05	Southern wall of western cesspit
2013-06	Historical fill material of western cesspit containing historical artefacts
2013-07	Disturbed ground and demolition fill of floor within stables footings
2021-08	Brickwork forming eastern cesspit
2021-09	Fill material of eastern cesspit containing historical artefacts (rubbish disposal)
2021-10	Sandstone footings of eastern masonry wall - a mirror of the western wall
2021-11	Concrete footings for fence posts c1966
2013-12	Pre-fabricated concrete box drainage sump installed about 2006

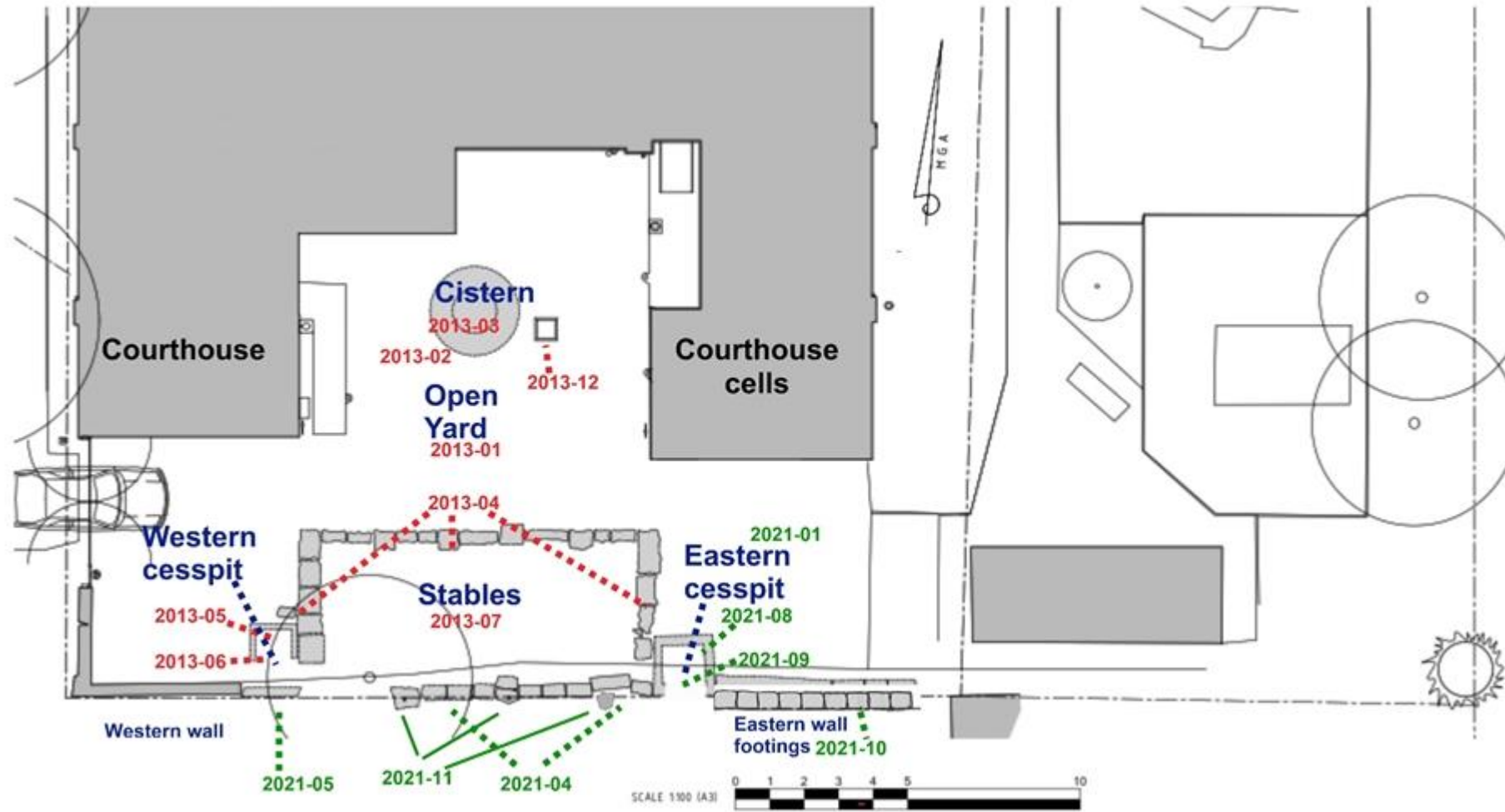


Figure 3.14 – Context Plan
Base Plan by Peter Donn & Eureka

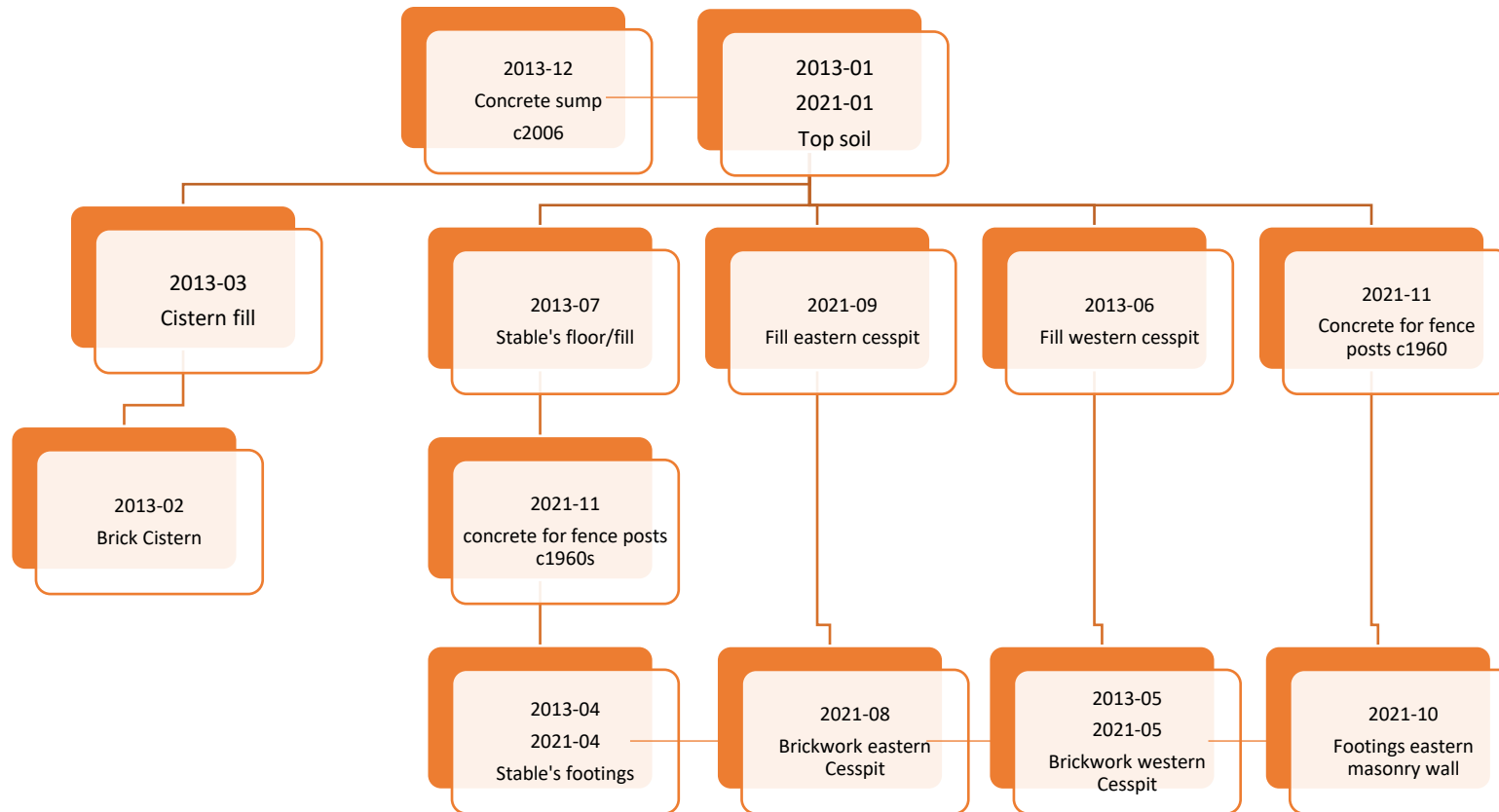


Figure 3.15 – Harris Matrix
Showing stratigraphic relationship between contexts

3.8 Artefact Recovery and Processing

Artefacts were bagged as they were collected on site, labeled and packed for transport and processing. Each artefact was then washed and dried, allocated a catalogue number (with a prefix of 2021/ to distinguish these artefacts from the 2013 excavation) and each was examined individually. Artefacts were bagged for storage, each displaying the allocated catalogue number, and placed in an archival storage box. Details for each artefact were recorded in a spreadsheet catalogue as follows:

- **Area/Zone** – identifies the area from which the artefact was salvaged.
- **Context** – identifies the context (reference Figure 3.14) from which the artefact was salvaged.
- **Material (1) and (2)** - specifies the material of manufacture and, if relevant, additional detail such as (1) *glass* and (2) *amber* to indicate amber glass, typical of beer bottles or small poison bottles.
- **Typology (1) and (2)** – describes the artefact and its purpose, if known, such as (1) *bottle* and (2) *medicine* to indicate a medicinal bottle typically containing cough elixir, various remedies or antiseptics.
- **Condition** - describes whether the artefact is complete, whole, broken or a fragment.
- **Embossing** – records whether any identifying information is present on the artefact, typically occurring on bottles and can include the product type and manufacturer.
- **Base marks/embossing** – records maker's marks, symbols or patterning identifiable to a particular maker, usually present on the base of bottles and ceramics, and in frog marks on bricks.
- **Notes** – provides general observational notes on the artefact, and additional identifying or distinguishing features.
- **Date** –provides a date, or date range, of manufacture and/or use if known.
- **Point of origin (if known)** – record the point of origin of the artefact if identifiable. This can provide information on the transport and distribution of goods.

