

**INQUIRY INTO RATIONALE FOR, AND IMPACTS OF,  
NEW DAMS AND OTHER WATER INFRASTRUCTURE IN  
NSW**

**Organisation:** Webster Pastoral Co

**Date Received:** 22 September 2020

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# Hazelbrook Legal.

Cate Faehrmann, MLC  
Parliament House  
Macquarie Street  
Sydney  
NSW 2000

By email: [Cate.Faehrmann@parliament.nsw.gov.au](mailto:Cate.Faehrmann@parliament.nsw.gov.au)

Copy to:

*The Hon Sussan Ley MP*

*The Hon Melinda Pavey MP*

*The Hon Angus Taylor MP*

*Wendy Tuckerman MP*

## Private and Confidential

22 September 2020

Dear Ms. Faehrmann

### Submission to the Inquiry into the rationale for, and impacts of, new dams and other water infrastructure in NSW

We act for John and Kerri Webster and the Webster Pastoral Co in relation to the proposed compulsory acquisition (the **Acquisition**) of part of their property, "Eurimburra", at Reids Flat NSW 2586, which straddles the Lachlan River (the **Property**).

We understand that the Acquisition is to take place as part of the broader proposed scheme by the NSW and Federal Governments to raise the dam wall at the Wyangala Dam (the **Proposed Scheme**), and the land to be acquired represents that part of the Property which is expected to be inundated due to the raised watermark (the **Flooded Land**). We further understand that the NSW Upper House has recently announced an inquiry into the rationale for, and impacts of, new dams and other water infrastructure in NSW (the **Inquiry**) which includes, as part of its terms of reference, the

Proposed Scheme.

Our clients welcome the Inquiry as a relief from the general lack of transparency, community engagement and communication with landholders in general, and with our clients in particular, since the announcement of the Proposed Scheme.

While the Inquiry is a sign of positive engagement at the State level, there has been little sign of serious engagement at a Federal level. For this reason, we have copied this Submission to The Hon Sussan Ley, Federal Environment Minister. Minister Ley has been quoted in the Land (13 July 2020) as saying:

*I am committed to meeting interested parties, in particular those that live and farm in the area, so that when I am presented with the final report for my determination I can have a greater sense of context of the issues involved.*

In spite of this commitment, the only information provided to our clients (and, as we understand it, those in the same or similar position to our clients) has been vague and incomplete. Concerningly, we are instructed that meaningful communication has been almost non-existent to date.

We urge Minister Ley, and her fellow Ministers at the Federal and State level, to make good on their promises and ensure that the Proposed Scheme delivers its goals for the Lachlan Valley area with procedural fairness and respect for those who have lived on, cared for, and farmed the land for generations.

Please find in the following pages a detailed submission for the attention of the Committee.

**1 Background on the Webster Pastoral Co**

Our client is one of the Lachlan River's most prominent prime lamb producers, and the Property is, as we understand it, one of, if not the, largest agricultural properties along that part of the upstream shoreline that will be impacted by the Proposed Scheme. An aerial photograph of the Property is attached as **Exhibit 1**, with the land owned by our clients marked in blue, and the Flooded Land shown in red and yellow.

**2 History of the Property**

The Fahey family were among the first European settlers to farm the Property, having settled on the selection in the mid-19<sup>th</sup> century, as early as the start of the 1830s. The land has been extensively and successfully cultivated by numerous prominent local farmers over the years, including the Fogg, Belcher, Fahey, and now Webster families. The Websters and

their descendants have farmed locally for 6 generations and have farmed the Reids Flat property for 4 generations. Our clients, being the current generation, continue to work the land today: John Webster has lived on the Property his entire life, now with Kerri and their children. This land represents not only their livelihood and home, but an agricultural heritage which pre-dates Federation. The property is rich with this history.

### **3 The Flooded Land**

- 3.1** The increased high-water mark will see a substantial portion of the Property inundated, and will raise the 1-in-100 year flood line to a significantly higher mark (**Flood Mark**). The precise Flood Mark has not yet even been adequately determined by contour surveyors, a matter of great concern for our clients.
- 3.2** The Flooded Land, and in particular, the block marked CPP at Exhibit 1, represents a substantial and extremely valuable portion of the Property, being used for feed cropping and grazing/finishing fat lambs. Without this land, the business operated on the Property is fundamentally altered, creating a dependency on bought-in feed and substantially reducing margins. This means that the business operated by our clients following the Acquisition will no longer be independent from the market. This is not only a significant blow to the pride of our clients as business owners and farmers, but also a significant increase in risk for the business, which will now be subjected to fluctuations in market prices. As market prices are heavily influenced by the availability (or not) of feed in drought years, our client's exposure to drought conditions is also magnified. To be clear, the Acquisition will cause significant deterioration to the nature of our clients' business, as well as causing very significant reduction in the value of the Property itself.

