

Mamre Road Stormwater Scheme Review
Independent Pricing and Regulatory Tribunal
PO Box K35 Haymarket Post Shop
Sydney NSW 1240

21 October 2024

Dear IPART Review Panel,

**RE: SUBMISSION TO MAMRE ROAD PRECINCT STORMWATER MANAGEMENT
SCHEME DRAFT REPORT – SEPTEMBER 2024**

We appreciate the opportunity to submit our comments on the Mamre Road Precinct Stormwater Management Scheme Draft Report (September 2024) (**Report**) in review of the Sydney Water proposed stormwater scheme (**Scheme**) for the Mamre Road Precinct.

This submission is made on behalf of the Mamre Road landowners (**Affected Landowners**) of the following lots:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

We thank the Independent Pricing and Regulatory Tribunal (**IPART**) for the briefing on the Report in October 2024 and for the opportunity to make this submission.

Our objective is to express concerns and considerations regarding the potential impact of the proposed Scheme on the affected properties.

1. Background

On 2 February 2024, the affected Landowners made a submission (**Annexure 1**) to the public exhibition of the Revision 3 of the Mamre Road Precinct Stormwater Management Scheme. Whilst Sydney Water acknowledged the submission, the matters raised remain substantially unresolved in the revised Report.

It is noted to IPART that these matters are pressed for consideration by IPART in this exhibition, particularly the following items as they present an impact to the pricing of the Scheme:

- Fragmentation of Land
- Irregular and Landlocked Lots

- Site Isolation
- Timing of Acquisition
- Just Terms

2. Additional Matters for Consideration

The following outlines the key concerns and considerations we would like IPART to address in finalising the draft Report.

2.1. Lack of Detail in the Land Acquisition Strategy

Concern is raised in relation to the lack of clarity of Sydney Water's land acquisition strategy. Detail within the Report is limited to "*Sydney Water has employed an appropriate methodology in estimating costs for land acquisition and a contingency for this cost*" (pp. 26), which is a summarised theme throughout.

This lack of detail exacerbates concerns of the Affected Landowners, given IPART providing insufficient consideration within the Report to demonstrate the proposed land acquisition and any potential future land divestment (explored in more detail in item 2 below) by Sydney Water.

Impacts to the pricing of the Scheme may prevail upon consideration to the following matters:

2.1.1. Partial versus full site acquisition

Partial acquisition risks the fragmentation of the Affected Landowners lots, leading to isolated, landlocked, or non-viable sites. This ultimately results in a de-valuation of the residual land qualifying as a compensatory cost pursuant to the *Land Acquisition (Just Terms Compensation) Act 1991 (Just Terms Act)*. It cannot be identified that this matter has been considered by IPART in the Report.

It is maintained by the Affected Landowners that a comprehensive acquisition strategy is needed to prevent site isolation and fragmentation, and inadvertently increasing costs of the Scheme. The full acquisition strategy of the Affected Landowners sites provides Sydney Water with the opportunity to efficiently deliver the Scheme, resulting in the divestment of an amalgamation of the residual land that preserves values and will reduce the Scheme's costs.

2.1.2. Land use cost basis

The cost basis used to calculate the land acquisition costs is unclear. Whilst the Report states that IPART “*found that Sydney Water consulted appropriately in setting market rates for land value*” (pp. 28), it fails to acknowledge or demonstrate the land acquisition and its underlying zonings for which the Scheme adopted values for such acquisition.

The Scheme and the IPART Report fails in its transparency, to allay concerns of the Affected Landowners. We recommend that the basis of these costs be made explicit, reflecting market values or current land use costs to ensure the Scheme has adopted fair compensation values for the Affected Landowners.

2.1.3. Timing of acquisition

The Affected Landowners have received multiple notifications from Sydney Water regarding the intended acquisition program, but each has been followed by a reversal, withdrawal or delay by Sydney Water. Further, the timeline for land acquisition is vague within the Scheme and the Report, creating uncertainty for the Affected Landowners. Notwithstanding, the pricing of the Scheme, whilst relevant to the publishing date, is not dynamic to consider time in its land acquisition strategy and the land costs being the subject of market fluctuation.

A detailed and definitive timeline is crucial for Sydney Water to accurately price for market fluctuations, whilst providing the Affected Landowners certainty in their planning and management of their holdings.

