

MAITLAND GAOL REDEVELOPMENT

Archaeology

FINAL

September 2023

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Prepared by
Umwelt (Australia) Pty Limited
on behalf of
Maitland City Council

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QMS Certification Services

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Acknowledgement of Country

Umwelt would like to acknowledge the traditional custodians of the country on which we work and pay respect to their cultural heritage, beliefs, and continuing relationship with the land. We pay our respect to the Elders – past, present, and future.

Cover Image: Maitland Gaol (Newcastle Morning Herald, 29th October 1975 Hunter Photo Bank 104 005524)

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Table of Contents

1.0	Introduction	1
1.1	The Project	1
1.2	Maitland Gaol Site	2
1.3	Maitland Gaol	2
2.0	Statutory Context	5
2.1	Environmental Planning and Assessment Act 1979	5
2.2	National Parks and Wildlife Act 1974	6
2.3	Heritage Act 1977	7
	2.3.1 Relics Provision of the Heritage Act 1977 (NSW)	7
	2.3.2 State Heritage Register	7
2.4	Other Relevant Legislation	7
	2.4.2 Aboriginal Land Rights Act 1983 (State)	7
3.0	Conservation Management Plans	9
3.1	Maitland Gaol Conservation Management Plan 2000	9
3.2	Maitland Gaol Conservation Management Plan 2023 (Draft)	11
4.0	Historical Context	12
4.1	Maitland Gaol	12
5.0	General Site Description	25
6.0	Project Impacts	29
7.0	Historical Archaeological Assessment	30
7.1	Potential Disturbance	30
7.2	Previously Assessed Archaeological Sensitivity	31
7.3	Potential Archaeological Resource	33
	7.3.1 Closets	34
	7.3.2 Gardens	36
	7.3.3 Below Ground Tank	37
	7.3.4 Photo Gallery Building	37
	7.3.5 Wall Cavity	37
	7.3.6 Isolated Artefacts	37
8.0	Historical Archaeological Significance	38
8.1	Introduction	38
8.2	Basis of Heritage Significance Assessment	38

8.2.1	Archaeological Significance	39
8.3	Archaeological Significance Assessment	39
8.4	Statement of Significance	41
9.0	Aboriginal Due Diligence	42
9.1	Environmental Context	42
9.1.1	Summary	43
9.2	Ethnographic Context	43
9.3	Aboriginal Archaeological Context	45
9.3.1	Due Diligence Assessment	45
9.3.2	Aboriginal Heritage Information Management System	45
9.3.3	Previous Archaeological Assessment	46
9.3.4	Assessment of Aboriginal Archaeological Potential	46
10.0	Archaeological Methodology and Research Design	48
10.1	Archaeological Monitoring	48
10.2	Research Questions	49
11.0	Conclusions and Recommendations	51
11.1	Conclusions	51
11.1.1	Historical Archaeology	51
11.1.2	Aboriginal Archaeology	51
11.2	Recommendations	51
11.2.1	Historical Archaeology	51
11.2.2	Aboriginal Archaeology	51
12.0	References	52

Figures

Figure 1.1	Maitland Gaol Site	3
Figure 1.2	Project Area	4
Figure 3.1	CMP 2000 Figure 5 Archaeological Sensitivity	10
Figure 4.1	Sketch plan of Maitland Gaol by James Cox, Gaoler, 1850	14
Figure 4.2	Undated Plan of Proposed Additions	15
Figure 4.3	Detail of Undated Plan of Proposed Additions	16
Figure 4.4	Detail of Undated Plan of Proposed Additions	16
Figure 4.5	Undated plan of the Gaol	17
Figure 4.6	Detail of Undated Plan of the Gaol	18
Figure 4.7	1897 Photograph	18

Figure 4.8	1897 Photograph	19
Figure 4.9	Updated plan of the Gaol	20
Figure 4.10	Detail of updated plan of the Gaol	20
Figure 4.11	View Maitland Gaol from the west, January 1974	21
Figure 4.12	Detail of aerial view of Maitland Gaol, June 1978	22
Figure 4.13	Detail of 1944 Aerial Photograph	23
Figure 4.14	Detail of 1966 Aerial Photograph	23
Figure 4.15	Detail of 1966 Aerial Photograph	24
Figure 4.16	Detail of 1966 Aerial Photograph	24
Figure 6.1	Detail of DA-301 section F	29
Figure 7.1	Detail of Maitland Gaol Officer’s Amenities Building	30
Figure 7.2	Detail of Maitland Gaol Officer’s Amenities Building	31
Figure 7.3	Plan showing periods of development	31
Figure 7.4	CMP 2000 Figure 5 Archaeological Sensitivity	32
Figure 7.5	Heritas 2023 areas of archaeological sensitivity	33

Tables

Table 3.1	2023 CMP Section 7.3.2 Setting	11
Table 5.1	Project Area Photographs	25
Table 7.1	Closets	35
Table 7.2	Gardens	36

1.0 Introduction

Maitland Gaol is the longest continuously operating correctional institution in New South Wales. The facility closed in 1998 and was converted to a tourism facility in 2000 under the management of Maitland City Council. In January 2022 the NSW State and Federal Governments announced a funding grant for the redevelopment of the Gaol to deliver a substantial part of its 2020 Development Plan including capital investment in a new activity hub with enhanced access and connectivity, innovative interpretation, along with the provision of event infrastructure and boutique accommodation.

1.1 The Project

The Maitland Gaol Redevelopment Project aims to activate the north-western portion of the site, in turn enhancing visitor experience and operation of the Gaol as a significant cultural precinct (Heritas 2023) (refer to **Figure 1.1** and **Figure 1.2**).

The Maitland Gaol Redevelopment will be staged across three separate Development Applications consisting of (refer to **Figure 1.2**):

Development Application 1:

Redevelopment of the 'Store' building (Building 14) to provide:

- A new ticketing office and gift store.
- New administration office space.
- Upgraded amenities.
- Construction of DDA access, ramps and stairs.
- Demolition of existing laundry.
- Construction of a new loading dock.

Redevelopment of the 'Gaol Staff / Warder's Amenities' building (Building 22) consisting of:

- Demolition of Building 22.
- Construction of a new café.
- External and internal landscaping.
- Construction of enhanced access points.

Construction of new carpark consisting of:

- Construction of a 16-space car park including two accessible parking spaces.
- Associated landscaping.
- Construction of accessible pathways.

Development Application 2:

Refurbishment of the 'Lieutenant Governor and Governor's residences' (Buildings 2 and 3) to provide:

- Boutique accommodation consisting of several guest rooms.

Development Application 3:

Future works for the redevelopment of the 'Store' Building to provide:

- Additional amenities.
- Renovated theatre with bar, foyer, amphitheatre.
- Renovated back of house.
- Construction of external DDA ramp.

1.2 Maitland Gaol Site

Maitland Gaol is located at 6/18 John Street, East Maitland NSW 2323. It is positioned on top of the main hill at East Maitland and is the focal point of the town and has an approximate site area of 2,077 m².

Maitland Gaol, including the Police Lock Up and Reserve and a section of the Police Barracks is Crown Land managed by MCC. This land comprises the following land parcels:

- Lot 466 DP 1002766, containing the Former Gaol Lock Up.
- Lot 467 DP 1002766, containing the Former Gaol Residence.
- Lot 468 DP 1002766, containing the Former Gaol Residence.
- Lot 469 DP 1002766, containing the Gaol compound and Former Mounted Police Barracks, Kitchen and Former Stables.
- A section of land in the southeast corner of the site and identified as Lot 470 DP 1002766 is Operational Land and contains the Former Police Station.

This Project falls within Lot 469 DP 1002766.

1.3 Maitland Gaol

Maitland Gaol is listed as an item of heritage significance on the NSW State Heritage Register (SHR No. 01296) and the City of Maitland Local Environmental Plan 2011 (LEP No. 1152). The Gaol was removed from the Corrective Services NSW Section 170 Heritage & Conservation Register following a review of that register undertaken by GML Heritage, in 2017 (Heritas Architecture 2022).



Figure 1.1 Maitland Gaol Site

Approximate Project area shaded yellow. Refer to **Figure 1.2** for detail.

Source: Nearthmaps 2023.

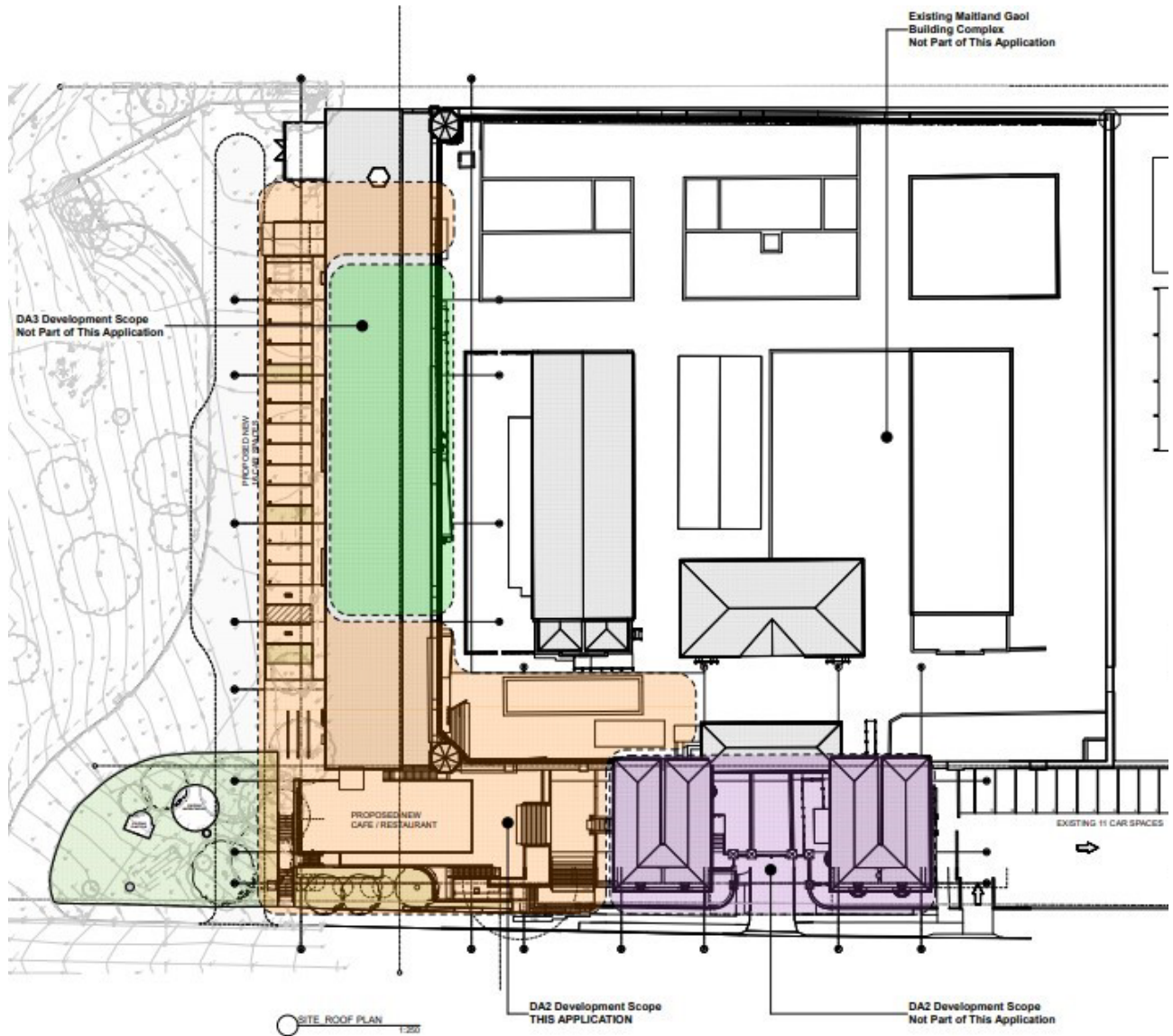


Figure 1.2 Project Area

Plan shows the three DA stages

Source: Maitland City Council DA1 – Maitland Gaol Development.

2.0 Statutory Context

The management and conservation of heritage is subject to a range of statutory provisions under NSW legislation. In NSW, Aboriginal archaeological remains, non-Aboriginal archaeology (historical archaeology) and heritage items are afforded statutory protection under the following Acts:

- The NSW *Environmental Planning and Assessment Act 1979* (EP&A Act).
- The NSW *National Parks and Wildlife Act 1974* (NPW Act).
- NSW *Heritage Act 1977*.

2.1 Environmental Planning and Assessment Act 1979

The EP&A Act is the main system of land use planning and development regulation legislation in NSW. The EP&A Act requires that consideration be given to the environmental impact during the planning process including the potential impact on Aboriginal cultural heritage. As such, the EP&A Act provides protection for Aboriginal objects or places. This is done through the control and the development of Environmental Planning Instruments (EPIs). EPIs cover either Local Government Areas (LGAs), in the form of Local Environment Plans (LEPs) or areas of State and/or regional environmental planning significance, in the form of State Environmental Planning Policies (SEPPs).

Part 5 Clause 5.10 of the Maitland LEP 2011 provides the statutory framework for heritage conservation including:

- a. to conserve the environmental heritage of Maitland,
- b. to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,
- c. to conserve archaeological sites,
- d. to conserve Aboriginal objects and Aboriginal places of heritage significance.

Condition 2 of the Maitland LEP 2011 Part 5 Clause 5.10 outlines the actions that require development consent. Development consent is required for any of the following:

- e. demolishing or moving any of the following or altering the exterior of any of the following (including, in the case of a building, making changes to its detail, fabric, finish or appearance):
 - i. a heritage item,
 - ii. an Aboriginal object,
 - iii. a building, work, relic or tree within a heritage conservation area.
- f. altering a heritage item that is a building by making structural changes to its interior or by making changes to anything inside the item that is specified in Schedule 5 in relation to the item,
- g. disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- h. disturbing or excavating an Aboriginal place of heritage significance,

- i. erecting a building on land:
 - i. on which a heritage item is located or that is within a heritage conservation area, or
 - ii. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance,
- j. subdividing land:
 - i. on which a heritage item is located or that is within a heritage conservation area, or
 - ii. on which an Aboriginal object is located or that is within an Aboriginal place of heritage significance.

2.2 National Parks and Wildlife Act 1974

The Department of Planning, Industry and Environment (DPIE, formerly the Office of Environment and Heritage OEH) is primarily responsible for regulating the management of Aboriginal cultural heritage in New South Wales under the NPW Act. The NPW Act is accompanied by the *National Parks and Wildlife Regulation 2019* (the Regulation) and a range of codes and guides including the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (OEH 2011) and the Due Diligence Code.

The NPW Act defines an Aboriginal object as:

..any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales.

Under Section 84 of the NPW Act, an Aboriginal Place must be declared by the Minister as a place that, in the opinion of the Minister, is or was of special significance with respect to Aboriginal culture. Section 86(4) of the NPW Act states that a person must not harm or desecrate an Aboriginal place.

