

Stormwater Developer Works Policy – Mamre Road and Aerotropolis

Engagement Outcomes Report

July 2024

Background

Regional Stormwater Management in the Aerotropolis

Sydney Water was appointed as the Regional Stormwater Authority for the Western Sydney Aerotropolis, including the Mamre Road Precinct by the NSW Government in March 2022.

In this role, Sydney Water has the unique opportunity to change the way stormwater is managed and reused in the region, improving resilience, waterway health and liveability for local communities.

Since being appointed, Sydney Water has been consulting with landowners, government authorities and the development industry on the frameworks and principles for stormwater management in the Aerotropolis and Mamre Road Precincts. A Stormwater Scheme Plan has been finalised for the Mamre Road Precinct and Sydney Water released a Draft Stormwater Developer Works Policy in November 2023 for comment which will apply to both areas.

The Draft Policy

Development is progressing rapidly in the Mamre Road Precinct and will proceed ahead of much of the regional stormwater network, which is planned to be delivered in stages over the next five to 20 years.

Sydney Water recognises that developers can efficiently deliver regional stormwater infrastructure, as part of land development. To facilitate this, Sydney Water has developed a Stormwater Developer Works Policy (the Policy). The purpose of the Policy is to provide a mechanism for developers to deliver components of the regional stormwater network on behalf of Sydney Water and be reimbursed for elements of these works. The Policy will enable development to proceed ahead of the delivery of the regional stormwater network without the need for interim works.

The Policy establishes the process for costing and reimbursement of relevant stormwater works and will provide the foundation for future commercial agreements for the delivery of regional stormwater infrastructure by developers, on behalf of Sydney Water.

Principles and Process

The Policy is underpinned by the [Stormwater Management Framework](#) which is built upon three core principles:

- reasonableness
- nexus (development associated or contingent)
- accountability



In developing the Policy, Sydney Water has drawn upon industry best practice and stakeholder consultation and has sought to align with existing internal and external development approval processes as far as possible.

The Policy aims to:

- establish a consistent and transparent process that meets Sydney Water's regulatory standards;
- achieve cost effective and timely delivery of stormwater infrastructure;
- facilitate a collaborative relationship with developers to align development needs to stormwater management requirements;
- Support and facilitate planning approvals through the relevant statutory gateways.

Ideally, the Policy would be applied early in the design phase of a development proposal, following initial consultation and feasibility assessment with Sydney Water. At this point, the proponent and Sydney Water can agree on which works may be suitable for delivery as part of a development and advise on which approvals pathway is most appropriate for the works. This could involve delivering the stormwater works as part of the broader development application or State Significant Development Application, or assessment through a Review of Environmental Factors (REF). It is expected that the majority of works would be captured as part of a development application with an REF being the exception.

Sydney Water is nearing finalisation of the NSW Government approval process for funding of the Mamre Road Stormwater scheme. Once business case approval is granted and the Development Services Plan has been registered with IPART, Sydney Water can enter into commercial agreements with developers and landowners for the funding of developer delivered stormwater infrastructure. Consequently, any expenditure by a developer / landowner on stormwater infrastructure prior to finalisation of this approval process remains at their own risk. Until then, Sydney Water will not take ownership of, nor reimburse costs associated with unapproved stormwater infrastructure or servicing.



Engagement methodology

In late 2023, Sydney Water launched a public consultation on the draft Policy, seeking feedback from the development industry. From the launch of the public consultation on 16 November, a dedicated webpage on Sydney Water Talk hosted links to the draft Policy and supporting documents, along with details of where engagement activities were taking place and how the industry could get involved with the process.

The consultation ran over eight weeks, and included:

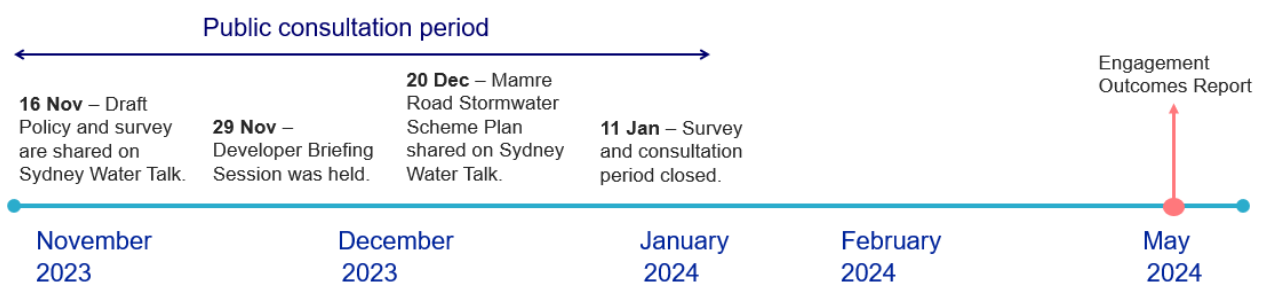


an **online survey**, that included closed and open-ended questions, seeking feedback from the respondent regarding each element of the draft Policy.