2.1.4. Cost escalations

Section 5.5.4 of the Report appropriately considers the ongoing land value escalation for its assets in determining ongoing holding costs of the Scheme (in this case it is Land Tax). This has been noted at “*a real growth rate of 4% per annum for developable land and 1.5% per annum for constrained land*” (pp. 39). Sydney Water’s consideration of the future value of its assets and ongoing costs of the operation of the Scheme is commended and necessary.

However, future costs of land acquisition are presented as a static value in Sydney Water’s Scheme. Further the IPART Report fails to acknowledge or find how the Scheme would react to fluctuations to the value of site acquisition.

Simply, the report does not address cost escalations for land acquisition from the Affected Landowners that would be reasonably incurred by Sydney Water. While the timing for acquisition is unknown (as described above), if an acquisition timeframe of 2 years is assumed, cost of acquisition would escalate by 8.16% based on a real growth rate of 4% PA.

The static nature presented by the Scheme and the Report, does not provide certainty that the sites can be acquired by the Scheme pursuant to the Just Terms Act. Further transparency should be provided if this is considered, alternatively, IPART is strongly encouraged to find that Sydney Water undertake proper due diligence and develop a scheme that responds to the fluctuations of market pricing of land within the precinct.

2.2. Lack of Detail in the Land Divestment Strategy

Whilst not addressed in the Scheme or the Report, this section addresses potential Land Divestment by Sydney Water on the basis that full acquisition is undertaken of the Affected Landowners sites.

The Report lacks details on how surplus land, acquired for the Scheme but not ultimately required for its operation, will be handled. Surplus land acquired by Sydney Water will have the ability to amalgamate the lots to regular shaped and desirably developable lots. These amalgamated lots, upon the finalisation of its construction and in the operational phase of the Scheme, have the ability to be sold to future developers at full market rates. The Report fails to acknowledge this, nor provides the transparency of the reinjection of the revenues to Sydney Water that would reduce the operational costs of the Scheme.

We propose that Sydney Water and IPART consider a divestment strategy for such land once the Scheme is operational, which could reduce the overall Scheme costs.

2.3. Inflated Scheme Costs Impacting Land Values

There have been varying costs of multiple iterations of the Mamre Road Precinct Stormwater Management Strategy that have been documented by the NSW Government and Sydney Water. More relevantly, the following is noted:

- \$266,600 per Hectare - NSW Government, Review of water sensitive urban design strategies for Wianamatta–South Creek, 2022; and
- \$850,000 per Hectare – Sydney Water Scheme, 2024.

This presents a 219% increase in contributions for the from an initial iteration of the Mamre Road Precinct Stormwater Management Strategy to the revised Scheme as it currently stands.

It has been documented by the Mamre Road Landowners Group in its submission to IPART Issues Paper in June 2024, and The Property Council of Australia and Urban Development Institute of Australia submission to IPART Issues Paper, May 2024, that the charges above \$500,000 per Hectare would render development unviable. Moreover, it has also been documented that the Scheme proposed by Sydney Water can be delivered in partnership with private developers for a reduced cost.

It is inferred that Developers have produced development feasibilities that note infrastructure costs/contributions toward the Mamre Road Stormwater Management Strategy at or around the \$266,600 per Hectare range, being the rates quoted in the NSW Government's "*Review of water sensitive urban design strategies for Wianamatta–South Creek*". As acquisitions have been made utilising this input into development feasibilities, benchmarks for acquisition of land has been set for the precinct. Given land price growth has occurred since the initial review, it is reasonable to inference that the viability of development is possible at a infrastructure costs/contributions at sub-\$500,000 per Hectare, as reported by the Mamre Road Landowners Group and respected industry bodies.

The adoption of this inflated cost Scheme will negatively affect the residual land values in the property acquisition process in the order of between 6.4% to 10.6%. Not only does this render development potential unviable for current developers in the precinct, but gross negligence is also exhibited by state government departments has resulted in the potential devaluation of the Affected Landowners lots.

We recommend that IPART closely review the cost structure of the Scheme, including the public private partnerships to deliver a more cost-effective Stormwater Management Strategy, to ensure that it does not unduly impact property values and development potential in the precinct.

