

Maximum fares for private ferry services for 2022 to 2025

Draft Determination

October 2021

Transport ≫

Tribunal Members

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Part 1 Scope and term of this determination

1 Application of this determination

This determination sets the methodology to be applied to determine maximum Fares for Private Ferry Services.

2 Commencement and term of this determination

- (1) This determination commences on 1 January 2022 (Commencement Date).
- (2) This determination applies from the Commencement Date until the earlier of:
 - (a) 31 December 2025; and
 - (b) the date on which this determination is revoked or replaced.

3 Replacement of the 2018 Determination

- (1) This determination replaces the 2018 Determination.
- (2) This replacement does not affect anything done or omitted to be done, or rights or obligations accrued, under the 2018 Determination prior to its replacement.

4 Outline of this determination

- (1) Part 2 of this determination:
 - (a) fixes maximum Fares for Private Ferry Services for 2022; and
 - (b) sets the methodology for fixing maximum Fares for Private Ferry Services for 2023 to 2025.
- (2) Part 3 of this determination sets out the Fuel Cost Adjustment to be applied in determining maximum Fares for Private Ferry Services for 2023 to 2025.
- (3) Part 4 of this determination describes the legislative framework and approach for fixing maximum Fares for Private Ferry Services and includes IPART's statement of reasons for setting a methodology for fixing maximum Fares for 2023 to 2025.

Part 2 Maximum Fares for Private Ferry Services provided on Routes

5 Application

This Part 2 sets out the maximum Fares for Private Ferry Services provided on the following routes:

- (1) Brooklyn to Dangar Island Route;
- (2) Circular Quay to Lane Cove Route;
- (3) Cronulla to Bundeena Route;
- (4) Palm Beach to Mackerel Beach Route;
- (5) Scotland Island and Western Foreshore of Pittwater Route;
- (6) Woy Woy to Empire Bay Route;
- (7) Yamba to Iluka Route,

each being a **Route**.

6 Maximum Fares for Private Ferry Services provided on Routes

6.1 Maximum Fares for 2022

The maximum Fare for a Private Ferry Service on a Route for 2022 is the amount specified in Table 1 for 2022 for that Route.

6.2 Maximum Fares for 2023

The maximum Fare for a Private Ferry Service on a Route for 2023 is:

- (1) if the Fuel Cost Adjustment applies under clause 7(2), the amount specified in Table 1 for 2023 for that Route multiplied by the Fuel Cost Adjustment for 2023 for that Route calculated in accordance with Part 3; or
- (2) if the Fuel Cost Adjustment does not apply under clause 7(2), the amount specified in Table 1 for 2023 for that Route.

[**Note**: A worked example of a maximum Fare determined using the Fuel Cost Adjustment is provided in Annexure A.]

6.3 Maximum Fares for 2024

The maximum Fare for a Private Ferry Service on a Route for 2024 is:

- (1) if the Fuel Cost Adjustment applies under clause 7(2), the higher of:
 - (a) the maximum Fare for 2023 for that Route; or
 - (b) the amount specified in Table 1 for 2024 for that Route,

multiplied by the Fuel Cost Adjustment for 2024 for that Route calculated in accordance with Part 3; or

- (2) if the Fuel Cost Adjustment does not apply under clause 7(2), the higher of:
 - (a) the maximum Fare for 2023 for that Route; or
 - (b) the amount specified in Table 1 for 2024 for that Route.

[**Note**: A worked example of a maximum Fare determined using the Fuel Cost Adjustment is provided in Annexure A.]

6.4 Maximum Fares for 2025

The maximum Fare for a Private Ferry Service on a Route for 2025 is:

(1) if the Fuel Cost Adjustment applies under clause 7(2), the higher of:

(a) the maximum Fare for 2024 for that Route; or

(b) the amount specified in Table 1 for 2025 for that Route,

multiplied by the Fuel Cost Adjustment for 2025 for that Route calculated in accordance with Part 3; or

(2) if the Fuel Cost Adjustment does not apply under clause 7(2), the higher of:

(a) the maximum Fare for 2024 for that Route; or

(b) the amount specified in Table 1 for 2025 for that Route.