In accordance with Section 86(1) of the NPW Act, it is an offence to harm or desecrate a known Aboriginal object, whilst it is also an offence to harm an Aboriginal object under Section 86(2). Harm to an object or place is defined as any act or omission that:

- destroys, defaces or damages an object or place, or
- in relation to an object – moves the object from the land on which it had been situated, or
- is specified by the regulations, or
- causes or permits the object or place to be harmed in a manner referred to in paragraph (a), (b) or (c),

but does not include any act or omission that:

- desecrates the object or place (noting that desecration constitutes a separate offence to harm), or
- is trivial or negligible, or
- is excluded from this definition by the regulations.

Section 87(1) of the NPW Act specifies that it is a defence to prosecution under Section 86(1) and Section 86(2) if the harm or desecration of an Aboriginal object was authorised by an AHIP and the activities were carried out in accordance with that AHIP.

2.3 Heritage Act 1977

The *Heritage Act 1977* provides protection for environmental heritage within NSW. The Act provides for protection of historic places, structures, relics, moveable objects and landscapes of significance. The Act also affords protection to Aboriginal places of State heritage significance included on the State Heritage Register (SHR) or subject to an Interim Heritage Order.

2.3.1 Relics Provision of the Heritage Act 1977 (NSW)

The Heritage Act affords automatic statutory protection to 'relics' which form part of archaeological deposits (except where these provisions are suspended by other prevailing legislation).

A 'relic' means any deposits, artefact, object or material evidence that:

- relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement; and
- is of State or local heritage significance.

2.3.2 State Heritage Register

As discussed, Maitland Gaol is listed as an item of state heritage significance on the NSW State Heritage Register (Maitland Correctional Centre SHR No. 01296).

2.4 Other Relevant Legislation

2.4.1 Native Title Act 1993 (Commonwealth)

The *Native Title Act 1993* (NT Act) recognises that Aboriginal people have rights and interests to land and waters which derive from their traditional laws and customs. Native title may be recognised in places where Indigenous people continue to follow their traditional laws and customs and have maintained a link with their traditional country. It can be negotiated through a Native Title Claim, Indigenous Land Use Agreement (ILUA) or future Act agreements.

A search of the National Native Title Tribunal database was undertaken on 24 January 2023. The search did not identify any Native Title claims within the Project area.

2.4.2 Aboriginal Land Rights Act 1983 (State)

The *NSW Aboriginal Land Rights Act 1983* (ALR Act), administered by NSW Department of Aboriginal Affairs, establishes the NSW Aboriginal Land Council (NSWALC) and Local Aboriginal Land Councils (LALCs). The Act requires these bodies to:

- (a) take action to protect the culture and heritage of Aboriginal persons in the council's area, subject to any other law
- (b) promote awareness in the community of the culture and heritage of Aboriginal persons in the council's area.

These requirements recognise and acknowledge the statutory role and responsibilities of NSWALC and LALCs. The ALR Act also establishes the registrar whose functions include, but are not limited to, maintaining the Register of Aboriginal Land Claims and the Register of Aboriginal Owners.

Council has identified that there is an Aboriginal Land Claim under active assessment.

3.0 Conservation Management Plans

3.1 Maitland Gaol Conservation Management Plan 2000

Clause 5.5 Archaeological Control of the 2000 CMP identifies:

The likelihood of archaeological fabric within the gaol is limited to known earlier buildings (refer Figure 5) and possible sub surface deposits of services (more likely to be along the south side of assets 12, 5 and 9).

The buildings which have been removed but still may have footings include, Asset 6 (Female Wing), Asset 7 (Cookhouse), Asset 11 (Yards) and Asset 28 (Police Toilets). (Refer Figure 5).

There is oral history to indicate a possible tunnel to the Court House across John Street from Asset 1.

There are no other known earlier structures on the site that have been demolished.

The extent to which services are likely to be found underground is uncertain but the chances that some services have been abandoned and left in situ is great, particularly along the south side of assets 12, 5 & 9.

There is probably greater opportunity to uncover archaeological deposits around the Police Barracks Complex as there was less control on what people had in their possession.

There is a need for control on all excavation within the gaol and around the Police Barracks Complex. In the sensitive areas (refer Figure 5) work should only proceed under direct control of an archaeologist on site. In other areas no excavation within the gaol should proceed without a process that permits work to stop should archaeological material be uncovered so that an archaeologist on call can investigate and assess the material.

Temporary use of the archaeologically sensitive areas is possible provided no potential damage to original fabric occurs. Vehicles can cross the area provided they do no damage to the surface or original fabric. Temporary structures can be erected provided no pegs or anchors are likely to disturb original fabric. If a marquee is likely to be erected on a regular basis, then some archaeological excavation may be necessary to 'clean ' some areas for pegs/anchors.

When change is proposed to significant fabric on any building then it should be recorded (refer 5.1) but it would also benefit from some archaeological investigation to record any details which may provide further information about the understanding of the gaol, its construction or materials. Such information should be recorded and archived as per clause 5.1.

An excavation permit will be required for any excavation within the site. It is recommended that a permit be sought for the whole site with a 'watching brief for the sensitive areas and a monitoring process with an archaeologist on call for all other areas (Eric Martin & Assoc 2000).

3.2 Maitland Gaol Conservation Management Plan 2023 (Draft)

The Maitland Gaol CMP is currently being updated. Conservation Policy 6 of the current draft document states:

- Any excavation on the site currently listed on the Local Environmental Plan as a heritage item (i.e. the whole of the property indicated below adjacent to John, Cumberland and Lindsay Street) will require an excavation permit from the Heritage Council in accordance with the Heritage Act and should be supervised by an archaeologist.
- The development of an unexpected finds protocol should precede any excavation work.
- There may also be archaeological remains of importance within the site that should at least be recorded. The stone footings of two demolished buildings (Females' Wing and Cookhouse) are likely to remain beneath the current ground surface together with the potential for archaeological finds within the internal cavity of the perimeter walls and underground tanks (Eric Martin & Assoc 2023).

Table 3.1 provides the management recommendations identified in the 2023 draft CMP in relation to excavation on the Gaol site and the potential archaeological resource.

Table 3.1 2023 CMP Section 7.3.2 Setting

Don't	Why	Do
Don't excavate more than 200 mm unless you are certain you are following the line of an existing underground service	The archaeological resource is an important archive for understanding Australian history.	Temporarily stop work if you uncover any archaeological relics such as old footings, drainage lines or artefacts. Notify the Property Manager.

Source: Eric Martin & Assoc 2023.

4.0 Historical Context

The history of both the wider Maitland area and Maitland Gaol itself is discussed in detail in:

- Maitland Correctional Centre and Police Properties Conservation Plan prepared by Department of Public Works and Services (1998). The CMP's historical overview was based on research undertaken by Consultant Historian, Dr J.W. Turner.
- Eric Martin & Associates 2000. Maitland Gaol Conservation Management Plan Part 2.
- Eric Martin & Associates 2023. Maitland Gaol Conservation Management Plan (draft document).
- Maitland Gaol Redevelopment Statement of Heritage Impact. Heritas Heritage & Conservation 2023 (draft document).

As such, a complete historical overview is not repeated here. Below is a summary of key historical information sourced directly from the draft Statement of Heritage Impact (Heritas 2023). The CMPs and Statement of Heritage Impact should be referred to for further information.

4.1 Maitland Gaol

Mortimer Lewis Senior (1796-1879), Colonial Architect from 1835 until 1849, designed several gaols which are known as "Inspectors' Gaols" because their design was influenced by the penal philosophy of Inspectors of Prisons in England.

The original plan of Maitland Gaol was implemented in several stages between 1837 and 1887 and since then change has been fairly continuous.

- 1837:** With the central part of the town cleared, the Colonial Secretary called for tenders for the erection of the masonry exterior wall of "a gaol at Maitland". The site of this gaol wall was not at the head of Lindesay Street, as suggested in Mitchell's 1829 plan (refer to Figure 3.1), but on the cattle market reserve at the apex of his triangular plan. However, the original site was found to be too low and swampy and unfit for the purpose and the new site was approved at the head of Lindesay Street.
- 1839:** Colonial Architect, Mortimer Lewis, called tenders for the first stage of the proposed Maitland Gaol.
- 1844:** A foundation stone was laid.
- 1848:** Maitland Mercury reported that one wing of the intended complex was ready for occupation. However, the gaol was still incomplete when it opened on 30 December 1848 (refer to **Figure 4.1**).
- 1861:** A range of solitary confinement cells were incorporated in the north-western wing.
- 1862:** Watch towers and temporary and permanent hospital constructed.
- c.1863:** Lower range of cells of north-western wing.
- 1866:** Lewis, Junior, designed upper two ranges of cells in north-western wing and Thomas Alston commenced their construction.

1867: John Paton carried out drainage works at the gaol and court house.

1868 (onwards): The construction of warders' quarters and governor's residence flanking the John Street entrance and the replacement of the original governor's and wardens' accommodation with a two-storey block (chapel, school and workshops) opposite the John Street entrance and between the cell blocks: a range of workshops and yards were built behind this structure from 1870. Fencing was carried out at the gaol in 1868 (refer to **Figure 4.2** to **Figure 4.4**).

1875: The present houses for the Governor and Lieutenant Governor flanking the entrance were completed by contractor Henry Noad.

1887: Cell ranges on the upper floors of B Wing completed. During the 1880s and 1890s, the development of the gaol continued both inside and outside the original walls.

The opening of Sydney's Long Bay Gaol and the removal of many prisoners to State asylums brought a long period of gaol re-organisation to an end.

The plans for Cessnock Corrective Centre were drawn up in 1963, altered in 1968 and the centre opened in 1972 as a complex of four medium security blocks within a double security fence guarded from four watchtowers. This left the maximum-security role to Maitland Gaol and the Government took steps to improve the prison and its amenities.

Between 1972 and 1980 an extensive programme of alterations and improvements was undertaken. Additions and alterations to the gaol in the period between 1980 and 1997 are possibly the most significant in the recent history of the gaol in terms of visual impact on the whole complex. These changes are of two major types:

- construction of a new cell wing and yards, general upgrading and visitation facilities in the eastern extension of the gaol
- increased security measures generally including new catwalks, steel fenced areas, razor wire and electronic surveillance etc.

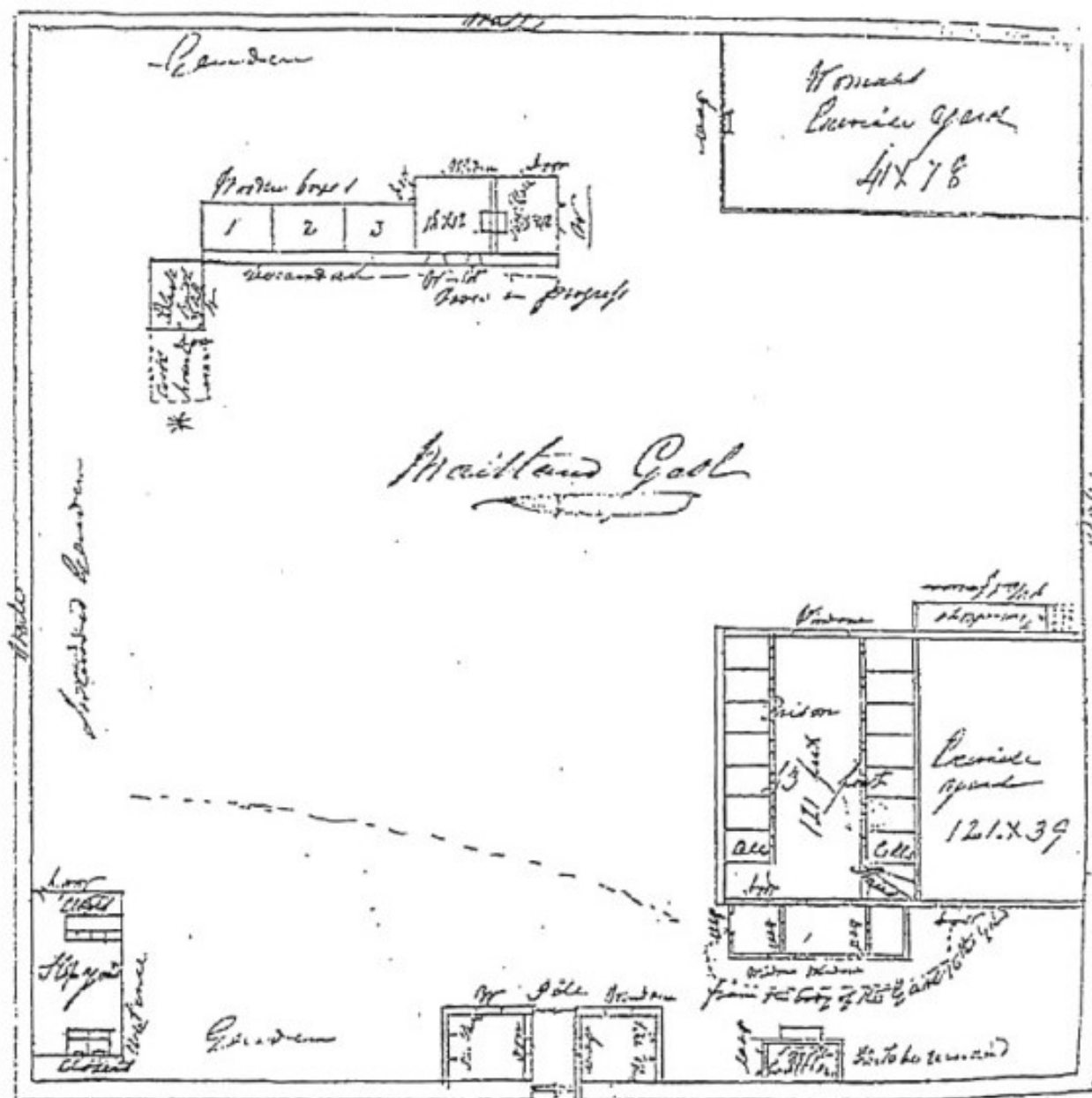


Figure 4.1 Sketch plan of Maitland Gaol by James Cox, Gaoler, 1850

Source: SA/NSW 2604B (from Heritas 2023).