a **Developer Briefing Session**, that was held in-person with **34 attendees** representing developers, regulators and landowners. The draft Policy was presented, followed by a panel of Sydney Water subject matter experts answering questions from attendees.

Engagement timeline



This Engagement Outcomes Report provides an overview of the feedback shared during the consultation process and actions to be taken by Sydney Water. This feedback will be used to inform the finalisation of the Policy.

What you told us

The consultation process elicited the following responses:

- **14 survey responses** from developers, landowners, consultants and other stakeholder groups
- **three written submissions** from developers and one landowner group.

Feedback received was generally supportive of the intent of the draft Policy and the principles behind its development. However, in its exhibited form, many respondents felt that the Policy did not provide sufficient detail to allow for fully considered responses. Developers indicated to Sydney Water that they want to know more about the incentives for them to undertake stormwater works on our behalf.

Broadly, across all responses and submissions, specific issues raised include:

- reimbursements should be inclusive of all reasonable costs incurred by the developer to deliver the work, including some items that are currently excluded in the draft Policy;
- the timing of payment and process of reimbursement requires further consideration and detail – an offset to developer charges is sought by many respondents;
- a threshold amount of over \$1.5 million was most commonly suggested as the appropriate level for the delivery of stormwater infrastructure, noting the differences between the delivery of stormwater infrastructure and traditional water and wastewater infrastructure.

A summary of the key changes to the draft Policy in response to the consultation is provided in Table 1.

Table 1 – Summary of Amendments to Policy

Policy Issue	Feedback	Policy Update
Policy Detail	General request for more detail on the way in which the Policy was developed and how it would be applied to a range of development scenarios.	Detail on how the Policy will be applied under alternative land ownership scenarios has been documented. More detailed schedules will be attached to Stormwater Developer Works Agreements to reflect the specific development/delivery scenario.
Stormwater Developer Works Agreement	Request to see a draft of the Stormwater Developer Works Agreement and any standard terms	A set of expectations for works agreements has been included in the final Policy. Standard terms of agreement are being developed and will be made available.



Policy Issue	Feedback	Policy Update
Schedule of Assets	Request to amend the list of works eligible for reimbursement under the Policy	<p>List of works for reimbursement has been reviewed. An updated list will be provided in Appendix A to the final Policy.</p> <p>A Schedule of Assets will be developed and finalised when the IPART efficiency review has been completed.</p>
Threshold Amount	Feedback indicates the need for a threshold amount of greater than \$1.5 million for stormwater works.	Policy has been updated to reflect current procurement guidelines which set a threshold amount of \$500K.
Approach to reimbursement	Feedback sought consideration of alternative mechanisms for reimbursement	Policy adopts the reimbursement method that is currently available to Sydney Water. However, further investigations will be undertaken into potential alternatives to reimbursement, including an offsets approach.

Further detail on the feedback received and Sydney Water's response is provided in the following sections.



Key Issues

Stormwater Developer Works Agreement

Feedback on the draft Policy highlighted the need for further detail on the Stormwater Developer Works Agreement. All 14 survey respondents identified the agreement as a gap in the existing draft Policy, emphasising the need for a draft version to be available for public review and evaluation.

Respondents also queried how a scope of work for the agreement would be established within an acceptable timeframe.

Response: Sydney Water is developing a standard Stormwater Developer Works Agreement which outlines our preferred terms. Sydney Water has also updated the Stormwater Developer Works Policy to include 'Agreement Expectations' which will provide further detail on the role of these agreements in the delivery of stormwater infrastructure. These expectations will be included in the final policy, to be published on the Sydney Water website.

It is important to note that whilst there will be standard terms, each agreement will be negotiated on the basis of the individual circumstances of each development proposal. This will include establishing timeframes that reflect the delivery model of each case. To inform the bespoke Developer Works Agreements, Sydney Water has considered three different delivery models based on land ownership arrangements:

- a. Stormwater infrastructure works on developer's land;
- b. Stormwater infrastructure works on a third party's land;
- c. Stormwater infrastructure works on Sydney Water land.