The boxed artefacts and digital copies of the assessment and excavation reports have been deposited with the Morpeth Museum, located at the former Morpeth Court House at 125 Swan Street, Morpeth. Digital copies of the artefact catalogue and the excavation report have been placed with the artefacts. The artefact catalogue is included as **Appendix 3**.

3.9 Artefact Analysis

With the exception of the historical fill of the western cesspit (Context 2013-06), the artefacts were salvaged from spoil during mechanical excavation. The historical fill of the western cesspit, excavated in 2013, contained an unstratified matrix of waterlogged ashes and broken artefacts (a total of 62 artefacts), whereby the cesspit appears to have served as a disposal pit. The spoil removed above the eastern cesspit contained a total of 18 artefacts which were a mixture of 19th and 20th century items indicating disturbance most likely resulting from the cycle of rear fence replacements.

There were relatively few artefacts recovered during the excavation of 2021, as might be reasonably expected from an area known to have been subjected to a high level of disturbance through a cycle of demolition and construction.

A total of 144 artefacts (see **Table 3.2**) were salvaged across the two phases of archaeological excavation, the largest volume consisting of ceramic/earthen-ware sherds of varying household items with the highest concentration of artefacts occurring within the western cesspit (Context 2013-06). There were few whole items, the exception being ink bottles, the presence of which is to be expected at a 19th century courthouse where a high volume of ink would have been in use.

Of note is that no artefacts were recovered from the excavation along the rear wall of the stables, indicating a very high level of disturbance in that area. An analysis of artefacts is provided graphically in **Figure 3.16** and **Figure 3.17**.

Table 3.2 – Salvaged artefacts by type – 2013 and 2021

Area	Context/s	Total	Glass	Ceramic /EW	Metal	Other
Stables [^]	2013-07	19	4	10	5	0
Open yard [^]	2013-01	35	11	18	5	1
Western Cesspit [^]	2013-06	62	19	38	3	2
Eastern Cesspit	2021-01 2021-09	18	8	10	0	0
Eastern Wall Footings	2021-01 2021-10	10	7	3	0	0
Rear Stables Footings	2021-04	0	0	0	0	0
Total		144	49	79	13	3

[^]Excavation 2013

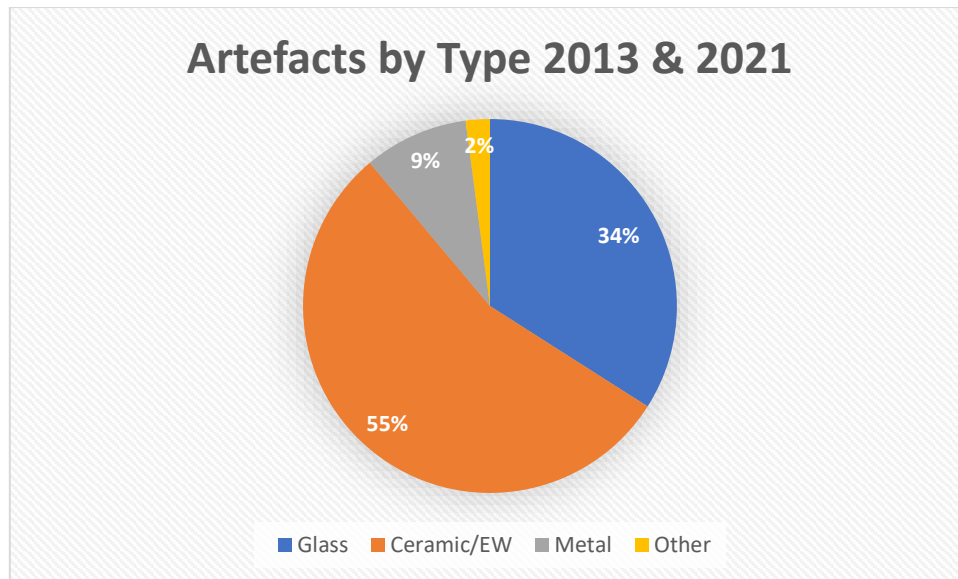


Figure 3.16 – Artefacts by Type 2013 & 2021

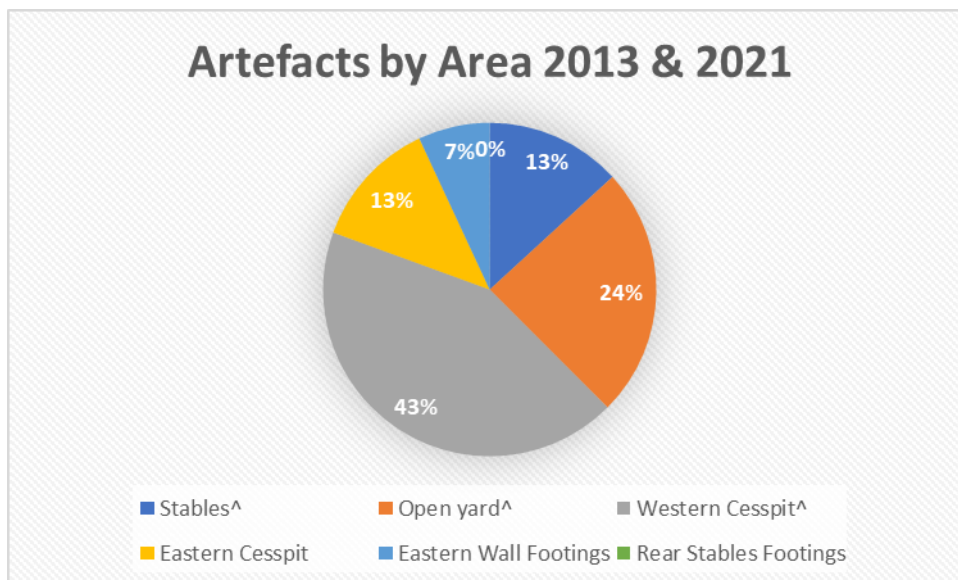
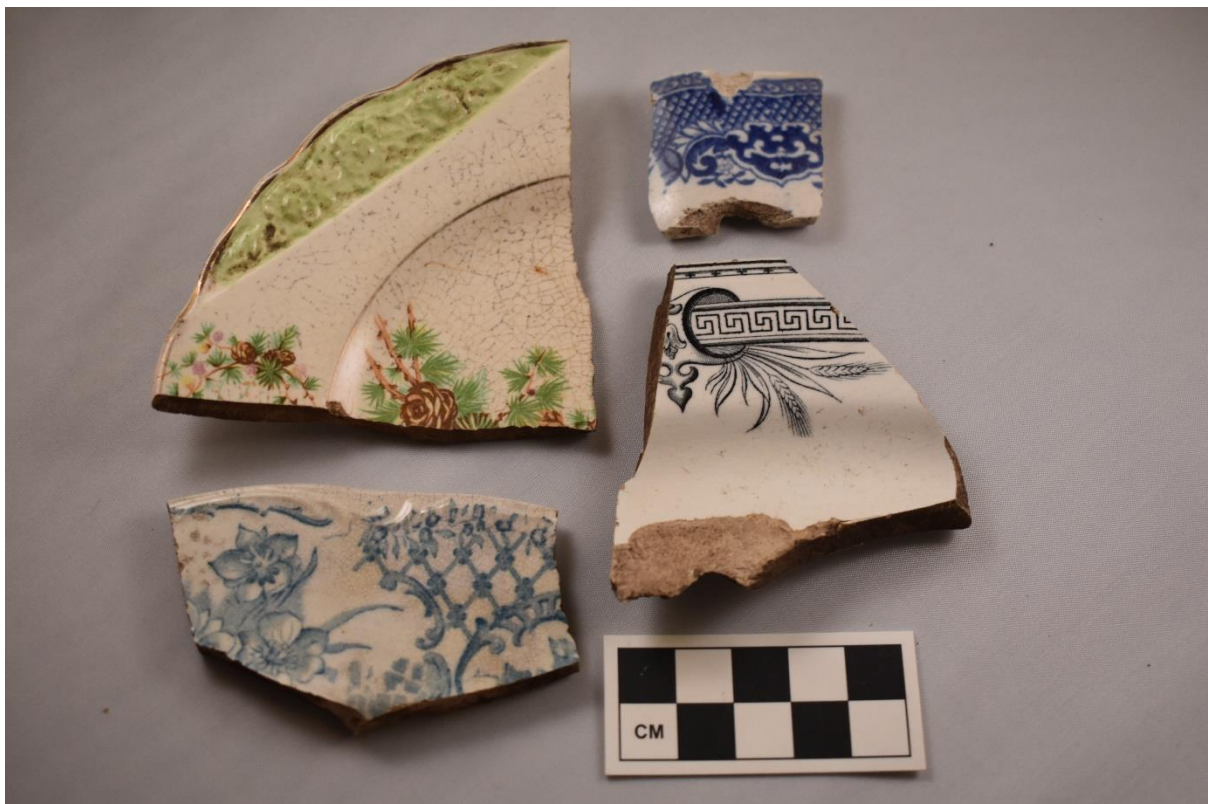