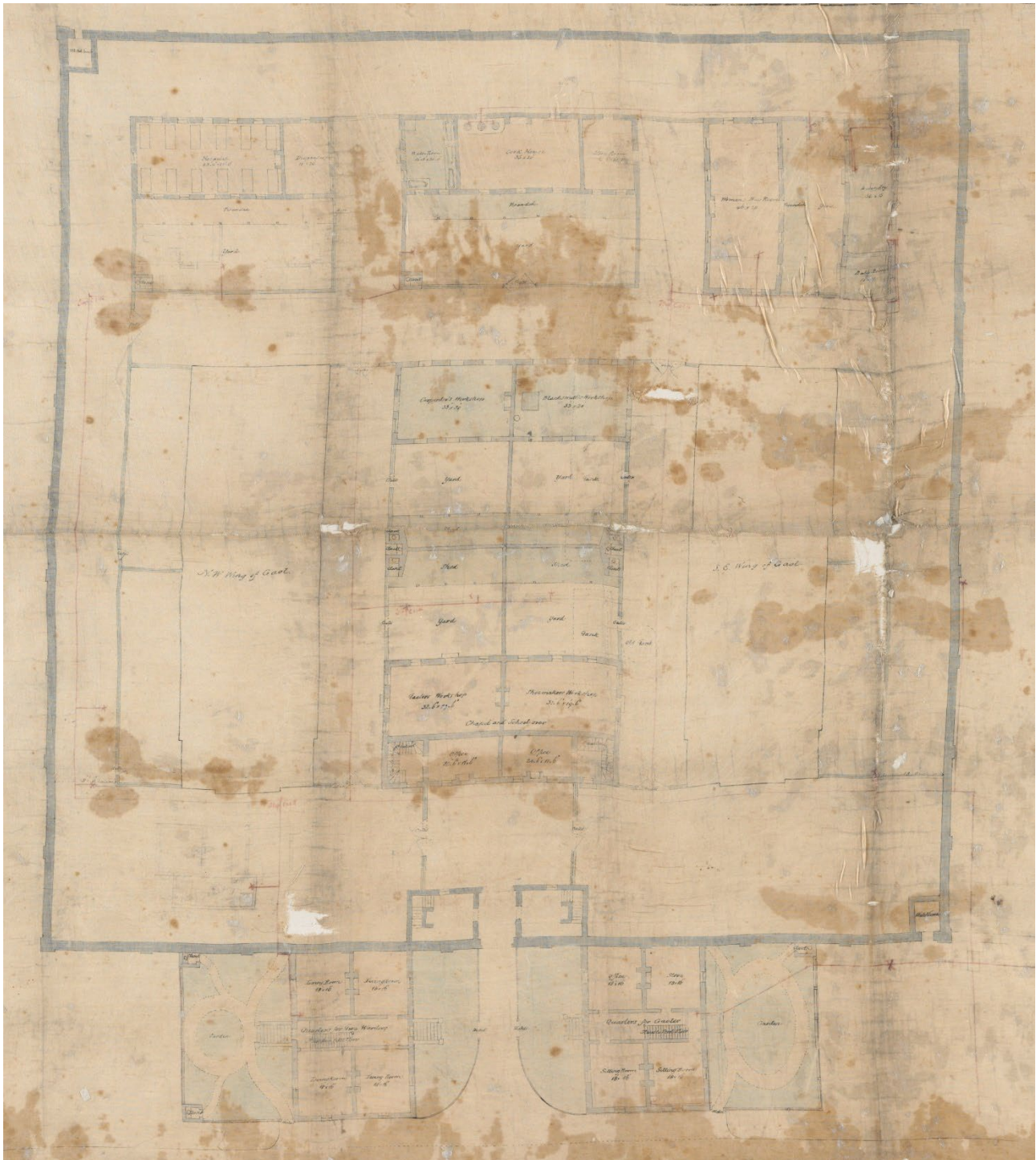


Figure 4.2 Undated Plan of Proposed Additions

Plan likely dates to the late 1860s and has James Barnet's signature. Barnet joined the Colonial Architect's Office in 1860 and by 1862 held the role of Colonial Architect.

Source: State Archives, NRS-4335-4-Plan794-PC321/43.



Figure 4.3 Detail of Undated Plan of Proposed Additions

Detail shows the Wardens Quarters on the north side of the John Street entrance with a formal garden layout and two closets (circled).

Source: State Archives, NRS-4335-4-Plan794-PC321/43.

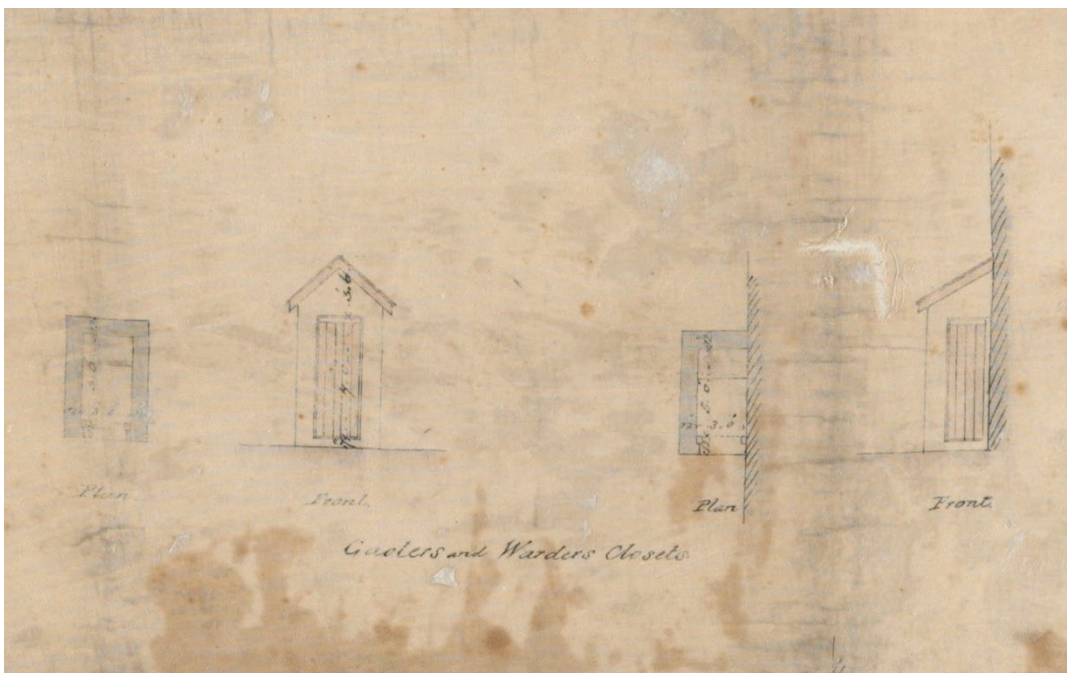


Figure 4.4 Detail of Undated Plan of Proposed Additions

Shows construction details of the closets.

Source: State Archives, NRS-4335-4-Plan794-PC321/43.

Figure 4.5 to Figure 4.12 provide plans and photographs of the Gaol showing changes and development relevant to the Project area.

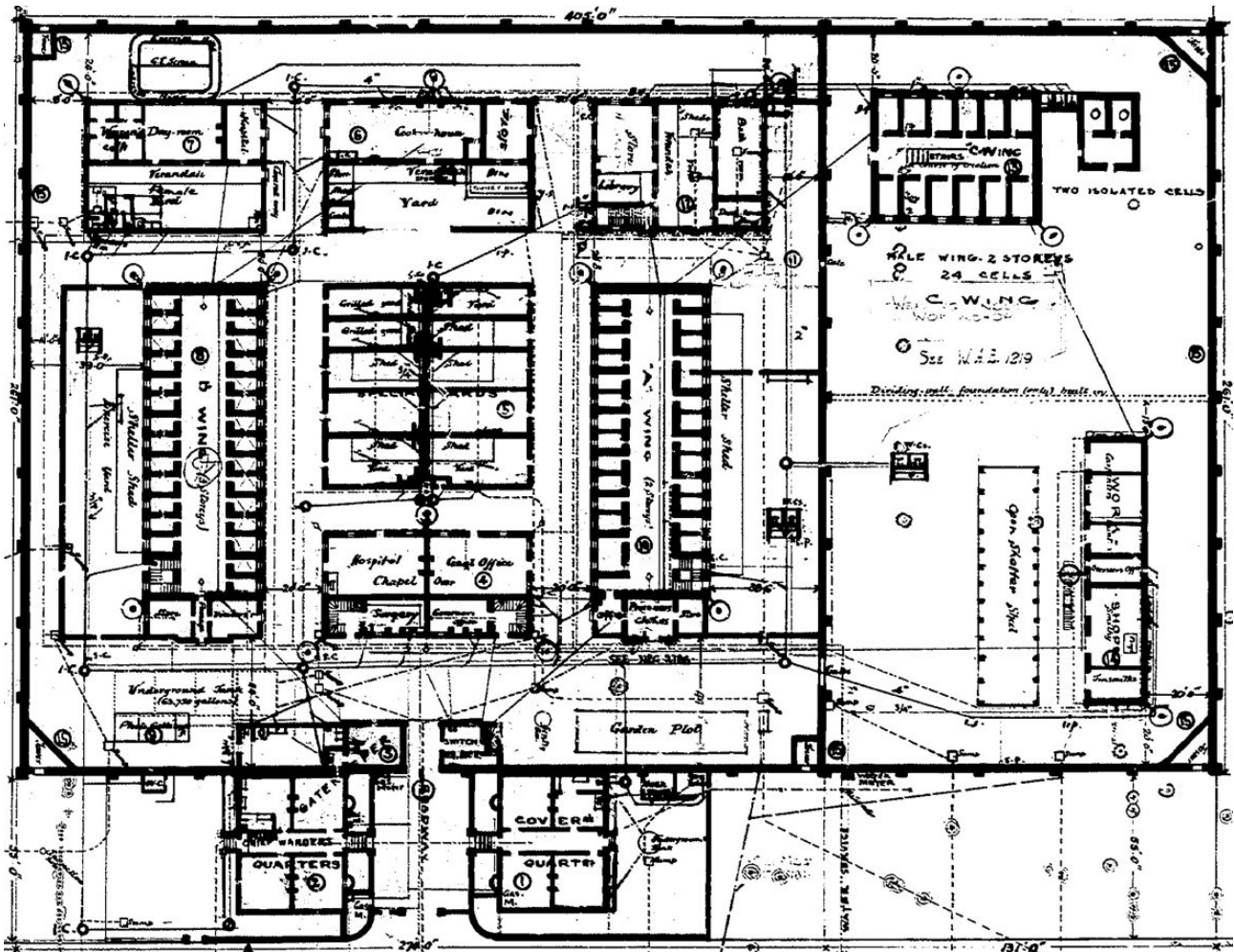


Figure 4.5 Undated plan of the Gaol

Plan shows the location of the underground tank, Photo Gallery building, external W.C. (closet) and garden beds. Refer to Figure 4.6 for detail.

Source: GAO drawing PC321_12.

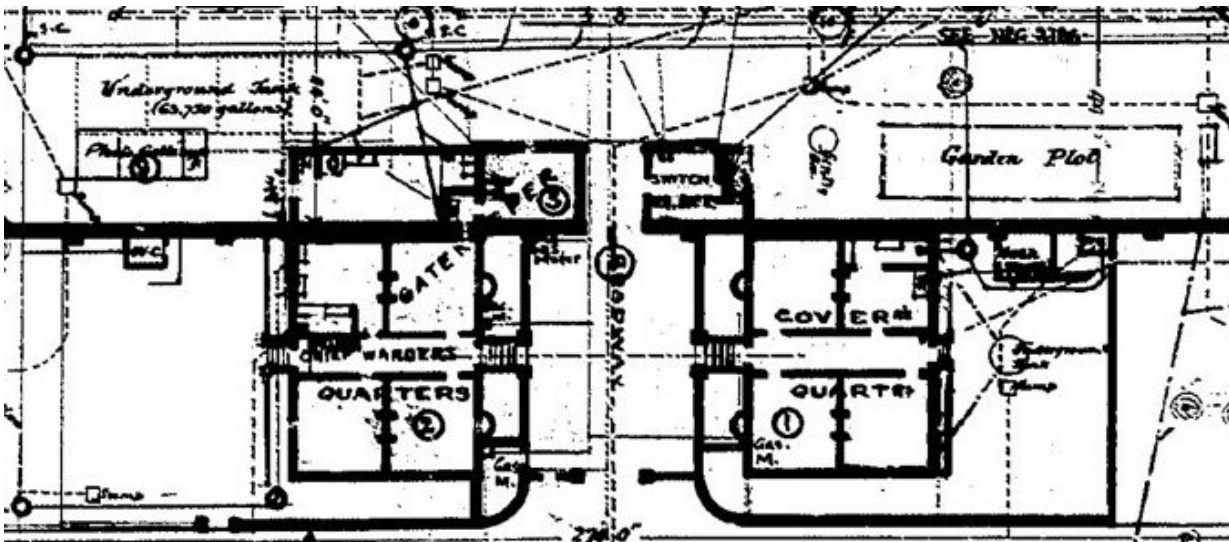
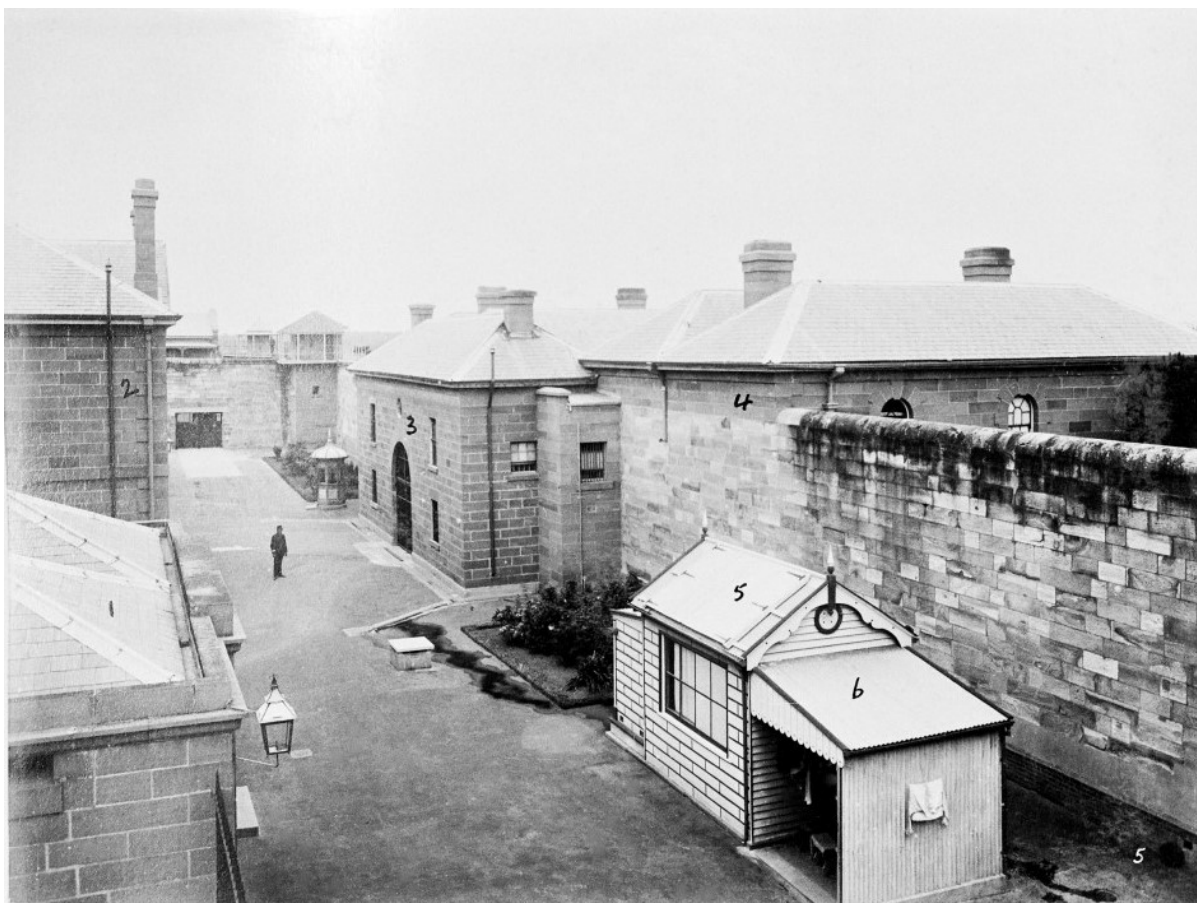


Figure 4.6 Detail of Undated Plan of the Gaol

Plan shows the location of the underground tank, Photo Gallery building, external W.C. and garden beds.

