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6 October 2020

Dear IPART Tribunal

**Re: Review of domestic waste management charges**

Thank you for the opportunity to provide feedback on the Independent Pricing and Regulatory Tribunal's (IPART) *Local Council Domestic Waste Management Charges* discussion paper. The Waste Management and Resource Recovery Association of Australia (WMRR) is the national peak body for all stakeholders in the essential Waste and Resource Recovery (WARR) industry. We have more than 2,000 members across the nation, representing a broad range of business organisations, the three (3) tiers of government, universities, and NGOs.

WMRR's members, which include local government, are involved in a range of important waste management and resource recovery activities within the Australian economy, including community engagement and education, infrastructure investment and operations, collection, manufacturing of valuable products from resourced recovered materials, energy recovery, and responsible management of residuals.

In NSW, the WARR industry remains a key contributor to the state's economy and environment. The value of NSW's WARR sector is estimated to be about \$5.3 billion in 2017-18 across the collection, transport, processing, disposal and recovery (including energy) of MSW (\$1.65 billion), C&I (\$1.54 billion), and C&D (\$1.1 billion); the approximate value of recovered materials for the period was \$1 billion<sup>1</sup>.

Local governments play a significant and integral role in delivering essential WARR services and WMRR acknowledges IPART's overarching intent of the review, that is to ensure Domestic Waste Management (DWM) charges deliver good value for ratepayers.

While WMRR's full submission can be found below, WMRR makes the following observations:

- WMRR agrees with IPART's sentiment that prescriptive regulation must be approached with great caution and any regulatory framework must be developed in consultation with all stakeholders, including local government and the WARR industry. Broadly, WMRR does not agree with any proposal to set up a separate regulatory body and/or framework that will require extra funding and resources as the Office of Local Government (OLG) has oversight of DWM charges and it is their responsibility, not IPART's. If the OLG is not undertaking this role

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<sup>1</sup> Inside Waste Industry Report 2017-18: Volumes and Values

in an appropriate manner, IPART should recommend that it does as opposed to stepping in itself. Further, the EPA already has significant oversight of the WARR industry.

- There already exists market testing of DWM service delivery through the competitive tender process, during which time, the service provision part of the DWM charge is accurately market tested and costed. As such, there is no value in a central database; its usefulness and effectiveness is also questionable as it is impossible to accurately compare these services and costs across councils given a number of factors including differing service levels and objectives (note that councils respond to their elected representatives who have differing objectives and goals).
- WMRR acknowledges IPART's efforts in trying to understand the varying roles and responsibilities of councils across local government areas. However, the paper does not thoroughly or appropriately consider a wide range of factors that impact total DWM charges, the actual service provided by each council/local government area, and appears to have relied only on a survey of local government with no engagement with the WARR sector, while having a singular focus on contractual and overhead costs.
- WMRR does not agree with the development of a centralised database; there is a risk of duplication in data and information already submitted to the NSW EPA and it is impossible to a like-for-like comparison of services (more below).
- In September, IPART announced that the 2021-22 rate pegging rate for NSW councils would be set at 2.0%, which is lower than previous years. While in the short-term, this may be a positive for NSW ratepayers, WMRR queries if IPART had taken into account additional costs incurred as a result of COVID-19, bushfires, and droughts, to name a few external factors, that would have medium- to long-term impacts. This modest rate peg ensures local government is able to continue to provide essential services to the community; however, it may impact some service levels and does little to mitigate the additional costs that have arisen due to the factors (and beyond) mentioned above, which may continue given ongoing challenges such as climate change.

As noted, WMRR agrees that DWM charges must be both affordable and deliver value for ratepayers, but the service component of these charges are duly reviewed and considered in the tender process and it is beyond IPART's remit to provide oversight as it is OLG's responsibility to do so. Moreover, given the lack of analysis of services provided by each council, their wide ranging objectives, and the multiple factors that could impact total charges, WMRR is concerned that IPART's review of DWM charges and its rate peg may result in a race to the bottom. This will create a barrier to greater investment in the state, which would impact building community infrastructure and services that are essential for the protection of community and the environment, and critical in sustaining a strong circular economy, as well as local job growth.

Rather, WMRR argues that given the area of greatest concern pertaining to this charge is the overheads that councils include in relation to administering these services (i.e. council staff costs, ranger costs, and others), that these charges present government with an opportunity for standardisation, for example, by way of clear direction as to what can be costed by councils in this



charge, outside of direct service delivery costs. Please do not hesitate to contact the undersigned if you wish to further discuss WMRR's submission.

