



Independent Pricing and Regulatory Tribunal

Transport - maximum fares for Opal Services

Transport — Determination
May 2016



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Determination No. 1, 2016

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Preliminary

1 Background

1.1 Passenger Transport Act

- (a) Under section 123(1) of the Passenger Transport Act, the Minister may refer to IPART, with the approval of the Minister administering the IPART Act, all or any of the services provided by one or more public passenger services for determination of, or a recommendation as to:
 - (1) appropriate maximum fares for the services;
 - (2) appropriate maximum fares for specified fares or classes of fares for the service or services.
- (b) Under section 124(1) of the Passenger Transport Act, IPART is to conduct investigations and report to the Minister on the appropriate maximum fares if a referral is made under section 123(1).
- (c) By letter dated 19 June 2015, IPART received a referral from the Minister, with the approval of the Minister administering the IPART Act, to investigate and report on the determination of appropriate maximum fares for Opal Services.

[Note: By letter dated 9 March 2016, the Minister extended the date by which IPART is to submit its final report and determination under the referral.]
- (d) By letter dated 29 April 2016, Transport for NSW notified IPART of the NSW Government's policy position on Opal Services.
- (e) In making this determination, IPART has had regard to a broad range of matters, including matters:
 - (1) specified by the Minister in the referral pursuant to section 123(2)(b) of the Passenger Transport Act including the letter dated 29 April 2016 from Transport for NSW; and
 - (2) set out in section 124(3) of the Passenger Transport Act.

1.2 IPART Act

- (a) The following provisions of the IPART Act apply in making a determination under Part 7 of the Passenger Transport Act:
 - (1) sections 13A-14A (in relation to the approaches to be applied in making pricing determinations); and
 - (2) Divisions 6 and 7 of Part 3 (in relation to the publication of reports and conduct of investigations).
- (b) In accordance with section 13A of the IPART Act, IPART has fixed a maximum Fare for Opal Services by fixing the maximum weighted average change across Fares during the Determination Period.

2 Application of this determination

- (a) This determination sets out the formulae to be applied to determine maximum Fares for Opal Services.
- (b) This determination commences on the later of:
 - (1) 1 July 2016; and
 - (2) the date that it is published in the NSW Government Gazette, (**Commencement Date**).
- (c) This determination applies from the Commencement Date until the earlier of:
 - (1) 30 June 2019; and
 - (2) the date on which this determination is replaced, (**Determination Period**).

3 Replacement of Determination No. 5, 2012

This determination replaces Determination No. 5, 2012 from the Commencement Date (to the extent it has not already been replaced). The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No. 5, 2012 prior to its replacement.

4 Replacement of Determination No. 6, 2012

This determination replaces Determination No. 6, 2012 from the Commencement Date (to the extent it has not already been replaced). The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No. 6, 2012 prior to its replacement.

5 Replacement of Determination No. 7, 2013

This determination replaces Determination No. 7, 2013 from the Commencement Date (to the extent it has not already been replaced). The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No. 7, 2013 prior to its replacement.

6 Replacement of Determination No. 4, 2014

This determination replaces Determination No. 4, 2014 from the Commencement Date (to the extent it has not already been replaced). The replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under Determination No. 4, 2014 prior to its replacement.

7 Compliance with this determination

Under section 125(2) of the Passenger Transport Act, Transport for NSW may not determine a Fare under a fares order that exceeds any maximum Fare determined by IPART, or that is determined otherwise than in accordance with a methodology determined by IPART, under Part 7 of the Passenger Transport Act.

8 Schedules

- (a) Schedule 1 sets out the formulae to be applied to determine maximum Fares for:
 - (1) Trips on Opal Services under an Opal Card; and
 - (2) Trips on Opal Services under a Ticket.
- (b) Schedule 2 sets out definitions and interpretation provisions used in this determination.

Schedule 1 Maximum change in Fares

1 Application

This Schedule 1 sets out the formulae to be applied to determine the maximum Fare for:

- (a) Trips on Opal Services under an Opal Card; and
- (b) Trips on Opal Services under a Ticket,

by fixing the maximum weighted average change in Adult Fares during the Determination Period.