Source: GAO drawing PC321_12.



View from N^o. 10 Tower showing (1) B. Wing (2) Church (3) Gate (4) Back of Deputy Governors quarters (5) Photo Gallery (6) messengers shed.

Figure 4.7 1897 Photograph

Photograph shows Photo Gallery and Messengers shed with garden beds lining the perimeter walls.

Source: Department of Justice (from Heritas 2023).

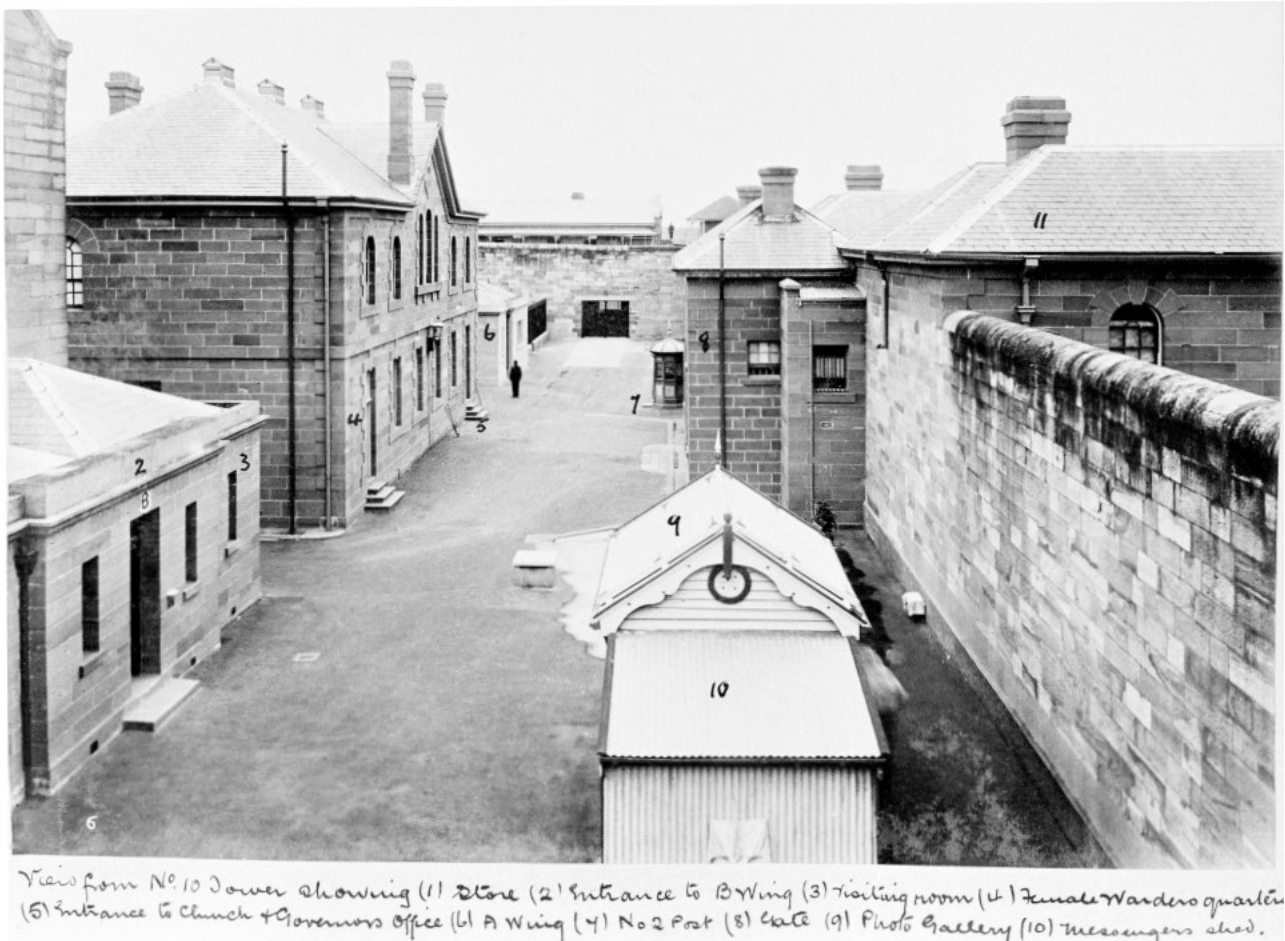


Figure 4.8 1897 Photograph

Photograph shows Photo Gallery and Messengers shed with garden beds lining the perimeter walls.

Source: Department of Justice (from Heritas 2023).

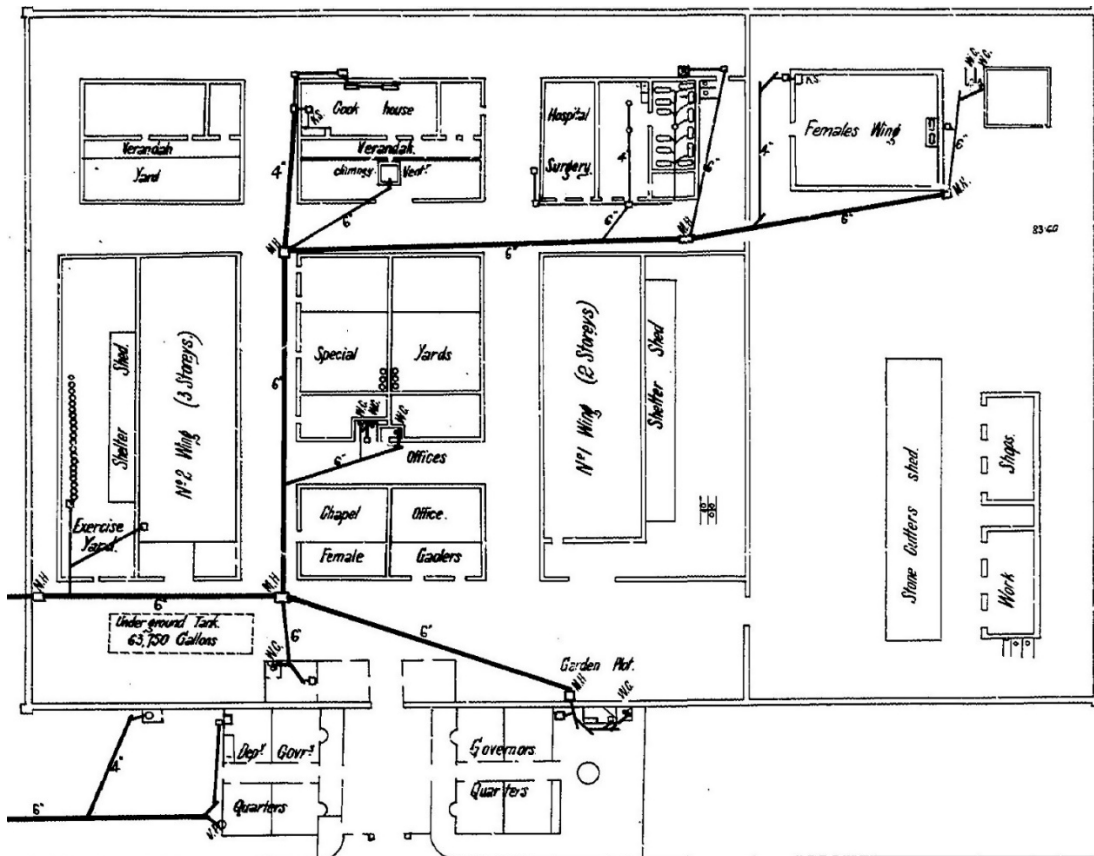


Figure 4.9 Updated plan of the Gaol

Plan shows the location of the underground tank, external W.C. and garden beds. Note the addition of water and sewerage services – including to external W.C. Refer to **Figure 4.10** for detail.

Source: GAO drawing 30114.

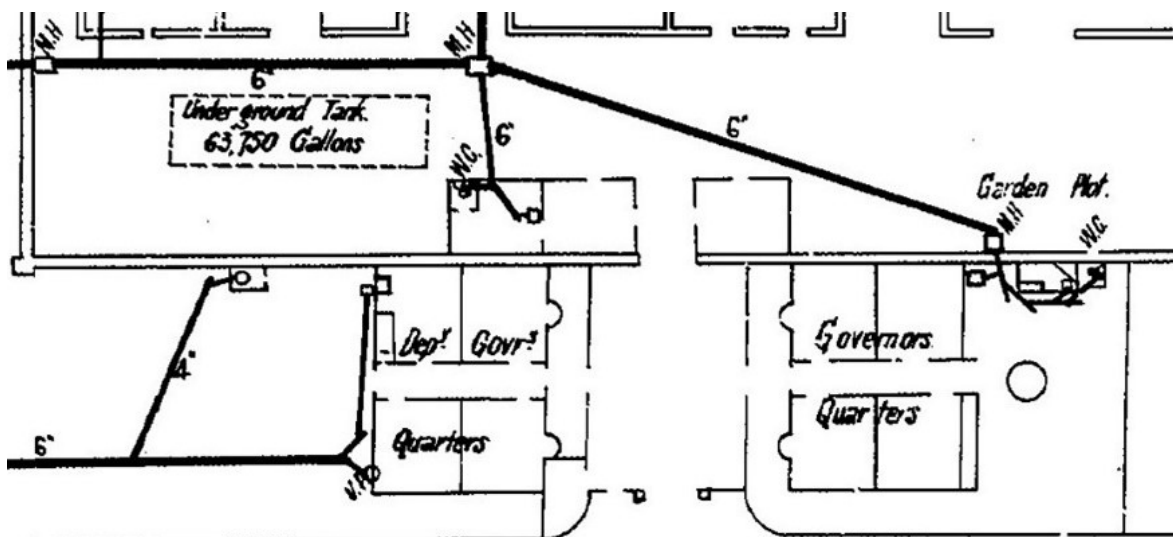


Figure 4.10 Detail of updated plan of the Gaol

Detail shows the location of the underground tank, external W.C. and garden beds. Note the addition of water and sewerage services – including to external W.C.

Source: GAO drawing 30114.



Figure 4.11 View Maitland Gaol from the west, January 1974

Photograph taken prior to the construction of the Staff and Warder's Amenities, now cafe. The location of the 'closet' against the wall can be seen (circled).

Source: Hunter Photobank, 104 008284.

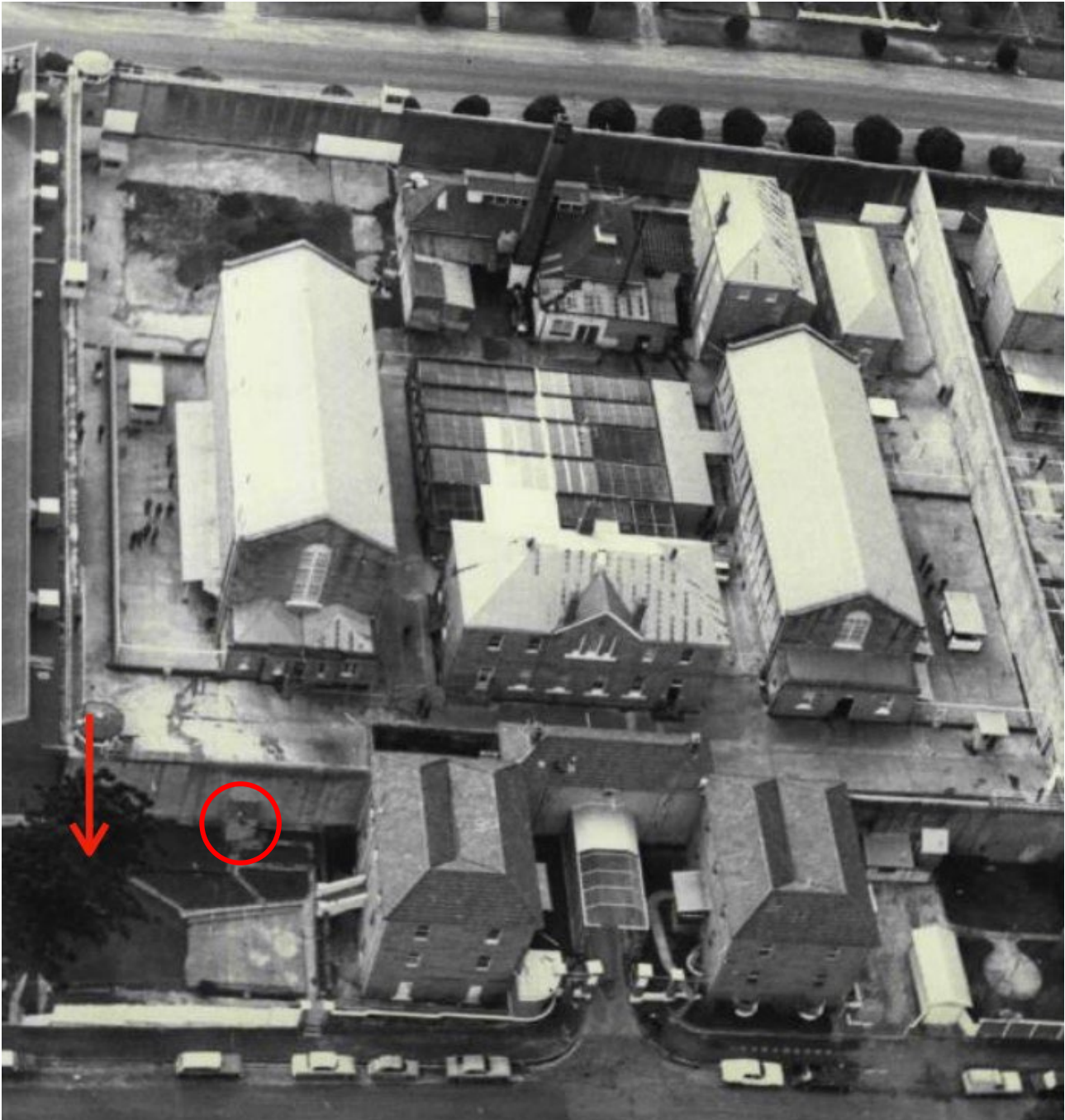


Figure 4.12 Detail of aerial view of Maitland Gaol, June 1978

Detail shows the courtyard to the former Lieutenant Governor's Residence prior to the construction of the amenities building. The 'closet' against the wall can be seen (circled). Pine tree on John Street indicated.

