Aboriginal Heritage Due Diligence Assessment

10738 Kidman Way Hillston

December 2023

Project Number: 22-605

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Document verification

Project Title:	10738 Kidman Way Hillston
Project Number:	22-605
Project File Name:	22-605 Hillston Solar Facility DD_Final v1.0

Revision	Date	Prepared by	Reviewed by	Approved by
Draft v1.0	9/05/2023	Kirsten Bradley and Olympia Ramirez	Ingrid Cook	Kirsten Bradley
Draft v 2.0	18/11/2023	Kirsten Bradley and Luci Kumar Sharma	Jorge Fuenzalida Miralles	Kirsten Bradley
Final v1.0	06/12/2023	Kirsten Bradley and Luci Kumar Sharma	Jorge Fuenzalida Miralles	Kirsten Bradley

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Acronyms and abbreviations

ACHA	Aboriginal Cultural Heritage Assessment
AHIMS	Aboriginal Heritage Information Management System
AHIP	Aboriginal Heritage Impact Permit
BESS	Battery Energy Storage System
cm	centimetres
DA	Development Application
DECCW	(Former) Department of Environment, Climate Change and Water (formerly responsible for heritage, now superseded by Heritage NSW)
Due Diligence Code	*Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010)
EP&A Act	*Environmental Planning and Assessment Act 1979* (NSW)
ha	hectares
Heritage Act	*Heritage Act 1977* (NSW)
Heritage NSW	Heritage NSW, (formerly OEH)
km	kilometres
LALC	Local Aboriginal Land Council
LEP	Local Environmental Plan
LGA	Local Government Area
m	metres
MW	Megawatt
NPW Act	*National Parks and Wildlife Act 1974* (NSW)
NPW Regulation	National Parks and Wildlife Regulation 2019 (NSW)
NSW	New South Wales
PAD	Potential Archaeological Deposit
Risen Energy	Risen Energy Australia
SSD	State Significant Development (NSW)

Executive summary

NGH Pty Ltd (NGH) was commissioned by Risen Energy Australia (Risen Energy) to undertake an Aboriginal Heritage Due Diligence assessment in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010) (Due Diligence Code) for the proposed construction of a 5 Megawatt (MW) solar facility within Lot 63 DP 664722 at 10738 Kidman Way at Hillston in New South Wales (NSW). The assessment area includes portions of the road reserves along Kidman Way and Norwood Lane to facilitate any required road upgrades for safe vehicle access to the site.

The proposal involves the submission of a Development Application (DA) for the proposed construction and operation of the solar facility, including road upgrades for vehicle access, which would involve various ground disturbance works. The Due Diligence assessment is undertaken to evaluate whether Aboriginal objects are present, or likely to be present, within the proposed impact area, and if those objects would be harmed by the proposed activity and associated works.

Background and desktop assessment

The assessment process is predominately a desktop exercise, using available information such as the Aboriginal Heritage Information Management System (AHIMS) register search results and relevant archaeological reports to develop a model of Aboriginal site predictions based on the type of activity proposed and the level of disturbance of the area. This assessment was further supplemented by a visual inspection of the Proposal Area by NGH archaeologists.

The Proposal Area has previously been subject to archaeological survey as part of the heritage assessment undertaken for the Hillston Solar Farm which was a NSW State Significant Development (SSD) which has since been issued approval and been constructed on the western side of Kidman Way. One previously recorded Aboriginal site, a modified tree (AHIMS# 42-4-0017/ Hillston 5) which was recorded in 2017 by Biosis during the survey for the Hillston Solar Farm, is located along the road reserve of Kidman Way and within the road reserve portion of the Proposal Area being assessed in this report. No other previously recorded sites have been recorded within and/ or in close proximity to the Proposal Area. No previously recorded Aboriginal sites are located within Lot 63 DP 664722.

Field results

A visual inspection of the Proposal Area was undertaken on 06 March 2023 by two qualified NGH archaeologists. The Kidman Way road reserve area was inspected and the previously recorded modified tree site AHIMS# 42-4-0017/ Hillston 5 was relocated. No new Aboriginal sites were recorded within the Kidman Way road reserve area which was noted to have been highly disturbed by the construction and maintenance of the existing road and railway. It was concluded that the Kidman Way road reserve area within the Proposal Area has negligible potential for subsurface material and/or Aboriginal objects beyond the relocated site AHIMS# 42-4-0017/ Hillston 5.

The proposed Norwood Lane road upgrade works are within the existing disturbed road corridor and were determined to have negligible potential for subsurface material and/or Aboriginal objects.

The portion of the Proposal Area within Lot 63 DP664722 was flat with no discernible microtopographic features or areas which would be considered to hold water, such as gilgai or soaks. The majority Lot 63 DP664722 during the survey had very high ground surface visibility (80 to 100%) as it had been recently ploughed. No new Aboriginal sites were recorded within Lot 63

DP664722 and in consideration of the very high ground surface visibility and absence of any close water sources, it was determined that Lot 63 DP664722 has negligible potential for subsurface material and/or Aboriginal objects.

Impact assessment conclusion

The desktop and field assessment concluded that the Proposal Area does not require further investigation and assessment as the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 can be avoided by the proposed development works and no other new Aboriginal sites or area of potential archaeological deposit have been recorded within the Proposal Area. The Proposal Area (with the exception of AHIMS# 42-4-0017/ Hillston 5) is assessed as containing negligible potential for Aboriginal objects and it has been determined that the works may proceed with caution as long as AHIMS# 42-4-0017/ Hillston 5 can be avoided with a minimum 10 m buffer to ensure no inadvertent impacts to the tree, its canopy or its immediate root system.

If for any reason the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 cannot be avoided with a minimum 10 m buffer, then further assessment would be required to facilitate an Aboriginal Heritage Impact Permit (AHIP). NGH note that an AHIP however is unlikely to be approved for impacts to modified trees by Heritage NSW without significant justification regarding why the development cannot avoid impacts as modified trees are viewed as an ever reducing site type and are generally regarded as having very high cultural significance by the Aboriginal community.

Recommendations

Based on an assessment of the Proposal Area the proposed work can proceed with caution with the following recommendations:

1. All works must avoid the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 with a minimum 10 m buffer to ensure no inadvertent impacts to the tree trunk, canopy and root system.
2. All works must be limited to the area assessed by this document and any ground disturbance activity proposed outside of the current assessment area should also be subject to an Aboriginal heritage assessment. This includes road upgrades for site access and laydown areas.
3. If any items suspected of being Aboriginal in origin are discovered during the work, all work in the immediate vicinity must stop. The find will need to be assessed by an archaeologist and if found to be an Aboriginal object the NSW Environment Line (1300 361 967) must be notified as an Aboriginal Heritage Impact Permit (AHIP) will be required.

Risen Energy is reminded that it is an offence under the *National Parks and Wildlife Act 1974* to disturb, damage or destroy an Aboriginal object without a valid AHIP.

1. Introduction

NGH Pty Ltd (NGH) was commissioned by Risen Energy Australia (Risen Energy) (the Proponent) to undertake an Aboriginal Heritage Due Diligence assessment in accordance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW, 2010) (Due Diligence Code) for the proposed construction of a 5 Megawatt (MW) solar facility within Lot 6 DP664722 at 10738 Kidman Way at Hillston in New South Wales (NSW). The assessment area includes portions of the road reserves along Kidman Way and Norwood Lane to facilitate any required road upgrades for safe vehicle access to the site (see Figure 1-1 to Figure 1-2.).

The proposal involves the submission of a Development Application (DA) for the proposed construction and operation of the solar facility, including road upgrades for vehicle access, which would involve various ground disturbance works. The Due Diligence assessment is undertaken to evaluate whether Aboriginal objects are present, or likely to be present, within the proposed impact area, and if those objects would be harmed by the proposed activity and associated works.

1.1 Subject site

The Proposal Area comprises of a portion of the road reserve of Kidman Way and Norwood Lane and Lot 63 DP664722 at 10738 Kidman Way; located approximately 3.5 km south of the township of Hillston within the Carrathool Shire Local Government Area (LGA) (see Figure 1-1 to Figure 1-2).

The proposed solar facility would be constructed on the eastern side of Kidman Way within Lot 63 DP664722 which is cleared rural farmland, currently used for agricultural purposes. An active rail line is located between Kidman Way and the western boundary of Lot 63 DP664722. The proposed access to the site is still being determined and therefore additional areas within the road reserve of Kidman Way and Norwood Lane have been included in the Proposal Area assessed in this report to ensure the flexibility of the design for site access. Regardless of the selected site access road upgrades are likely to be required to compile with road safety requirements and/or to facilitate safe vehicle turning points and access into the development site. The proposed solar facility would have a capacity of approximately 5 MWs that would provide energy directly into the National Electricity Market grid via an existing overhead connection line.