Figure 3.17 – Artefacts by Area 2013 & 2021
^2013 Excavation

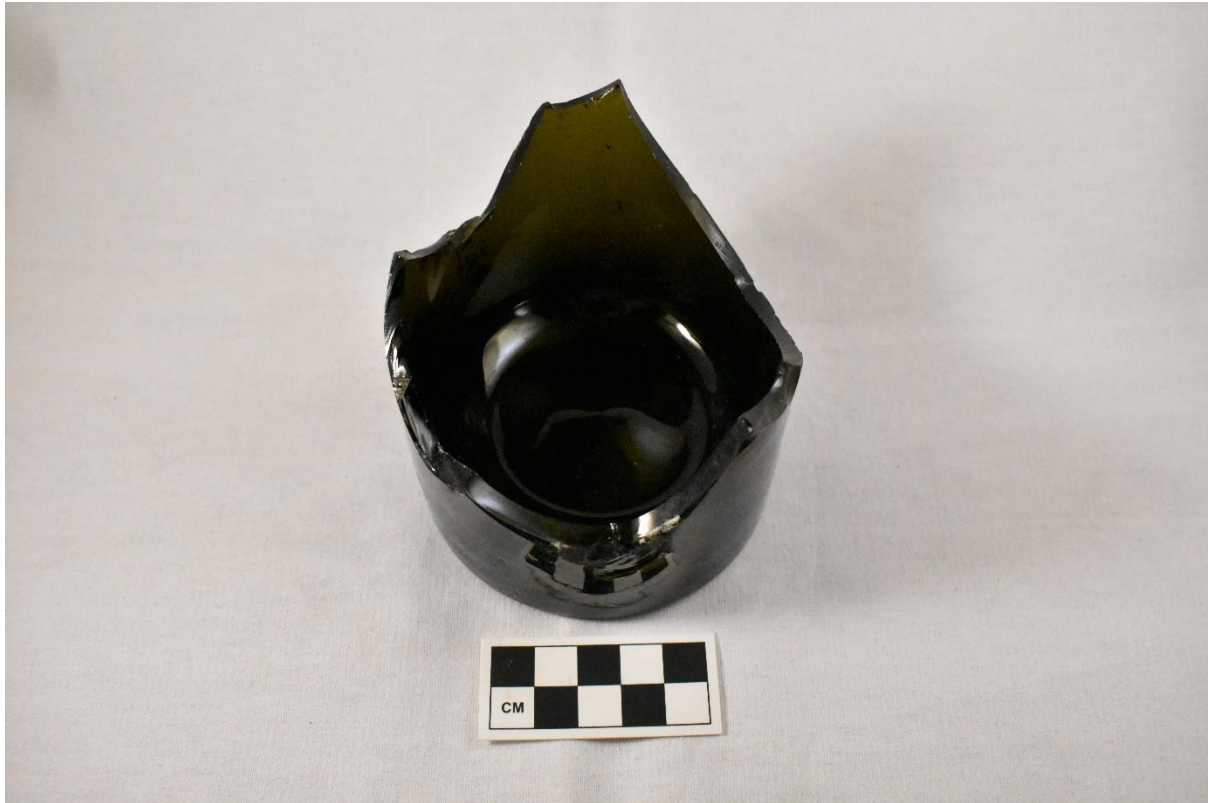
Artefacts of interest are shown in **Figure 3.18** to **Figure 3.23** with captions providing additional information. Please also refer to the 2021 artefact catalogue attached as **Appendix 3**.



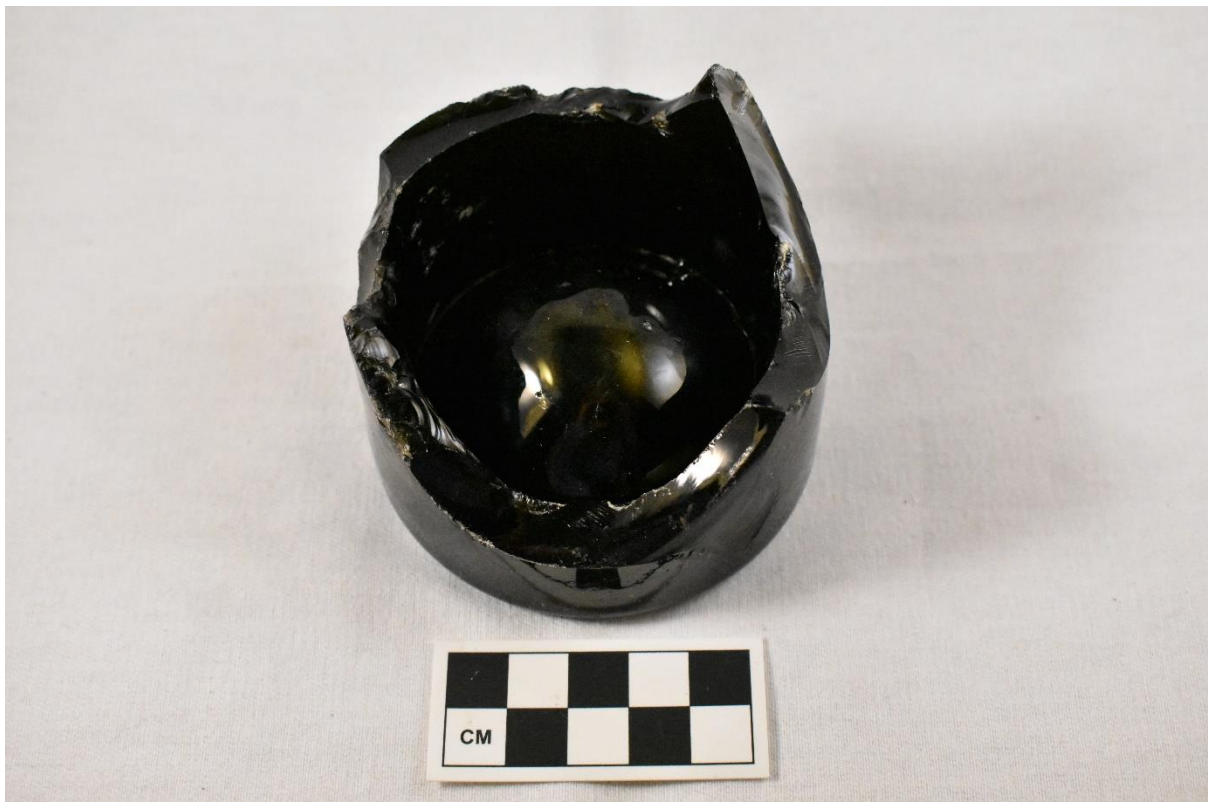
**Figure 3.18 – Artefact No 20- Glass lid by Nutall and Co, St Helens c1871-1913.
Artefact No 20 Context 2021-09.**



**Figure 3.19 – A variety of different styles of household ceramic sherds
recovered from the Eastern Cesspit (Context 2021-09).**



**Figure 3.20 – Black glass bottle base – beer/alcohol.
Artefact No 5 Context 2021-01.**



**Figure 3.21 – Green glass bottle base – wine/champagne.
Artefact No 6 Context 2021-01.**



**Figure 3.22 - Two styles of ink bottle recovered from the eastern wall footings Context 2021-01.
Left: Artefact No 2 Stephen's Inks c1916-1939.
Right: Artefact No 1 generic ink bottle without markings.**



**Figure 3.23 - Evidence of disturbance along the eastern wall footing
Toy Batmobile dated 1991 and plastic spool Silko cotton thread (Context 2021-01).**

3.10 Comparative Site - Orange Courthouse 1881/1883

While comparative sites have been considered within previous assessments and reports²¹ there has been little to provide a visual indication of how the standing buildings may have appeared. A study of the Orange Courthouse²² in 1998 contained some government plans that provide some indication of the what the standing structure of the Morpeth Courthouse Police stables and privies may have looked like.

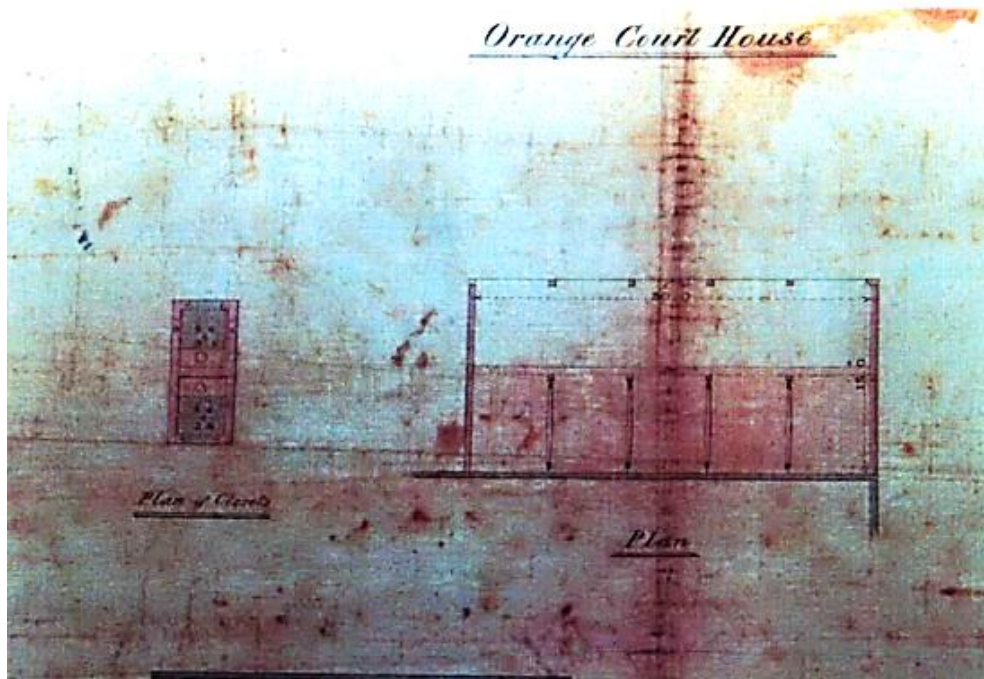
There were two phases of construction at the Orange Courthouse site. The first phase is dated from 1847-1881. In 1880 the buildings proved to be unsatisfactory both structurally and aesthetically. In 1881 plans for new courthouse were drawn up by Colonial Architect James Barnet. Plans included a substantial brick and bluestone courthouse, stables, interior water closets and outside privies.

During 1881 the extant courthouse and police lock up were demolished (to what extent is uncertain). On 10 May 1883 the Barnet court house was officially opened. In 1897 the NSW Supreme Court began sitting at Orange. In March 1909 tenders were called for additions to the courthouse. In 2021, the Orange Courthouse is still an operational Local Court hearing criminal and summary prosecutions as well as civil matters.