2 Maximum average change in Adult Fares

- (a) Transport for NSW must ensure that the maximum Adult Fares it determines for:

- (1) Trips on Opal Services under an Opal Card; and
- (2) Trips on Opal Services under a Ticket,

comply at all times with the formulae (as applicable) set out below.

- (b) For the Period 2016-17:

$$Pav_i \leq 1.066 \times Pav_{2015-16}$$

- (c) For the Period 2017-18:

$$Pav_i \leq 1.13 \times Pav_{2015-16}$$

- (d) For the Period 2018-19:

$$Pav_i \leq 1.13 \times Pav_{2015-16}$$

Where:

$Pav_{2015-16}$ is the average Adult Fare charged during the Period 2015-16 for a Trip on Opal Services under an Opal Card or Ticket, after any rebate has been applied (including any multi Mode transfer rebate, daily, weekly or weekend cap, or travel reward such as a frequent travel discount), calculated using the Approved Trip Distribution for 2015-16.

Pav_i is the average Adult Fare payable during the relevant Period i , or part thereof, for a Trip on Opal Services under an Opal Card or Ticket, after any

rebate has been applied (including any multi Mode transfer rebate, daily, weekly or weekend cap or travel reward such as a frequent travel discount), calculated using the Approved Trip Distribution for Period *i*.

For the purposes of $Pav_{2015-16}$, and Pav_i :

- (a) Trips on Opal Services using Concession Opal Cards, Child/Youth Opal Cards or Tickets (and including any other types of Opal Card or Ticket notified by IPART during the Determination Period) are to be included at the applicable Adult Fare for that Trip in the calculation of the average Adult Fare.
- (b) Trips on Opal Services using Free Travel Opal Cards, Gold Opal Cards and School Opal Cards (and including any other types of Opal Card or Ticket notified by IPART during the Determination Period) are to be excluded from the calculation of the average Adult Fare.

Approved Trip Distribution for Period *i* is a weighting approved by IPART for the relevant Period *i* or part thereof by reference to the number of Trips taken for an Adult Fare as a proportion of total Trips taken for that relevant Period *i*. In the event that there is no Approved Trip Distribution for Period *i* during the Determination Period for that Period *i*, Transport for NSW must ensure that Fares do not exceed the maximum Fares for Opal Services as set out in the most recent pricing proposal approved by IPART under clause 4.

Period *i* means one of the following: Period 2016-17, Period 2017-18 or Period 2018-19.

Approved Trip Distribution for 2015-16 is a weighting approved by IPART for Period 2015-16 by reference to the number of Trips taken for an Adult Fare as a proportion of total Trips taken for that period. In the event that there is no Approved Trip Distribution for 2015-16 approved by IPART, Transport for NSW must ensure that Fares do not exceed the Fares for Opal Services applicable at the Commencement Date.

3 Other Opal Fares

- (a) This clause 3 applies to maximum Fares for Opal Services other than Adult Fares for Opal Services.
- (b) Transport for NSW must ensure that the maximum Fare for a Trip on Opal Services under an Opal Card or Ticket does not exceed the applicable Adult Fare (determined in accordance with clause 2 above) for the same Trip under an Opal Card or Ticket (as applicable).

4 Requirement to submit pricing proposal

- (a) If, after the Commencement Date, Transport for NSW proposes to:
 - (1) increase an Adult Fare;
 - (2) modify any of the parameters used to calculate the Fare for a Trip (including any change in daily or weekly caps, distance bands, travel concessions, travel rewards or discounts);
 - (3) introduce one or more new Tickets or Opal Cards, where there is a corresponding increase in an Adult Fare; or
 - (4) discontinue one or more existing Tickets or Opal Cards,(each a **Proposed Fare Change Event**), Transport for NSW must submit to IPART, in accordance with this clause 4, a pricing proposal at least 20 Business Days (or by such later date as agreed by IPART) before the Proposed Fare Change Event is intended to take effect.
- (b) The pricing proposal submitted by Transport for NSW under clause 4(a) must contain the following information:
 - (1) proposed and existing Fares for Opal Services;
 - (2) proposed Trip distribution based on price and Trip data on the use of Opal Services available to Transport for NSW; and
 - (3) any additional data or information necessary, or requested by IPART, so as to undertake the analysis for the approval of the Approved Trip Distribution for Period i and the Approved Trip Distribution for 2015-16 under clause 2.
- (c) Transport for NSW is not required to submit a pricing proposal under this clause 4 if Transport for NSW is proposing only to reduce an existing Adult Fare.
- (d) Transport for NSW must provide any information IPART reasonably requires to satisfy itself that Transport for NSW's proposed Adult Fares comply with this determination.
- (e) IPART may publish a pricing proposal submitted under this clause 4 on its website.