1.2 Project personnel

This Due Diligence assessment was carried out by qualified archaeologist Kirsten Bradley and Olympia Ramirez of NGH who completed background research and the completion of this report. NGH Graduate Heritage Consultant Luci Kumar Sharma also assisted with mapping and report updates.

Qualified archaeologists Kirsten Bradley and Gabrilla McLay completed the fieldwork for this assessment. Kirsten Bradley and Jorge Fuenzalida Miralles undertook Aboriginal consultation with the Griffith Local Aboriginal Land Council (Griffith LALC) for this assessment.

NGH Heritage Regional Manger Ingrid Cook, NGH Heritage Consultant Jorge Fuenzalida Miralles, and NGH Principle Heritage Consultant Kirsten Bradley reviewed the report for quality assurance.

1.3 Aboriginal consultation

The Due Diligence process does not formally require consultation with Aboriginal community groups. However, it is considered best practice to always consult with the relevant LALC. As a result, the Griffith LALC was consulted with by NGH for this project.

The initial consultation with the Griffith LALC undertaken for this project included a brief email about the proposed project and an invitation to participate in the fieldwork. The Griffith LALC declined the offer to participate in the site inspection. A copy of this report was however provided to Griffith LALC for their records on 06 December 2023 by NGH.

1.4 Approach and format of this report

This report has been drafted in keeping with the sequence of steps identified in the Due Diligence Code. The Due Diligence Code outlines a five-step approach to determine if an activity is likely to cause harm to an Aboriginal object, as defined by the NSW *National Parks and Wildlife Act 1974* (NPW Act). The steps follow a logical sequence of questions, and the answer to each question determines the need for the next step in the process in order to:

- Identify whether Aboriginal objects are, or are likely to be, present in the Proposal Area/proposal site etc;
- Determine whether or not the proposed activities are likely to harm Aboriginal objects (if present) in the Proposal Area; and
- Determine whether an Aboriginal Heritage Impact Permit (AHIP) application is required.

Table 1-1 Due Diligence steps.

	Due Diligence steps
Step 1.	Will the activity disturb the ground surface?
Step 2a.	Search the AHIMS database and use any other sources of information of which you are already aware.
Step 2b.	Are activities proposed in areas where landscape features indicate the presence of Aboriginal objects?
Step 3.	Can you avoid harm to the object or disturbance of the landscape feature?
Step 4.	Undertake a desktop assessment and visual inspection. Is it likely that Aboriginal objects will be impacted by the proposed works?
Step 5.	Further investigations and impact assessment.

If the proposed activities are not 'low impact activities' (a defence for which is provided under the NPW Regulation), the considerations result in a determination of whether or not:

- Further approval under the NPW Act is required, in the form of an AHIP; or
- Due Diligence obligations for the protection of Aboriginal objects are satisfied by the process under the Code.

For the purposes of the Due Diligence assessment, disturbed land is defined in the Due Diligence Code. Land is disturbed if it has been the subject of a human activity that has changed the land's surface, with the changes remaining clear and observable.

The defence against prosecution offered by following the Due Diligence Code process does not apply to situations where it is known that there is an Aboriginal object present. The defence does not authorise harm to Aboriginal objects.

Each section within this report follows the relevant step outlined in the Due Diligence Code (DECCW, 2010). Reference is also made, where relevant, to the *Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW* (OEH, 2011) and the *Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW* (DECCW, 2010).

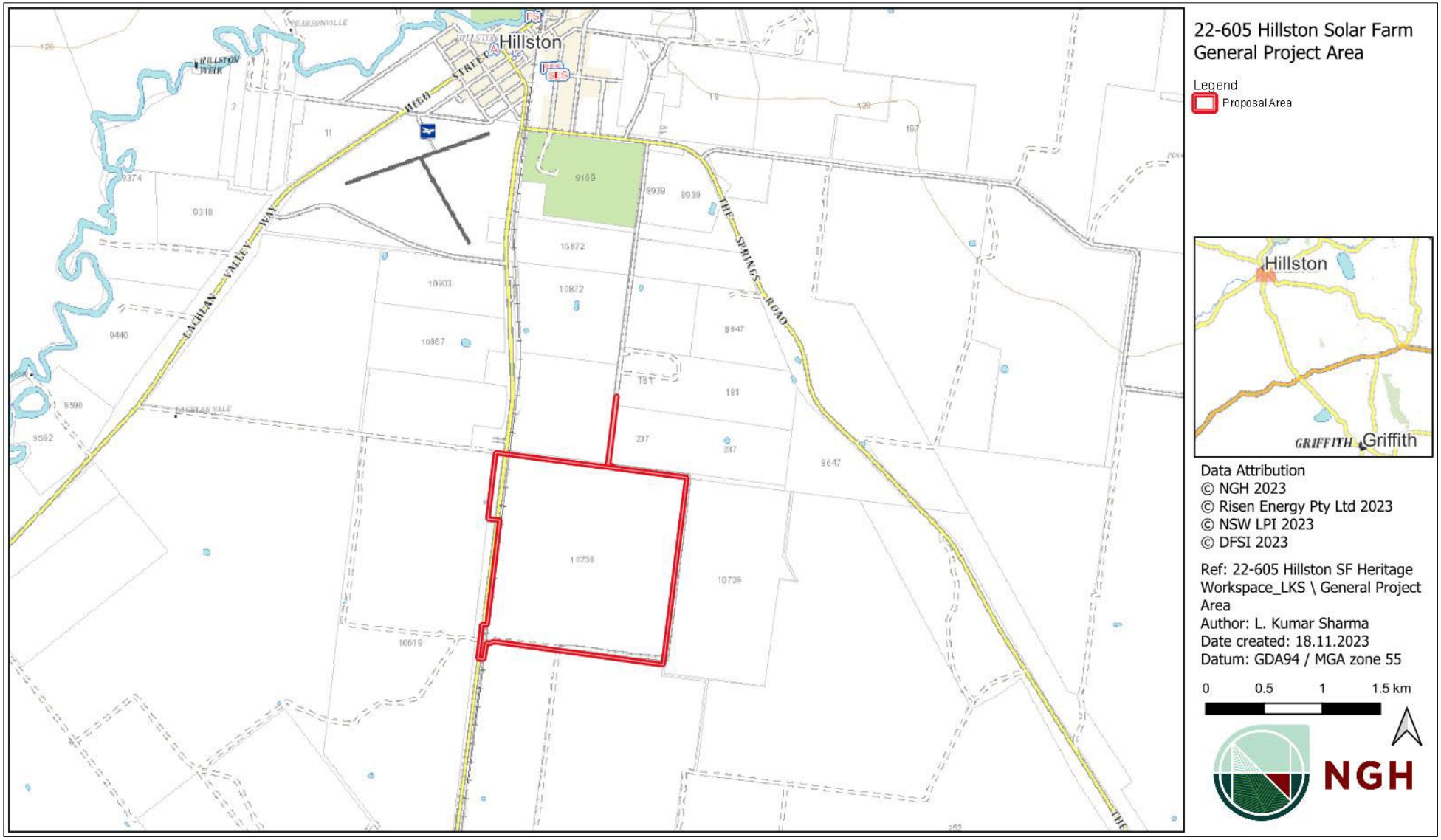


Figure 1-1 General project location.

Figure 1-2 Proposal Area.

2. Legislation

In NSW, Aboriginal heritage is principally protected by two legislative acts:

- *National Parks and Wildlife Act 1974* (NSW) (NPW Act) and its subordinate legislation, the National Parks and Wildlife Regulation 2019; and
- *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act).

2.1 National Parks and Wildlife Act 1974

Part 6 of the NPW Act concerns Aboriginal objects and places and various sections describe the offences, defences and requirements to harm an Aboriginal object or place. All Aboriginal material receives blanket protection under the NPW Act. The main offences under section 86 of the NPW Act are:

- A person must not harm or desecrate an object that the person knows is an Aboriginal object.
- A person must not harm an Aboriginal object.
- For the purposes of this section, "circumstances of aggravation" are:
    - that the offence was committed in the course of carrying out a commercial activity; or
    - that the offence was the second or subsequent occasion on which the offender was convicted of an offence under this section.
- A person must not harm or desecrate an Aboriginal place.

An Aboriginal object is defined 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, being habitation before or concurrent with the occupation of that area by persons on non-Aboriginal extraction and includes Aboriginal remains.

Section 87 sets out defences that are available to a person who is prosecuted for a particular harm offence under section 86. For example, it will be a defence in certain circumstances if the person who is being prosecuted can show that:

- the harm or desecration was authorised through an Aboriginal Heritage Impact Permit (AHIP) and conditions of the AHIP were not contravened;
- the person exercised due diligence to determine whether the act/omission constituted the offence would harm an Aboriginal object and reasonably determined no harm would occur;
- the person complied with requirements or a code of practice, as prescribed in in the National Parks and Wildlife Regulation (2019); or
- was a low impact act or omission.

Section 89A of the NPW Act also requires that a person who is aware of an Aboriginal object, must notify the Director-General in a prescribed manner. In effect, this section requires the completion of AHIMS site cards for all sites located during heritage surveys.