### **4 Unrealistic preliminary surveys demonstrated by recent flood activity**

- 4.1** You will also be aware that on the weekend of 8 & 9 August 2020, the Lachlan River catchment experienced significant rainfall. The impact of this rainfall was such that the river burst its banks and flooded a substantial part of the Property. This is of particular note as the area which flooded did not accord to the areas identified by the preliminary survey as forming the "Flooded Land" – this is the case in a flooding event which occurred even before the Proposed Scheme was implemented. Please see attached photographs (**Exhibits 2.1-2.4**) of the flooding for your reference and comparison against the relevant preliminary surveys (which have not been made formally available to our client at this stage).
- 4.2** It is our client's view that the raising of the dam wall by as much as 10m (including a further allowance for significant rainfall events which will cause further flooding upstream from the dam) will not only inundate the Flooded Land, but may in fact flood the entire Property, including the house block – there is therefore a risk that the fundamental ongoing viability of the Property and the business will be totally compromised by the Proposed Scheme. At the

very least, there is a significant risk that the substantially heightened flood line could render the Property functionally uninhabitable and useless for all commercial agricultural purposes. It goes without saying that mitigation of this risk requires significant further investigation, planning and consultation before any practical action is taken to raise the dam wall. If a decision is made to proceed with the Proposed Scheme notwithstanding the expected impact of the Flood Mark on our client's Property, then our clients' expectation is that they will be justly compensated for the threatened Acquisition, and the disruption and dismantling of their entire Property and Business.

**5 Further considerations**

- 5.1** The Property also contains ruins of the original Reid's Flat settlement and various buildings from pre-federation farm life, including the original homestead, which was the first habitable dwelling in the entire district (**Exhibits 3.1-3.2**). Other historical structures whose ruins sit on the property include the 'Vault', dated to the 1860s (**Exhibits 4.1-4.2**), which was the site of burial for various members of the Fogg family. The remains of the vault have been subject to local fascination for generations. To the best of our clients' knowledge, no consideration has been given to the potential archaeological and heritage value of these buildings in assessing the impact of the Proposed Scheme. The importance to the community of the property, both the land itself and its close ties to those that have inhabited it through historical remains like these is well documented, and the property holds a position of importance in the consciousness of local historians. To date, no archaeological survey has been undertaken to ensure that the impact of the Project will not threaten the preservation of these local landmarks.
- 5.2** Further, while much has been made of the environmental impact of the Proposed Scheme downstream of the dam, little attention has been given to the potential environmental and practical impact of the Scheme on the communities upstream. The impact is likely to include, at least, the following:
- (a) Substantially increased erosion impacts and inundation of natural riverbank habitat will necessarily be vast upstream. The riverfront to be flooded – not just along the shore of the Property but the entire expanse of river upstream of the dam – contains a significant number of trees. The proximity of those trees to water means that this is a significant source of shelter for local wildlife. The loss of trees and habitat cannot be recovered as the land which sits behind the new waterline does not have the same character or use as the old waterline.
  - (b) With the widening of the river upstream, its use for recreational activity is likely to increase, impacting on the privacy of landowners, the quality of environment for wildlife, as well as impacting stock during sensitive seasons such as lambing.

- (c) We also understand that the current access bridge used by our clients to move stock across the river will be torn down and replaced with a significantly more costly structure. Based on discussions in the community, our clients understand that the cost of the bridge is likely to be significantly higher than the anticipated budget, which leads us to conclude that costings and site surveys have not been properly conducted for the bridge, and likely for any other crossings impacted by the Scheme. Urgent work is clearly required to ensure that the Proposed Scheme promised by the Government is realistic within the budget allowed for it, and whether the taxpayers are in fact receiving value for money in this project, or whether undertakings made to landowners will be compromised based on insufficient budget being available.

