



ENVIRONMENTAL SUSTAINABILITY POLICY COMMITTEE

AGENDA

3 MARCH 2022

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that an **ENVIRONMENTAL SUSTAINABILITY POLICY COMMITTEE MEETING of ORANGE CITY COUNCIL** will be held in the **COUNCIL CHAMBER, CIVIC CENTRE, BYNG STREET, ORANGE** on **Thursday, 3 March 2022**.

David Waddell
CHIEF EXECUTIVE OFFICER

For apologies please contact Administration on 6393 8106.

AGENDA

1	INTRODUCTION.....	3
1.1	Declaration of pecuniary interests, significant non-pecuniary interests and less than significant non-pecuniary interests.....	3
2	GENERAL REPORTS.....	5
2.1	IPART Review of Local Government Domestic Waste Management Charges	5

1 INTRODUCTION

1.1 DECLARATION OF PECUNIARY INTERESTS, SIGNIFICANT NON-PECUNIARY INTERESTS AND LESS THAN SIGNIFICANT NON-PECUNIARY INTERESTS

The provisions of Chapter 14 of the Local Government Act, 1993 (the Act) regulate the way in which Councillors and designated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public role.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest must be disclosed as soon as practicable after the start of the meeting and the reasons given for declaring such interest.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussion or voting on that matter, and requires that member to vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code of Conduct also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

RECOMMENDATION

It is recommended that Committee Members now disclose any conflicts of interest in matters under consideration by the Environmental Sustainability Policy Committee at this meeting.

2 GENERAL REPORTS

2.1 IPART REVIEW OF LOCAL GOVERNMENT DOMESTIC WASTE MANAGEMENT CHARGES

RECORD NUMBER: 2022/153

AUTHOR: Wayne Davis, Manager Waste Services and Technical Support

EXECUTIVE SUMMARY

In 2010 the Minister for Local Government delegated to IPART the function of approving special rate variations and minimum rates, and the function of varying annual domestic waste management charges. IPART has released its draft report to seek feedback from stakeholders on its draft decisions on the regulation of domestic waste management charges levied by NSW local Councils (see attached report).

IPART is seeking feedback on specific questions in the draft report to inform its decisions for the final report with submissions due 29 April 2022 (changed from 25 March 2022). IPART will also hold a public hearing on 7 June 2022 after it has considered all submissions.

LINK TO DELIVERY/OPERATIONAL PLAN

The recommendation in this report relates to the Delivery/Operational Plan strategy “17.2 Collaborate - Ensure financial stability and support efficient ongoing operation”.

FINANCIAL IMPLICATIONS

Limiting all Councils to a general cap figure on setting domestic waste management charges could have serious impact on ability to maintain current levels of service.

POLICY AND GOVERNANCE IMPLICATIONS

Potential additional regulation of how Council sets its domestic waste management charges may incur further need to respond to IPART to justify Council’s service level needs which are not directly comparable with other local government managed waste operations. This will result in further strain on Council’s resources and potential delays whilst duplicating the existing advertising requirements that facilitate community input into proposed fees and charges prior to adoption.

RECOMMENDATION

That Council resolves to make a submission to IPART responding to the draft recommendations report objecting to benchmarking domestic waste management charges however, the provision of clear and unambiguous pricing principles are supported and should be included within the NSW Office of Local Government Council Rating and Revenue Raising Manual as this will provide sufficient guidance to all Councils when setting Domestic Waste Management charges to arrive at costs that provide services that result in best value for ratepayers.

FURTHER CONSIDERATIONS

Consideration has been given to the recommendation's impact on Council's service delivery; image and reputation; political; environmental; health and safety; employees; stakeholders and project management; and no further implications or risks have been identified.

SUPPORTING INFORMATION

Councils provide a range of domestic waste management services to their constituents ranging from kerbside collection, drop off facilities and periodic clean-up services. Orange City Council's services extend to additional operations such as operating a waste baling and inert waste transfer facility, composting operation and various other waste processing initiatives such as organics, scrap metal, construction and demolition waste processing, community recycling centre and Recovery Shop operation. Not all Councils can offer this range of service to their constituents.

Domestic waste management costs have been independently audited as required by the Office of Local Government each year and IPART reviewed 2017-18 and 2018-19 Council's data as part of the 2019-20 Local Government Cost Index (LGCI) survey. This last review found relatively large increases in Domestic Waste Management charges in recent years, with variations across Councils and between similar Councils.