[**Note**: A worked example of a maximum Fare determined using the Fuel Cost Adjustment is provided in Annexure A.]

Table 1 Maximum Fares for Private Ferry Services on Routes (\$ nominal inc GST)

Route	2022	2023	2024	2025
Brooklyn to Dangar Island Route	9.20	9.50	9.70	9.90
Circular Quay to Lane Cove Route	8.70	9.60	10.70	11.90
Cronulla to Bundeena Route	7.40	7.40	7.40	7.40
Palm Beach to Mackerel Beach Route	9.10	9.30	9.50	9.70
Scotland Island and Western Foreshore of Pittwater Route	9.90	10.20	10.40	10.70
Woy Woy to Empire Bay Route	8.50	8.70	8.90	9.20
Yamba to Iluka Route	9.70	10.00	10.20	10.50

Part 3 Fuel Cost Adjustment for determining maximum Fares

7 Application

- (1) Subject to paragraph (2) below, this Part 3 sets out the formulae for determining the Fuel Cost Adjustment to apply to the determination of maximum Fares for Private Ferry Services under Part 2.
- (2) The Fuel Cost Adjustment applies for a year only where the percentage change (in absolute terms) between the:
 - (a) Average Fuel Price for the Fuel Cost Review Period that ended in the preceding year; and
 - (b) Average Fuel Price for the Fuel Cost Review Period immediately prior to the Fuel Cost Review Period referred to in paragraph (a),

is greater than 10%.

[Note: The Fuel Cost Adjustment, as calculated in accordance with this Part 3, applies to both positive and negative changes in the Average Fuel Price. For example, if the ΔAverage Fuel Price_i calculated in accordance with clause 9.2 for a year is:

- +7%, this Part 3 does not apply
- +10.4%, this Part 3 applies
- -16%, this Part 3 applies.]

8 IPART notification of Fuel Cost Adjustment

(1) On or before 20 December immediately following the end of the Fuel Cost Review Period, IPART will notify a Private Operator and Transport for NSW if, under this determination, a Fuel Cost Adjustment is to be made to determine the maximum Fare for a Route operated by the Private Operator in the following year.

[**Note**: For example, if the Fuel Cost Adjustment is to apply to the determination of a maximum Fare for Private Ferry Services supplied during 2023, IPART will provide the notification under clause 8(1) to the relevant Private Operator and Transport for NSW after 30 September 2022 (the end of the Fuel Cost Review Period), but by no later than 20 December 2022.]

- (2) A notice under paragraph (1) will identify the maximum Fare for a Ticket to be applied by the Private Operator for the applicable Route in the following year, as adjusted by the Fuel Cost Adjustment.
- (3) IPART may publish a notice under paragraph (1) on its website.

9 Calculation of the Fuel Cost Adjustment

9.1 Fuel Cost Proportion of Routes

In this clause 9, the **Fuel Cost Proportion** for a Route is the fuel cost proportion for that Route identified in Table 2.

Table 2 Fuel Cost Proportions for Routes (%)

Route	Fuel Cost Proportion (%)
Brooklyn to Dangar Island Route	8.9
Circular Quay to Lane Cove Route	6.1
Cronulla to Bundeena Route	4.0
Palm Beach to Mackerel Beach Route	5.8
Scotland Island and Western Foreshore of Pittwater Route	7.9
Woy Woy to Empire Bay Route	6.9
Yamba to Iluka Route	4.0

9.2 Calculation of the Fuel Cost Adjustment

(1) The Fuel Cost Adjustment for **2023** is calculated as follows:

(Fuel Cost Proportion × $\Delta Average Fuel Price_{2021-2022}$) + 1

Where:

 $\Delta Average Fuel Price_{2021-2022}$ is calculated as follows:

Average Fuel Price₂₀₂₁₋₂₀₂₂ – 1 Average Fuel Price₂₀₂₀₋₂₀₂₁

Where:

- (a) **Average Fuel Price**2021-2022 is the Average Fuel Price for the Fuel Cost Review Period ending 30 September 2022; and
- (b) **Average Fuel Price**₂₀₂₀₋₂₀₂₁ is the Average Fuel Price for the Fuel Cost Review Period ending 30 September 2021.
- (2) The Fuel Cost Adjustment for **2024** is calculated as follows:

(Fuel Cost Proportion × $\Delta Average Fuel Price_{2022-2023}) + 1$

Where:

 Δ Average Fuel Price₂₀₂₂₋₂₀₂₃ is calculated as follows:

Average Fuel Price₂₀₂₂₋₂₀₂₃ – 1 Average Fuel Price₂₀₂₁₋₂₀₂₂

Where:

(a) **Average Fuel Price**₂₀₂₂₋₂₀₂₃ is the Average Fuel Price for the Fuel Cost Review Period ending 30 September 2023; and

- (b) **Average Fuel Price**₂₀₂₁₋₂₀₂₂ is the Average Fuel Price for the Fuel Cost Review Period ending 30 September 2022.
- (3) The Fuel Cost Adjustment for **2025** is calculated as follows:

(Fuel Cost Proportion × $\Delta Average Fuel Price_{2023-2024}) + 1$

Where:

ΔAverage Fuel Price₂₀₂₃₋₂₀₂₄ is calculated as follows:

 $\frac{Average\ Fuel\ Price_{2023-2024}}{Average\ Fuel\ Price_{2022-2023}}-1$

Where:

- (a) **Average Fuel Price**₂₀₂₃₋₂₀₂₄ is the Average Fuel Price for the Fuel Cost Review Period ending 30 September 2024; and
- (b) **Average Fuel Price**₂₀₂₂₋₂₀₂₃ is the Average Fuel Price for the Fuel Cost Review Period ending 30 September 2023.

Part 4 Legislative framework and statement of reasons for setting methodology

10 Legislative framework

10.1 Determination under the Passenger Transport Act and IPART Act

- (1) By letter dated 14 April 2021 the Minister, with the approval of the Minister administering the IPART Act, referred to IPART for review and report the determination of appropriate maximum Fares for Private Ferry Services under section 123 of the Passenger Transport Act.
- (2) IPART is required under section 124(1) of the Passenger Transport Act to conduct investigations and report to the Minister on the appropriate maximum Fares where a referral is made under Part 7 of the Passenger Transport Act.
- (3) The following provisions of the IPART Act apply to an investigation and report by IPART under Part 7 of the Passenger Transport Act:
 - (a) sections 13A to 14A (in relation to the approaches to be applied in making pricing determinations); and
 - (b) Divisions 6 and 7 of Part 3 (in relation to the publication of reports and conduct of investigations).

10.2 Approach to determining appropriate maximum fares

- (1) In making this determination on the maximum Fares for Private Ferry Services, IPART has had regard to a broad range of matters including:
 - (a) the matters specified by the Minister in the referral pursuant to section 123(2)(b) of the Passenger Transport Act, being:
 - (i) the availability and pricing of competing transport modes including Sydney Ferries; and
 - (ii) the impact of viability payments to operators and any reforms to those arrangements; and
 - (b) the matters set out in section 124(3) of the Passenger Transport Act.
- (2) In accordance with section 124(6) of the Passenger Transport Act and section 13A of the IPART Act, IPART has:
 - (a) fixed the maximum Fares for Private Ferry Services supplied during 2022; and
 - (b) set a methodology for fixing maximum Fares for Private Ferry Services supplied during 2023, 2024 and 2025.
- (3) In accordance with section 13A of the IPART Act, IPART has chosen to set a methodology for fixing maximum Fares for Private Ferry Services supplied during 2023, 2024 and 2025 because it is of the opinion that to make a determination directly fixing the maximum price would be impractical.