5 IPART assessment of pricing proposal

- (a) IPART will use its reasonable endeavours to notify Transport for NSW within 20 Business Days of its response to a pricing proposal submitted under clause 4.
- (b) IPART may publish this notice on its website.

6 Worked Example

Consider a hypothetical example where there are two Fares for two different types of Trips. In 2015-16, the average Adult Fare is calculated multiplying the Fares for a particular Trip by the proportion of the passengers paying (or are deemed to pay) that Fare, and summing the products, as shown in the table below.

Fares for 2015-16

Trip	Fare	Number of Trips taken	Proportion of Trips	Price x proportion of Trips
A	\$4.00	60	60%	\$2.40
B	\$6.00	40	40%	\$2.40
Sum		100	100%	Average Adult Fare: \$4.80

To check compliance with our determination in the first year (2016-17) in the table below we multiply the proposed Fares for a particular Trip by the proportion of the number of passengers that would pay (or are deemed to pay) that Fare, and sum the products. In the example below, the average Adult Fare would be \$5.10, which is a 6.3% increase compared to 2015-16. These proposed Fares would comply because the average change in Adult Fares is less than 6.6%.

Fares for 2016-17

Trip	Fare	Number of Trips taken	Proportion of Trips	Price x proportion of Trips
A	\$4.20	66	55%	\$2.31
B	\$6.20	54	45%	\$2.79
Sum		120	100%	Average Adult Fare: \$5.10

In the second year (2017-18) the average Fare is \$5.22, which is 8.8% higher than 2015-16. These proposed Fares would also comply because the average change in Adult Fares is less than 13%.

Fares for 2017-18

Trip	Fare	Number of Trips taken	Proportion of Trips	Price x proportion of Trips
A	\$4.30	80	58%	\$2.49
B	\$6.50	58	42%	\$2.73
Sum		138	100%	Average Adult Fare: \$5.22

Schedule 2 Definitions and interpretation

1 Definitions

1.1 General definitions

Adult Fare is the Fare payable for the use of Opal Services by the holder of an Adult Opal Card, adult Ticket or equivalent proof of entitlement for the use of Opal Services.

Adult Opal Card has the meaning given in the Opal Terms of Use and includes an Opal Card made available to persons aged 16 years or older.

Airport Station Access Fee is the fee imposed on behalf of Airport Link Corporation when a passenger commences or concludes their Trip at either the Domestic Airport train station or the International Airport train station.

Bus Service Contract means a contract between a contract holder and Transport for NSW under Part 3 of the Passenger Transport Act for the provision of Bus Services.

Bus Services means the services described in paragraphs (e) and (f) of the definition of Opal Services.

Business Day means a day other than a Saturday, a Sunday or a public holiday or bank holiday in all of New South Wales.

Child/Youth Opal Card has the meaning given in the Opal Terms of Use and includes an Opal Card made available to: a) a child aged 4 to 15 years (inclusive); or b) a full-time NSW/ACT school student aged 16 and older with a NSW Senior Secondary Student Concession card or other proof of entitlement as issued by or on behalf of Transport for NSW.

Commencement Date has the meaning given in clause 2(b) of the Preliminary section of this determination.

Concession Opal Card includes an Opal Card offering concession travel to the following eligible persons (as determined at the discretion of Transport for NSW): eligible tertiary students, eligible apprentices/trainees and eligible job seekers.