Throughout the consultation processes, Local Government has been advising IPART of these necessary increases being mainly attributable to external cost drivers outside of Local Government control. Unfortunately, within the waste industry where Councils need to engage service providers to either undertake collection, processing and marketing of collected product, it will always be a matter of being a price taker of the most affordable means of performing that service in order to obtain value for money. Going to tender allows Councils to explore the market, seek alternative options whilst delivering on core objectives in a fair and open manner. This allows scrutiny and public input to resulting fees and charges deemed necessary to fulfil the service requirements.

In recent years we have felt the impact of China Sword, whereby, stringent limitations on volume and quality of product with next-to-impossible minimum contamination levels for supplied commodities were forced upon western countries by China and other Asian markets and this has resulted in severe processing limitations and resultant increases in on-shore processing costs by the very limited recycling industries available to local Councils. This highlighted the lack of investment in waste recycling and disposal infrastructure within Australia, and couple this with State Government waste levy increases but without additional funding to Councils to assist with recycling and there being very few alternative recycling markets and processors within our country, then increased costs to Councils are unavoidable which need to be passed on to the local consumer.

Notwithstanding these factors, IPART propose to publish annually a "benchmark" waste peg with intention to provide guidance to ratepayers and Councils on how much the reasonable cost of providing domestic waste management services should change year to year. Councils would be expected to explain to IPART any variance above the benchmark figure and all increases and explanation would be published in an annual report. The ultimate position may lead to Councils being required to adhere to a binding domestic waste management waste peg. A binding waste peg benchmark figure is not allowing for variation between Councils' number and type of services provided, changes in the marketplace for receipt and

2.1 IPART Review of Local Government Domestic Waste Management Charges

processing of recyclables and other waste streams, impacts of landfill levy and available associated funding allocation to Councils and diminishing landfill capacity.

Within the IPART draft report, it is stated that they have considered the responses of stakeholders to their Discussion Paper and the broader issues that were raised however, their delegated powers cannot respond to many of the issues raised and that they can only set an annual limit on the extent to which Councils' domestic waste management charges may be varied. This is alarming to say the least for local Councils as it suggests that limited hearing of relevant factors were taken into consideration in arriving at the conclusion that the overall best fit is to average an annual limit on the extent to which Councils' domestic waste management charges may be varied. The most sensible conclusion to this review should be to provide guidance to Councils on accepted pricing principles in setting domestic waste charges.

Councils are obliged to advertise their proposed fees and charges under the Local Government Act and in line with the Integrated Planning and Reporting framework thereby allowing full disclosure and transparency of levels of service and costs to its constituents. Local factors, external market forces and EPA licence and operating conditions will all influence actual costs that are not readily benchmarked between Councils and suggesting to the community that all Councils should be comparable does not present a true reflection of the local conditions.

ATTACHMENTS

- 1 Draft Report - IPART - Review of Domestic Waste Management Charges - 13 December 2021 (for InfoCouncil), D22/7177 [↓](#)



Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly, Chair
Deborah Cope
Sandra Gamble

Enquiries regarding this document should be directed to a staff member:

Sheridan Rapmund (02) 9290 8430
Gerard O'Dea (02) 9290 8495

Invitation for submissions

IPART invites comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by Friday, 25 March 2022

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

Review of Domestic Waste Management Charges
Independent Pricing and Regulatory Tribunal
PO Box K35
Haymarket Post Shop, Sydney NSW 1240

If you require assistance to make a submission (for example, if you would like to make a verbal submission) please contact one of the staff members listed above.

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's [submission policy](#) is available on our website.

The Independent Pricing and Regulatory Tribunal (IPART)

Further information on IPART can be obtained from [IPART's website](#).

Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

Contents

1	Executive summary	1
1.1	A 'benchmark' waste peg and pricing principles	1
1.2	The review so far	3
1.3	We propose to publish a 'benchmark' waste peg that reflects the changes in the costs of providing DWM services	4
1.4	We propose to recommend that OLG publish pricing principles	4
1.5	List of draft decisions	5
1.6	List of issues for stakeholder comment	6
1.7	Structure of this report	6
2	What we found	7
2.1	Increases in prices	7
2.2	External cost drivers cause price increases	8
2.3	Variability in prices	9
2.4	What you told us	12
2.5	Changes in the waste management sector	14
2.6	The way forward	15
3	A benchmark waste peg and pricing principles	16
3.1	Publish an annual benchmark waste peg	17
3.2	Report on councils' performance against the benchmark waste peg	18
3.3	Provide pricing principles guidance on how to set DWM charges	18
A	Analysis of Southern Sydney ROC DWM charges	25
B	Change in the WCI for the year ended June 2021	27
C	The change in the weighted average price – a worked example	28
D	Applying the pricing principles – a worked example	29

1 Executive summary

The Independent Pricing and Regulatory Tribunal of NSW (IPART) is reviewing domestic waste management (DWM) charges levied by NSW local councils.