2.2 Environmental Planning and Assessment Act 1979

The EP&A Act regulates development in NSW. It sets up a planning structure that requires developers (individuals or companies) to consider impact of the project on the environment and to promote the sustainable manage of built and cultural heritage (which includes Aboriginal cultural heritage). The EP&A Act requires that Aboriginal cultural heritage, and the possible impacts that development may have to Aboriginal heritage be considered, as part of the environmental impact assessment process under the EP&A Act. For most projects requiring assessment under Part 4 and 5 of the EP&A Act, the NPW Act will apply and an AHIP may be required.

It also provides for the identification, protection, and management of heritage items through inclusion of these items into schedules off planning instruments, such as Local Environmental Plans (LEPs).

2.3 Carrathool Local Environmental Plan 2012

The study area is located within the Carrathool Shire LGA. Clause 5.10 of the Carrathool LEP requires that development consent be obtained for any proposed activity which will result in impacts to an Aboriginal object or Aboriginal Place. This includes any identified within the LEP itself, or on any other register.

Schedule 5 of the LEP 2012 details the included environmental heritage items covered by the plan. No Aboriginal sites or places listed on Schedule 5 are located within or within close proximity to the Proposal Area.

3. Ground disturbance

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

The proposed works to be undertaken for the construction and use of a solar facility on Lot 63 DP664722 (Figure 3-1 to Figure 3-3) include but are not limited to, the following:

- Upgrades to the existing site access off Kidman Way and/or Norwood Lane.
- Internal access roads.
- A fenced enclosure and security features (such as CCTV and security lighting).
- Site establishment and construction of temporary facilities.
- Installation of solar infrastructure including solar photovoltaic (PV) cells with a 5 MW capacity on a ground-mounted tracking system of pole driven steel posts.
- Installation of underground cabling, power and inverter stations and a Battery Energy Storage System (BESS).
- Connection to an existing transmission line.
- Building office/amenities, operations and maintenance building.
- Landscaping.

These activities require ground disturbance, the use of heavy machinery and laydown areas. Any Aboriginal sites within the disturbance footprint could therefore be subject to harm. As the project will include ground disturbance, the next step in the due diligence process is required to be completed.

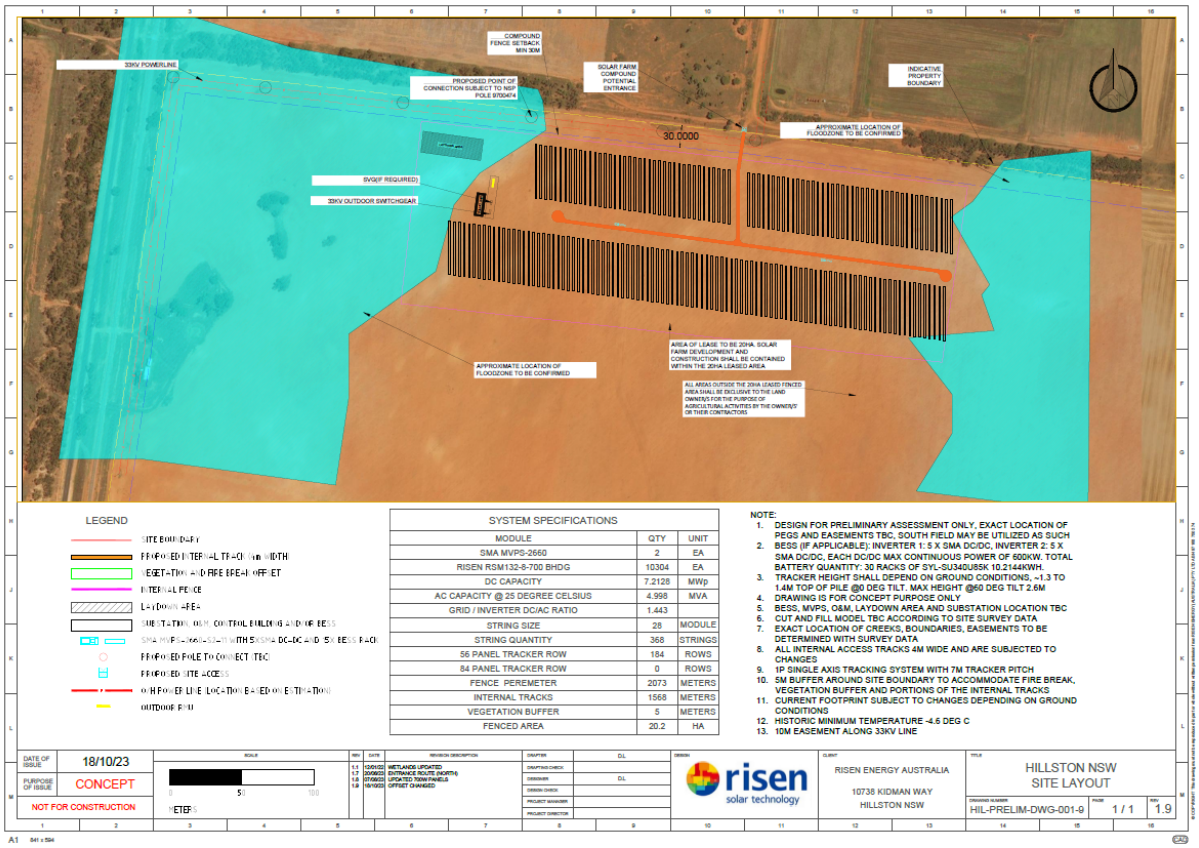


Figure 3-1 Development layout - Site context plan- access from Norwood Lane (Source: Risen Energy Australia, 2023) .

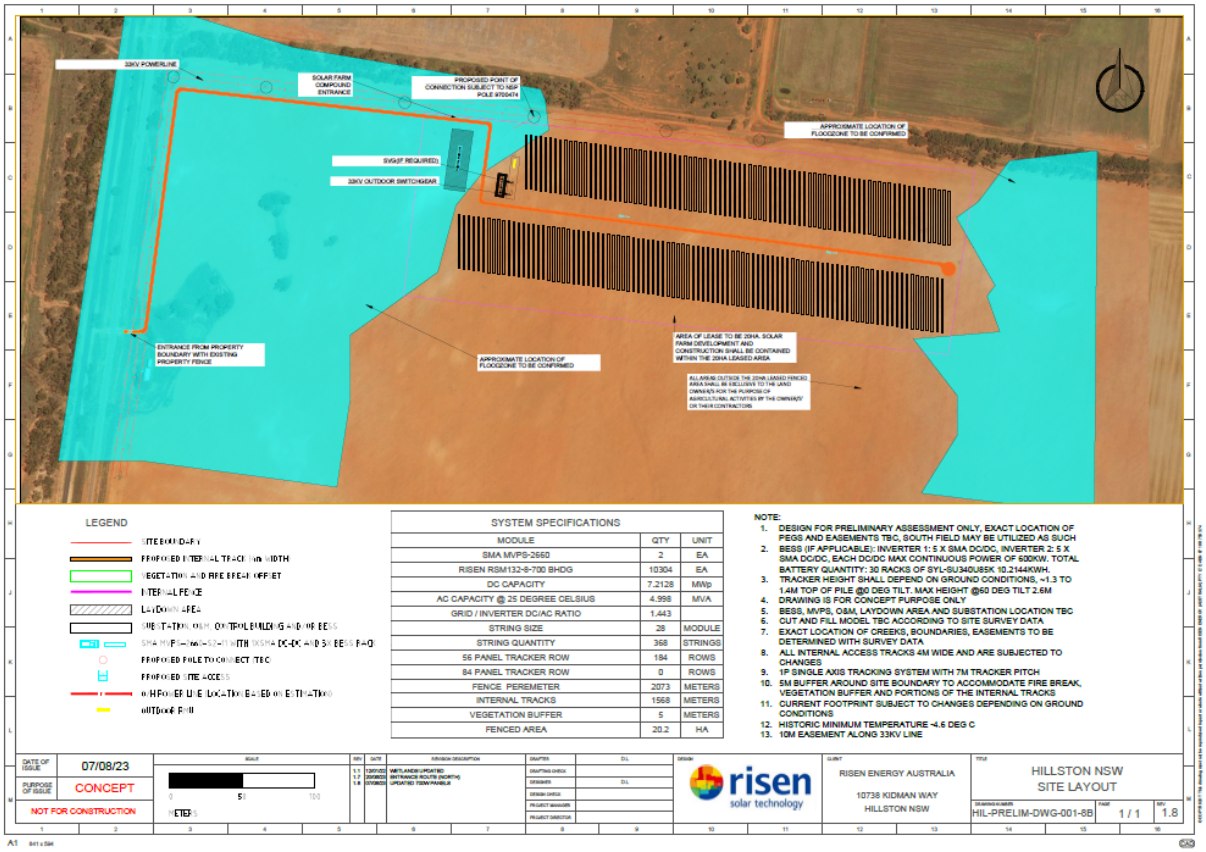


Figure 3-2 Development layout - Site context plan- access from Kidman Way (Source: Risen Energy Australia, 2023) .