Departure Point means:

- (a) for Opal Services, other than Sydney Ferries Services on the Manly to Circular Quay route:
 - (1) the train station;
 - (2) the bus stop;
 - (3) the light rail stop; or
 - (4) the ferry wharf,
 at which a passenger commences a Trip, by either:
 - (1) in the case of an Opal Card, tapping on at an Opal Card reader; or
 - (2) in the case of a Ticket, entering the Paid Area of a Ferry Wharf or the Restricted Area of a Railway Station, or embarking on a train, bus, light rail vehicle or ferry, as applicable, and
- (b) for Sydney Ferries Services on the Manly to Circular Quay route, either:
 - (1) Circular Quay, in the case of an Opal Card, if the passenger commences a Trip by tapping on at an Opal Card reader or, in the case of a Ticket, a Trip by entering the Paid Area of a Ferry Wharf at Circular Quay; or
 - (2) Manly Wharf, if the passenger commences a Trip by embarking on a ferry at Manly Wharf.

Destination Point means, for Opal Services:

- (a) the train station;
 - (b) the bus stop;
 - (c) the light rail stop; or
 - (d) the ferry wharf,
- at which a passenger completes a Trip, by either:
- (a) in the case of an Opal Card, tapping off at an Opal Card reader, or disembarking from a ferry if on a Sydney Ferries Services on the Manly to Circular Quay route; or
 - (b) in the case of a Ticket, leaving the Paid Area of a Ferry Wharf or the Restricted Area of a Railway Station, or disembarking from a train, bus, light rail vehicle or ferry, as applicable.

Determination No. 5, 2012 means IPART's Determination No. 5, 2012 titled "Sydney Ferries services".

Determination No. 6, 2012 means IPART's Determination No. 6, 2012 titled "CityRail and Multi Modal tickets from January 2013".

Determination No. 7, 2013 means IPART's Determination No. 7, 2013 titled "Sydney Metropolitan and Outer Metropolitan Bus Services".

Determination No. 4, 2014 means IPART's Determination No. 4, 2014 titled "Stockton Ferry Service".

Determination Period has the meaning given in clause 2(c) of the Preliminary section of this determination.

Fare means any consideration paid or given to use Opal Services (whether or not it is paid or given to the operator or driver) and includes any surcharge or levy imposed by, or passed through to passengers by, Transport for NSW. For the avoidance of doubt, the Airport Station Access Fee is excluded.

Free Travel Opal Card has the meaning given in the Opal Terms of Use.

Gold Opal Card means an Opal Card issued by Transport for NSW to eligible persons entitled to discounted travel on Opal Services as determined by Transport for NSW. These eligible persons currently include holders of: a NSW Seniors Card; a Pensioners Concession Card; a NSW War Widow/ers Card, as well as asylum seekers.

GST has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

IPART means the Independent Pricing and Regulatory Tribunal of New South Wales established under the IPART Act.

IPART Act means the *Independent Pricing and Regulatory Tribunal Act 1992 (NSW)*.

Minister means the Minister administering the Passenger Transport Act.

Minister administering the IPART Act means the Premier.

Mode means the form of public passenger service used for the Trip, being transport by one of the following:

- (a) train;
- (b) bus;
- (c) light rail vehicle;
- (d) ferry operated under the authority of a service contract with Transport for NSW (known as 'Sydney Ferries'); or
- (e) ferry operated in the Newcastle area (known as the 'Stockton Ferry Service').

NSW Trains means the subsidiary corporation referred to in clause 32 of the *Transport Administration (General) Regulation 2013* (NSW).

NSW Trains Services means the services described in paragraph (b) of the definition of Opal Services.

Opal Card has the meaning given in clause 3(1) of the Passenger Transport Regulation and includes any smartcard issued by Transport for NSW for use on Opal Services.

Opal Services means:

- (a) train services operated by Sydney Trains;
- (b) NSW Trains services operated under the business name NSW TrainLink Intercity;
- (c) Sydney Ferries services operated under the authority of a service contract with Transport for NSW;
- (d) the ferry service operated in the Newcastle area known as the 'Stockton Ferry Service';
- (e) bus services operated under the authority of a Sydney Metropolitan Bus Service Contract with Transport for NSW;
- (f) bus services operated under the authority of an Outer Sydney Metropolitan Bus Service Contract with Transport for NSW; and
- (g) the Sydney Light Rail Service.