3. Summary

The Affected Landowners outline several critical concerns regarding the proposed Mamre Road Precinct Stormwater Management Scheme:

- Land acquisition strategy - Lack of detail, particularly on partial versus full site acquisition, risks isolating and fragmenting land, reducing its value and complicating compensation under the Just Terms Act.
- Cost basis - Unclear cost estimates for land acquisition, with insufficient transparency on zoning and market fluctuations.
- Acquisition timing - Repeated delays have created uncertainty, making it difficult for Affected Landowners to plan and manage their landholding.
- Cost escalations - No provision for land value as it increases over time, leading to potential underestimation of acquisition costs.

- Divestment strategy - No strategy for surplus land, which could reduce overall Scheme costs if addressed.
- Inflated costs - Current cost estimates could make development unviable, negatively impacting land values.

The Affected Landowners urge IPART to reconsider the Scheme's cost structure and acquisition strategies to prevent unnecessary financial impacts and promote the viability of development within the precinct. The Affected Landowners urge IPART to ensure a fairer, more transparent and collaborative, and cost-effective approach to the stormwater scheme.

We would welcome any opportunity for further discussion or clarification with the Affected Landowners group.

If you require any clarification to the above, do not hesitate to contact me on [REDACTED].

Yours sincerely,

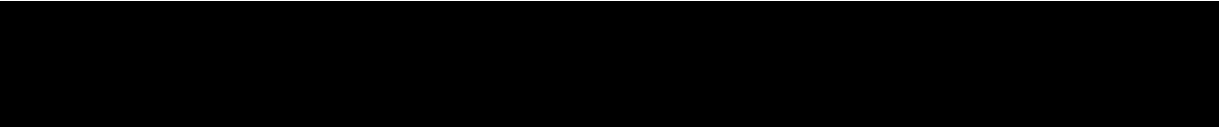
On behalf of the Mamre Road Affected Landowners

[REDACTED]

Matt Loader

Landowners Representative

[REDACTED]



Annexure 1 – Submission to Mamre Road Precinct Stormwater Management Scheme
(Revision 3) dated 2 February 2024.

ATTN: Roch Cheroux
Managing Director
Sydney Water

*Delivered via: Professor Roberta Ryan, Western Sydney Aerotropolis Community
Commissioner*

2 February 2024

Dear Mr Cheroux

**RE: MAMRE ROAD PRECINCT STORMWATER MANAGEMENT SCHEME – REVISION 3
WORKING DRAFT**

This submission is made by the owners of the following lots:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

We thank Sydney Water for the briefing on the Mamre Road Precinct Stormwater Management Scheme (revision 3) during the week of 11 December 2023 and for the opportunity to make this submission.

We are among a very small number of homes left in the Mamre Road Precinct and, as you can appreciate, living here has become increasingly untenable. Our once rural lifestyle has disappeared as the developing industrial zone encroaches on our boundaries. Dust, noise and sound pollution grow worse every day, and soon we will have aircraft flying over our homes 24/7.

Despite declining mental and physical health, we have been tolerating our deteriorating living conditions because an end was in sight. We were advised 18 months ago by Sydney Water that our lots would be fully acquired by the end of 2024. This appears to no longer be the case.

As a group, we have strong concerns about Sydney Water's proposed way forward and the withdrawal of your intended acquisition of our whole lots. This reversal in approach presents enormous challenges for each of us.

The Aerotropolis Community Commissioner, Professor Roberta Ryan, has recommended that where there are multiple acquiring authorities on one lot, the first agency in should acquire the entire site. The new draft scheme plan requires us to deal with multiple acquiring

authorities for different parts of our land. We know that this process is complex, expensive and drawn out.

In addition, the revised scheme plan turns our lots into a messy patchwork of residual land that is either landlocked or so irregular in shape that it will likely have little commercial appeal. This nullifies the options for future land use.