Figure 3-3 Proposed development area, including both access options.

4. Register search and landscape assessment

Step 2a. Search the AHIMS Database and other information sources

A search of relevant heritage registers for Aboriginal sites and places provides an indication of the presence of previously recorded sites. A register search is not conclusive, however, as it requires that an area has been subject to archaeological survey, and information about any sites identified has been submitted for registration. However, as a starting point, the search will indicate whether any sites are known within and/or adjacent to the Proposal Area and provide oversight regarding the site types most commonly recorded within the locality. The Aboriginal Heritage Information Management System (AHIMS) provides a database of previously recorded Aboriginal heritage sites in NSW. A search provides basic information about any Aboriginal sites previously identified within a search area. The results of the search are valid for 12 months for the purposes of a due diligence level assessment.

On 02 March 2023 an extensive search of the AHIMS database was undertaken over an approximately 23 km x 16 km area centred on the Proposal Area, as follows:

- Client Service ID: 759405
- MGA Zone 55
- Lat, long from -33.6066, 145.4185
- Lat, long to -33.4635, 145.6656
- Aboriginal objects:
    - 112
- Aboriginal Places:
    - None

There were 112 Aboriginal sites recorded within this search area and there were no declared Aboriginal Places. Table 4-1 below shows the breakdown of site types and Figure 4-1 and Figure 4-2 show the location of the AHIMS sites (excluding those with restricted details) in relation to the Proposal Area.

Table 4-1 Breakdown of previously recorded Aboriginal sites in the region.

Site type	Number
Modified Tree (Carved or Scarred)	66
Artefact	3
Burial and Modified Tree (Carved or Scarred)	1
Hearth	1
Restricted Sites	41
Total	**112**

On 02 March 2023 NGH emailed the AHIMS database team to ensure that none of the 41 restricted sites are within and/or in close proximity to the Proposal Area. NGH received written confirmation from David Gordon (Senior Systems Information Officer, Information Systems, Heritage NSW) on 06 March 2023 which stated that none of the 41 restricted sites will be impacted by any works conducted in the Proposal Area.

One of the archaeological sites (AHIMS# 42-4-0017/ Hillston 5) currently recorded on AHIMS is located within the Proposal Area on the western side of Kidman Way with an additional two sites within ~1 km of the Proposal Area. These sites are summarised in Table 4-2 below and shown in Figure 4-2.

Table 4-2 Aboriginal sites on AHIMS within ~1 km of the Proposal Area

Site number	Site name	Site type	Distance to project (m)	Site status on AHIMS
42-4-0017	Hillston 5	Modified Tree	Within the Proposal Area on the western side of the road reserve of Kidman Way.	Valid
42-4-0013	Hillston 1	Modified Tree	~900 m	Valid
42-4-0016	Hillston 4	Artefact	~840 m	Valid

The site AHIMS# 42-4-0017/ Hillston 5 is a modified tree located 20 m west of Kidman Way in the road reserve land, approximately 3.5 km south of the township of Hillston. This modified box tree has a single east facing oval scar which was recorded by Biosis in 2017 during the archaeological surveys undertaken for the approved State Significant Development (SSD) the Hillston Solar Farm. The scar is 70 cm from the ground and measures 220 cm in length by 40 cm in width. Plate 1 shows the image of AHIMS# 42-4-0017/ Hillston 5 from the AHIMS site card. A copy of the AHIMS site card is provided in Appendix A of this report for easy reference.

4.1.1 Other Heritage Register Searches

Other heritage register searches were also undertaken to identify any items or places in proximity to the Proposal Area and its immediate surrounding landscape. The following resources were used as part of this assessment:

- The NSW State Heritage Inventory (SHI), this includes items on the State Heritage Register and items listed by state agencies and local Government, to identify any items currently listed within or adjacent to the proposal site.
- The Australian Heritage Database, this includes items on the National and Commonwealth Heritage Lists, to identify any items that are currently listed within or adjacent to the proposal site.

The results of the Australian Heritage Database search indicated that there are three sites are located within Hillston, none of which are within or adjacent to the Proposal Area.

The results of the NSW SHI database search indicated that:

- One previously recorded Aboriginal Place is listed under the *National Parks and Wildlife Act* within the NSW State Heritage Inventory within the Carrathool LGA. This Aboriginal Place is not located within or adjacent to the Proposal Area.
- Two previously recorded heritage sites are listed under the NSW Heritage Act within the Carrathool LGA. None of the sites are located within or adjacent to the Proposal Area; and
- A total of 55 previously recorded heritage sites are listed by the Local and State Agencies within the Carrathool LGA. None of the sites are located within or adjacent to the Proposal Area.

No other known previously recorded heritage sites or known possible heritage sites are located within or adjacent to the Proposal Area. This Due Diligence Assessment does not address any potential impacts to non-Aboriginal heritage items.

Plate 1 View of AHIMS# 42-4-0017/ Hillston 5 showing card from AHIMS site card.

Figure 4-1 AHIMS search results.

Figure 4-2 AHIMS sites near Proposal Area.

4.2 Local and regional archaeological context

Aboriginal people have occupied what we now know as the Australian continent for at least 40,000 years and perhaps 60,000 years and beyond. All major environmental zones in Australia are known to have been occupied for the last 35,000 years. A number of archaeological studies have been completed across the Carrathool Shire LGA, including a number of those which are in proximity to the Lachlan River. Relevant assessments in proximity to Hillston and the Lachlan River have been summarised below to provide an indication of site modelling for the Proposal Area.

Paton and Hughes (1984) completed an archaeological survey for the proposed reregulation of weirs at two locations along the Lachlan River which included the inspection of the proposed weir locations and areas that would be back flooded by the proposed works. The locations for the survey were south of Condobolin and south of Hillston. The Hillston survey area is located approximately 20 km south west of the township of Hillston and 17 km south west of the current Proposal Area. The Hillston survey located five culturally modified trees, two low density surface stone artefact scatters and a shell midden. The results of the survey noted that the stone artefacts recorded were flakes, flaked pieces and grindstone fragments manufactured from quartz, chert and sandstone with stone artefacts found at one site in association with baked clay. The shell midden contained a surface scatter of freshwater mussel (*Velesunio ambiguus*). The culturally modified trees generally had scars which were 1 m in length which were oval or rectangular shaped on River Red gum trees. Paton and Hughes noted that the environmental setting of the survey area, along the Lachlan River, provided a relatively permanent resource rich area that would have promoted year-round occupation with the areas further from the river generally considered to be a largely featureless and poorly watered plain.

Kelton (1998a) completed an archaeological assessment for a proposed fibre optic cable route between the township of Hillston west to Willanthry Station, which at its nearest point is 4 km north of the current Proposal Area. The assessment area was identified as slightly undulating floodplains with native mallees, saltbush and eucalypts vegetation. The survey involved vehicle and pedestrian surveys to inspect the entire route. The survey determined that the majority of the study area was previously degraded and disturbed by agricultural activities and therefore the potential of subsurface archaeological deposits was considered to be low. A total of four culturally modified trees were located in proximity of the survey route. All trees were old growth Black Box (*Eucalypt largiflorens)* with bark removal scars of possible to probable Aboriginal origin. It was noted that the due to the distance of the majority of the survey area to reliable water that at least 90% of the survey area was not conducive to past Aboriginal occupation.

Kelton (1998b) completed an archaeological survey for a proposed fibre optic cable route between Hillston and Bunda which at its nearest location to the current Proposal Area is 900 m north. The assessment area occurred within a slightly undulating plain landform with extensively cleared mallee vegetation. The survey involved vehicle and pedestrian survey to inspect the entire route. The survey determined that the majority of the study area was previously degraded and disturbed by agricultural activities and therefore the potential of subsurface archaeological deposits was considered to be low. A total of three culturally modified trees and one stone artefact scatter were located in proximity of the survey route. All modified trees were old growth Black Box (*Eucalypt largiflorens*) with bark removal scars and were noted to be of possible to probable Aboriginal origin. The low density stone artefact scatter was located in proximity to the known water source soak of Werrie Tank with silcrete and chert flakes and flaked prices recorded.

Booth Consultants (2000) completed an archaeological survey report for the development of a cotton plantation and water storage at Merrowie Station, west of Hillston and approximately 35 km

south-west of the Project Area. An initial report was conducted for the development by Kelton in 1999, however, the report failed to consult with local Aboriginal stakeholders, therefore Booth Consultants revisited the assessment after detailed consultation with the Griffith LALC to provide cultural context to the 47 culturally modified trees and two stone isolated finds located by Kelton during his 1999 survey. An additional survey was completed by Booth and Griffith LALC site officers to provide a representative assessment of archaeological sites on Merrowie Station. An additional 26 culturally modified trees were recorded in proximity to black box wetlands / depressions in the Rosehill Paddock area and 12 culturally modified trees were identified in the Five Mile Paddock. It was concluded that the culturally modified trees were representative of short-term foraging of favourable materials.