The former c1881 stables of the Orange Courthouse are comparable to those of the Morpeth Courthouse in their design and plan, and in accommodating five stalls for five horses. That the privies of the Morpeth Courthouse were constructed alongside the stables is likely due to the limited space available at the Morpeth site in contrast to the stand alone privy of the Orange Courthouse. Copies of the Government Plans of the Orange Courthouse showing the stables and privies in plan and elevation are reproduced in **Figure 3.24** to **Figure 3.27** below. It is unfortunate that the stables and privy structures of the Orange Courthouse do not survive in 2021 having been demolished well before the assessment report of 1998.

²¹ Placemark Consultants, 2019. CMP, 2001,2012.

²² Dana Mider, 1998 for Gutteridge, Haskins & Davey Pty Ltd. Archaeological Assessment & Research Design - Orange Courthouse Site prepared for The NSW State Attorney Generals Department.



**Figure 3.24 – Orange Courthouse Barnet designs 1881-1883
– detail of Closets and Stables in plan.**
Source: AONSW Plan 834 in Mider, 1998

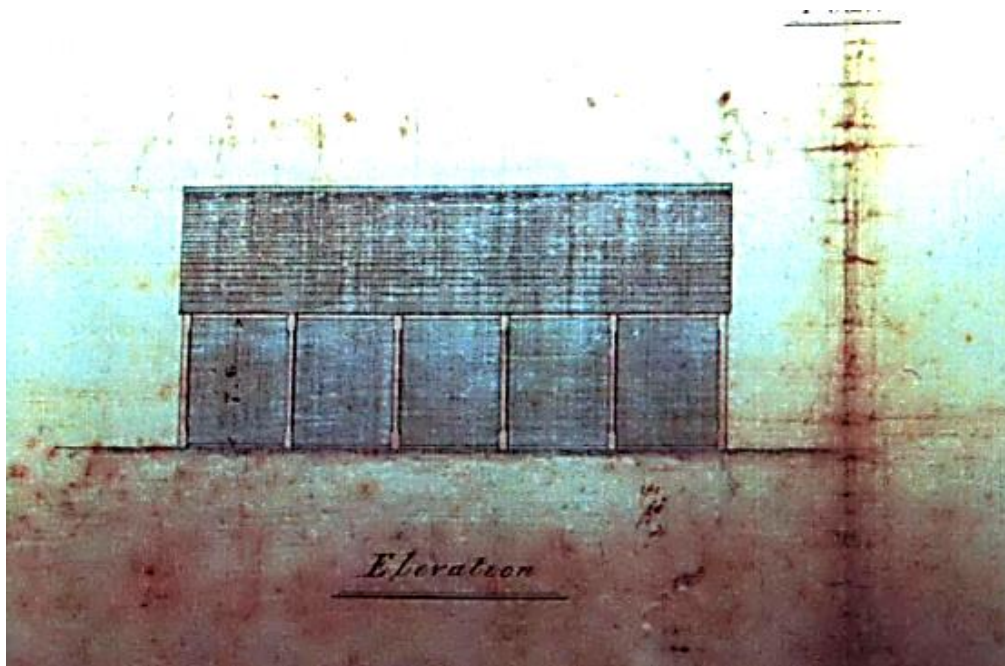


Figure 3.25 – Orange Courthouse Barnet design 1881/3 – Detail Stables Elevation.
Source: AONSW Plan 834 in Mider, 1998

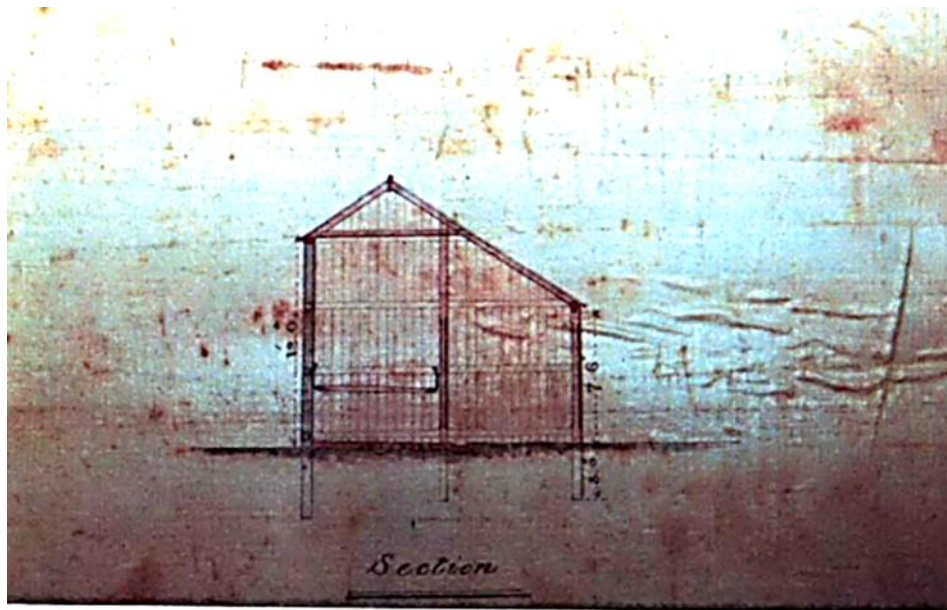


Figure 3.26 - Orange Courthouse Barnet design 1881/3 – Detail Stables Section.
Source: AONSW Plan 834 in Mider, 1998



Figure 3.27 – Orange Courthouse Barnet design 1881/3– detail Closet elevation.
Source: Source: AONSW Plan 834 in Mider, 1998

4 Conclusions

4.1 Research Questions

- *Do the archaeological works comprising the footings of the c1862/63 police stables and adjoining eastern privy survive intact? If not, are identifiable remnants of the works or relics present?*

Structural works of the eastern, northern and western walls of the c1862/63 stables survive intact (excavated in 2013). Unfortunately, excavation in 2021 revealed that the footings of the rear or southern wall of the stables were highly disturbed although six of the sandstone footings blocks remain relatively intact. Disturbance along the rear footings is the result of a cycle of fence construction and re-construction from about the 1960s to the present. The stables were demolished sometime between 1949 and 1966 when a shed or garage is shown to have been constructed in the footprint of the stables, and the rear boundary fence constructed on the “remains of the old wall”.

The structural works of the brick pits of the eastern and western cesspits also survive substantially intact although a high level of disturbance is again evident, also a result of the construction of the rear fences.

- *Are artefacts salvaged from the current excavation contemporary with those excavated in 2013?*

Relatively few artefacts were salvaged across the two different phases of archaeological excavation with the total number being 144. The artefacts were a mixture of 19th and 20th century items recovered primarily from the spoil during trench excavation.

The artefacts are contemporary across the two excavations, both in age and type with no clear limits or stratification of artefact deposits identified. The eastern cesspit contained historical fill that might be considered a garbage dump, although this group of items was also mixed and all were broken at the time of deposition. This fill could possibly be a secondary deposit with material moved from elsewhere in the rear yard into the pit to make safe (as was demonstrated with the fill of the cistern).

There was no evidence of historical construction such as trench backfill containing artefacts, or discarded items such as tools, that could be definitively associated with construction in 1862/63.

- *Does the material evidence provide clues as to how the rear court yard area was used during the early years of the operation of the court house and the way in which law and order were carried out in Morpeth in the 19th Century?*

The presence of the former stables confirms that Morpeth Courthouse required accommodation for the stabling and care of police horses. This is a historical aspect of mid-19th century law and order well understood across the police districts of New South Wales.

- *Does any artefactual evidence provide clues to the occupants of the stables or those employed at the courthouse? Does this evidence contribute to knowledge of the standard of accommodation and facilities of the period?*

Unfortunately, the artefacts salvaged, for the most part, represent discarded items. Those already broken in the household or courtroom, or those no longer of use such as empty ink bottles. Artefacts that could be dated to the 19th century were found within the same spoil as those of the 20th century and therefore there is little that can be interpreted to advance knowledge of the occupants of the stables or the courthouse.

- *What subsurface evidence exists relating to the pre 1860 blacksmith shop? Does this evidence provide further clues as to the location of the shop and to the conduct of industry during the pre-courthouse period?*

No archaeological evidence of occupation or development that could be definitively identified as pre-dating the courthouse was found.

- *Do the footings of the stables show that construction followed the original plans? Does this evidence provide further information on the function of the court yard?*

Overlay of the 1862 plans with archaeological survey show that the stables and privies did follow the original design and plan.

- *Does any artefactual evidence inform the known history of the site and/or contribute to the knowledge of transport (specifically transport of police, magistrates and prisoners) during the mid-to-late 1800s?*

In the absence of any artefacts salvaged from the rear stable's footings during the 2021 excavation, there is no new information to inform the known history of the site other than to confirm a high level of disturbance.

- *Does artefactual evidence provide any clues on who built the stables, or any activities that occurred within and around the stables building.*

As above, in the absence of any artefacts salvaged from the rear wall stable's footings, there is no new information to inform the known history of the site or provide clues to the use of the site.

4.2 Conclusions

The research design (2021) considered two possible outcomes of the archaeological investigation, and the different implications for the proposed construction of rear boundary fence incorporating drainage to enable substantial drainage improvements across the rear and the sub-floor of the courthouse building.

1. In the event that excavation did not expose any evidence of the sub-surface structures, the area would be back filled and cleared of the need for any further archaeological management in this area during fence and drainage construction. Notwithstanding, the need to manage unexpected archeological finds remains in place.

2. In the event that structural remains were exposed:
 - a. Careful excavation would define the extent of the archaeological works, and salvage any associated moveable artefacts. The structure would not be disturbed, other than to clear and clean, to the extent possible, for recording to archival standards;
- OR
- b. Options for the conservation and management of structural remains would need to be discussed/formulated with MCC, and the retention and conservation of insitu remains would need to be formulated and taken into account in revised construction and drainage design.