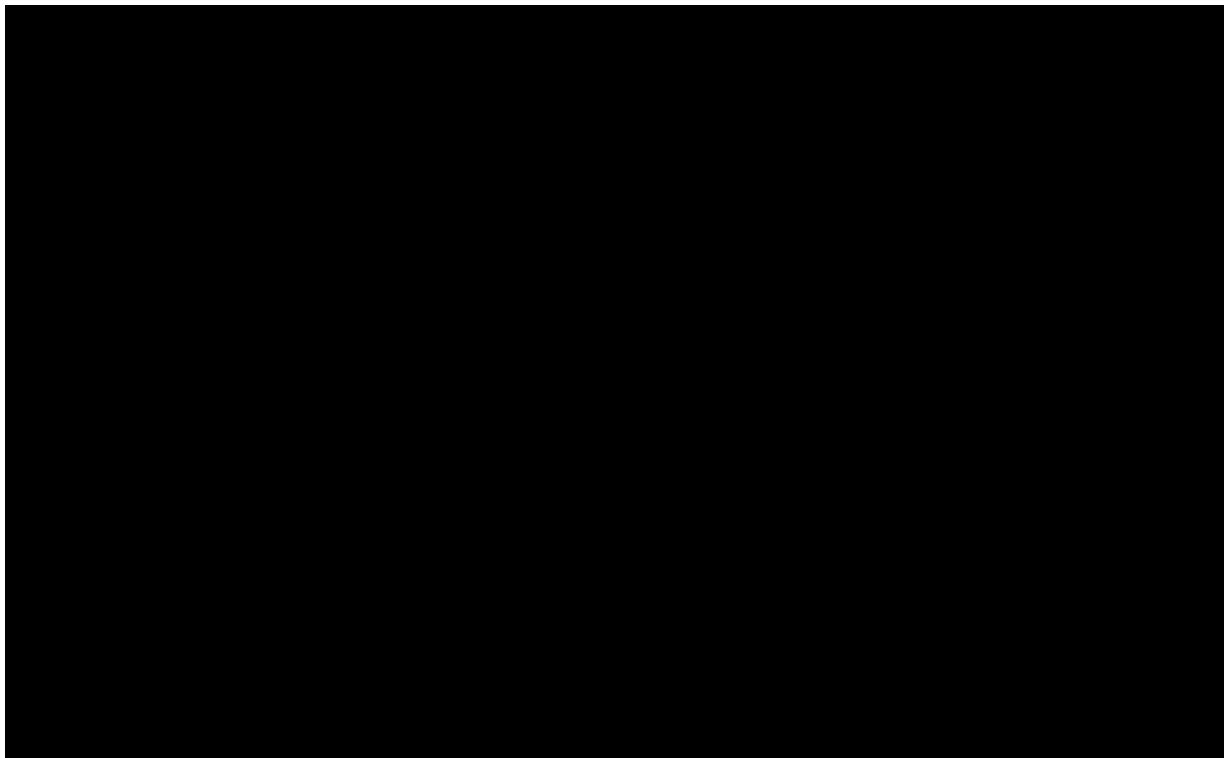
We have been extremely patient while Sydney Water has worked through various iterations of the Mamre Road Precinct Stormwater Management Scheme. This has taken a significant mental, physical and financial toll on all of us but we were reassured knowing that our lots would be acquired by the end of 2024.

The complete reversal by Sydney Water regarding acquisition has left us in shock and deeply distressed for our futures. We feel trapped and powerless.

We ask that Sydney Water recognise the personal impact of this revised scheme plan and reinstate its original commitment to acquire our lots in their entirety by the end of 2024.

The table on the following pages provides further details about our concerns, and our contact details are below should you need to discuss further.

Yours sincerely



ITEM	COMMENT
Fragmentation of Land	<p>The current proposed drainage layout results in fragmentation of the residual land. Specifically, the resulting subdivision from the proposed layout of the various stormwater treatment systems creates multiple residual lots of varying unrelated uses.</p> <p>In addition, the resulting subdivision restricts the land from allowing the original use to continue and lots may not be accessible to be occupied as a principal place of residence. The fragmentation of the land will adversely affect the owners ongoing enjoyment and continued use of the site.</p> <p>The owners do not support an isolated acquisition of the land that would result in any adverse affect to their existing amenity, ongoing use of the land, or inability to hold any land that would be classified for purposes other than their principal place of residence.</p>
Irregular and Landlocked Lots	<p>In the consideration of the proposed stormwater scheme, we encourage Sydney Water to conduct a thorough evaluation of the potential challenges associated with irregular and landlocked lots.</p> <p>In the event of ownership fragmentation, acquiring easements for legal access to landlocked sites becomes imperative, along with the amalgamation of adjoining properties for future development. This approach introduces significant challenges, including undue costs and adverse impacts on the valuation of the irregular lots.</p> <p>These challenges would normally be avoided, or mitigated, through alternate stormwater management schemes and proper planning of the masterplan in the initial rezoning stages.</p> <p>The owners do not support an isolated acquisition of the land that would result in the creation of irregular and landlocked sites.</p>
Site Isolation	<p>The proposed layout introduces the creation of isolated lots, which necessitate amalgamation with adjoining lot owners to render the land commercially viable and suitable for development aligned with the intended land use.</p> <p>The owners do not support an isolated acquisition of the land that would result in the creation of isolated lots with limited commercial viability.</p>
Acquisition Authorities	<p>The proposed subdivision of the sites result in multiple acquisition authorities earmarked to acquire individual fragmented portions of</p>