Opal Terms of Use means the terms and conditions published by Transport for NSW that apply to the use of the Opal Card and Opal Services, including any amendments or variations made from time to time.

Outer Sydney Metropolitan Bus Service Contract means a contract with Transport for NSW for the provision of selected bus services outside the Sydney metropolitan area specified by Transport for NSW in that contract.

Paid Area of a Ferry Wharf means the "paid area of a ferry wharf" as defined in clause 3(1) of the Passenger Transport Regulation.

Passenger Transport Act means the *Passenger Transport Act 2014* (NSW).

Passenger Transport Regulation means the *Passenger Transport Regulation 2014* (NSW).

Period 2015-16 or **2015-16** means the period commencing on 1 July 2015 and ending on 30 June 2016.

Period 2016-17 or **2016-17** means the period commencing on 1 July 2016 and ending on 30 June 2017.

Period 2017-18 or **2017-18** means the period commencing on 1 July 2017 and ending on 30 June 2018.

Period 2018-19 or **2018-19** means the period commencing on 1 July 2018 and ending on the last day of the Determination Period.

Proposed Fare Change Event has the meaning given in clause 4 of Schedule 1 of this Determination.

Restricted Area of a Railway Station means the “restricted area of a railway station” as defined in clause 3(1) of the Passenger Transport Regulation.

School Opal Card has the meaning given in the Opal Terms of Use and includes an Opal Card made available to eligible school students to provide free or subsidised travel between home and school.

Sydney Ferries Services means the services described in paragraph (c) of the definition of Opal Services.

Sydney Light Rail Service means a light rail service within the meaning of section 104M of the *Transport Administration Act 1988* (NSW) (but does not include any such service outside of Sydney).

Sydney Metropolitan Bus Service Contract means a contract with Transport for NSW for the provision of selected bus services within the Sydney metropolitan area specified by Transport for NSW in that contract.

Sydney Trains means the subsidiary corporation referred to in clause 10 of the *Transport Administration (General) Regulation 2013* (NSW).

Sydney Train Services means the services described in paragraph (a) of the definition of Opal Services.

Ticket means proof of entitlement to undertake a Trip on an Opal Service (including a valid debit or credit card used by the passenger to pay their Fare) but does not include an Opal Card.

Transport for NSW means Transport for NSW as constituted under the *Transport Administration Act 1988* (NSW).

Transport Administration Act means the *Transport Administration Act 1988* (NSW).

Trip means travel using a single Mode under an Opal Card or a Ticket between a Departure Point and a Destination Point, and does not include travel from a second Departure Point (unless travel to a further Destination Point is deemed to be a single Trip by the conditions of travel for the relevant Mode).

2 Interpretation

2.1 General provisions

In this determination:

- (a) headings are for convenience only and do not affect the interpretation of this determination;
- (b) a reference to a schedule, annexure, clause or table is a reference to a schedule or annexure to, clause of, or table in this determination unless otherwise indicated;
- (c) words importing the singular include the plural and vice versa;
- (d) a reference to a law or statute includes regulations, rules, codes and other instruments under it and consolidations, amendments, re-enactments or replacements of them;
- (e) where a word is defined, other grammatical forms of that word have a corresponding meaning;
- (f) a reference to a day is to a calendar day;
- (g) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation), replacements and assigns;
- (h) a reference to an officer includes a reference to the officer which replaces it or which substantially succeeds to its powers or functions;
- (i) a reference to a body, whether statutory or not:
 - (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

2.2 Explanatory notes, worked examples and clarification notices

- (a) Explanatory notes and worked examples do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.
- (b) IPART may publish a clarification notice in the NSW Government Gazette to correct any manifest error in or to clarify any part of this determination. Such a clarification notice is taken to form part of this determination.

2.3 Fares exclusive of GST

Fares determined by Transport for NSW under this determination exclude GST.