(4) As required by section 13A(3) of the IPART Act, IPART's reasons for setting a methodology for fixing maximum Fares for Private Ferry Services supplied during 2023, 2024 and 2025 are set out in clause 11.

11 Statement of reasons

Under section 124(6) of the Passenger Transport Act and section 13A of the IPART Act, IPART may fix maximum prices, or may set a methodology for fixing maximum prices, for Private Ferry Services provided under a Service Contract.

In this determination, IPART has set a methodology for fixing maximum Fares for Private Ferry Services for 2023, 2024 and 2025. Maximum Fares for 2023 to 2025 are determined by applying a Fuel Cost Adjustment mechanism. The object of this adjustment is that maximum Fares should reflect material deviations between the forecast and actual fuel costs of Private Operators during the term of this determination.

It would be impractical to directly fix maximum Fares through a determination based on forecast fuel costs in circumstances where Private Operators have limited capacity to independently hedge against volatility in fuel costs. A methodology provides the necessary flexibility to account for actual variations in future fuel costs over the determination term.

Part 5 Definitions, interpretation and rounding rule

12 Definitions

In this determination:

2018 Determination means IPART's determination No. 5 of 2017 titled '*Maximum fares for private ferry services from 1 January 2018*'.

Adult means a person who is aged 16 years or over who is not entitled to a concession fare.

[**Note**: As at the date of this determination, Transport for NSW has specified that persons aged 4 years or above but under the age of 16 years are entitled to pay a concession fare and that those persons aged 16 years and over, who are not otherwise entitled to a concession fare, are required to pay adult fares for travel on public passenger services.]

Average Fuel Price means the daily average retail price of diesel fuel in Sydney (excluding GST and excise duty) published by FUELtrac averaged over a Fuel Cost Review Period or, if FUELtrac ceases to publish that information, such comparable publication as notified by IPART to Transport for NSW and the Private Operators.

Brooklyn to Dangar Island Route means the route between any two or more of the following public ferry wharves:

- (a) Brooklyn Wharf, Dangar Road, Brooklyn NSW 2083;
- (b) Little Wobby Wharf, Little Wobby NSW 2256; and
- (c) Dangar Island Wharf, Neotsfield Avenue, Dangar Island NSW 2083,

including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

Circular Quay to Lane Cove Route means the route between two or more of the following public ferry wharves:

- (a) Pier 26, Darling Harbour, Sydney NSW 2000;
- (b) Wharf 6, Circular Quay, Sydney NSW 2000;
- (c) Kirribilli Wharf, Holbrook Avenue, Kirribilli NSW 2061;
- (d) Jeffrey Street Wharf, Jeffrey Street, Kirribilli NSW 2061;
- (e) Balmain East Wharf, Darling Street, Balmain East NSW 2041;
- (f) Birchgrove Wharf, Louisa Road, Birchgrove NSW 2041;
- (g) Greenwich Point Wharf, Lower Serpentine Road, Greenwich NSW 2065;
- (h) Greenwich Wharf, Bay Street, Greenwich NSW 2065;
- (i) Northwood Wharf, Northwood Road, Northwood NSW 2066;
- (j) Longueville Wharf, Stuart Street, Longueville NSW 2066;
- (k) Hunters Hill Wharf, Alexandra Street, Hunters Hill NSW 2110; and
- (l) Riverview College Wharf, Wharf Lane, Riverview NSW 2066,

including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

Commencement Date means the date specified in clause 2(1).

Cronulla to Bundeena Route means the route between Cronulla Wharf, Tonkin Street, Cronulla NSW 2230 and Bundeena Wharf, Brighton Street, Bundeena NSW 2230, including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

Fare means any consideration payable by an Adult for a Ticket to travel on a Private Ferry Service.

Ferry Service has the meaning given to that term in the Passenger Transport Act.