Source: Newcastle Herald (from Heritas 2023).



Figure 4.13 Detail of 1944 Aerial Photograph

Source: NSW Government Historical Imagery.



Figure 4.14 Detail of 1966 Aerial Photograph

Source: NSW Government Historical Imagery.



Figure 4.15 Detail of 1966 Aerial Photograph

Source: NSW Government Historical Imagery.



Figure 4.16 Detail of 1966 Aerial Photograph

Source: NSW Government Historical Imagery.

5.0 General Site Description

The Project area comprises the northwest portion of the Maitland Gaol site; including both internal and external spaces (refer to **Figure 1.2**).

The 2023 Statement of Heritage Impacts discusses:



As noted within the draft CMP (Issue 1) ‘there is little information about the development of the grounds...and no plans or maps showing the details of plantings, either within or outside the Gaol...there is nothing of landscape interest within the Gaol itself. Instead, one has to go beyond the Gaol walls to identify such elements.’

The landscape within the gaol boundary walls is, unsurprisingly, sparse of landscape, with some small areas of turf relieving expanses of masonry. The site of the Maitland Gaol Precinct is predominately level, with some slight sloping at the north-western end where the Police Barracks are located.

The immediate context of the gaol complex contains turf, small garden beds and street tree plantings. A large hoop pine remains as a historic entry marker to the gaol and is reflective of earlier landscaping. As one of the only remaining early plantings on the collective site, this tree maintains a moderate to high degree of heritage significance, reflective of the late Victorian taste for monumental, sculptural plantings often used as identification markers for important sites (Heritas 2023).

Table 5.1 provides a select number of photographs of the Project area.

Table 5.1 Project Area Photographs

Project Area Photographs	
	
<p>View to northeast showing entrance to Gaol</p>	<p>View to northeast showing location of the café screened by plantings. Large hoop pine on left</p>

Project Area Photographs



View to north showing location of the café screened by plantings



View to northeast showing entrance to café and the change in levels p to the café terrace



View to northeast showing former Lieutenant Governor's Residence steps leading down to café



View to southeast showing former Lieutenant Governor's Residence and café terrace

Project Area Photographs



View to northwest showing the cafe



View to southeast showing rear of the café building, Gaol walls and change in levels leading up to the café terrace



View to northwest showing gate house and internal courtyards



View to northwest showing internal courtyards



View to southeast showing internal paved courtyard



View to southwest showing Gaol wall and tower

Project Area Photographs



View to southwest showing 1970s addition of right, rear of B wing and concrete pathways



View to southwest showing B wing courtyard

6.0 Project Impacts

Project works which include below ground excavation with the potential to impact archaeological remains (if present in the location of the works) include:

- demolition of the Gaol Staff / Warder’s Amenities’ building (Building 22) and construction of a new café:
 - maximum depth of limited excavation is approximately 1.4 m (refer to **Figure 6.1**)
- minor sub-surface excavation to the internal courtyard area including for:
 - excavation associated with new services; for example potential new fire services for new hydrant to the Northwest of the Store building
 - footings of new rampway
 - footings of new heritage pavillion
 - new planting beds
 - new ground surface treatment to internal courtyard.
- Disassembly of walls:
 - due to the double skin construction material may be contained within the internal wall cavity.

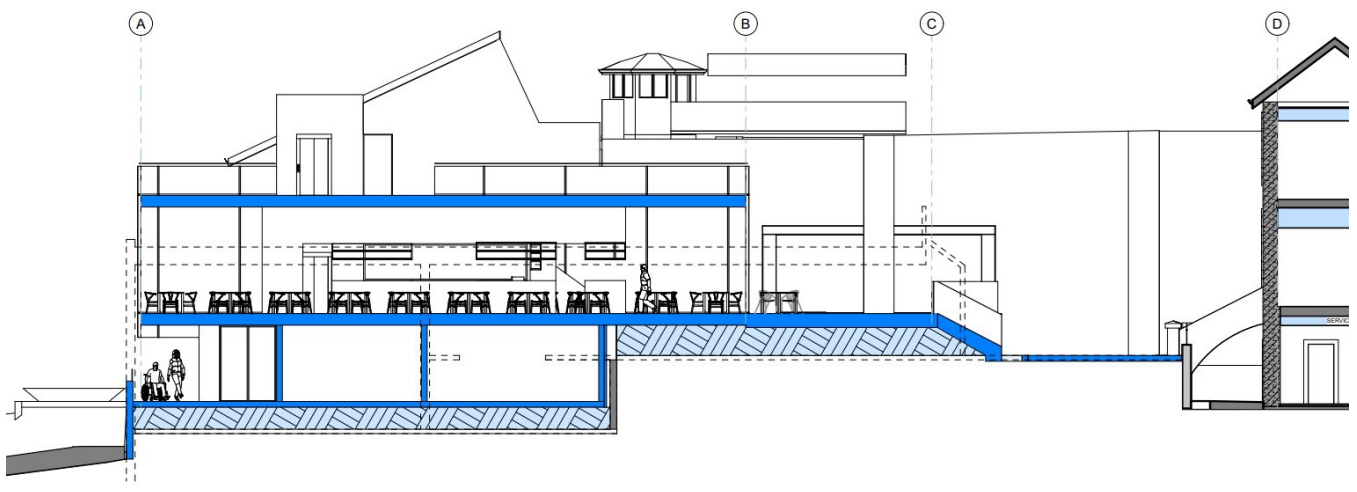


Figure 6.1 Detail of DA-301 section F

Detail shows the proposed new café. Existing building to be demolished shown as dashed lines. Note small area of excavation required.

Source: Maitland City Council 2022 Plan no. DA-301_D.

7.0 Historical Archaeological Assessment

Historical archaeology in Australia generally relates to the study of the past using physical evidence in conjunction with historical sources. Historical archaeology is generally defined as comprising the period since European arrival in Australia in 1788.

An archaeological resource is the physical evidence of the past and may comprise sub-surface evidence including building foundations, occupation deposits, features and artefacts. The historical archaeological potential of an area is the likelihood that there may be physical evidence relating to earlier phases of development and occupation beneath the current footprint of the site.

7.1 Potential Disturbance

The potential for a site to contain an archaeological resource is determined not only by the nature and extent of the historical development and occupation of the area, but also by the nature and extent of any subsequent disturbance to the site. In assessing archaeological potential, it is important to understand the level of potential disturbance to the archaeological resource. Existing below-ground disturbance may preclude the potential for historical archaeological remains in that particular location. While it is not possible to accurately determine the extent of disturbance due to the lack of subsurface visibility, it is possible to make a number of informed observations.

The construction of the Amenities Building is likely to have disturbed the area of the building's footprint. **Figure 7.1** and **Figure 7.2** show the substantial footings constructed for the building in addition to areas of cut and fill.

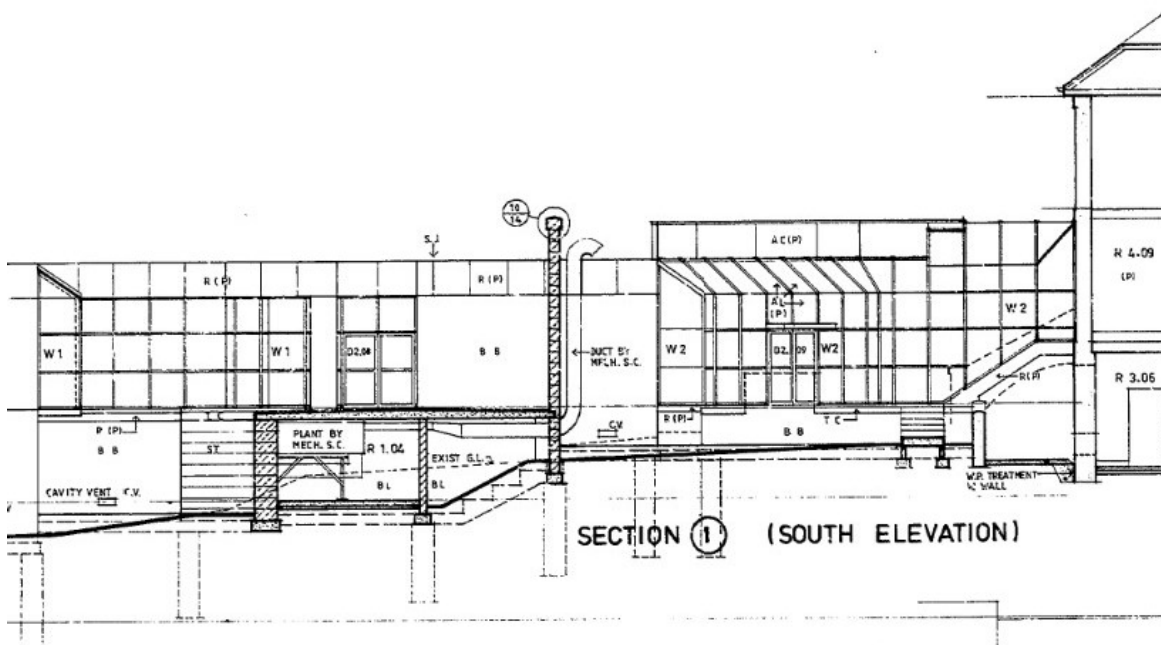


Figure 7.1 Detail of Maitland Gaol Officer's Amenities Building

Detail of 1980s dated section showing proposed cut beneath the previously existing ground level.

Source GAO Plan PC321/170.

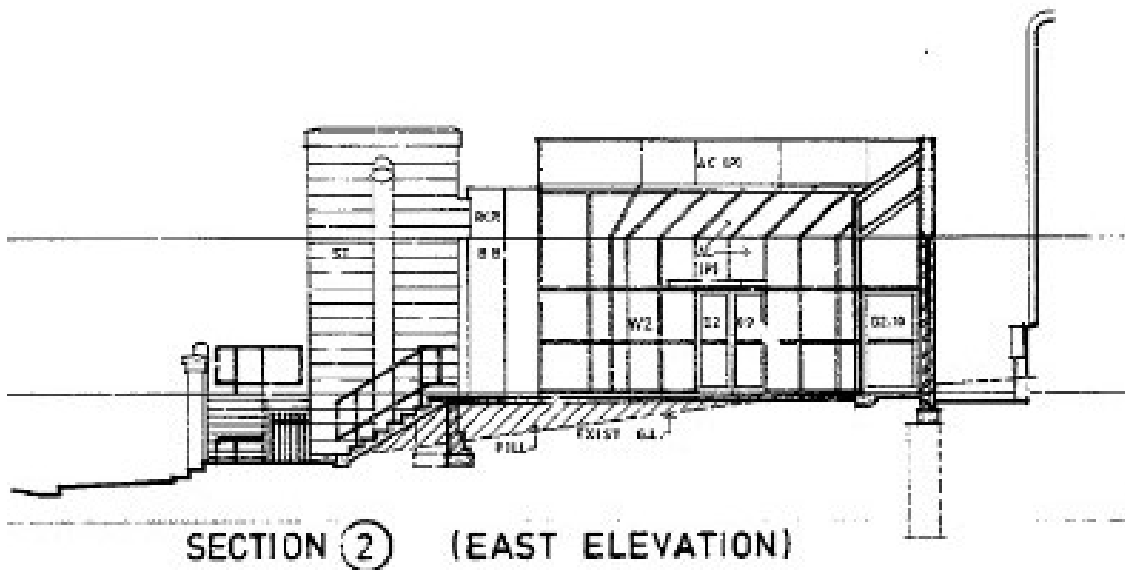


Figure 7.2 Detail of Maitland Gaol Officer’s Amenities Building

Detail of 1980s dated section showing proposed fill above the previously existing ground level.

Source GAO Plan PC321/170.

7.2 Previously Assessed Archaeological Sensitivity

The 1998 CMP, 2000 CMP and 2023 draft CMP discuss the development of the Gaol including the location of former buildings and areas of potential ‘archaeological sensitivity (refer to **Figure 7.3** and **Figure 7.4**). Heritas 2023 discusses Project works that interact with the previously identified archaeologically sensitive areas (refer to **Figure 7.5**).

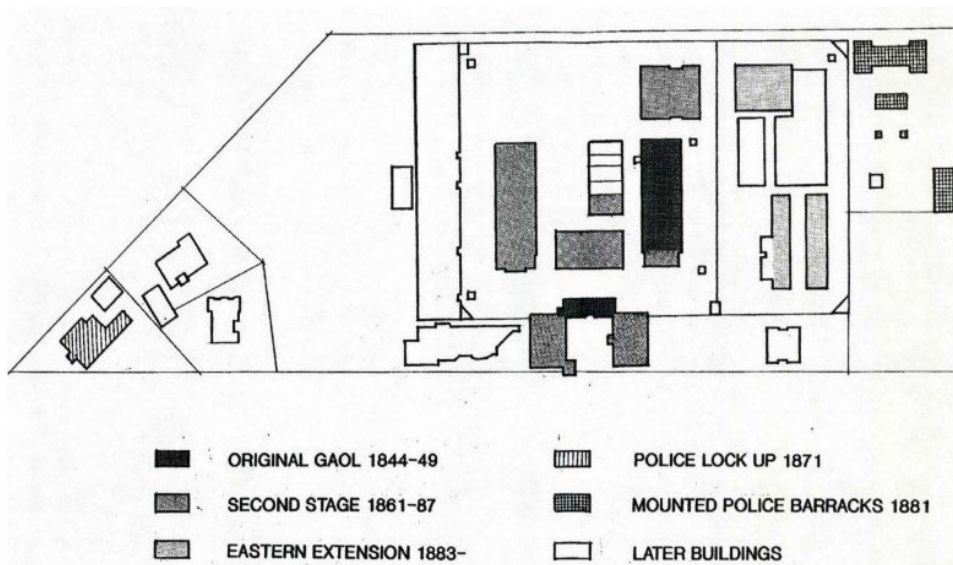
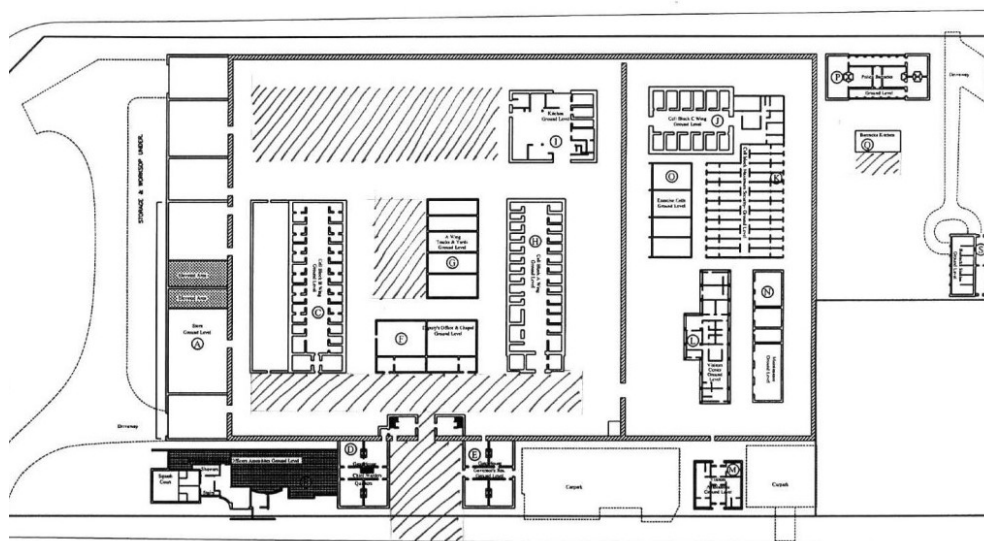



Figure 7.3 Plan showing periods of development

Source: Department of Public Works 1998 Figure 5-51.