The 2021 archaeological excavation resulted in the confirmation of the presence of the footings of the rear wall of the c1862/63 police stables, the brickwork of the eastern privy/cesspit footings and the sandstone footings of the eastern masonry wall, all contemporary with the construction of the stables. However, a high level of disturbance was revealed such that the structural works had been subject to partial removal, intrusion, and a turnover of the top soil and sub-soil was also apparent resulting from previous disturbance across the site.

Options for the conservation/preservation and management of the structural works were discussed with delegates of Maitland City Council and Council's Project Architects on site. The need to justify the retention and conservation of highly disturbed works has been considered against the need to retain and conserve those elements of the structural works that are known to retain a high level of condition and integrity.

When balanced with the proposal to preserve the relatively intact elements of the structural works through the construction of the new rear masonry boundary wall and substantial drainage infrastructure, the loss of the remnant sandstone blocks/works of the rear stable's footings is acceptable.

Implementation of the proposed rear boundary wall and drainage, as presented in the SOHI 2019, eventually incorporating an interpretation station and shelter for public access and education, effectively mitigates the loss of the disturbed works. The proposal, in its current form, also effectively protects the courthouse building from overland flooding, civil surcharging and improves drainage management generally. Furthermore, this approach effectively preserves the remnant archaeological works of the rear yard of the courthouse, comprising the centrally located sub-surface water collection cistern, police stables footings and two brick cesspits and allows the better management of drainage beneath the courthouse building.

According the results of archaeological investigation and the in accordance with the remit of the research design, it is proposed that the design of the rear boundary wall and drainage proceed in its' current form, without the need or justification for redesign. This is based on the premise that there is no further potential for archaeological relics or works to be exposed by proposed construction works, and that those remnant structural works to be removed have reduced significance due to the loss of condition and integrity. In effect, this approach provides an offset in the loss of highly disturbed works in order to effectively conserve, preserve and interpret those works that remain and considered relatively intact.

4.3 Revised Statement of Heritage (Archaeological) Impact

A statement of heritage impact (SOHI) is prepared to assist in the review and approval process when a project could potentially impact upon a heritage item. The purpose of a SOHI is to explain how the heritage value of an item might be affected by the proposed project/development. Impact may be positive when an item is to be conserved or enhanced, or impact may be detrimental if the site is to be disturbed or destroyed.

Review of Proposed Works

The overall project proposal for the Morpeth Courthouse is for the installation of new amenities and shelter to enhance the operation of the site as the Morpeth Museum. In summary, the works include new boundary walls, a covered outdoor learning area, new toilets and accessible entry. New drainage and pathways are included in the proposed works. The project is to enable the Museum to better utilise the space as an exhibition/interpretation area open to the public during Museum hours. The fences, gates and paths will also connect the adjacent public park and Northumberland Street to the back of the Courthouse building²³.

The following statement of archaeological impact addresses specifically those project works detailed in excavation permit s140/2021/010 that have the potential to impact upon the archaeological works of the police stables footings, eastern and western privies and the eastern wall footings.

Revised Statement of Heritage (Archaeological) Impact

According to the guidelines of the NSW Heritage Manual, the following statements are addressed to proposed works as part of a SOHI.

1. *The following aspects of the proposed project works respect or enhance heritage significance for the following reasons.*

Heritage/archaeological significance is respected through the reinvigoration of the rear yard as a publicly accessible space within the Morpeth Museum environment. Heritage significance is further enhanced through the interpretation of the structures that formerly stood in the rear associated with use of the site a 19th century courthouse.

The proposed works allow the reasoned removal of disturbed works thus allowing an opportunity to secure the survival of the intact works for the foreseeable future. A plan of those works to be removed, or partially removed is provided in **Figure 4.1** below.

²³ Placemark Consultants, 2019. Statement of Heritage Impact. Changes to a Listed Item within a Heritage Conservation Area. Proposed New Amenities and Shelter, Former Morpeth Courthouse, now Museum. Prepared for Maitland City Council.

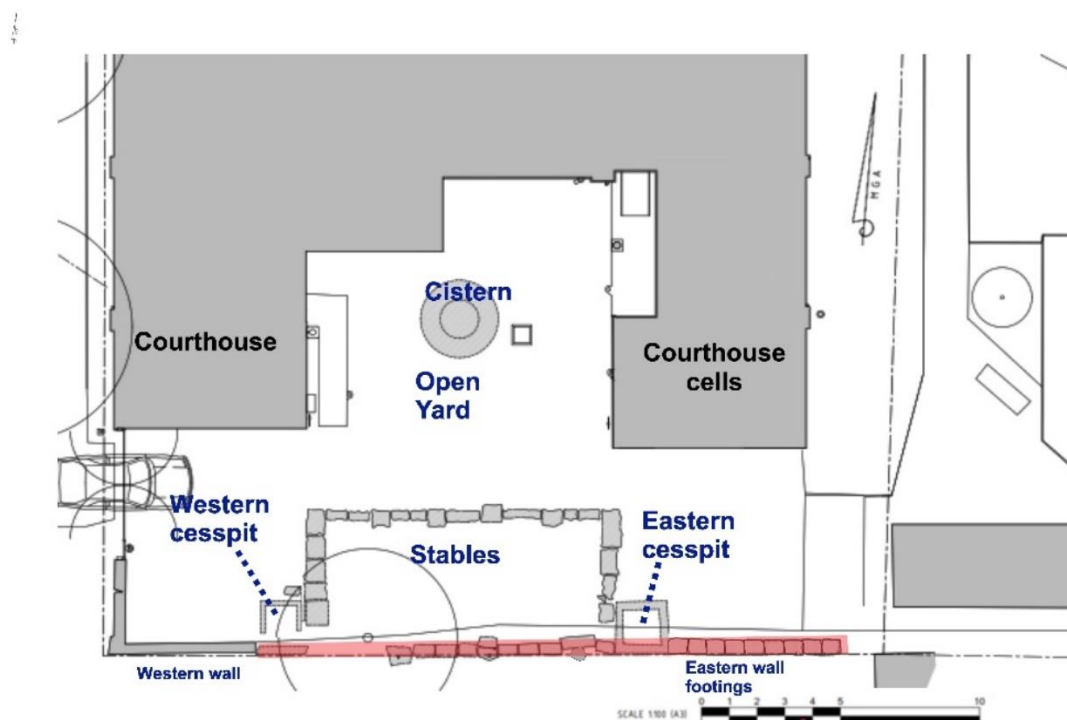


Figure 4.1 – Site plan showing works for proposed removal in red.

2. *The following aspects of the proposal could detrimentally impact on heritage significance. The reasons are explained as well as the measures to be taken to minimise impacts.*

Any proposed works to remove or alter relics or works have the potential for detrimental impact. However, the objectives of the proposed project are to preserve those archaeological works that remain in place and in a good state of condition and integrity.

3. *The following sympathetic solutions have been considered and discounted for the following reasons.*

The repositioning of the rear wall approximately 300mm to the south through the acquisition of neighbouring land has been considered and discounted on the grounds that resources for such measures are not available nor justifiable.

The use of the existing foundations has been considered and discounted on the basis that they do not meet current building standards and requirements for foundations of the proposed fence.

4.4 Recommendations & Statutory Considerations

Recommendation 1

A copy of this excavation report should be submitted to Heritage NSW in compliance with the conditions of consent attached to s140/2021/10.

Recommendation 2

There is no requirement to make application for additional excavation permits to cover the construction of the rear boundary wall and drainage. Archaeological excavation has been able to salvage those items that meet the definition of *relic* and furthermore, excavation has confirmed the location and reduced significance of remnant archaeological works across the line of proposed construction. With reference to disturbance of 'works' by construction of the proposed rear boundary wall and drainage, archaeological works are not subject to the s139 relics provisions of the NSW Heritage Act.

However, a due diligence approach to the management of archaeological works should be undertaken during construction. This might take the form of an archaeological mitigation management plan, and on-call archaeological services for guidance and advice should this be required.

5 Bibliography

Beaumont, A., 2009. *Morpeth Courthouse - A place of justice, a place of community*. Maitland City Council.

Elkin, A.P., 1937. *Morpeth and I*. Australian Medical Publishing Company.

Eureka Heritage, 2012. *Archaeological Review & Work Method Statement - Former Morpeth Court House, 125 Swan Street, Morpeth*. Prepared for Maitland City Council.

Eureka Heritage, 2014. *Excavation Report - Application Number 2013/s140/09. Former Morpeth Court House 125 Swan Street, Morpeth* prepared for Maitland City Council.

John Carr Heritage Design, 2012. *Conservation Management Plan for the Former Morpeth Court House, a Review of the 2002 CMP Document*. Prepared for Maitland City Council.

Mider, D., 1998 for Gutteridge, Haskins & Davey Pty Ltd. *Archaeological Assessment & Research Design - Orange Courthouse Site* prepared for The NSW State Attorney Generals Department.

NSW Heritage Office, 1998- 2009. *NSW Heritage Manual*:

- Archaeological Assessments.
- Historical Archaeological Sites.
- Heritage Assessment Guidelines.
- Assessing Heritage Significance.
- Heritage Curtilages.
- NSW Department of Public Works and Services, 2002, *Former Morpeth Court House Conservation Management Plan*, prepared for Maitland City Council.

Nexus Archaeology and Heritage, 2005. *Research Design for Excavation Permit: Drainage works Morpeth Court House*, prepared for Maitland City Council.

Nexus Archaeology and Heritage, 2009. *Historical Archaeology – Sub-surface studies: Morpeth Court House*, prepared for Maitland City Council.

Placemark Consultants, 2019. *Statement of Heritage Impact. Changes to a Listed Item within a Heritage Conservation Area. Proposed New Amenities and Shelter, Former Morpeth Courthouse, now Museum*. Prepared for Maitland City Council.