Domestic waste management is a key responsibility for councils, with social, public health, environmental and economic significance. NSW councils provide a range of DWM services to their residents, such as kerbside collection, drop-off facilities and periodic clean-up services. To recover the cost of these services, councils levy DWM charges (separate to general rates) on their residential ratepayers.^a DWM charges are the price paid for household waste services on a 'user-pays' basis^b, while general rates are a tax based on land value. Total DWM charges revenue in NSW is \$1.29 billion (2018–19) each year.¹ This is 28% of councils' total annual revenue.^c

The NSW Government recently released its *Waste and Sustainable Materials Strategy 2041* (Waste Strategy).² The Waste Strategy outlines actions to ensure that we have the services and infrastructure in place to deal with waste safely, achieve waste recovery and recycling targets, and support a circular economy.

What is IPART's role?

In 2010 the Minister for Local Government delegated to IPART the function of approving special rate variations and minimum rates, and the function of varying annual domestic waste management charges.

1.1 A 'benchmark' waste peg and pricing principles

On 13 December 2021, IPART decided not to set a limit on annual DWM charges made by local councils for 2022–23.³ This decision is in line with our decisions on these charges to date and is not a part of the current review.⁴

^a Councils are required to set DWM charges that do not exceed the reasonable cost of providing DWM services and revenue collected through DWM charges may only be used for DWM purposes: *Local Government Act 1993*, s 504(3). Revenue from the DWM charge must be kept separate from general rating income, and only used for expenditure related to DWM services: *Local Government Act 1993*, s 409(3)(a).

^b User-pays charges are reflective of the cost of providing the service to that customer.

^c General rates revenue is \$3.373 billion each year (IPART calculations based on 2018–19 data from Office of Local Government, *Your Council Report*, accessed on 24 November 2021).

To protect ratepayers and also assist councils in setting their own DWM charges we propose to publish annually a 'benchmark' waste peg. The benchmark waste peg would be non-binding on councils. It is intended to give guidance to ratepayers and councils on how much the reasonable cost of providing DWM services should change year-to-year. We propose to request councils whose charges increased more than the benchmark waste peg to explain why. There may be good reasons why a council may need to increase more than the benchmark peg, such as a step-up in costs resulting from the competitive tendering of their waste services.

We propose to publish an annual report that highlights councils whose DWM charges have increased by more than the benchmark waste peg and include the councils' explanations for the increases. This will provide greater transparency to ratepayers, councils and IPART. Ratepayers will gain greater awareness of increases in DWM charges and we will gain a better understanding of the drivers of the price changes. This will enable us to assess if DWM charges should be regulated through a binding DWM waste peg or setting individual DWM charges in future.^d

We also propose to recommend to the NSW Office of Local Government (OLG) that they provide guidance to councils through pricing principles in their *Council Rating and Revenue Raising Manual*,^e on how to set DWM charges to ensure they reflect the costs of providing the service and best value for ratepayers. We propose pricing principles for inclusion in OLG's Manual.

We consider our draft decisions are a proportionate response to the issues we have identified to date. While we have evidence that domestic waste charges have increased by more than double inflation and general rates, and there is a wide range of charges across councils, we don't have sufficient evidence to explain why the costs of providing services have varied. We have identified a wide range of factors that may be contributing to variability in charges, including the possibility that DWM charges may either be under or over recovering the cost of providing domestic waste services.

Most Sydney metropolitan councils contract out most of their DWM services to external providers, while many regional and rural councils provide most DWM services in-house.⁶ The number and type of DWM services provided across councils varies widely – some councils provide regular kerbside collection of general waste, recycling and organics, while in other areas residents deliver their waste directly to a waste facility.

There are multiple external factors likely to be putting upward pressure on DWM costs, such as the change in the market for recyclables, increases in the waste levy and shortages in landfills. And these all impact costs.