LINDESAY STREET

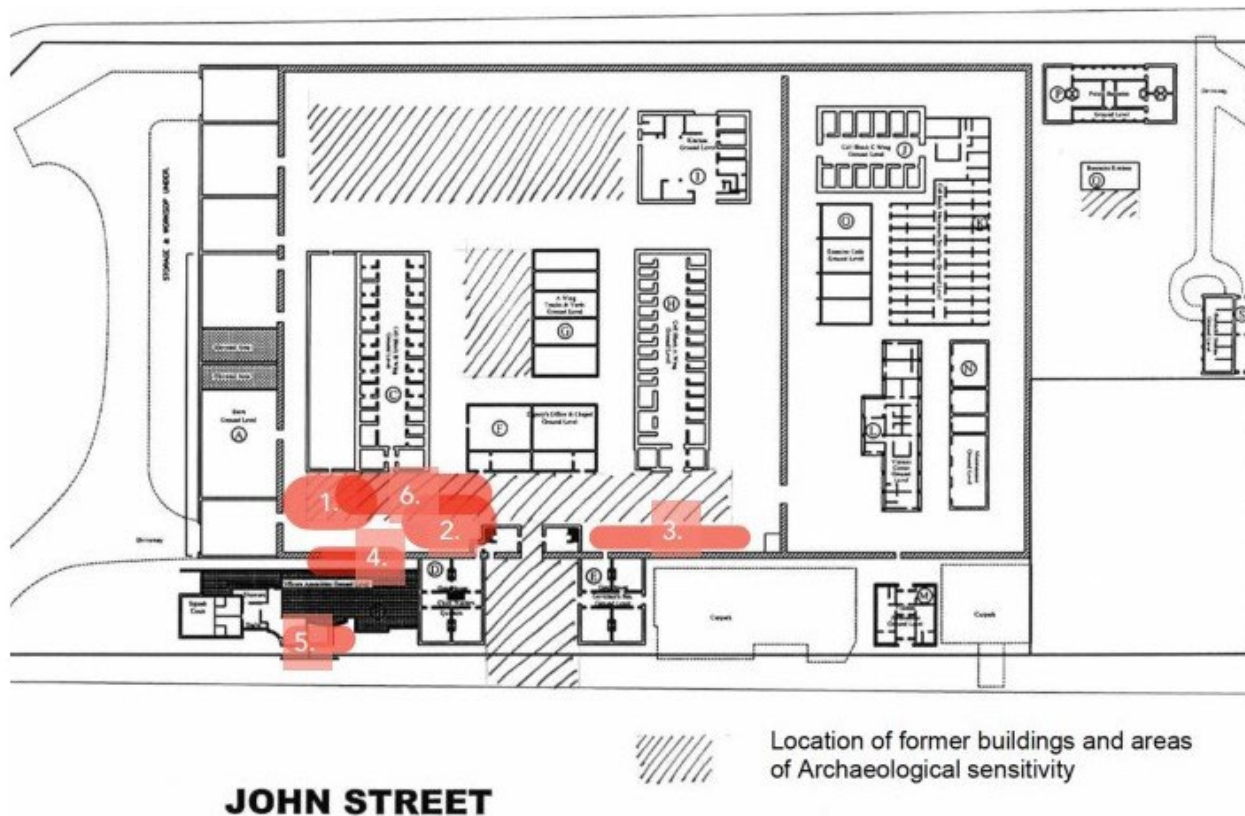


 Location of former buildings and areas of Archaeological sensitivity

JOHN STREET

Figure 7.4 CMP 2000 Figure 5 Archaeological Sensitivity

Source: Eric Martin & Assoc, Maitland Gaol Conservation Management Plan Part 2, p101.



Location	Nature of Works	Development Proposal
1	Sub-surface Excavation	Minor excavation for footings of new rampway.
2	Sub-surface Excavation	Minor excavation for footings of new heritage pavillion and planting beds.
3	Sub-surface Excavation	Minor excavation for new planting bed.
4	Internal Excavation	Removal of Ravensfield stone for new opening to perimeter wall.
5	Sub-surface Excavation	Demolition of existing Basement level erected as part of the 1980's extension.
6	Surface Excavation	New ground surface treatment to internal courtyard.

Figure 7.5 Heritas 2023 areas of archaeological sensitivity

Areas of proposed works shown in red.

Source: Heritas 2023 Figure 63.

7.3 Potential Archaeological Resource

While the proposed Project works are outside known potential archaeological remains such as the stone footings of two demolished buildings (Females' Wing and Cookhouse) there is potential for archaeological remains to be exposed during the Project.

The potential archaeological resource of the Project area is discussed further below.

7.3.1 Closets

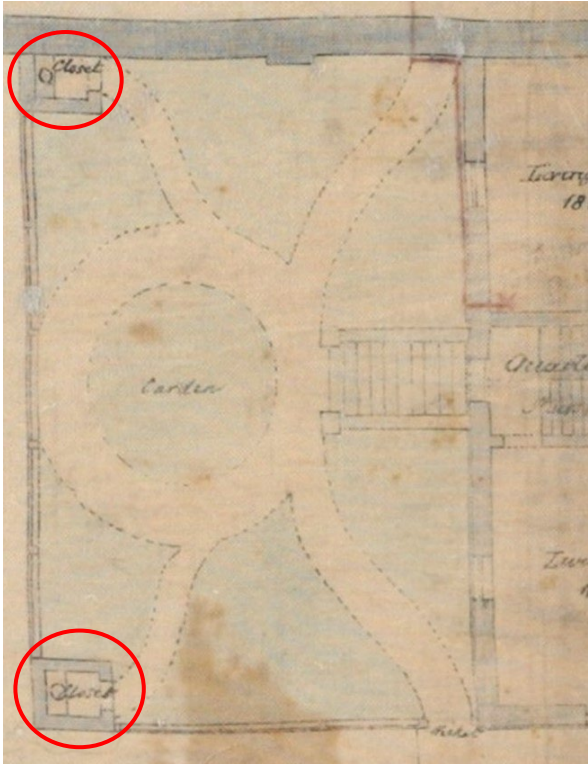
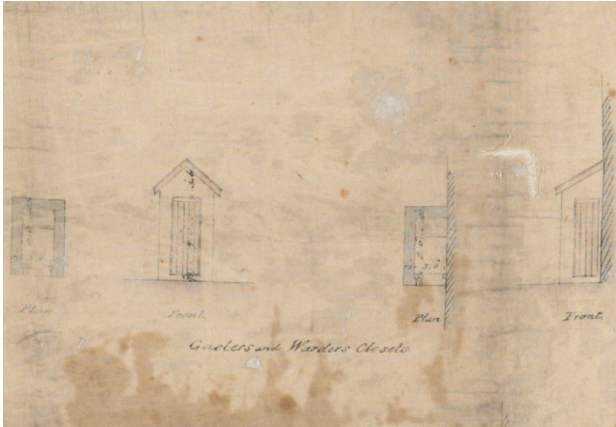
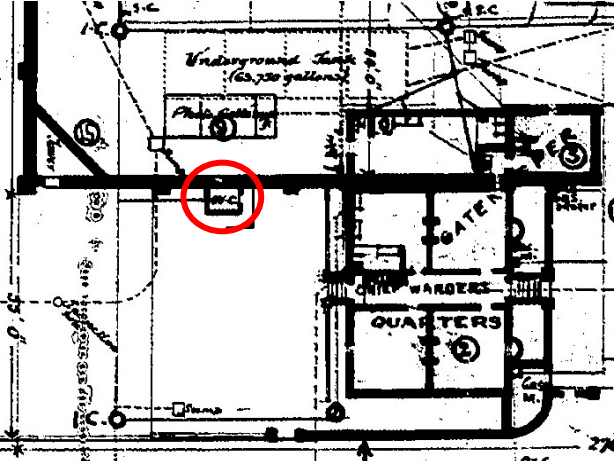
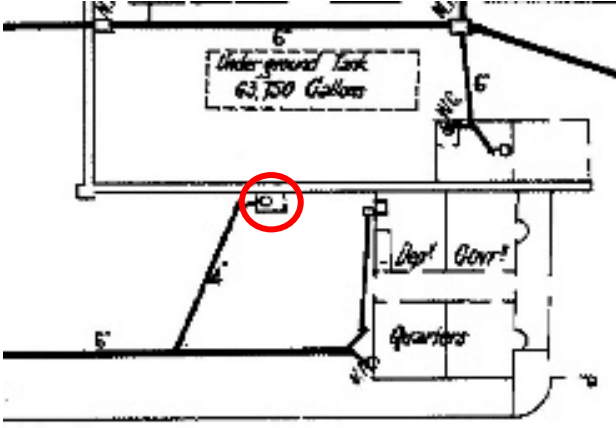
Evidence of subsurface features such as cesspits/privies is fairly common in archaeological sites with development dating to before the installation of water and sewerage services. Evidence of such features may even survive in areas that have been subject to disturbance (for example the construction and demolition of the amenities building), depending on the depth of the feature and the nature of the disturbance. Cesspits/privies have the potential to contain deposits of accumulated material dating to prior to the installation of water and sewerage services.

Water reticulation occurred in the Maitland and Newcastle areas following the completion of the Walka Water Works, located near Maitland, in 1887. In 1877 William Clark, an English hydraulic engineer had been commissioned to design the Walka water supply scheme. In 1879 the government resumed land at Oakhampton, West Maitland and authorised the construction of the scheme there. In 1885 water was first supplied to Newcastle from a temporary pumping station on the Hunter River at Oakhampton. In 1887 the Walka Waterworks were in operation and pipelines were extended to Maitland and the Newcastle municipalities. Newcastle received the first treated water in 1887. In 1888 Morpeth and East Maitland were also connected to the supply.

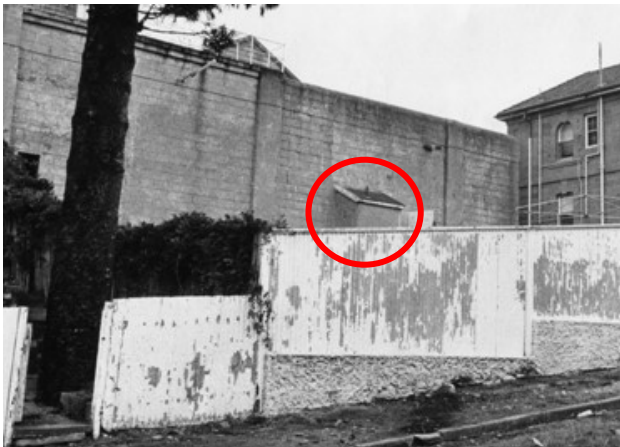
It is not possible to accurately assess the potential for deposits of accumulated material to be present within such features without some excavation. It is possible that when the water and sewerage services were installed the cesspits/privies were cleaned out prior to their conversion, thus removing the potential archaeological resource. However, the sewer pipes may have been installed above any accumulated deposit, resulting in some disturbance to the fabric of the cesspit but leaving the deposit in situ. Both of these situations have been witnessed on other archaeological sites.

If the 'closet(s)' shown within the Project area on the late 1860s plan of proposed additions and later shown as W.C. comprised cesspits which were later converted following the introduction of water and sewerage services, there is potential for deposits of accumulated material dating to the second half of the nineteenth century (refer to **Table 7.1**). It is noted that it is not known whether the formal gardens (and closets) were constructed as shown on the 1860s plan. Potentially just the one closet against wall of Gaol, as shown on the later plans and images, was constructed.

Table 7.1 Closets

Closets	
 <p>Plan shows the Wardens Quarters on the north side of the John Street entrance with a formal garden layout and closets (circled) at the corners of the garden.</p> <p>Source: State Archives, NRS-4335-4-Plan794-PC321/43.</p>	 <p>Construction details of the closets.</p> <p>Source: State Archives, NRS-4335-4-Plan794-PC321/43.</p>
 <p>Detail of undated plan showing single W.C. against wall of Gaol. A sump is indicated in the approximate location of the second closet shown on the 1860s plan.</p> <p>Source: GAO drawing PC321_12.</p>	 <p>Detail of undated plan showing water and sewerage services (including to the closet) and the below ground tank inside the Gaol walls.</p> <p>Source: GAO drawing 30114.</p>

Closets



Detail of 1974 photograph showing roof of 'closet' against Gaol wall.

Source: Hunter Photobank, 104 008284.



Detail of 1978 aerial showing 'closet' against Gaol wall.

Source: Newcastle Herald (from Heritas 2023).

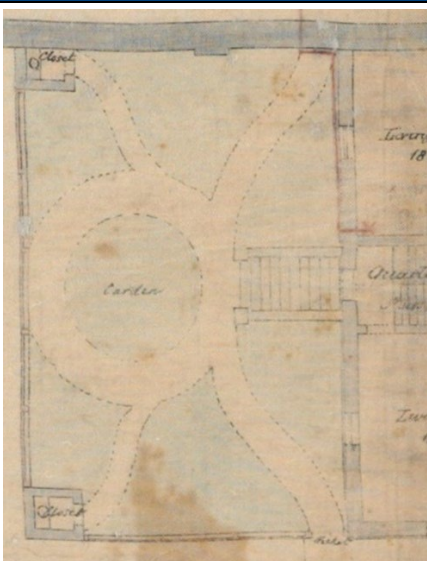
7.3.2 Gardens

The late 1860s Plan of Proposed Additions (refer to **Table 7.2**) shows the Wardens Quarters on the north side of the John Street entrance with a formal garden layout. Garden beds also lined the interior perimeter walls.

However, the remains of features such as garden beds and yards are typically ephemeral and sensitive to later disturbance, leaving little in the nature of an archaeological resource. The construction of the amenities building in the location of the Warden's Quarters garden would likely have removed all evidence of any formal garden layout.

Table 7.2 Gardens

Gardens



Plan shows the Wardens Quarters on the north side of the John Street entrance with a formal garden layout.

Source: State Archives, NRS-4335-4-Plan794-PC321/43.



Detail of 1978 aerial showing the Warden's Quarters garden.