Appendix 1

s140 Excavation Permit s140/2021/010.



File: SF21/29360
Our ref: DOC21/126201

Mr Scott Warner
Maitland City Council
PO Box 220
MAITLAND NSW 2320
scott.warner@maitland.nsw.gov.au

Dear Mr Warner,

Re: Approval issued under s141 (1) (a) of the Heritage Act 1977: Excavation Permit for monitoring in the rear yard of the Former Morpeth Courthouse, 123 Swan Street, Morpeth at Maitland Local Government Area (LGA)

Reference is made to your application under Section 140 of the *Heritage Act 1977* (the Act), to undertake archaeological work at the above property (Application number s.140/2021/010).

Under delegated authority, approval is given under s141(1)(a) for an archaeological excavation permit. Please note this permit is subject to the conditions attached. Acceptance of these statutory conditions by the Applicant and Excavation Director is a requirement of this permit. It should be noted that as the Applicant, this Approval (and the fulfilment of all subsequent conditions) rests with you and not the Land which is the subject of the works.

You are reminded that it is a condition of this permit that the Applicant is responsible for the safe keeping of artefacts recovered from this site. You are required to nominate a repository for archaeologically excavated material, as well as referencing the final location in the excavation report as per section 146(b) of the Act. This is to enable a record to be kept of the location of all archaeologically excavated material.

It should be noted that an approval for an archaeological permit under the Act covers only those archaeological works described in the application. Any additional archaeological investigations will require a further approval. It should also be noted that an approval for an archaeological permit under the Act is additional to those which may be required from other local, State or Commonwealth Government authorities. Inquiries about any other approvals needed should, in the first instance, be directed to the local council, State and Commonwealth Government where appropriate.

This permit, issued by the Heritage Council of NSW, does not give approval to harm Aboriginal objects. Aboriginal objects and Aboriginal places in NSW are protected under the *National Parks and Wildlife Act 1974* (NPW Act). It is an offence to do any of the following without an exemption or defence (penalties apply):

- knowingly harm or desecrate an Aboriginal object (the 'knowing' offence)
- harm or desecrate an Aboriginal object or Aboriginal place (the 'strict liability' offence)

The NPW Act provides a number of exemptions and defences to these offences and also excludes certain acts and omissions from the definition of harm. For more information about the regulation of Aboriginal cultural heritage, go to the Heritage NSW website: <https://www.heritage.nsw.gov.au/permits-and-assessments/aboriginal-heritage-impact-permits/>

Heritage NSW

Locked Bag 5020 Parramatta NSW 2124 ■ Level 6, 10 Valentine Ave Parramatta NSW 2150
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

This permit is issued to the applicant on the condition that the nominated Excavation Director is present at the site supervising all archaeological fieldwork activity likely to expose significant relics. Permits are not transferable without the written consent of the Heritage Council of New South Wales. Your attention is drawn to the right of appeal against these conditions in accordance with section 142 of the *Heritage Act, 1977*.

Your attention is drawing to the following **site specific conditions** which have been included to ensure management of the archaeological resource is consistent with best historical archaeological practice, including relics recovered from the program.

15. Scaled Plans and Survey data: Scaled excavation plan(s) must be prepared using an established NSW spatial system (e.g. Eastings and Northings with datum). Excavated areas and archaeological features (contexts) must be clearly shown in the plan/s in relation to the site boundary and established buildings (e.g. to the courthouse).

16. Context Recording and preparation of a Harris Matrix: The Excavation Director shall apply context recording for all features identified during the investigation, consistent with the application set out in BARJ Guide 23 dated March 2009 (revised) 'Record Sheet and Report Templates Risk Assessment Forms & Other Guides'. This guide is available online at: <http://www.bajr.org/BAJRGuides/23.%20Recording,%20Reporting,%20Planning%20Conventions%20and%20other%20templates/23Templates.pdf>. The Excavation Director must prepare at the end of the excavation a Harris Matrix that aligns all contexts identified according to their phasing to assist interpretation of the site's archaeological evidence in the final report.

17. Artefact Cataloguing: If artefacts are identified during the excavation, they relate to the known phases of the site's occupation and can address the research questions, they retain significance and are 'relics'. All relics must be catalogued against an established system for historical archaeological sites in NSW (e.g. EMAC or the system applied by NSW Place Management formerly the Sydney Harbour Foreshore Authority). The system must be identified in the final report. An artefact report for relics, shall be prepared and incorporated into the final excavation report.

Please nominate the repository for the archaeological collection from this s.141 approval to Heritage NSW in accordance with the permit conditions.

ADVICE

Your attention is drawn towards the powers of entry and inspection under s.148 of the Heritage Act 1977 for authorised persons. If entry and inspection are required, reasonable notice will be provided as per the Act. The owner could voluntarily agree to allow non-authorised persons, such as Heritage NSW (Department of Premier & Cabinet) staff who are acting in a supporting role to the authorised persons, to enter their property for the purpose of inspection. Owners may also voluntarily grant permission to take photograph, take samples or request records.

Inquiries on this matter may be directed to Felicity Barry, Senior Historical Archaeologist on 9995 6914 or via email at Felicity.Barry@environment.nsw.gov.au.

Yours sincerely



9 April 2021

Dr Siobhan Lavelle, OAM
Senior Team Leader, Specialist Services
Heritage NSW
Department of Premier & Cabinet
As Delegate of the Heritage Council of NSW

Enclosure: Approval Conditions for S141 Permit

CC: The Chief Executive Officer, Maitland City Council info@maitland.nsw.gov.au
Excavation Director Ms Sue Singleton [Sue Singleton <singleton@eurekaheritage.com.au>](mailto:Sue.Singleton@eurekaheritage.com.au)

Heritage NSW

Locked Bag 5020 Parramatta NSW 2124 ■ Level 6, 10 Valentine Ave Parramatta NSW 2150
P: 02 9873 8500 ■ E: heritagemailbox@environment.nsw.gov.au

**S141 Excavation Permit for monitoring in the rear yard of the Former Morpeth Courthouse,
123 Swan Street, Morpeth at Maitland Local Government Area (LGA)
Conditions of Approval s140/2021/010**

Approved Archaeological Works

01. All works shall be in accordance with the approved research design and methodology outlined in *Revised Archaeological Assessment Research Design section 140 Permit Application Former Morpeth Courthouse, prepared by Eureka, February 2021,*

except as amended by the following conditions:

02. This permit covers archaeological monitoring of relics, only. State significant relics are not allowed to be removed.
03. This archaeological approval is valid for five (5) years from the date of approval. Requests for extensions beyond this time must be made in writing prior to expiry of the permit.

Fieldwork

04. The Heritage Council of NSW or its delegate must be informed of the commencement and completion of the archaeological program at least 5 days prior to the commencement and within 5 days of the completion of work on site. The Heritage Council and staff of Heritage NSW, Department of Premier & Cabinet authorised under section 148(1) of the *Heritage Act, 1977*, reserve the right to inspect the site and records at all times and to access any relics recovered from the site.
05. The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics not identified in *Revised Archaeological Assessment Research Design section 140 Permit Application Former Morpeth Courthouse, prepared by Eureka, February 2021,* are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.
06. Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area is to stop immediately and Heritage NSW (Enviroline 131 555) is to be notified in accordance with Section 89A of the *National Parks and Wildlife Act, 1974* (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW
07. The Heritage Council of NSW must approve any substantial deviations from the approved research design outlined in '*Revised Archaeological Assessment Research Design section 140 Permit Application Former Morpeth Courthouse, prepared by Eureka, February 2021,* including extent and techniques of excavations, as an application for the variation or revocation of a permit under section 144 of the *Heritage Act, 1977*.
08. The Applicant must ensure that the approved Primary Excavation Director nominated in the section 140 application s140/2021/010, MS SUE SINGLETON, is present at the site supervising all archaeological fieldwork activity likely to expose significant relics.
09. The Applicant must ensure that the approved Primary Excavation Director nominated in the section 140 application s140/2021/010, MS SUE SINGLETON, takes adequate steps to record in detail relics, structures and features discovered on the site during the archaeological works in accordance with current best practice. This work must be undertaken in accordance with relevant Heritage Council guidelines.
10. The Applicant must ensure that the nominated Excavation Director briefs all personnel involved in the project about the requirements of the NSW *Heritage Act, 1977* in relation to the proposed archaeological program. This briefing should be undertaken prior to the commencement of on-site excavation works.

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11. The Applicant must ensure that the nominated Excavation Director and the excavation team is given adequate resources to allow full and detailed recording to be undertaken to the satisfaction of the Heritage Council.
12. The Applicant must ensure that the site under archaeological investigation is made secure and that the unexcavated artefacts, structures and features are not subject to deterioration, damage, destruction or theft during fieldwork.
13. The Applicant is responsible for the safe-keeping of all relics recovered from the site.
14. **Archaeological site recording to include:**
The Applicant must ensure that the Excavation Director oversees the taking and recording of survey levels on site, which will be reduced to Australian Height Datum (AHD), for all archaeological and topographical strata encountered as well as relevant modern ground levels (i.e. next to trenches, open area limits etc).
15. **Scaled Plans and Survey data:** Scaled excavation plan(s) must be prepared using an established NSW spatial system (e.g. Eastings and Northings with datum). Excavated areas and archaeological features (contexts) must be clearly shown in the plan/s in relation to the site boundary and established buildings (e.g. to the courthouse).
16. **Context Recording and preparation of a Harris Matrix:** The Excavation Director shall apply context recording for all features identified during the investigation, consistent with the application set out in BARJ Guide 23 dated March 2009 (revised) 'Record Sheet and Report Templates Risk Assessment Forms & Other Guides'. This guide is available online at: <http://www.bajr.org/BAJRGuides/23.%20Recording,%20Reporting,%20Planning%20Conventions%20and%20other%20templates/23Templates.pdf>. The Excavation Director must prepare at the end of the excavation a Harris Matrix that aligns all contexts identified according to their phasing to assist interpretation of the site's archaeological evidence in the final report.
17. **Artefact Cataloguing:** If artefacts are identified during the excavation, they relate to the known phases of the site's occupation and can address the research questions, they retain significance and are 'relics'. All relics must be catalogued against an established system for historical archaeological sites in NSW (e.g. EMAC or the system applied by NSW Place Management formerly the Sydney Harbour Foreshore Authority). The system must be identified in the final report. An artefact report for relics, shall be prepared and incorporated into the final excavation report.