Sydney Water has modelled these scenarios to assess the unique needs of each particular case. The basis for agreements under each of these scenarios will be included as Schedules to the Agreement.

Schedule of Assets – Scope for Reimbursement

Over 90 per cent of survey respondents believed the extent of works for reimbursement should be expanded. This sentiment was supported at the Developer Briefing Session and from the written submissions received during the consultation period.

Developers generally wanted all costs associated with delivering this work to be reimbursable under the Policy. Most notably, preliminaries, trunk drainage and professional fees were requested for reconsideration.



Response: A revised list of works for reimbursement is included in the final Policy (Appendix A). Reimbursements do not apply for spoil management for stormwater infrastructure works on any developer's land. Should contaminated spoil be discovered, reimbursement will be subject to negotiation. Individual cost components will need to be assessed as part of ongoing engagement with Sydney Water as design progresses.

Further information on the principles for reimbursement can be found in [this document](#), which provides a full breakdown of asset types and ownership.

Schedule of Assets - Costing

Almost two-thirds of the survey respondents raised questions regarding the way in which assets would be costed in the Schedule of Assets. There was a suggestion that assets should be broken down to a per lot scope and cost and a request for Sydney Water to share a benchmark on how pricing would be calculated.

Response: The Schedule of Assets will reflect a reasonable estimate of costs for the delivery of stormwater infrastructure assets. To calculate the costs in the Schedule, Sydney Water will draw upon an internal schedule of rates based on cost estimates provided by quantity surveyors and subject matter experts. These costs will be adjusted in accordance with market conditions and benchmarked against constructed assets to calculate the final estimated costs of the items included in the Schedule of Assets.

It should be noted that the costs in the Schedule of Assets will not be the same as the costs included in the Development Servicing Plan (DSP). The value of the stormwater assets used to calculate the DSP includes numerous other costs that would only be relevant if the assets were delivered by Sydney Water on a timeline that aligned with Sydney Water's planned delivery program. As the majority of the regional stormwater assets will be delivered by developers, to suit their timelines, the values in the DSP will not be used for the Schedule of Assets. Sydney Water will require more site-specific work to inform assets delivery costs.

The actual costs of delivering stormwater infrastructure will form part of future DSP reviews and may lead to updates to the DSP where appropriate. We will continue to refine the Developer Works Policy in light of any relevant outcomes from IPART reviews. Sydney Water will keep developers informed of when and how to participate in the IPART feedback process.



Threshold Amount

The draft Policy requires that developers deliver stormwater infrastructure works as defined for reimbursement (**Appendix A**) for the costs detailed in the Schedule of Assets, unless the combined stormwater infrastructure works exceeds the specified threshold limits.

Through the online survey, Sydney Water sought feedback from the development industry on what they thought a reasonable threshold limit for stormwater would be.

All but two respondents indicated an amount more than \$1.5 million as a suitable threshold amount. Those who suggested a threshold of more than \$2 million had indicated earlier in the survey that the most important outcome of the Policy was to prioritise the acceleration of development. On the other hand, those with no immediate plans to develop in the Mamre Road Precinct generally provided a lower suggested threshold amount.

Most developers that suggested an amount from \$1.5 million as a suitable threshold, expected the cost of works to exceed this number and having a higher threshold amount would avoid delays and increases in cost. A portion of these respondents also suggested that developers should oversee the competitive tendering process within the scope of broader civil works to ensure efficiency and cost-effectiveness.

Response: Sydney Water appreciates the insights from the development industry regarding the threshold. At this stage, Sydney Water is required to follow the [Procurement guidelines for developer works](#). While stormwater infrastructure does not have a set threshold in the most recent IPART determination, the Schedule of Assets threshold for water, wastewater and recycled water works of \$500,000 will be applied, under these guidelines. This is an increase from the previous threshold of \$350,000.

The differences between the delivery of stormwater assets compared to water and wastewater assets is acknowledged however, Sydney Water is bound by existing policies and IPART regulations. Further consideration of this will take place moving forward.

Works that exceed this threshold must undertake a competitive tender process, following the Sydney Water procurement guidelines. Stormwater works can form part of a wider civil tender if they are ring fenced and costed appropriately. In addition to ensuring competitive pricing, market testing of stormwater infrastructure costs will provide real time data and an evidence base to understand the true cost of stormwater infrastructure works which may inform future updates to the DSP.