ITEM	COMMENT
	<p>the land. That is, Transport for NSW (TfNSW) will seek to acquire the frontage of the land for its Mamre Road Upgrade Project, while Sydney water is seeking to acquire land straddling Kemps Creek that traverses the sites.</p> <p>In the case that TfNSW seek acquisition of land for the Mamre Road frontage in the first instance, this can be considered in isolation to Sydney Water. However, in the case that Sydney Water seek acquisition of land prior to TfNSW, the owners will only consider the acquisition of the land in conjunction with TfNSW to affect a concurrent transfer of land to a single or the respective authority.</p>
Amenity Impacts	<p>The owners are acutely aware of evolving industrial landscape of the Mamre Road Precinct, and in particular, experience daily the ongoing adverse safety risk and impacts of:</p> <ul style="list-style-type: none"> • Traffic; • Water quantity and quality; • Dust; • Air quality; • Light pollution; • Noise; and • Vibrations; etc. <p>The adverse impacts are further exacerbated daily due to the pace of development by the private sector and the ongoing delays of the public sector to finalise the acquisition of the land by Sydney Water.</p> <p>Consideration should also be given to the following:</p> <ol style="list-style-type: none"> 1. Flight testing is due to commence in 2025 to the Western Sydney Airport, which is likely to render the current residential use uninhabitable due to the ANEF exposure limits to residential premises. 2. The Toll Warehouse on Abbotts Road is due for completion in September 2024. This is approved as a 24hour 7day distribution centre, which is projected to add 1,500 truck movements per day to Mamre Road. This is a significant increase to the traffic network that may be consistent with an industrial zoned precinct, however, presents significant

ITEM	COMMENT
	<p>adverse impact (noise, light and road safety) to the owners currently unable to sell.</p> <p>The locality has rapidly evolved with the owners currently living in an industrial precinct rather than a rural setting as a direct result of the delays for the authorities to acquire the land that the state has earmarked as land for the precincts infrastructure.</p> <p>It is appreciated that the Stormwater Management Scheme is required to manage the quantity and quality discharge of water to Kemps Creek. The requirement for these water treatment devices will become imperative given the pace of the surrounding development and the demand of developers as this infrastructure is required so as not to stifle development and preserve impact to the environment.</p> <p>Irrespective of the finalisation of a Stormwater Management Scheme, the owners are not supportive of an isolated site acquisition program. In this regard, the acquisition of the sites in their entirety presents the least risk to delivering the Stormwater Management Scheme with Sydney Water having the flexibility to redefine the boundaries as detailed design progresses in the future.</p>
<p>Timing of Acquisition</p>	<p>The latest iteration of the Stormwater Management Scheme has been described as Revision 3 of the scheme. The indecision of the final scheme by Sydney Water result in 12 to 18 months between new iterations of the subsequent Stormwater Management Scheme. This is having a significant impact to the timing of the acquisition of the land.</p> <p>Any notion to divest property to other private or corporate entities has failed due to the authority's placement of the stormwater management scheme and the multiple iterations that present as a risk to any incoming entity. The ability to divest the site is solely on a program dictated, though not communicated, by Sydney Water.</p> <p>In addition, the ongoing delays to finalise the scheme and acquire the properties has resulted in undue stress and hardship of the owners' obligations to pay inflated council rates and land tax on rezoned land that cannot obtain any commercial return to offset/compensate these additional costs.</p>

ITEM	COMMENT
	The owners are supportive of an accelerated program to acquire the sites in their entirety to mitigate adverse environmental and emotional impacts.
Just Terms	In any case, the owners will reserve the rights to full consideration of entitled compensation pursuant to <i>Land Acquisition (Just Terms Compensation) Act 1991</i> upon the acquisition of the land.