Analysis and Reporting

18. The Applicant must ensure that the approved Primary Excavation Director or an appropriate specialist, cleans, stabilises, labels, analyses, catalogues and stores any artefacts recovered from the site in a way that allows them to be retrieved according to both type and provenance.
19. The Applicant must ensure that a summary of the results of the field work, up to 500 words in length, prepared by the approved Primary Excavation Director nominated in the section 140 form, MR SUE SINGLETON, is submitted to the Heritage Council of NSW for approval within one (1) month of completion of archaeological field work. This information is required in accordance with section 146(b) of the *Heritage Act, 1977*.
20. The Applicant must ensure that a final excavation report is written by the approved Primary Excavation Director nominated in the section 140 application s140/2021/010, MS SUE SINGLETON to publication standard, within one (1) year of the completion of the field based archaeological activity unless an extension of time or other variation is approved by the Heritage Council of NSW in accordance with section 144 of the *Heritage Act, 1977*.
21. The Applicant must ensure that one (1) electronic copy of the final excavation report is submitted to the Heritage Council of NSW. Specific requirements for electronic lodgement are available from the agency. Reporting is required in accordance with section 146(b) of the *Heritage Act, 1977*. The Applicant must also ensure that further copies are lodged with the

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local library and/or another appropriate local repository in the area in which the site is located. It is also required that all digital resources (including reports, context and artefact data, scanned field notes, other datasets and documentation) should be lodged with a sustainable, online and open-access repository.

22. The Applicant must ensure that the information presented in a final excavation report includes the following:
- a/. An executive summary of the archaeological programme;
 - b/. Due credit to the client paying for the excavation, on the title page;
 - c/. An accurate site location and site plan (with scale and north arrow) and including geo-reference data;
 - d/. Historical research, references, and bibliography;
 - e/. Detailed information on the excavation including the aim, the context for the excavation, procedures, treatment of artefacts (cleaning, conserving, sorting, cataloguing, labelling, scale photographs and/or drawings, location of repository) and analysis of the information retrieved;
 - f/. Nominated repository for the items;
 - g/. Detailed response to research questions (at minimum those stated in the Heritage Council approved Research Design);
 - h/. Conclusions from the archaeological programme. This information must include a reassessment of the site's heritage significance; statement(s) on how archaeological investigations at this site have contributed to the community's understanding of the Morpeth Courthouse and other NSW courthouse sites; recommendations for the future management of the site and how much of the site remains undisturbed;
 - i/. Details of how this information about this excavation has been publicly disseminated (for example, provide details about Public Open Days and include copies of press releases, public brochures and information signs produced to explain the archaeological significance of the site).

23. Compliance

If requested, the Applicant and nominated Heritage Consultant may be required to participate in audits of Heritage Council approvals to confirm compliance with conditions of consent.

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Appendix 2

Artefact Catalogue

Art No.	Area/Zone	Context	Material (1)	Material (2)	Typology (1)	Typology (2)	Condition	Embossing/other marks	Research Notes/Sources/Comments	Date/Date range	Box No.	Point of origin
2021/1	Eastern Wall Footings	2021-01	glass	clear	Bottle	ink	whole	none			1	unknown
2021/2	Eastern Wall Footings	2021-01	glass	clear	Bottle	ink	whole with large chip from neck/lip	Property of Stephen's Inks (Aust) Ltd	https://victoriancollections.net.au/items/57018e222162f105c0c8ee0f	Post 1916 - c.1939.	1	Melbourne
2021/3	Eastern Wall Footings	2021-01	glass	clear	Bottle	medicinal	neck & shoulder fragment	none	air bubbles in glass - two part mould with hand applied ground bore for cork or stopper		1	unknown
2021/4	Eastern Wall Footings	2021-01	glass	green	Bottle	medicinal tonic	2 x con-joined fragments of flat body	Partial <i>Aromatic Schnapps</i>	https://victoriancollections.net.au/items/5affc6f421ea6c152cdac97b	1859-1941	1	Netherlands
2021/5	Eastern Wall Footings	2021-01	glass	black	Bottle	alcohol beer	base	none	conical (pointed) push up	1700s-mid 1800s	1	unknown
2021/6	Eastern Wall Footings	2021-01	glass	green	Bottle	wine/champagne	base	none	flat indented base			
2021/7	Eastern Wall Footings	2021-01	glass	brown	Bottle	beer	base	<i>Property of the Adela</i>	http://www.thebottledepot.com/bottleco.htm	circa 1960s		Adelaide
2021/8	Eastern Wall Footings	2021-01	eathernware	salt-glazed	Bottle	lnk	whole with chip in lip	none	roughly made - pouring spout likely chipped off, most likely contained ink for refilling of inkwells and not ginger beer			
2021/9	Eastern Wall Footings	2021-01	eathernware	blue transfer pattern	Household	plate	fragment	floral transfer pattern				
2021/10	Eastern Wall Footings	2021-01	eathernware	white glazed	Household	plate/shallow bowl	2 x con-joined fragments	single foot	simple patterned rim			
2021/11	Eastern Cesspit	2021-09	glass	clear	Bottle	ink	whole	On base: <i>This bottle always remains the property of Watson's Ink Co Ltd</i>	seam marks indcate two-part mould - also see Eureka 2014.	1926		
2021/12	Eastern Cesspit	2021-09	glass	green	Bottle	wine	round bottle base	none				
2021/13	Eastern Cesspit	2021-09	glass	brown	Bottle	medicinal	whole	255A on base	typical of c1940/1950 first aid kits			
2021/14	Eastern Cesspit	2021-09	glass	green	Bottle	wine	neck fragment	none	mould marks in glass			
2021/15	Eastern Cesspit	2021-09	glass	brown	Bottle	beer	base fragment	AGM crown 1955 IS89 566				
2021/16	Eastern Cesspit	2021-09	glass	clear	Building material	window	fragment	none	6mm - likely modern			
2021/17	Eastern Cesspit	2021-09	ceramic	white	Personal	smoking pipe	stem fragment	GLA	https://collections.museumsvictoria.com.au/items/1609728	c1846-1891		Glasgow
2021/18	Eastern Cesspit	2021-09	ceramic	decorated	Household	plate	fragment	partial manufacturers number 240	tripe heel, hand painted? Pine tree branches with pine cones, gold highlights			
2021/19	Eastern Cesspit	2021-09	ceramic	black transfer pattern	Household	plate	fragment	geometric pattern with wheat				
2021/	Eastern Cesspit	2021-09	glass	clear	Household	jar lid	whole	NUTTALL & Co ST HELENS. Pontil mark centre	https://sha.org/bottle/pdf/Nuttall.pdf	1871-1913		
2021/21	Eastern Cesspit	2021-09	glass	clear	Household	jar	whole but cracked	Reg No 465660	Possibly Peck's Paste - Peck's meat spreads were introduced in England in 1891. Thirteen years later, the British-based Harry Peck & Co. began exporting its products to Australia. By 1938, Peck's set up in Australia and began making canned meat and fish products.	1930-1950		
2021/22	Eastern Cesspit	2021-09	ceramic	green transfer	Household	plate	rim fragment	none	Floral and lattice pattern with decorative rim			
2021/23	Eastern Cesspit	2021-09	ceramic	blue transfer pattern	Household	tea cup	rim fragment	none	geometric pattern around lip			
2021/24	Eastern Cesspit	2021-09	ceramic	blue-white	Household	mixing bowl	rim fragment	none				
2021/25	Eastern Cesspit	2021-09	ceramic	white	Household	plate	2 x rim fragments	none	moulded pattern around rim			
2021/26	Eastern Cesspit	2021-09	ceramic	white	Household	plate	rim fragment	none	moulded pattern around rim			
2021/27	Eastern Cesspit	2021-09	ceramic	white	Household	saucer	2 x fragments	none		c1930-c1950		
2021/28	Eastern Cesspit	2021-09	ceramic	White	Household	saucer	fragment	none		c1930-c1951		