The approach to reimbursement and timing

When asked to rank the most important outcomes of the Policy, the acceleration of development and having confidence in the reimbursement process were the most highly rated. This was further reflected in the written feedback, with many people saying the timing of payment and process for reimbursement required further clarification.



Seventy-five per cent of survey respondents considered the current approach to reimbursement problematic due to the upfront capital outlay required and the subsequent implications for cashflow. Developers requested consideration of alternative mechanisms for reimbursement such as:

- a works in kind (WIK) arrangement, where an agreement is established with Sydney Water for the developer to undertake WIK, in lieu of DSP payments upfront;
- a two-stage reimbursement process, where the majority is released at the completion of civil works;
- a DSP offset/credit system, reducing the need for interim infrastructure.

Sydney Water will continue to work on potential alternatives to the reimbursement model in advance of the implementation of the policy.

Other feedback:

Impact on development assessment/approvals

The development industry expressed a need for a unified approach to development approvals in the Mamre Road and Aerotropolis Precincts with alignment between Sydney Water and other relevant regulators such as the Department of Planning, Housing, and Infrastructure; and local government. Developers also sought to better understand how the Policy and process aligns with development assessment and approvals processes, noting the need to avoid any potential delays to development applications.

Response: Sydney Water is working closely with planning authorities, including the NSW Department of Planning, Housing and Infrastructure (DPHI) and local councils to align and streamline processes and establish consistency in stormwater requirements. This includes agreements with these agencies with regard to referral of relevant development applications and timeframes for providing input on stormwater arrangements. We will continue to refine these relationships to optimise efficiencies in the processing of stormwater proposals for the Aerotropolis and Mamre Road Precincts.

A process diagram illustrating the key touchpoints between development assessment processes and the Developer Works Policy will be prepared and agreed with relevant planning authorities to clarify the alignment.



Land Acquisition processes

The issue of land acquisition and how acquisition processes are addressed by the draft Policy was mentioned in the survey by some respondents. This was particularly relevant to cases where infrastructure was to be delivered on land owned by a third party where Sydney Water's acquisition of that land may result in delays in the delivery of stormwater infrastructure.

Response: Sydney Water has an existing [Property Acquisition Policy](#) which will apply to land required for stormwater infrastructure. Land required by Sydney Water for stormwater infrastructure works and the delivery of stormwater assets, will be secured through a separate land acquisition process. Whilst the acquisition of land by Sydney Water may be used to offset the final infrastructure contribution for a property, land acquisition will not form part of the Stormwater Developer Works Agreement. Sydney Water is bound by the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) when securing Third Party lands and easements.



What we're working on

After reviewing the feedback captured during the consultation period, Sydney Water has taken on several actions to finalise the Policy and share it externally so that development in the Mamre Road and Aerotropolis precincts can be accelerated.

The below action plan details what we're working on internally, based on your feedback.

Table 2 - Action plan

Action	Timing
Publishing the Stormwater Developer Works Policy (This is not implementation. Please see note below).	August 2024
Template Stormwater Developer Works Agreement complete	August 2024
Revised list of inclusions/exclusions for reimbursement (Appendix A to policy)	August 2024
Development of Schedules to the Policy which will provide further detail on land ownership scenarios in the delivery of regional stormwater infrastructure	November 2024
Investigations into an offset process and accounting mechanism as an alternative method of reimbursement.	July-Dec 2024
Publication of guideline on offsets process	January 2025
Implementation of the Policy following the outcomes of the IPART efficiency review and business case approval	January 2025

Note: Sydney Water is nearing finalisation of the NSW Government approval process for funding of the Mamre Road Stormwater scheme. Once business case approval is granted and the Development Services Plan has been registered with IPART, Sydney Water can enter into commercial agreements with developers and landowners for the funding of developer delivered stormwater infrastructure. Consequently, any expenditure by a developer / landowner on stormwater infrastructure prior to finalisation of this approval process remains at their own risk. Until then, Sydney Water will not take ownership of, nor reimburse costs associated with unapproved stormwater infrastructure or servicing.



What's next?

We appreciate the feedback and input received on the draft Policy and we will continue to engage with you as we work on these actions. The policy will be finalised and published in June 2024 and we will keep you updated on the progress and outcomes of our work on Sydney Water Talk.

Keep an eye on Sydney Water Talk for new information. Developers in the Aerotropolis and Mamre Road Precincts are encouraged to engage with Sydney Water as early as possible in the development process through a formal Feasibility Application. For further information please contact aerostormwater@sydneywater.com.au.