Source: Newcastle Herald (from Heritas 2023).

7.3.3 Below Ground Tank

The below ground tank will likely survive intact beneath the internal paved courtyard area (refer to **Table 7.1**).

7.3.4 Photo Gallery Building

Late 1890s photographs of the Photo Gallery and Messengers shed buildings suggest they were of an iron clad timber frame construction (refer to **Figure 4.7** and **Figure 4.8**).

Archaeological evidence of such structures is typically ephemeral and susceptible to disturbances such as their demolition and ground preparation for resurfacing such as the current brick paved area.

7.3.5 Wall Cavity

As a result of the double skin wall construction, the disassembly of the Ravensfield stone walls and partial removal of the original 1840s Morpeth stone wall may expose material contained within the internal wall cavity.

7.3.6 Isolated Artefacts

Unexpected, isolated artefacts (or other remains) are less likely to be present within the Gaol walls as there would have been established controls on what the inmates had in their possession (Eric Martin & Associates 2000).

8.0 Historical Archaeological Significance

8.1 Introduction

An assessment of significance is undertaken to explain why a particular place is important and to enable appropriate site management to be determined.

The Australian ICOMOS Burra Charter 1999 (the Burra Charter) defines cultural significance as meaning 'aesthetic, historic, scientific or social value for past, present or future generations' (Article 1.2). The Burra Charter was written to explain the basic principles and procedures that should be followed in looking after important places. Cultural significance is defined as being present in the 'fabric, setting, use, associations, meanings, records, related places and related objects'. The fabric of a place refers to its physical material and can include built elements, sub-surface remains and natural material (Australia ICOMOS 2013).

8.2 Basis of Heritage Significance Assessment

The NSW Heritage Manual (1996) published by the then NSW Heritage Office and Department of Urban Affairs and Planning, sets out a detailed process for conducting assessments of heritage significance. The manual provides a set of specific criteria for assessing the significance of an item, including guidelines for inclusion and exclusion.

The Heritage Council of NSW recognises four levels of significance for heritage in NSW: Local, State, National and World. An item has local heritage significance when it is important to the local area. An item has state heritage significance when it is important in NSW. Most heritage in NSW is of local significance.

The seven criteria defined by Heritage NSW, and used by the NSW Heritage Council as an assessment format within NSW are outlined below:

- Criterion (a) an item is important in the course, or pattern, of NSW's cultural or natural history.
- Criterion (b) an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history.
- Criterion (c) an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW.
- Criterion (d) an item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons.
- Criterion (e) an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history.
- Criterion (f) an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history.
- Criterion (g) an item is important in demonstrating the principal characteristics of a class of NSW's cultural or natural places or cultural or natural environments.

8.2.1 Archaeological Significance

As a component of the holistic concept of significance, archaeological significance has traditionally been described as a measure by which a site may contribute knowledge, not available from other sources to current research themes in historical archaeology and related disciplines (Bickford & Sullivan 1984 19–26). Archaeological significance has traditionally been linked to archaeological research potential in that ‘a site or resource is said to be scientifically significant when its further study may be expected to help answer questions...that is scientific significance is defined as research potential’ (Bickford & Sullivan 1984 23–24).

Following Bickford and Sullivan’s work on archaeological significance (Bickford & Sullivan 1984) the following questions are generally used as a guide to assess the significance of an archaeological site in terms of its research potential (Criterion (e) of the NSW Heritage assessment criteria):

- Can the site contribute knowledge that no other resource can?
- Can the site contribute knowledge that no other site can?
- Is this knowledge relevant to general questions about human history or other substantive questions relating to Australian history, or does it contribute to other major research questions?

In 2009 the Heritage Council of NSW endorsed the Heritage Branch Department for Planning (now Heritage NSW) guideline Assessing Significance for Historical Archaeological Sites and ‘Relics’ which considers a broader approach to archaeological significance rather than a focus on the research potential of an archaeological site only.

The following significance assessment is based upon the broader questions detailed in the 2009 endorsed guidelines.

8.3 Archaeological Significance Assessment

Archaeological Research Potential (NSW Heritage Criterion E)

Archaeological research potential is the ability of archaeological evidence, through analysis and interpretation, to provide information about a site that could not be derived from any other source and which contributes to the archaeological significance of that site and its ‘relics’. Archaeological deposits and features can provide evidence of the history and settlement of NSW unavailable from other sources, such as historical documentation. Archaeological investigation can provide information regarding technologies, economic and social conditions, taste and style. Archaeological features and deposits can provide primary evidence about the way of life of previous generations. The investigation, analysis and interpretation of the potential archaeological remains that may be present within the Project area may contribute information about the development and use of the Gaol.

Research potential of a particular site and its ability to answer research questions is dependent on a high level of intactness in the archaeological resource. While it is not possible to accurately determine the extent of disturbance, and hence the level of intactness of the potential archaeological resource, due to the lack of subsurface visibility, the Gaol site has undergone several phases of development; particularly the construction of the amenities building which will have resulted in a substantial disturbance to the Warden’s Quarters garden area.

In general, any archaeological remains (such as footings or the below ground tank) exposed would confirm the evidence available from plans and other images. With the exception of the closets, the potential for well provenanced archaeological deposits to be exposed is considered to be low. If deposits of accumulated material are present associated with one (or both) of the closets shown on the 1860s plan they could provide important information about the development and use of the Gaol; and could provide a time capsule of data relating to the lives of the prison wardens.

If material is exposed within wall cavities it could provide evidence relating to the construction of the Gaol, and the people who built the walls, from the 1840s.

Associations with individuals, events or groups of historical importance (NSW Heritage Criteria A, B & D)

Maitland Gaol has associations from its long history of holding notorious criminals, as well as groups such as homosexuals and local unionists; and as the scene of famous escapes and hangings (Department of Public Works 1998). However, it is unlikely that any historical archaeological resource exposed at the site during the Project would provide strong evidence of this association.

However, if deposits of accumulated material are present associated with one (or both) of the closets shown on the 1860s plan they could provide important information relating to the lives of the prison wardens.

While a study of the social values of the Project area has not been undertaken during the preparation of this report it would be considered unlikely that any historical archaeological remains that survive would have a strong association with any previous or contemporary particular community or group.

It is noted that an archaeological site can take on additional social values as a result of community interest in archaeological excavations and remains.

Aesthetic or technical significance (NSW Heritage Criterion C)

At this time, when the archaeological evidence at the site is obscured, it is impossible to determine with any certainty whether, and if so, how, the archaeological features at this site would meet this criterion.

As discussed, an archaeological site can take on additional social values as a result of community interest in archaeological excavations and remains. Archaeological remains that comprise intact and understandable remains can allow both professionals and the community to 'connect with the past through tangible physical evidence' (Heritage Branch 2009). However, until the site is excavated it is not possible to determine any such significance.

Ability to demonstrate the past through archaeological remains (NSW Heritage Criteria A, C, F & G)

If intact deposits of accumulated material are present associated with one (or both) of the closets, the evidence could present an opportunity to investigate the lives of the former prison wardens.

Maitland Gaol Conservation Management Plan 2023 (Draft)

The draft 2023 Maitland Gaol CMP identifies that an archaeological resource at the Gaol 'is an important archive for understanding Australian history' (Eric Martin & Associates 2023).

8.4 Statement of Significance

Maitland Gaol is of considerable significance because it is the oldest substantially intact country gaol in NSW. It is Australia's oldest structure in continuous use as a gaol. It is the only surviving example of the group of "Inspectors' Gaols" designed by the Colonial Architect in NSW and built during the 1840s (Heritage NSW Maitland Correctional Centre). The Gaol site (and any archaeological resource that may be present) could provide evidence of changing penal attitudes and practices over the last 150 years.

With the exception of the closets and the possibility of exposing material within the wall cavities, the potential for well provenanced significant archaeological remains to be exposed is considered to be low. If deposits of accumulated material are present associated with one (or both) of the closets shown on the 1860s plan they could provide a time capsule of data relating to the lives of the prison wardens. If material is exposed within the wall cavity it could provide evidence relating to the construction of the Gaol from the 1840s, and the people who built the walls.

9.0 Aboriginal Due Diligence

The following section considers the Aboriginal archaeological potential of the Project area, with reference to the requirements of the Due Diligence Code.

9.1 Environmental Context

The decisions that people make regarding such things as where they live, the range of resources they use, and other aspects of daily life may be influenced by the environment in which they live. The preservation and visibility of sites is also affected by environmental factors such as past land-use and disturbance. A review of the environmental context of the project area is therefore integral to considerations of site visibility, preservation, and occurrence within the project area.

The Project area is situated within the Beresfield soil landscape, which is characterised by undulating rolling hills and rises. Slope gradients range from 3–15%, local relief can reach up to 50 m and elevation is 20–50 m. The locality of the Project area, however, consists of predominately flat terrain extending to the Hunter River. The soil profile consists of brownish/black loam to hard setting yellowish brown sandy loam (A horizon, 0–15 cm) and brown/dark brown to reddish brown mottled clay (B horizon, 15–120 cm).

The underlying geology consists of the Permian Tomago Coal Measures and/or Mulbring Silestone, which may contain shale, mudstone, sandstone, coal, tuff and limestone. Mudstone or tuff are representative of common raw materials utilised for the manufacturing of stone tools or implements, and it is possible that such materials, should they be identified in suitable quality, could have been used in this manner within a local context.

The Project area is located within a broader area that has rich swamp and freshwater resources. Situated within the Hunter River Catchment area, the Project area is situated ~1.5km south of the Hunter River. A modified minor drainage line from Howes Lagoon, a water body located ~1 km north-east, is located north of Morpeth Road and within 260 m of the Project area. Swamplands associated with Four Mile Creek, a 2nd order tributary of the Hunter River, are located ~2 km south-east, whilst Wallis Creek, a 3rd order tributary of the Hunter River, is ~1.25 km west. The proximity of the Hunter River and perennial tributaries would strongly suggest that fresh water was available within walking distance of the Project area. The Hunter River has been historically subject to significant flooding, with the surrounding environs, inclusive of the Project area, being impacted by such events.

Prior to European contact the vegetation community across the Project area and the surrounds would have included open forest which would have been composed of broad-leaved ironbark, spotted gum, grey ironbark, grey myrtle and forest red gum amongst others. The vegetation community would have provided habitat for a variety of fauna which would have been utilised by past Aboriginal peoples as food and raw material sources. Terrestrial faunal food sources would have included kangaroos, wallabies, sugar gliders, possums and a variety of small animals including lizards, snakes and birds. Nearby swamp resources may have included various freshwater fish, eel and shellfish.

Since the arrival of Europeans to the local area, the surrounding landscape has been cleared of the vast majority of original native vegetation. The Project area does not contain any mature native vegetation and has been subject to these clearance activities. Ongoing construction and development of the Gaol site since the 1840s will have resulted in a major disturbance to the pre 1840s landscape.

9.1.1 Summary

The information present above would strongly suggest that the Project area is situated within a wider environment containing abundant natural resources, capable of supporting or supplementing the diet of Aboriginal people. The proximity of the Hunter River would suggest that Aboriginal people could easily access fresh drinking water and the underlying geology of the region indicates that viable raw materials were available for the manufacturing of tools and stone implements. Although the Project area is situated within a suitable landscape, it is likely that areas of elevation closer to the main freshwater courses would have been preferable for resource exploitation and camping.

Historic development and land use indicates that the Gaol site was subject to extensive and ongoing disturbances since the 1840s, which would have impacted the soil profile of the area and likely resulted in the removal or disturbance of any Aboriginal sites/objects that may have been present.

Overall, it is likely that any use of the Project area would have been transient or opportunistic in nature. As the Project area has been subject to historic and contemporary disturbance in relation to the construction and ongoing use of Maitland Gaol, disturbance is likely to have impacted any archaeological deposits that may have been present within the upper portion of the soil profile and would have previously removed/disturbed any archaeological evidence of such occupation on the surface.

9.2 Ethnographic Context

Ethnohistoric information can be of use in gaining an understanding of how Aboriginal people lived in the vicinity of the Project area at the time of early contact. However, in reviewing ethnohistoric accounts, it must be noted that the majority of these document Aboriginal society from the perspective of non-Aboriginal men who would not have had access to all aspects of Aboriginal society and who viewed Aboriginal people from an entirely non-Aboriginal perspective. In addition, most ethnohistoric accounts date from a period when introduced diseases had already had an impact upon Aboriginal society (refer to Butlin 1983). These limitations must be considered.

Aboriginal tribal boundaries within Australia have been reconstructed, primarily, based on surviving linguistic evidence and are therefore only approximations. Social interaction, tribal boundaries and linguistic evidence may not always correlate, and it is likely boundaries and interaction levels varied and fluctuated over time. With reference to Tindale's (1974) mapping of Aboriginal traditional lands, the Project area maps approximately at the boundary between Wonnarua and Awabakal Country. There is currently no registered Native Title claim over the area. Based on the available information, it is likely that the current Project area was within lands that formed a transitional area between Awabakal and Wonnarua Country. Consequently, this report speaks about Aboriginal people more generally rather than referencing cultural practices by tribal grouping.

Matrilineal societies in south-eastern Australia were an essential element of Aboriginal social and cultural organisation and expressed distinct and strict ritual responsibilities for the maintenance of the natural world. Exogamy was a common practice where women married into an opposite clan/group. This meant that neighbouring clans were often interrelated through marriage and often shared cultural histories and responsibilities.

The traditional lives of Aboriginal people in the region were structured around a schedule of these social interactions loosely designed to take advantage of seasonal availability of resources; meaning that people moved often, but not at random. Before the arrival of the Europeans the Wonnarua were described as a large grouping of individual family units and bands which came together for religious and ceremonial functions (Davidson and Lovell-Jones, 1993:3). Gatherings were likely to have been the coming together of kinship groups for shared social and ceremonial life. On occasion gatherings would also have included the gathering of adjacent clan groups on a basis of mutual benefit and agreement, and between tribes separated from each other by geographic distance (Wheeler 1910).

People were reported to have travelled freely within the broad area of responsibility of their own clan group. Social and cultural responsibilities and obligations meant that people (often young men) sometimes travelled great distances beyond their own territories to journey songlines (songs of Country), attend ceremonies, trade and develop social networks. This potentially linked people across extensive areas with records demonstrating that social ties extended from the coast to the western plains of NSW (Brayshaw 1986). These gatherings also provided trading opportunities for a wide range of goods, from ceremonial songs and dances to stone axes, spears, possum skins and native tobacco (Mulvaney 1986). Some groups specialised in producing high quality trade goods. Events like this were scheduled when and where seasonal resources were plentiful or at least where it was possible to use available resources more intensively.

There is little ethnographic evidence about where Aboriginal people camped however, there is mention of the importance of fresh water. The provision of vantage points was also of importance in camp location in case of enemy attack (Fawcett 1898:152 in Brayshaw 1986:42). From camp sites, people would travel each day to gather plant foods and to hunt or to visit areas that provided required resources (for example stone, ochre, bark and resin). The daily foraging area was generally within a day's walk of camp. Brayshaw (1986) notes that of all raw materials available, bark appears to have been the most widely used and the most adaptable. The use of bark for huts, or 'gunyers' (gunyahs), is well documented.