Yours sincerely



Gayle Sloan

**Chief Executive Officer**

Waste Management and Resource Recovery Association of Australia

## Submission

Question	WMRR's feedback
<p>1. Is it a concern that DWM charges appear to be rising faster than the rate peg? Are there particular cost drivers that may be contributing to this?</p>	<p>No, this is not of concern given that the costs within the DWM are market tested through public procurement processes.</p> <p>Further, as the Office of Local Government ceased conducting audits of the reasonable cost basis of DWM charges in 2016-17, it is difficult to determine if the speed at which DWM charges are rising is "a concern".</p> <p>WMRR would note that the rate peg is determined by the annual change in the Local Cost Index, which measures the average costs of councils including employee and construction expenditure, and the peg does not in fact cover the full service provision cost of councils; rather, councils cut the cloth to fit each year based on what has been approved. Given the market testing and cost allocation of the DWM services, as well as the capital costs involved in many of these contracts, e.g. the expenditure of collection vehicles, it is not possible for these long-term contracts to be adjusted annually based on a peg set by IPART.</p> <p>There have been recent significant events in Australia generally (including China's National Sword), and NSW in particular (the revocation of Municipal Waste Organic Output RRO and exemption) that impact the cost of delivery of MSW services, and cannot be identified simply by an arbitrary rate capped amount; rather, the complex nature of the industry and its relationship with markets needs to be understood and responded to. This cannot be done with a simplified rate cap, which would in fact lead to diminished services to households.</p> <p>In WMRR's view, it is not in fact possible develop a one-size-fits-all approach to general rates (where council can exercise some discretion as to what services to provide) and an essential</p>

	contract for waste services that are integral to health and environment that is met by the DWM.
2. To what extent does the variation in services and charges reflect differing service levels, and community expectations and preferences across different councils?	<p>WMRR appreciates IPART's efforts in understanding the various market issues, as summarised on page 31 of the draft paper. However, in reviewing both the paper and the appendices, there is little indication of how the variation in services and charges reflect differing service levels, much less community expectations, capital investment, service differences and preferences across different councils.</p> <p>The paper's predominant focus is on the range and contractual cost of DWM services and only reflects a simplistic view of DWM charges. It does not consider other external cost factors such as increasing insurance, uncertain regulatory environment in NSW, changes in market settings to name a few, nor does it take into consideration the differing objectives, service requirements, KPIs and contract obligations that councils have - all of which can add to the cost of the service.</p> <p>For instance, some councils may require green waste collection - some food organics and garden organics (FOGO) and others food only - and some may require the option of a mixed service. Meanwhile, some may require six-monthly kerbside clean-up, others an on-call booking service; some may have a separate collection for paper as well as containers, while others may require a service be provided to the elderly and infirm where their bins are collected from the premise and returned to the premise. All these permutations have an impact on cost due to bins, scheduling, and resourcing of the contract to meet these specifications.</p>
3. Is there effective competition in the market for outsourced DWM services? Are there barriers to effective procurement?	It is WMRR's view that the market is highly competitive, however there are currently issues and barriers to effective procurement.

	<p>At present, there is no real ability to undertake large-scale procurement with multiple councils in an attempt to gain improved economies of scale, particularly for the delivery of important capital infrastructure. In fact, in NSW, councils can market test as a group of councils (Region of Councils - ROCs) and then elect to not proceed. Consideration should be given to requiring regions to align contract periods and joint mandatory tendering to assist in delivering capital infrastructure that services the community, as well as determining greater economies of scale.</p> <p>WMRR also believes that the state government has a role to play in supporting councils undertake best practice procurement that is consistent with the state's WARR objectives. Leadership from the state government is required to drive:</p> <ul style="list-style-type: none"> <li>• Consistent KPIs in contracts, linked to the state government's WARR strategies, to ensure that environmental, economic, community, and performance objectives are met and that a race to the bottom, i.e. councils opting for the lowest cost service provider with no consideration for the aforementioned objectives, does not occur. These KPIs could also drive competition and consistency in the market.</li> <li>• Standard form council specifications and contracts for all services (for example there is no MRF process contract in NSW, despite there being significant disruption in NSW to this service in recent years due to the China National Sword policy and the implementation of the Container Deposit Scheme), which include transparent reporting of progress against KPIs and objectives (both state</li> </ul>
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	<p>and local), and mitigates contractual disputes, in order to ensure minimum guaranteed service standards. Further, these contracts should include clear offtake requirements; for example, councils with FOGO/green waste services should be required to purchase back compost from this material to de-risk these contracts as guaranteeing a market for these materials.</p> <ul style="list-style-type: none"> <li>• A procurement toolkit that provides clear guidance on legislative requirements and best practice for purchasing and contract management, as well as genuine triple bottom line assessment.</li> </ul>
4. Are overhead expenses for DWM services appropriately ring-fenced from general residential rates overhead expenses?	The issue here relates to consistent communication and clarity of what can be charged, as well as oversight, enforcement and tracking, which appear to be lacking. The Office of Local Government has a clear role to play here.
5. If IPART was to regulate or provide greater oversight of DWM charges, what approach is the most appropriate and why?	<p>WMRR would prefer a 'less intrusive' proposal and importantly, local government and industry must be consulted when setting these pricing principles to ensure that all factors are considered and not just viewed through the singular lens of contract costs and overheads. Additionally, IPART must ensure that it has the resources to track and enforce these principles as well as reporting obligations.</p> <p>However, WMRR maintains that it is the OLG that should have oversight of DWM charges and the government must ensure that the OLG steps up to the task effectively.</p> <p>WMRR believes that setting maximum percentage variations for some or all DWM charges without clear analysis of service inclusions, variations, and potential external (and unforeseen) circumstances will have far reaching negative impacts on a range of stakeholders, including councils and the</p>