Navin Officer (2007) conducted an Aboriginal and historical heritage assessment at Lake Brewster and Mountain Creek approximately 37 km east of the current Proposal Area to assess the proposed impacts of the Lake Brewster Water Efficiency Project. Field surveys located 36 Aboriginal sites comprising of open stone artefact scatters (n= 11); isolated stone artefacts (n=9); possible culturally modified trees (n=12); and areas of Potential Archaeological Deposits (PAD) (n=4). A geomorphological assessment determined that landscapes related to the beach ridge and other locally elevated deposits associated with former lake shorelines contained subsurface potential for archaeological deposits. Analysis of the survey results noted the substantial presence of grindstone fragments on the lower shoreline formation, which suggested that the natural lake basin may have been an important source of plant foods that required processing through grinding, possibly grass seeds. Additionally, considerably higher densities of artefactual material were identified on the low gradient basal slopes adjacent to the western edge of the lake basin and on a low rise marking a former lower lake level shoreline within the lake basin (Navin Officer 2007, p.110).

Following Navin Officer's assessment of Lake Brewster, OzArk Environmental and Heritage Management (2008) undertook the archaeological test excavations across three areas of PAD which covered the following landforms: slope at the lakes edge, low level shoreline, the lunette beach and dune. A total of twenty-five 2 m x 2 m areas were excavated across the three areas of PAD with and area over 100 m^2 excavated. OzArk noted that not all pits excavated contained stone artefacts and generally the density of stone artefacts was low across all tested areas of the PAD. A total of 17 stone artefacts which included flakes, cores, flaked pieces, grindstone fragments and manuports were recovered along with probable/possible heat retainers (n=3) and an ochre fragment (n=1). Some shell (whelk and mussel) and non-diagnostic bone fragments were also recovered. The stone artefacts recovered were manufactured from quartz, quartzite, volcanic and chert. The results of the test excavation determined that the subsurface assemblage is of low technological diversity with poorly preserved stratigraphy.

In 2017, Biosis completed an archaeological assessment for the Hillston Solar Farm which included the entirety of Lot 63 DP664722 and the portion of the Kidman Way road reserve which is within the Proposal Area being assessed in this report as show in Figure 4-3. The area of assessment for the Hillston Solar Farm included farmland previously disturbed by cropping and road infrastructure. The pedestrian survey over the proposed impact area identified five new Aboriginal sites which included three modified trees (including AHIMS# 42-4-0017/ Hillston 5 which is within the current Proposal Area), an isolated find and a low density artefact scatter. The modified trees were all box trees with two of scars noted to be canoe bark removal scars while the other was a small oval scar with steel axe marks. A total for four stone artefacts were recorded across the study area for the Hillston Solar Farm which included a quartz flaked piece, a silcrete core and two silcrete distal flake fragments. Biosis noted that fewer modified trees were identified during the survey than anticipated, and that this was likely the result of the extensive land clearing.

None of the sites originally recorded by Biosis during the assessment for the Hillston Solar Farm are proposed to be impacted by the development proposal being assessed in this report however, AHIMS# 42-4-0017/ Hillston 5 is noted to be located within the western side of Kidman Way road reserve which is included as part of the current Proposal Area.

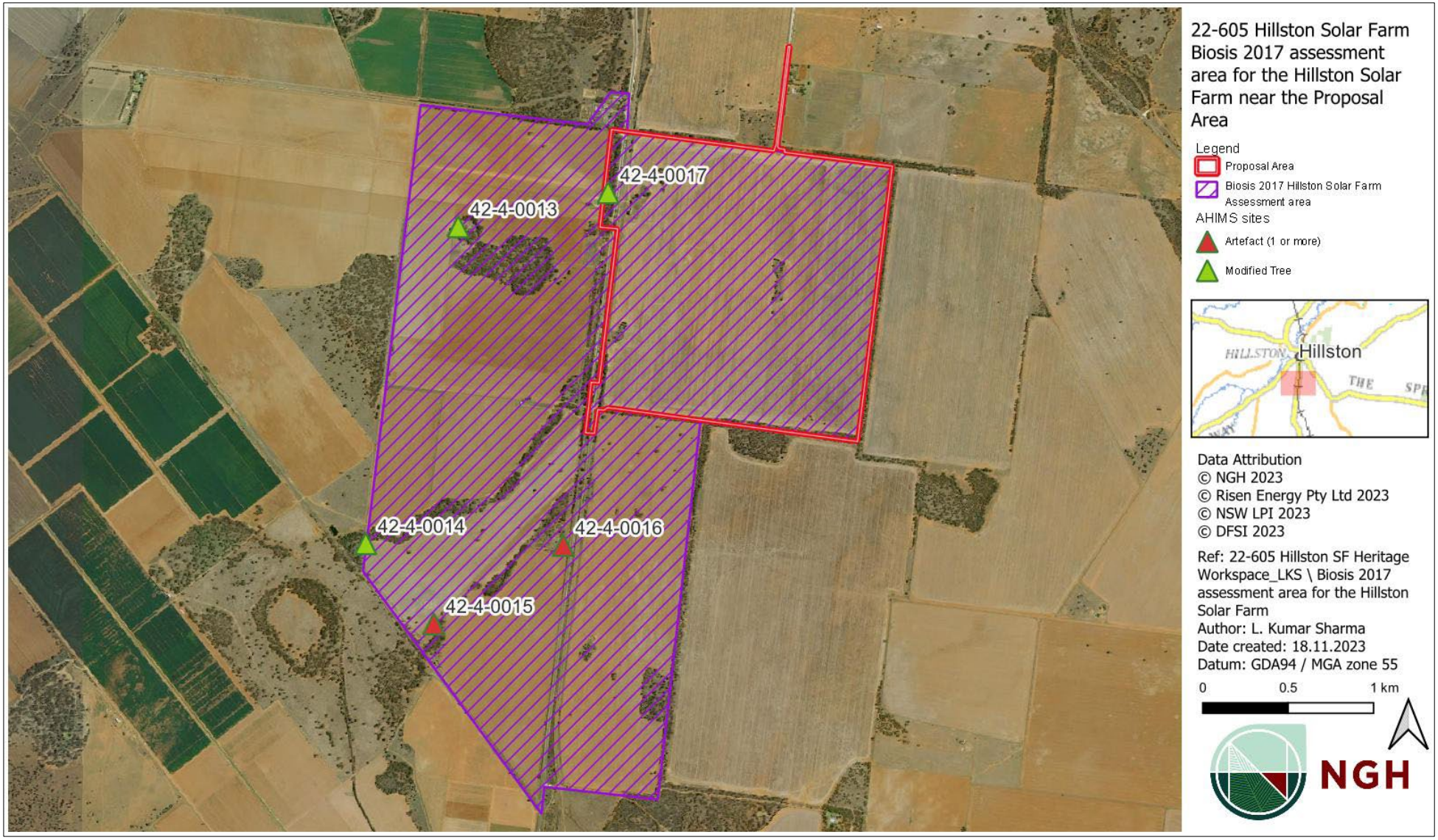


Figure 4-3 Biosis 2017 assessment area for the Hillston Solar Farm and sites recorded with the current Proposal Area.

4.3 Landscape assessment

Step 2b. Are there landscape features present likely to contain Aboriginal objects?

The Due Diligence Code outlines a range of general landscape features that are more likely to contain Aboriginal objects. These include land that is:

- Within 200 m of water;
- Located within a sand dune system;
- Located on a ridge top, ridge line or headland;
- Located within 200 m below or above a cliff face; or
- Within 20 m of a cave, rock shelter or cave mouth.

It is also necessary to consider whether any sensitive landscape features present have been disturbed or modified which would reduce the potential for Aboriginal objects to occur.

The Proposal Area consists of relatively flat plains approximately 3.5 km south of the alignment of the Lachlan River which flows through Hillston. There are no known natural water sources in close proximity (within 200 m) to the Proposal Area. Despite this there are three previously recorded AHIMS sites within 1 km of the Proposal Area and a site visit should be undertaken to determine if there are an microtopographic features within the Proposal Area which might be a focus for past Aboriginal occupation and to determine if any surface or subsurface archaeological potential exists throughout the Proposal Area.

4.3.1 Geology, topography, soils and hydrology.

Understanding the geological character, topography and soils of the Proposal Area can assist with understanding what, if any, raw stone materials may have been available for the manufacture and maintenance of stone tools or for use as shelter, areas with potential for subsurface depots and/or areas with higher potential for occupation.