## **6 Further engagement needed urgently**

- 6.1** With the above in mind, we are of the view that our clients and the broader upstream community are entitled to expect nothing less than exemplary, active and transparent engagement from the relevant authorities in relation to the Proposed Scheme. We understand, however, that since the Proposed Scheme was announced in late 2019, only preliminary site visits have been undertaken. No information has been communicated to our clients in relation to timelines, valuations or surveys, and we are not aware of any other substantial or useful community engagement which has taken place. We understand that, in spite of this apparent lack of progress, planning and forethought, there has been no alteration to the proposed commencement of works in October 2020 (less than a month from now).
- 6.2** As you must surely appreciate, given our clients' business and our clients' long running history with the Property, the Proposed Scheme and the proposed Acquisition is causing significant distress to our clients, and represents a threat not only to our clients' livelihood and way of life, but also to their family history, and poses significant uncertainty for their future.
- 6.3** We respectfully call upon the Committee:
  - (a) to confirm that the Proposed Scheme has been announced and commenced in a slap-dash, unprofessional manner in a transparent attempt to score cheap political points at the expense of the local community who are both taxpayers and voters;
  - (b) to recommend that the Proposed Scheme be halted permanently in the best interests of the residents of the Lachlan River community both upstream and downstream;

- (c) in the alternative, to ensure that if the Proposed Scheme must proceed, that it does so with the highest level of scientific and engineering integrity and accountability, and that all interests are heard and recognised appropriately.

**6.4** This last point requires that the relevant authority proceed as soon as possible to provide to our clients, the Lachlan River community and the public at large:

- (a) A comprehensive and detailed proposed timeline of works;
- (b) A comprehensive and detailed proposed timeline of the compulsory acquisition of land, including the expected timing of detailed survey work and land valuations; and
- (c) A comprehensive and detailed proposed timeline of the environmental assessments to be undertaken.

Strong community engagement is critical for the best practice execution of public works, ensuring that procedural fairness is delivered to all landowners, environmental and historical concerns are aired and addressed. Ultimately, the proper management of this process will also ensure the minimisation of conflict associated with the compulsory acquisitions.

Please be aware that our clients reserve all of their rights in respect of the matters raised in this submission, including without limitation the proposed Acquisition.

Please direct all future correspondence and enquiries to Hazelbrook Legal, for the attention of James Fisher at [redacted] and Hugh Griffin at [redacted]

Thank you for considering this submission.