	industry. As such, WMRR does not support this action at this stage.
6. Are there any other approaches that IPART should consider?	One approach that could be considered is an obligation on the OLG to have oversight of DWM charges, including clearly stating what can be included in these charges, as well as having the power to request and collate information as part of the reporting process, and reporting outcomes to ratepayers and state government.
7. If a reporting and benchmarking approach was adopted, how could differences in services and service levels, as well as drivers of different levels of efficient cost, be accounted for?	<p>Broadly, WMRR supports the development of a reporting and benchmarking approach.</p> <p>WMRR recommends that IPART consults with all councils and the industry to determine what information should be provided as part of the reporting process; parameters can then be set for appropriate reporting and benchmarking.</p> <p>Some of these reporting parameters may include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• Collection – services offered, frequencies, bin types and sizes, number of properties serviced.</li> <li>• Tonnages – generation, collection, recycling, resource recovery, landfilling.</li> <li>• Processing services offered, facilities included, other services provided (e.g. education, tours of facilities)</li> <li>• Distance travelled.</li> <li>• Infrastructure and contractor (including consultancy) costs.</li> </ul> <p>A methodology should then be developed to analyse how these costs relate to/drive council-specific targets and objectives, such as resource recovery rates and targets, spread of services and participation rates across the community, innovation and R&amp;D.</p>
8. Is there merit in IPART's proposed approach to developing a reporting, monitoring and benchmarking approach and pricing principles for setting DWM charges? Is it likely to be an effective approach? Why/why not?	WMRR believes there is merit in benchmarking; however, given the difference in services, availability and access to facilities (for example in regional areas), queries whether this can be effectively used to develop pricing principles for the DWM. These services, as noted above, are

	<p>market tested and established based on responses received; if prices were set and then went to market and no tenders were received or a lower service level than the community requested, this cannot be in the interest of council or the community.</p> <p>However, WMRR would agree that there is merit in setting pricing principles for DWM overheads, including the costs that can be included, given that these would generally be capable of standardising across councils (e.g. administration and call centre costs).</p>
9. Would IPART's approach be preferable to audits of local councils' DWM charges by OLG?	<p>Potentially. However, WMRR reiterates that given it is their responsibility, the OLG should be obliged to undertake audits. Ultimately, it is vital IPART consults with all stakeholders to determine reporting requirements and methodology, as well as the indicators and factors to be considered in the benchmarking process.</p> <p>WMRR also notes that while IPART indicates it would prefer a less prescriptive approach, the paper highlights that if regulation is needed, IPART recognises there would be a cost but that the benefits of regulation 'should' outweigh the costs. No evidence has been provided to justify this statement and WMRR recommends IPART undertakes a cost-benefit analysis to determine if the benefits of regulation will indeed outweigh the potential costs.</p>
10. Are there any issues that should be considered with regards to developing an online centralised database for all NSW council's DWM charges to allow councils and ratepayers to benchmark council performance against their peers?	<p>WMRR prefaces this response by saying a centralised database is not supported.</p> <p>Given what has been stated above that it is not possible to do an apple to apple comparison of services without a significant deep dive into what service is being provided, KPIs and other factors, one has to genuinely query if this is an issue that requires prioritisation at this time, and if it would in fact add value to the provision of this service to the community.</p>

	<p>If funding is available to look at the costs associated with managing and delivering waste and resource recovery services in NSW, it would be better spent in working with the NSW EPA on finalising the 20-year strategy and improving procurement processes in NSW.</p>
<p>11. Do you agree with IPART's proposed pricing principles? Why/why not?</p>	<p>While the paper does try to define these principles, there still needs to be standards and parameters, along with a robust methodology to assist councils in meeting their obligations. As it stands, the proposed principles in this paper, given they remain vague and open to interpretation, could continue to allow councils to select what services/costs to include.</p>
<p>12. Are there any other pricing principles or issues that should be considered?</p>	<p>As highlighted throughout the paper, a missing principle is the capacity and ability to measure how these costs line up against councils meeting their stated goals, targets and objectives.</p> <p>Consideration of councils' objectives and performance, and how these benefits outweigh or balance out DWM costs must be included, otherwise, there is a risk that local government will only aim to deliver the lowest cost service to ratepayers which may not lead to the best or most appropriate environmental and community outcomes.</p>
<p>13. Should a centralised database and display of key elements of all successful DWM service contracts (e.g. name of tenderer, service provided and contract amount) assist councils in procuring efficient services? If not, why not?</p>	<p>WMRR does not agree with the development of a centralised database for the reasons explained above. However, if IPART were to proceed with this initiative, it must ensure that the database includes details of the service provided as well as facilities involved, and aligns with NSW EPA data and information, in order that industry and councils are not being required to duplicate information already provided to other parts of government.</p>