The geology underlying the Proposal Area is mostly comprised of Cenozoic undifferentiated sediments and sediment rocks (Czs) which consists of unconsolidated mud, silts, sand and gravels. A small section in the south-western portion of the Proposal Area is a Quaternary lacustrine deposit (Ql). Due to this, the potential for cultural material produced in this area is low, due to the lack of suitable outcrops traditionally used for manufacture of Aboriginal artefacts. However, it should also be noted that raw materials used for stone tool production were often traded long distances between communities and may be represented by exotic materials that are not characteristic of the region.

The Proposal Area is located within the Lachlan Depression Plains Mitchell landscape (DECC 2002) as described in Table 4-3 below. The Proposal Area is characterised as a relatively flat featureless plain with reddish brown fine clay silty loam to fine grained clayey loam sand and a grey-brown silty cracking clay. The Lachlan River is located approximately 4 km west and 3.5 km north of the Proposal Area. No known natural water sources are located in close proximity (within 200 m) of the Proposal Area. Due to this, there are no landforms within the Proposal Area that are considered to have a higher sensitivity for focused Aboriginal occupation and use. The potential for subsurface despots with high density of cultural material is also considered to be low.

Table 4-3 Mitchell Landscape description for the Lachlan Depression Plains (DECC 2002).

Mitchell Landscape	Description
Lachlan Depression Plains	Quaternary alluvial plains with numerous circular depressions interpreted as high floodplains or low terraces beyond the reach of average floodwaters. Sandy rises and levees trace ancestral streams and stand above the general plain, relief 1 to 3 m. Grey and brown cracking and non-cracking clays often with gilgai on the plains. Sands and red or brown texture-contrast soils on the higher ground.

4.3.2 Flora and fauna resources

The majority of the Proposal Area is located within a cleared area used for agricultural cropping, however patches of remnant vegetation are located within the Kidman Way road reserve, Norwood Lane road reserve, boarding the boundary of Lot 63 DP664722 and as stands of vegetation within Lot 63 DP664722.

The Proposal Area would once have been vegetated by a wide variety of plant species that were utilised by Aboriginal people. Plant species in the local area that are known to have been useful to Aboriginal people living traditionally include black box *(Eucalyptus largiflorens*), myall (*Acacia pendula*) and prickly wattle (*Acacia victoriae*) with saltbushes (*Atriplex* sp.) and grasses (DECC 2002). Given this, the Proposal Area would have provided valuable plant resources to Aboriginal people in the form of bark, foods and medicines. Any areas of remnant vegetation with mature native trees may contain modified trees.

Furthermore, this area would have supported a variety of fauna that were vital food resources such as kangaroos, emu and possums. The proximity of the Proposal Area to the Lachlan River further suggests the use of the wider area to gather resources before congregating closer to the river for camping.

4.3.3 Historic land use and land disturbances

While the first European to travel through the Hillston area was John Oxley in 1817 (during his first expedition along the Lachlan River), the area was not settled by Europeans until 1839 when William Hovel took up a pastoral run along the Lachlan River called “Bellingerambil,” (Biosis 2017).

The locality of present-day township of Hillston was a crossing-place for stock along the Lachlan River and Hillston developed to service the surrounding pastoral holdings with the first post office in Hillston opened in 1869.

The 1927 parish map shows the Kidman Way and the railway line and that the Proposal Area was divided across three land leases which were owned by E.V.H. Jones and the Australian Joint Stock Bank Ltd. Lot 63 DP664722 appears to have been used for agricultural purposes since the early 20th century when the land was cleared for farming purposes (Biosis 2017). Google Earth images clearly show that the Proposal Area has been used for agricultural production from 1985 until the present day. Most recently, Lot 63 DP664722 has been subject to intensive use for large scale wheat farming. Bitumen was laid along Kidman Way in the 1970s but the alignment of Kidman Way has been functioning as a major thoroughfare for the region throughout the 20th century (Biosis 2017).

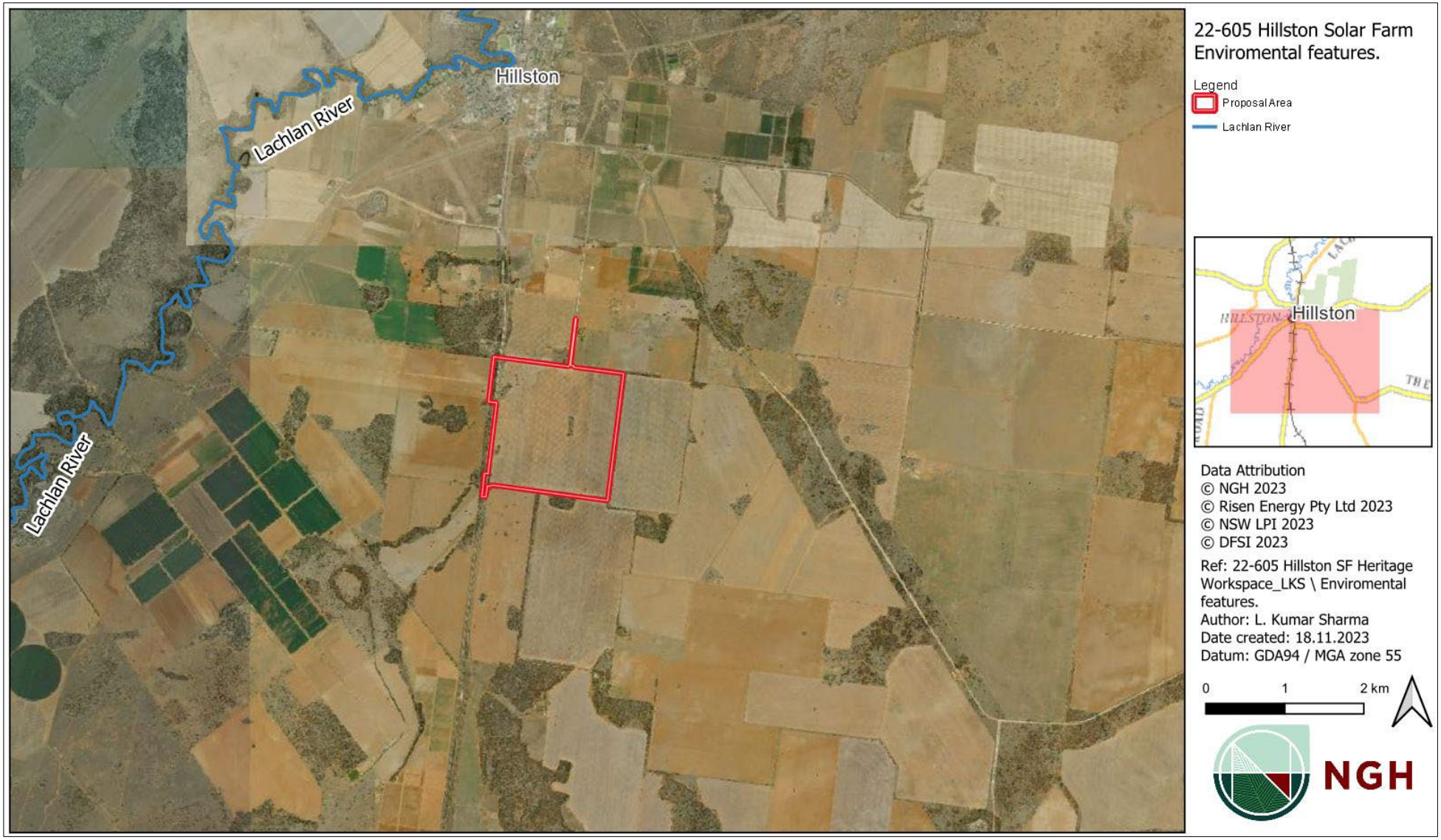


Figure 4-4 Enviromental features.

4.4 Aboriginal site prediction

Based upon the initial desktop assessment, using satellite imagery and topographic data, it appears that there is a low potential for previously unrecorded Aboriginal objects to occur given that the Proposal Area consists of a relatively flat plain approximately 3.5 km south of the Lachlan River with no other known natural water sources in close proximity. This also takes into consideration that the Proposal Area has previously been subject to survey as part of the initial assessment area for the Hillston Solar Farm which has been constructed on the western side of Kidman Way.

Previous archaeological survey over the Proposal Area resulted in a single modified tree being recorded within the road reserve of Kidman Way and research within the region clearly suggests that modified trees tend to occur on remnant black box vegetation across the plains. There is also some potential for low density artefact scatters and isolated artefacts to occur within the Proposal Area despite none being previously record during the assessment undertaken by Biosis (2017).

An outline of predicted Aboriginal objects within the Proposal Area is provided in Table 4-4.

Table 4-4 Aboriginal site prediction statements

Site type	Site description	Potential
Modified trees	Trees that have undergone cultural modification	High potential to occur within the Proposal Area in areas where there are remnant mature native trees associated with Aboriginal occupation. This site type has previously been recorded within the Proposal Area in the Kidman Way road reserve.
Stone artefacts scatters and isolated artefacts	Artefact scatter sites can range from high-density concentrations through to isolated finds	Low potential to occur in low densities within the Proposal Area however it is noted that none have been recorded during the previous assessment of the Proposal Area.
Potential Archaeological Deposits (PADs)	Potential subsurface deposits of archaeological material	Low potential to occur within proposal area given the lack of any elevated areas associated with water sources.