Yours sincerely

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Hugh Griffin  
Principal



# Exhibit 1

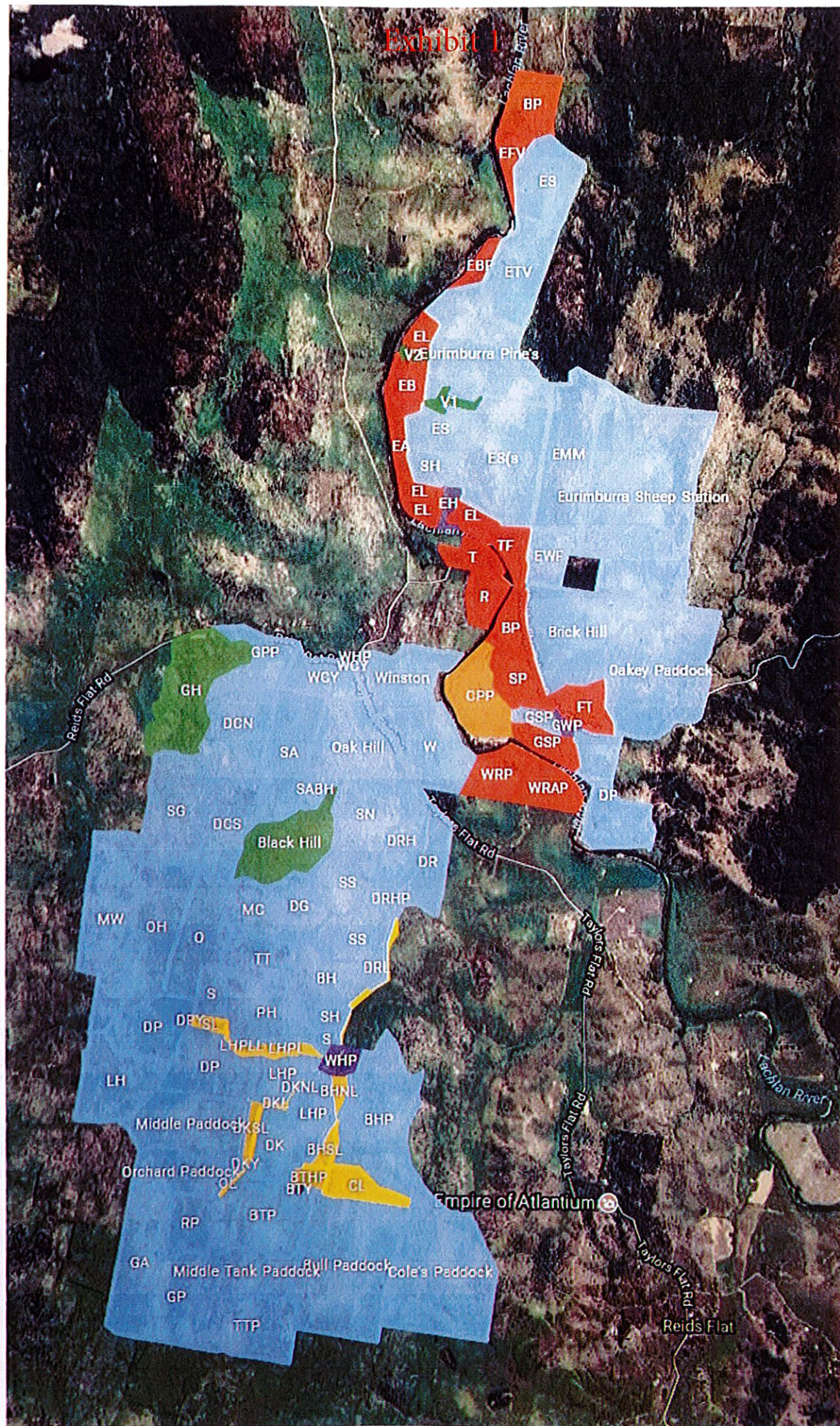






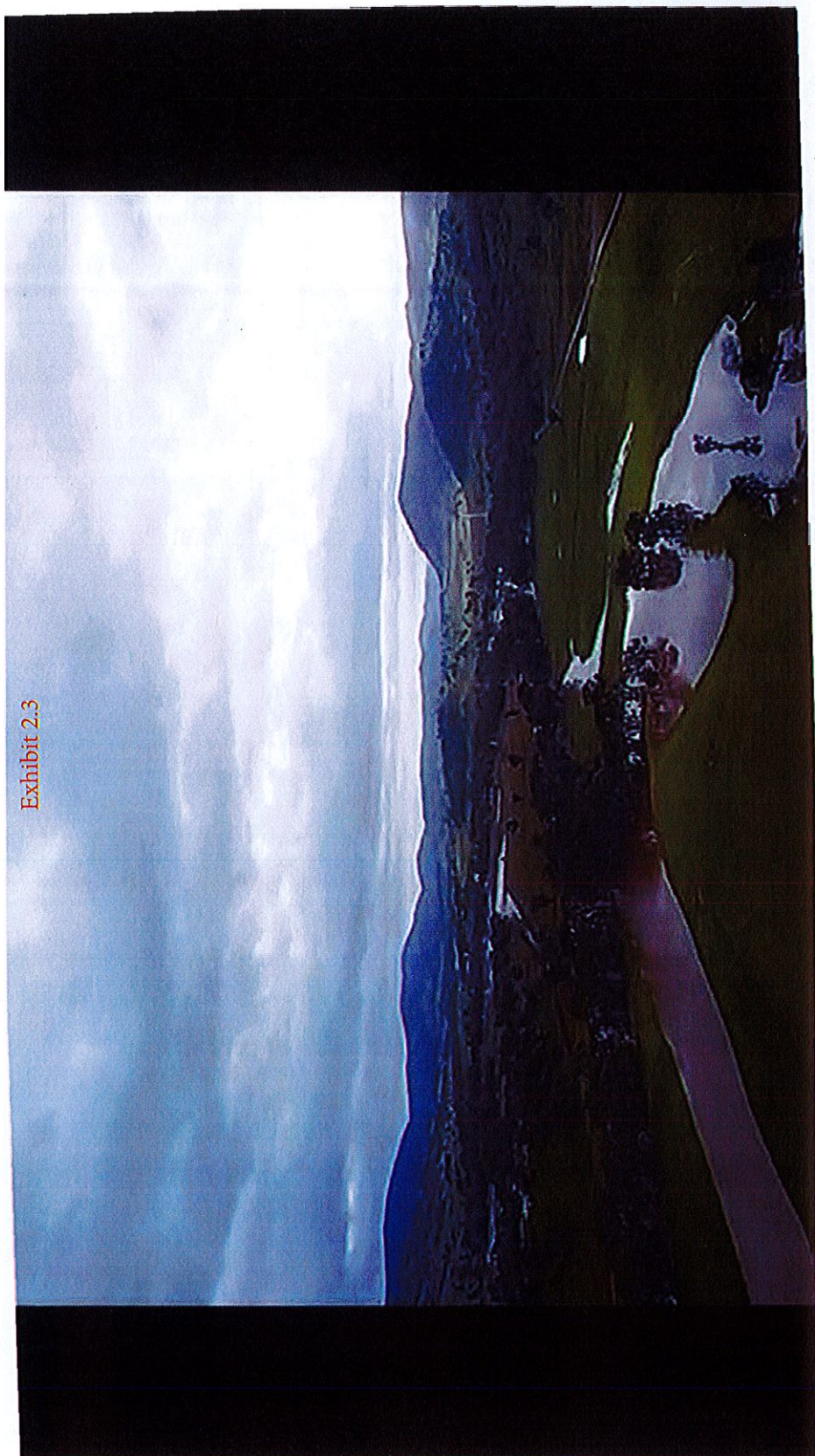


Exhibit 2.2





Exhibit 2.3





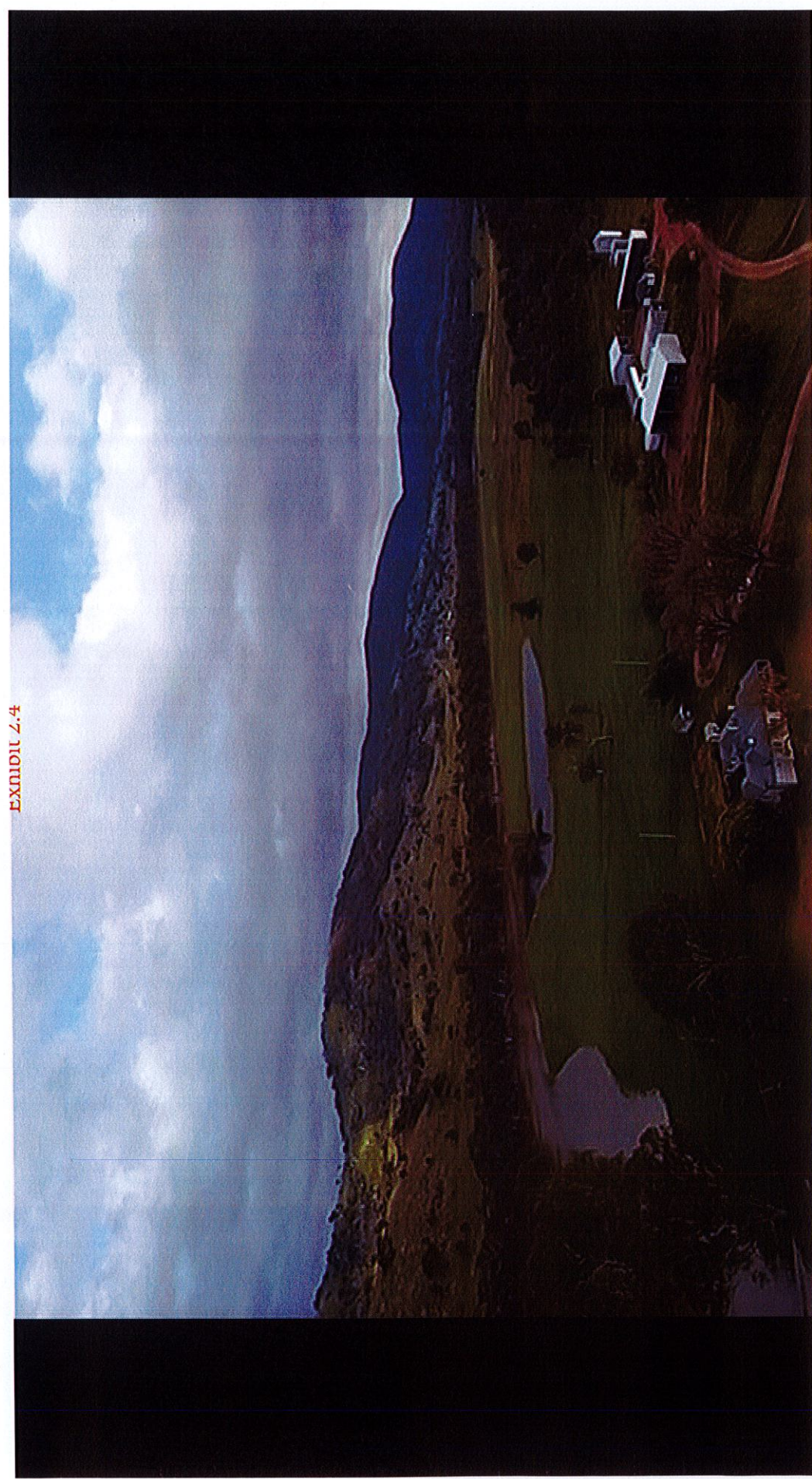


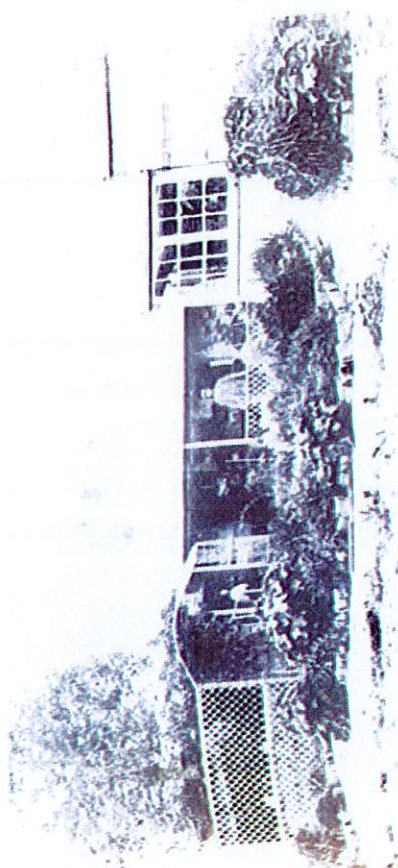