^d Throughout this report we talk about setting individual councils' DWM charges or setting a waste peg as shorthand for our delegated functions which require us to specify 'the percentage' by which a council can increase the amounts of annual charges for DWM services. We can set a positive or negative percentage, or nil percentage, so in effect we can set the resulting charge.

1.2 The review so far

Since being given the delegation in 2010, IPART has decided not to set a limit on the annual DWM charges made by councils.⁷ We had been satisfied that DWM charges were likely to be reasonable, and that the cost of additional regulation would likely outweigh the benefit as:

- Councils are required to set charges that do not exceed the reasonable cost of providing DWM services.⁸
- DWM costs have been independently audited as required by OLG each year.
- Many councils outsource DWM services through a competitive tender process.

In 2019 OLG informed IPART that it had ceased conducting audits of the reasonable cost basis of DWM charges in 2016–17. We decided it was necessary to investigate the level of DWM charges across NSW to help inform our future decisions on DWM charges. We asked councils to report on their DWM expenses and services for the 2017–18 and 2018–19 financial years as part of our 2019–20 Local Government Cost Index (LGCI) survey to inform this process.⁹

We found:

1. Relatively large increases in DWM charges in recent years.
2. DWM charges vary significantly across councils and between similar councils.

Based on those preliminary findings, we released a Discussion Paper⁹ in August 2020 to seek feedback on whether stakeholders considered that there are issues with the prices charged for domestic waste services and whether any regulatory or other action is required. We also sought feedback on potential options if regulatory action is required, noting that we would favour a less prescriptive approach. We outlined our proposed regulatory approach may include developing, in consultation with stakeholders a reporting, monitoring and benchmarking regime. This would involve developing a publicly available comparison tool, comparing DWM charges for equivalent services across comparable councils, and pricing principles.

In response to our Discussion Paper, **Councils** told us the major contributors to increases in DWM charges were external cost drivers outside their control. They also had major concerns about:

- the lack of investment in waste recycling and disposal infrastructure
- the Waste Levy¹⁰ increasing, but not resulting in additional funding to councils for recycling
- market concentration in the waste services industry.

Most councils were not in favour of any regulation of DWM charges. Nevertheless, many councils indicated support for clear and unambiguous pricing principles. However, some councils were concerned that benchmarking DWM charges would not work, because it would be 'comparing apples to oranges'.

⁹ We note that the response rate for the LGCI survey questions on DWM charges was relatively low. We received a response from 67 (i.e. 52%) of councils. Of councils that responded, 42% were 'metropolitan', 30% 'regional' and 28% were 'rural'.

In contrast, most **ratepayers'** submissions indicated their support for detailed regulation of DWM charges and the introduction of publicly available benchmark comparisons. They also raised specific concerns about:

- high landfill charges leading to significant illegal dumping
- an inequitable practice in one council of providing limited tip vouchers on a first-in first-served basis
- councils imposing DWM charges on residents of multi-unit developments (MUDs) that require waste collection by private contractors due to physical limitations in accessing bins.

Submissions from **industry** - waste contractors and related industry associations - generally were not in favour of IPART intervening because they consider the market is competitive, and charges are cost reflective.

1.3 We propose to publish a 'benchmark' waste peg that reflects the changes in the costs of providing DWM services

Councils are required to ensure that their DWM charges are calculated so as not to exceed the reasonable cost to the council of providing DWM services.

To assist councils in setting their annual DWM charges and to protect ratepayers from unjustified price increases we propose to publish a benchmark waste peg that reflects the average annual change in costs of providing DWM services. Councils can use this information to compare how their costs have varied compared to the benchmark and where their costs are increasing at a faster rate, investigate what's driving these increases and why. We would request councils explain to us and their ratepayers why their charges for DWM services are increasing at a faster rate than the average.

The benchmark waste peg would not prohibit councils increasing charges above the peg. But it spotlights these increases and would encourage councils to explain to their ratepayers the reason for the increases. Councils can recover the costs of providing waste services and are also accountable to their ratepayers. We would review the councils' information about cost drivers and where councils cannot justify the increase in their charges, we may consider regulating the individual council's charges or implementing a binding waste peg.

1.4 We propose to recommend that OLG publish pricing principles

We also propose recommending that OLG publish pricing principles to guide councils on how they should recover the costs of providing DWM services. Our proposed principles are:

1. DWM revenue should equal the efficient incremental cost of providing the DWM services.
2. Councils should publish details of all the DWM services they provide, the size of the bin, the frequency of the collection and the individual charges for each service.