Early historic reports describe the Hunter Valley as having extensive grasslands and floodplains with few trees (Breton 1833, Cunningham 1827, Howe 1819). These grasslands are thought to be the result of Aboriginal 'fire stick' farming techniques, which involved burning the countryside as a land management technique and a hunting strategy (Davidson and Lovell-Jones, 1993). This activity left a mosaic of vegetation communities and the development of grasslands resulting in increased biodiversity. Burning also facilitated travel by clearing the ground surface of undergrowth and timber and fresh growth which attracted prey animals (Gammage 2011). The use of 'fire stick farming' or 'burning' was utilised all throughout Australia and the Wonnarua were no exception, using fire to control the landscape and feeding ground of various terrestrial animals (Fawcett 1898 and Cunningham 1827).

It has been suggested that the Aboriginal population of the Hunter area, prior to European settlement, was in the hundreds and largely consisted of smaller family groups of no more than 40 people in any given place. Before the arrival of the Europeans the Wonnarua were described as a large grouping of individual family units and bands which came together for religious and ceremonial functions (Davidson and Lovell-Jones, 1993:3). Gatherings were likely to have been the coming together of kinship groups for shared social and ceremonial life. On occasion gatherings would also have included the gathering of adjacent clan groups on a basis of mutual benefit and agreement, and between tribes separated from each other by geographic distance (Wheeler 1910). The Awabakal had extensive relationships with neighbouring groups such as the Wonnarua to the northwest, the Worimi to the north, and the Darkinjung and Guringai to the south and southwest.

Due to the increasing interactions between Europeans and Aboriginal people, introduced diseases such as smallpox and various venereal diseases often spread through the Aboriginal population with devastating consequences. A smallpox epidemic spread through the Sydney and Hawkesbury region in 1789, rapidly spreading through the vulnerable Aboriginal population. Further outbreaks of the diseases are noted to have occurred throughout the Hunter region in 1810 and between 1829 and 1831.

The material culture of Aboriginal people changed dramatically following contact, with the rapid influx of new technologies and materials. Threlkeld (in Gunson 1974) provides two examples of new technologies being utilised by Aboriginal people within the Lake Macquarie area, noting that bottle glass replaced stone ('fragments of quartz') in Aboriginal weapons and that iron and glass were used for fishhooks. European settlement and encroachment on resources and traditional camping groups restricted Aboriginal occupation and dramatically affected Aboriginal communities, but it did not completely destroy connections to traditional camping grounds. There was a continuation of cultural connection and, in some cases, occupation of these places that date well into the twentieth century.

9.3 Aboriginal Archaeological Context

9.3.1 Due Diligence Assessment

The *National Parks and Wildlife Act Regulation 2019* (the Regulation) identifies that compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* is taken to constitute due diligence in determining whether a proposed activity will harm an Aboriginal object. Section 87(2,4) of the *National Parks and Wildlife Act 1974* establishes that it is a defence to prosecution under Section 86(2) (the strict liability offence) if due diligence was exercised to reasonably determine that the activity or omission would not result in harm to an Aboriginal object. The following section discusses Aboriginal cultural heritage in consideration of the due diligence code.

A review of available archaeological information is crucial to the archaeological assessment process, as it informs our understanding of archaeological site patterning, site survival and the potential for detection of extant archaeological sites. This information is discussed with reference to the outcomes of a search of the Aboriginal Heritage Information Management System (AHIMS) database (which documents the location and nature of sites for which site cards have been lodged) and a summary of the outcomes of previous archaeological investigations in the local area.

9.3.2 Aboriginal Heritage Information Management System

The Aboriginal Heritage Information Management System (AHIMS) database, administered by Heritage NSW, contains information regarding the location and nature of Aboriginal archaeological sites within New South Wales.

It also contains information about Aboriginal places, which have been declared by the Minister to have special significance with respect to Aboriginal culture. Previously recorded Aboriginal objects and declared Aboriginal places are known as 'Aboriginal sites'.

A search of the AHIMS database of the current Project area was undertaken on 24 January 2023. The AHIMS search was focused on Lot 469 DP1002766, with a 200 m buffer applied. This location corresponds with the Maitland Gaol site, situated at 6/18 John Street, East Maitland, NSW.

No registered Aboriginal sites were identified during the AHIMS search.

9.3.3 Previous Archaeological Assessment

This section provides available information from nearby previous archaeological studies to provide a context and baseline for what is known about Aboriginal cultural heritage in the area.

Umwelt 2018 – Aboriginal Cultural Heritage Assessment Report, New Maitland Hospital, Metford, NSW

Health Infrastructure NSW (HI) commissioned Umwelt to prepare an Aboriginal Cultural Heritage Assessment prior to the proposed construction of the Maitland Hospital at Metford, NSW. The subject site is situated on Lot 7314 in DP 1162607 and Part Lot 401 DP 755237, within the “Metford Triangle” on the eastern side of Metford Road near East Maitland. The current Project area is located ~2 km south-east.

An AHIMS search was undertaken and identified one isolated find within the subject site and three open camp sites and one PAD within approximately 1 km of the subject site. The subject site had been severely impacted by prior quarrying activities, resulting in the expansion modification of the landscape. A visual inspection of the subject site was undertaken, and an attempt was made to re-identify the isolated artefact previously recorded within the subject site. The isolated find was not identified, and no new Aboriginal sites/objects were identified. Dense vegetation limited visibility and accessibility across the site, potentially impacting the likelihood of identifying cultural heritage materials/sites.

A cultural heritage meeting was held prior to the visual inspection, during which the Aboriginal representative present outlined the cultural significance of the wider Maitland area. Although identified as an area that would likely have been utilised by past Aboriginal peoples, it was confirmed that areas closer to the main freshwater courses and the swamps would have been preferable for resource exploitation and camping.

9.3.4 Assessment of Aboriginal Archaeological Potential

Section 8 of the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales* outlines the process to guide due diligence assessments, summarised below in relation to the proposed works.

1. Will the activity disturb the ground surface or any culturally modified trees?

Yes. The proposed works will require ground disturbance in association with the redevelopment of existing structures, demolition activities and during the construction of new facilities and access points.

The Project area has been cleared of native mature vegetation and therefore will not impact culturally modified trees.

2. Are there any:

a) Relevant confirmed site records or other associated landscape feature information on AHIMS?

b) Any other sources of information of which a person is already aware?

A search of AHIMS database identified no Aboriginal sites or other associated landscape features within 200 m of the wider Maitland Gaol site.

Although the wider Maitland area is recognised as potentially culturally significant, the extent of development across the Project area has resulted in substantial prior ground disturbance. As such, there is negligible potential of identifying Aboriginal sites/objects throughout the course of the proposed works.

c) *Landscape features that are likely to indicate the presence of Aboriginal objects?*

The Due Diligence Code identifies that Aboriginal objects or sites are commonly associated with particular landscape features and are the result of Aboriginal peoples' use of those features in their daily lives or for specific cultural activities. Such landscape features include:

- Within 200 m of waters, or
- Located within a sand dune system, or
- Located on a ridge top, ridgeline or headland, or
- Located within 200 m below or above a cliff face, or
- Within 20 m of or in a cave, rock shelter, or a cave mouth, and
- Is on land that is not disturbed.

The Project area is not located within 200 m of any natural watercourses and the surrounding landscape consists of predominately flat terrain, void of any significant landforms. In addition, historic development within the Project area, inclusive of the construction of Maitland Gaol and auxiliary structures, have impacted the soil profile and resulted in extensive ground disturbance.

In accordance with Clause 80B of the *National Parks and Wildlife Regulation*, land is defined as disturbed if it has been the subject of human activity that has changed the earth's surface, being changes that remain clear and observable. As such, the Project area meets the definition of disturbed land and it is unlikely that any remnant Aboriginal objects/sites (if any) would remain intact within the Project Area.

3. *Desktop Assessment and Visual Inspection:*

No Aboriginal objects or sites have been previously identified within the curtilage of, or within 200 m of, the Project area. Although Maitland Gaol is situated in proximity to the Hunter River, the terrain would suggest that the area would not be representative of suitable camping location. It is likely that the Project area and immediate environs were utilised by Aboriginal people opportunistically or in a transient manner, whilst travelling closer to the Hunter River or significant tributaries. Due to the extensive disturbance from prior development in the area and the general unsuitability of the area for occupation, it is unlikely that any Aboriginal archaeological sites or objects would remain to be encountered during the proposed works.

On the basis of the information presented above, it is considered that there is a low likelihood that the proposed works will result in harm to Aboriginal objects. In accordance with the due diligence code, it is assessed that no further Aboriginal heritage investigations are required, and works can proceed with caution.

In the unlikely event that unexpected Aboriginal archaeological objects are encountered during the course of works, recommendations in **Section 11.0** will apply.

10.0 Archaeological Methodology and Research Design

As a result of the potential for historical archaeological evidence to be exposed during works and in accordance with policy 6 of the draft 2023 CMP the proposed works should be supervised/monitored by an archaeologist (Eric Martin & Associates 2023).

The archaeological supervision/monitoring would enable the recovery of information through the identification and recording of the archaeological remains (if present) and the realisation of the archaeological research potential of the site.

10.1 Archaeological Monitoring

Following the proposed demolition of the Gaol Staff / Warder's Amenities' building (Building 22), archaeological monitoring should be undertaken in conjunction with the removal of slabs / other hard surfaces and the commencement of any below ground excavation.

All machine excavation is proposed to be archaeologically monitored. The monitored machine work will continue until the interface of any below slab level fill material and significant archaeological material (if present) have been encountered or the maximum depth of excavation required for the proposed development / culturally sterile deposits are reached.

In the event that monitoring works reveal the presence of significant or intact archaeological evidence, further investigation in these areas would be required before site works can proceed. The archaeologist on site will need the authority to halt site works, as necessary, to undertake further investigation or detailed recording, if required; of any remains exposed. Machine excavation work should not recommence in these areas until directed by the archaeologist on site.

Archaeological remains (including deposits potentially containing artefacts) uncovered would be excavated to normal professional standards and in accordance with any relevant Heritage NSW issued conditions. The location and form of all archaeological remains will be recorded in accordance with the requirements of Heritage NSW and best practice procedures (including photography, measured drawings and written descriptions).

Any artefacts recovered would be collected in accordance with the context they are found in. They would be retained and recorded using standard recording methods. Where possible, initial processing of artefacts and other preliminary analysis and any required conservation treatment would occur on site during the excavation phase. The detailed analysis and cataloguing of artefacts would be undertaken as part of post excavation works and the results included in the final archaeological report.

In addition to excavation works being archaeologically monitored, an archaeologist should also be present during any disassembly of the Ravensfield stone walls or the original 1840s Morpeth stone wall.

A report of the results of the archaeological work would need to be produced at the completion of any on-site archaeological works, in accordance with standard Conditions of Approval of excavation permits. The format, content and length of the report will be determined by the nature and extent of the archaeological remains uncovered during archaeological investigation and the size of the artefact collection recovered from the site (Heritage Office 1996). The report should include:

- a description of the results of the investigation
- a response to the research design
- the results of post excavation analysis of artefact collection
- primary site records, including measured drawings and photographs.

10.2 Research Questions

A research design is a set of research questions developed specifically for a site to ensure that when the archaeological resources of the site are destroyed by excavation, their information content is preserved and can contribute to current and relevant knowledge about the past. An archaeological research design aims to ensure that the excavation of an archaeological site is managed in a way to recover information available through no other technique.

A fundamental requirement of an archaeological research design is that the questions posed must be responsive to the nature of the archaeological evidence that is likely to be encountered. However, the nature of an archaeological resource cannot be accurately determined until excavation commences. It is essential that the research design is adaptable and can be revised as the nature and extent of the resources within the site become better understood. With the better understanding of an archaeological resource, more informed management of the remains can be undertaken.

The type of questions that might be asked if there are any surviving archaeological remains include:

- Does any physical archaeological evidence survive?
- What is the extent of the surviving archaeological evidence?
- What is the nature of the archaeological evidence?
- What is the date of the identified elements?
- What can the remains contribute to our knowledge about this site or other Gaol sites?
- Is there evidence of any undocumented development and use of the site?

While these questions provide a basic archaeological context, more specific questions can be formulated if any archaeological remains are exposed. Specific questions could consider:

- Is there evidence of the proposed additions shown on the 1860s plan, such as the two closets and formal garden, having been constructed?
- If there is evidence of the closets, is there any accumulated deposit or was it cleaned out when water and sewerage services were installed?

- If intact archaeological deposits exist and/or if material is identified within wall cavities, they may reveal useful information about the 'lifeways' of the Gaol wardens and also the construction of the Gaol itself. Food remains may indicate aspects of diet. Individual artefacts can reveal vignettes of history—aspects of the site that are not recorded in great detail by documentary sources. If artefactual material is present, it may elucidate local history or provide opportunities to tell the story of the Gaol wardens using tangible evidence.
- If intact archaeological evidence is exposed how does it add to or enhance previous archaeological information recovered from both the Gaol site (for example the - Archaeological sampling to locate footings for buildings in the Exercise Field [2010]) and other local archaeological sites?
- If sufficient physical evidence is encountered, comparisons could be made with other Gaols, courthouses, police stations and lock up sites which have been excavated in NSW, for example at Wagga Wagga, Orange, Bega, Goulburn, Randwick and Foster. The site could also be examined in terms of its role as a country Gaol.

11.0 Conclusions and Recommendations

11.1 Conclusions

11.1.1 Historical Archaeology

As a result of the potential for historical archaeological evidence to be exposed during works and in accordance with policy 6 of the draft 2023 CMP the proposed works should be supervised/monitored by an archaeologist (Eric Martin & Associates 2023).

11.1.2 Aboriginal Archaeology

It is noted that these conclusions (and the recommendations) are provided from an archaeological perspective only and do not reflect the outcomes of any formal consultation with Aboriginal parties.

On the basis of the information presented in this report, it is considered that there is a low likelihood that the proposed works will result in harm to Aboriginal objects.

In accordance with the due diligence code, it is assessed that no further Aboriginal heritage investigations are required, and works can proceed with caution.

11.2 Recommendations

11.2.1 Historical Archaeology

It is recommended that a suitably qualified archaeologist supervise/monitor the proposed works.

The methodology and research framework outlined in Section 10 of this report should be adopted as the recommended archaeological strategy for undertaking the proposed works.

11.2.2 Aboriginal Archaeology

All parties involved in the works must aware that it is an offence under Section 86 of the NPW Act to harm or desecrate an Aboriginal object unless that harm or desecration is the subject of an Aboriginal Heritage Impact Permit.

In the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and a suitably qualified archaeologist should be contacted to confirm the validity of the object. Should the object be confirmed to be of Aboriginal cultural origin, Heritage NSW must be notified so that appropriate management strategies can be identified.

12.0 References

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