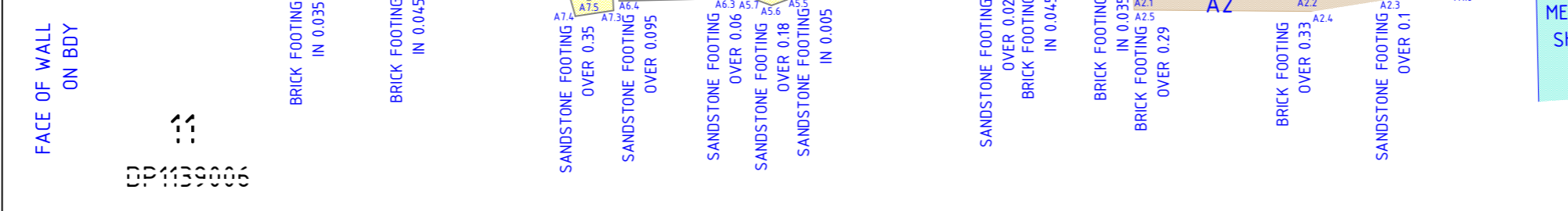
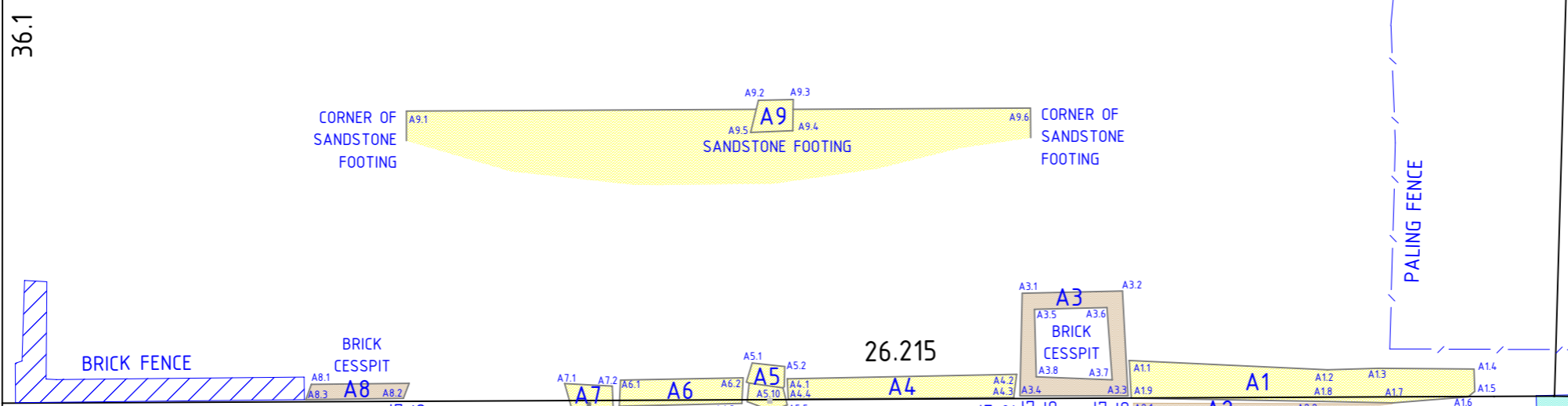
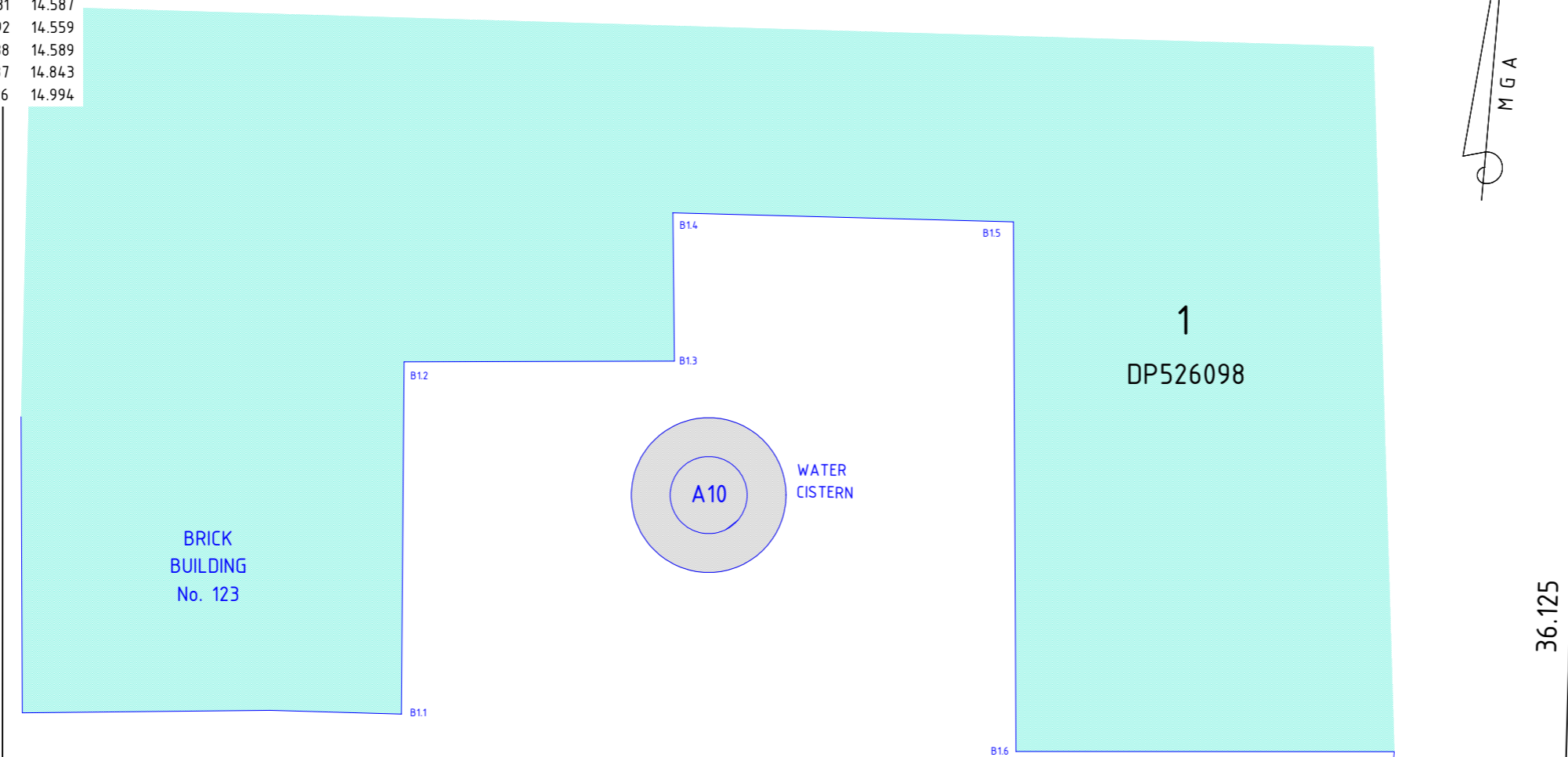


Appendix 3

Survey Results with RL

MGA COORDS			
POINT	EASTING	NORTHING	HEIGHT
A10	371334.170	6378342.689	14.100
B1.1	371329.317	6378338.552	14.665
B1.2	371328.846	6378344.481	14.587
B1.3	371333.398	6378344.892	14.559
B1.4	371333.154	6378347.388	14.589
B1.5	371338.899	6378347.737	14.843
B1.6	371339.723	6378338.826	14.994

MGA COORDS			
POINT	EASTING	NORTHING	HEIGHT
A1.1	371342.180	6378332.702	14.598
A1.2	371345.533	6378332.839	14.592
A1.3	371346.388	6378332.939	14.586
A1.4	371347.998	6378333.067	14.576
A1.5	371348.042	6378332.692	14.589
A1.6	371347.938	6378332.590	14.597
A1.7	371346.679	6378332.377	14.617
A1.8	371345.500	6378332.301	14.601
A1.9	371342.269	6378332.073	14.600
A2.1	371342.317	6378331.990	14.770
A2.2	371345.447	6378332.256	14.777
A2.3	371346.672	6378332.361	14.777
A2.4	371345.336	6378332.025	14.762
A2.5	371342.342	6378331.791	14.807
A3.1	371340.278	6378333.676	14.668
A3.2	371341.963	6378333.863	14.582
A3.3	371342.212	6378332.105	14.575
A3.4	371340.393	6378331.946	14.789
A3.5	371340.511	6378333.425	14.608
A3.6	371341.727	6378333.560	14.525
A3.7	371341.920	6378332.355	14.452
A3.8	371340.640	6378332.292	14.624
A4.1	371336.448	6378331.889	14.901
A4.2	371340.303	6378332.305	14.837
A4.3	371340.288	6378331.910	14.930
A4.4	371336.493	6378331.549	14.916
A5.1	371335.833	6378332.106	15.004
A5.2	371336.389	6378332.094	14.964
A5.3	371336.409	6378331.755	14.917
A5.4	371336.392	6378331.731	14.891
A5.5	371336.485	6378331.452	14.930
A5.6	371336.227	6378331.333	15.009
A5.7	371335.807	6378331.447	14.955
A5.8	371335.814	6378331.761	14.899
A5.9	371335.766	6378331.775	14.903
A5.10	371336.186	6378331.489	14.806
A6.1	371333.643	6378331.623	14.925
A6.2	371335.703	6378331.845	14.874
A6.3	371335.718	6378331.412	14.870
A6.4	371333.660	6378331.186	14.897
A7.1	371332.706	6378331.482	14.752
A7.2	371333.513	6378331.513	14.857
A7.3	371333.575	6378331.016	14.874
A7.4	371332.945	6378330.861	14.777
A7.5	371333.144	6378331.176	14.817
A8.1	371328.444	6378331.096	14.624
A8.2	371330.015	6378330.995	14.728
A8.3	371328.373	6378330.833	14.613
A9.1	371329.640	6378335.836	14.409
A9.2	371335.555	6378336.534	14.581
A9.3	371336.138	6378336.600	14.575
A9.4	371336.178	6378336.073	14.590
A9.5	371335.468	6378335.983	14.572
A9.6	371340.147	6378336.803	14.514

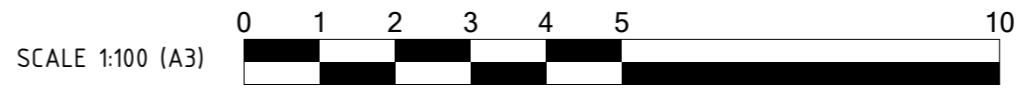


ORIGIN OF COORDINATES
PM 30936
BY SCIMS 11/05/2021
ORIGIN OF LEVELS
PM 18502 @ RL 15.937
BY SCIMS 11/05/2021

■ - DENOTES REMAINS OF SANDSTONE FOOTINGS
■ - DENOTES REMAINS OF BRICKS FOOTINGS
POINTS A5.10 & A7.5 ARE EXISTING FENCE POST HOLES

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PLAN OF HERITAGE WORKS ON LOT 1 DP526098
123 SWAN STREET MORPETH
Client MAITLAND CITY COUNCIL



Ref. 21-29 MORPETH
Date 11/05/2021
Scale 1:100 (A3)
Datum AHD