5. Impact avoidance

Step 3. Can any AHIMS listed objects, or landscape features be avoided?

The location of the proposed works is flexible to some degree and may therefore be able to avoid the location of the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 and any other sensitive landscape features. However, avoiding all remnant vegetation is unlikely to occur and the results of the visual inspection should be taken into consideration where there is potential to avoid any new heritage sites or areas of potential archaeological deposit that may be identified.

The desktop assessment alone is not sufficient to conclusively define the archaeological potential of the landscape or identify the location of any other previously unrecorded Aboriginal objects within the Proposal Area. Therefore, the next step in the process, a visual inspection, must be conducted to determine the presence of Aboriginal objects or potential archaeological deposits within the Proposal Area.

6. Desktop assessment and visual inspection

Step 4. Does the desktop assessment confirm that there are likely to be Aboriginal objects present or below the ground surface?

The assessment process is primarily a desktop exercise, using available information such as the AHIMS search results and relevant archaeological reports to develop or refine a model of Aboriginal site prediction based on the type of activity proposed and the level of disturbance of the area. A visual inspection is also required where landscape features are present that may contain Aboriginal objects that cannot be avoided by the activity. A visual inspection of the Proposal Area was undertaken on 06 March 2023 by qualified archaeologists Kirsten Bradley and Gabriella McLay focusing on the proposed development areas, areas of high visibility and areas of remnant vegetation.

The Kidman Way road reserve area generally had very low visibility, averaging between 5 to 10% with remnant vegetation, leaf litter and a dense grass cover. Any exposures, bare ground and animal tracks were visually inspected. The GIS location of the previously recorded modified tree site AHIMS# 42-4-0017/ Hillston 5 was inspected and the site was relocated during the survey undertaken by NGH which confirmed its location (see Plate 2). All other mature native trees and/or trees with scarring within the Kidman Way road reserve portion of the Proposal Area were visually inspected for the presence of Aboriginal cultural modification. For a tree to have been a mature specimen suitable for bark extraction at the time before European settlement interrupted Aboriginal people practicing traditional ways, the tree would have to be a native species and over 100 years old. While a number of trees within the Kidman Way road reserve portion of the Proposal Area have scarring none (with the exception of the previously recorded modified tree site AHIMS# 42-4-0017/ Hillston 5) were considered to conform in any way to the standard scarring morphology accepted for Aboriginal modification (cf. Long 2005). The Kidman Way road reserve area (see Plate 3 to Plate 6) was noted to have been highly disturbed by the construction of the existing road, table drains, railway and railway crossings and concluded to have negligible potential for subsurface material due to the existing disturbances. The material along the shoulder of Kidman Way and at the railway crossings was also determined to be brought into the area during construction and maintenance activities for the road and railway.

The proposed Norwood Lane road upgrade works are within the existing disturbed road corridor and were determined to have negligible potential for subsurface material and/or Aboriginal objects.

The portion of the Proposal Area within Lot 63 DP664722 was flat with no discernible microtopographic features or areas observed during the survey which would be considered to hold water, such as gilgai or soaks. The majority of the Proposal Area within Lot 63 DP664722 had very high ground surface visibility (80 to 100%) as it had been recently ploughed (see Plate 7 to Plate 13). The very high level of ground surface visibility across Lot 63 DP664722 during the survey was ideal for undertaking the visual inspection of the proposed development area, and the wider area of Lot 63 DP664722. Within Lot 63 DP664722 any stands of remnant vegetation and/or isolated paddock trees were visually inspected for the presence of Aboriginal cultural modification. None were considered to have scarring which conformed in any way to the standard scarring morphology accepted for Aboriginal modification (cf. Long 2005). The flat featureless plain was characterised by a reddish brown fine clay silty loam and a grey-brown silty cracking clay; it also contained no visible stone material. Given this, and in consideration of the very high ground visibility, absence of any close water sources, and results of the previous survey of the area by Biosis for the Hillston Solar Farm (Biosis 2017) it was determined that Lot 63 DP664722 has negligible potential for subsurface material.

In summary, no new Aboriginal sites were recorded within the Proposal Area and the previously recorded modified tree site AHIMS# 42-4-0017/ Hillston 5 was relocated at the GIS coordinates noted on the AHIMS database. Plate 2 to Plate 13 below show the photographs taken during the field work for this assessment.

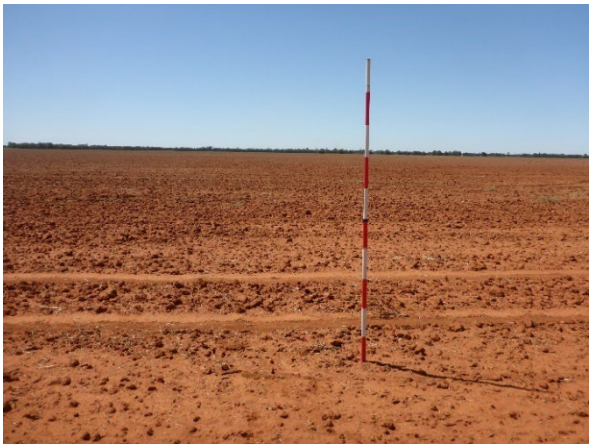
Plate 2 View of previously recorded modified tree site AHIMS# 42-4-0017/ Hillston 5 which was relocated during the survey by NGH.

Plate 3 View north of the remnant vegetation on the western side of Kidman Way.

Plate 4 View south along Kidman Way.

Plate 5 View north along the train line on the eastern side of Kidman Way.

	
Plate 6 View west over the existing train line to Kidman Way at the proposed entrance location.	Plate 7 View north from the proposed solar array area in the northern portion of Lot 63 DP664722 adjoining Norwood Lane.
	
Plate 8 View west from the proposed solar array area in the northern portion of Lot 63 DP664722. Note the existing power lines.	Plate 9 View south from the proposed solar array area in the northern portion of Lot 63 DP664722.

	
Plate 10 View north along the western boundary of Lot 63 DP664722 along the existing transmission line.	Plate 11 View east from the western boundary of Lot 63 DP664722 towards area of remnant vegetation.
	
Plate 12 View west from the eastern boundary of Lot 63 DP664722.	Plate 13 View north from the southern boundary of Lot 63 DP664722.