EXHIBIT 2.4





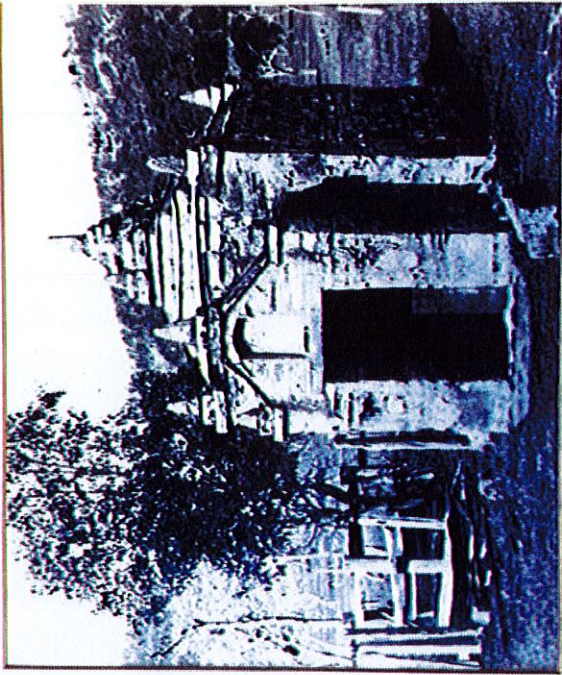
Portion of "Eurimburra" homestead. Photo courtesy of Kathleen Taylor.





The Original Homestead at Eurimberra. Constructed circa 1853 the centre building in this photograph is the oldest habitable dwelling in the district. Ann Belcher is standing under the trellis whilst Steward H. Belcher is standing on the verandah of the old homestead.

Exhibit 4.1



VAULT, BUILT BY WILLIAM FERGUSON  
ESTABLISHED 1880





is of Fogg's vault and how it appeared in the 1930s. In the centre is Adam Taylor's headstone.  
tesy Munro and Sidey.