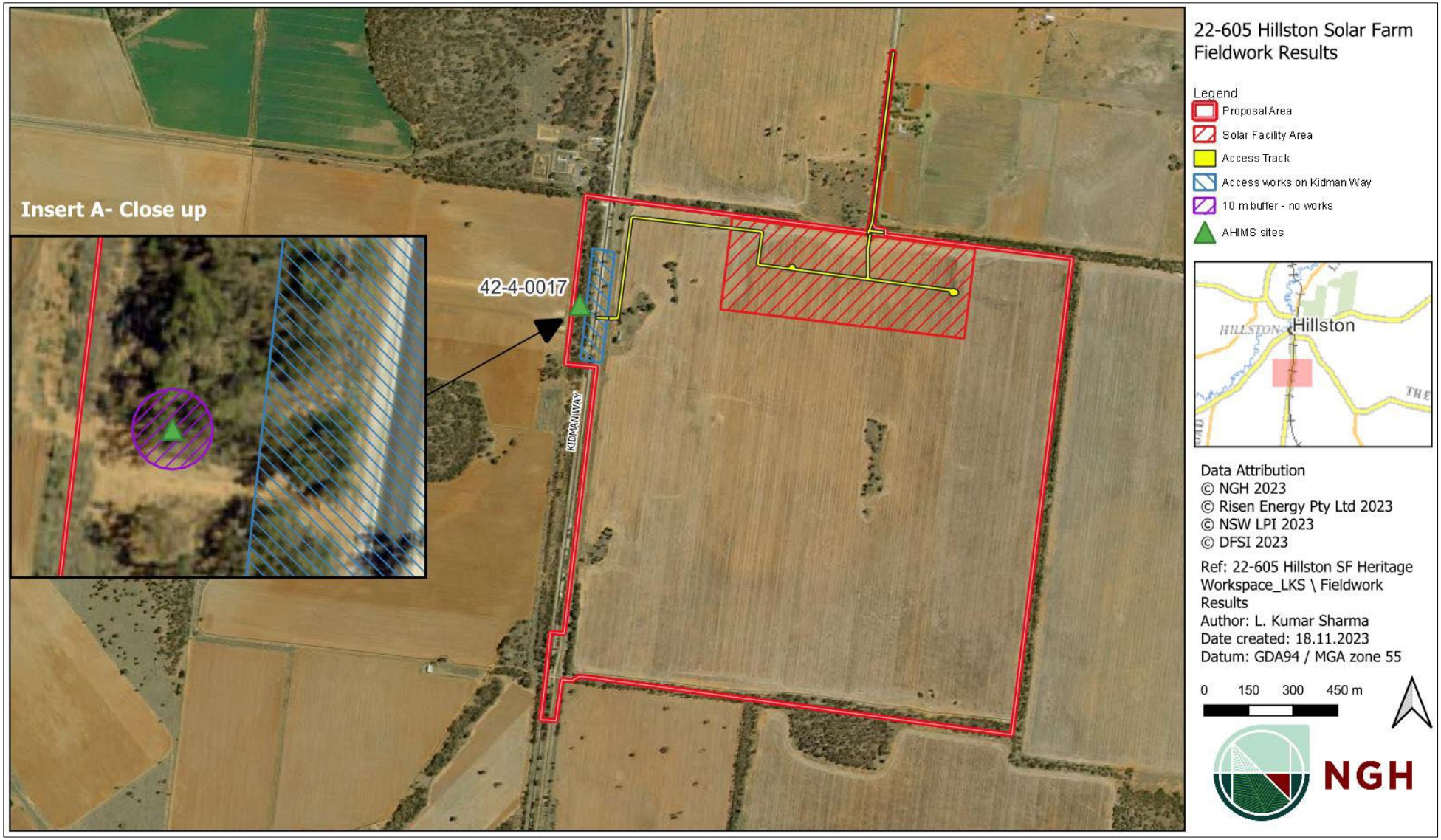


Figure 6-1 Fieldwork Results.

7. Further assessment

Step 5. Is further investigation or impact assessment required?

The Due Diligence Code states that if, after the desktop research and visual inspection is completed, it is evident that harm will occur to Aboriginal objects or heritage places then further and more detailed assessment is required. However, if the research and inspection conclude that the proposed activity is unlikely to harm Aboriginal objects then the activity can proceed with caution.

The field assessment concludes that the Proposal Area does not require further investigation and assessment as the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 can be avoided by the development works and no other new Aboriginal sites or area of potential archaeological deposit have been recorded within the Proposal Area.

The Proposal Area (with the exception of AHIMS# 42-4-0017/ Hillston 5) is assessed as containing negligible potential for Aboriginal objects and it has been determined that the works may proceed with caution as long as AHIMS# 42-4-0017/ Hillston 5 can be avoided with a minimum 10 m buffer to ensure no inadvertent impacts to the tree, its canopy or its immediate root system.

If for any reason the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 cannot be avoided with a minimum 10 m buffer, then further assessment would be required to facilitate an Aboriginal Heritage Impact Permit (AHIP). It is noted by NGH that an AHIP is unlikely to be approved for impacts to modified trees by Heritage NSW without significant justification regarding why the development cannot avoid impacts to this site type as modified trees (though overly represented on AHIMS in the local area) are viewed as an ever reducing site type. Furthermore, modified trees are generally viewed as having very high cultural significance by the Aboriginal community who would be unlikely to support any proposed impacts to AHIMS# 42-4-0017/ Hillston 5.

8. Recommendations

The following recommendations are based on a number of considerations including:

- Background Aboriginal heritage research into the area;
- Previous archaeological survey of the Proposal Area;
- Assessment of Landscape;
- Land use and disturbance assessment;
- Visual inspection,
- Consideration of the impact of the proposed works; and
- Legislative context for the development proposal.

Based on an assessment of the Proposal Area the proposed work can proceed with caution with the following recommendations:

1. All works must avoid the previously recorded modified tree AHIMS# 42-4-0017/ Hillston 5 with a minimum 10 m buffer to ensure no inadvertent impacts to the tree trunk, canopy and root system.
2. All works must be limited to the area assessed by this document and any ground disturbance activity proposed outside of the current assessment area should also be subject to an Aboriginal heritage assessment. This includes road upgrades for site access and laydown areas.
3. If any items suspected of being Aboriginal in origin are discovered during the work, all work in the immediate vicinity must stop. The find will need to be assessed by an archaeologist and if found to be an Aboriginal object the NSW Environment Line (1300 361 967) must be notified as an Aboriginal Heritage Impact Permit (AHIP) will be required.

Risen Energy is reminded that it is an offence under the *National Parks and Wildlife Act 1974* to disturb, damage or destroy an Aboriginal object without a valid AHIP.

9. References

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Appendix A AHIMS#42-4-0017/ Hillston 5 site card

Office of Environment & Heritage
NSW GOVERNMENT

Aboriginal Site Recording Form

AHIMS Registrar
PO Box 1967, Hurstville 2220 NSW

AHIMS site ID: 42-4-0017 **Date recorded:** 09-01-2018

Site Location Information

Site name: Hillston 5

Easting: 363509 **Northing:** 6290055 **Coordinates must be in GDA (MGA)**

Horizontal Accuracy (m): 5

Zone: 55 **Location method:** Differential GPS

Recorder Information

(The person responsible for the completion and submission of this form)

Title	Surname	First name
Mrs.	Keats	Samantha

Organisation: Biosis Pty Ltd

Address: 8 Tate Street, Wollongong NSW 2500

Phone: 0242011061 **E-mail:** ahims@biosis.com.au

Site Context Information

Land Form Pattern: Floodplain **Land Use:** Pastoral/Grazing

Land Form Unit: Plain **Vegetation:** Cleared

Distance to Water (m): 3500 **Primary Report:** Hillston sun farming project, NSW: Archaeological report

How to get to the site: The study area is located on Kidman Way approximately 3.5 kilometres south from Hillston.

Other site information:

1

Site location map

Site contents information

open/closed site: Open **Site condition:** Good

Features:

		Number of features	Length of feature(s) extent (m)	Width of feature (s) extent (m)	Scarred Trees: Scar Depth (cm)	Regrowth (cm)	Scar shape	Tree Species
1.	Modified Tree	1			20 Oval	20	220	40 Box

Description:

Hillston 5 is a modified box tree with a large, east facing oval scar with no visible axe marks. The size of the scar suggests it was the result of the removal of bark to create a canoe.

Features:

		Number of features	Length of feature(s) extent (m)	Width of feature (s) extent (m)	Scarred Trees: Scar Depth (cm)	Regrowth (cm)	Scar shape	Tree Species
2.								

Description:

2

Features:	Number of features	Length of feature(s) extent (m)	Width of feature (s) extent (m)	Scarred Trees: Scar Depth (cm)	Regrowth (cm)	Scar shape	Tree Species
3.							

Description:

Features:	Number of features	Length of feature(s) extent (m)	Width of feature (s) extent (m)	Scarred Trees: Scar Depth (cm)	Regrowth (cm)	Scar shape	Tree Species
4.							

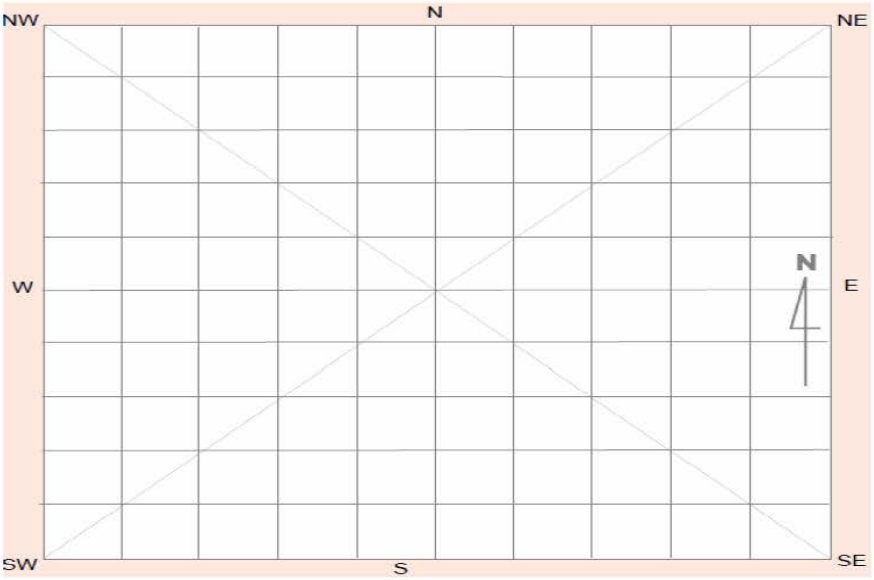
Description:

Features:	Number of features	Length of feature(s) extent (m)	Width of feature (s) extent (m)	Scarred Trees: Scar Depth (cm)	Regrowth (cm)	Scar shape	Tree Species
5.							

Description:

Other Site Info:

Site plan



3

Site photographs

Description: Hillston 5 View west, scale 2 m

Description:

Description:

Description:

Site restrictions

Do you want to Restrict this site?:

Restriction type: Gender | General | Location

Why is this site restricted?:

Further information contact

Title | **Surname** | **First name**

Organisation:

Address:

Phone: **E-mail:**

4