Fuel Cost Adjustment means the percentage increase or decrease (as the case may be) to the maximum Fare for a Ticket for a Private Ferry Service applicable in a year (other than 2022), calculated in accordance with clause 9.

Fuel Cost Proportion has the meaning given by clause 9.1.

Fuel Cost Review Period means:

(a) the period beginning on 1 October 2021 and ending on 30 September 2022; and

(b) thereafter, each 12-month period beginning on 1 October and ending on 30 September.

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

Interpretation Act means the Interpretation Act 1987 (NSW).

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.

Palm Beach to Mackerel Beach Route means the route between any two or more of the following public ferry wharves:

(a) Palm Beach Wharf, Barrenjoey Road, Palm Beach NSW 2108;

- (b) Bennets Wharf, Ku-Ring-Gai Chase National Park, Coasters Retreat NSW 2108;
- (c) Bonnie Doon Wharf, Ku-Ring-Gai Chase National Park, Coasters Retreat NSW 2108;
- (d) The Basin Wharf, Ku-Ring-Gai Chase National Park, Ku-Ring-Gai Chase NSW 2083;
- (e) Currawong Beach Wharf, Currawong Beach NSW 2108; and
- (f) Mackerel Beach Wharf, Ross Smith Parade, Great Mackerel Beach NSW 2108,

including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

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

Private Ferry Services means regular passenger Ferry Services provided by a Private Operator in the Sydney, Central Coast and North Coast areas of NSW.

Private Operator means a party to a Service Contract under which that party provides Private Ferry Services on a Route.

Route has the meaning given in clause 5.

Scotland Island and Western Foreshore of Pittwater Route means the route between any two or more of the following public ferry wharves:

(a) Church Point Wharf, Church Point NSW 2108;

- (b) Bells Wharf, Vivian Street, Scotland Island NSW 2105;
- (c) Carols Wharf, Scotland Island NSW 2105;
- (d) Eastern Wharf, Florence Terrace, Scotland Island NSW 2105;
- (e) Tennis Wharf, Pitt View Street, Scotland Island NSW 2105;
- (f) Halls Wharf, Bona Crescent, Morning Bay NSW 2108;
- (g) Lovett Wharf, Lovett Bay NSW 2105; and
- (h) South Elvina Wharf, Normanhurst Street, Elvina Bay NSW 2105,

including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

Service Contract means, as the case requires, either:

(a) a passenger service contract; or

(b) an existing service contract,

with those terms having the same meaning as in the Passenger Transport Act.

Ticket means the proof of entitlement for a single instance of travel on a Private Ferry Service consisting of getting on a ferry once, travelling on that ferry, and getting off that ferry once.

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

Woy Woy to Empire Bay Route means the route between any two or more of the following public ferry wharves:

- (a) Woy Woy Wharf, The Boulevarde, Woy Woy NSW 2256;
- (b) Veterans Hall Wharf, Henderson Road, Saratoga NSW 2251;
- (c) Lintern Street Wharf, Lintern Street, Davistown NSW 2251;
- (d) Central Wharf, Davistown Road, Davistown NSW 2251;
- (e) Pine Avenue Wharf, Davistown NSW 2251; and
- (f) Empire Bay Wharf, Sorrento Road, Empire Bay NSW 2257;

including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

Yamba to Iluka Route means the route between Yamba Wharf, River Street, Yamba NSW 2464 and Iluka Wharf, Charles Street, Iluka NSW 2466, including any variation to the Route made in accordance with the Service Contract for the Route from time to time.

13 Interpretation

13.1 General provisions

In this determination, unless the contrary intention appears:

- (1) headings are for convenience only and do not affect the interpretation of this determination;
- (2) a reference to a Part, Annexure, clause, paragraph or table is a reference to a Part, Annexure, clause, paragraph or table of this determination unless otherwise indicated;
- (3) a construction that would promote a purpose or object expressly or impliedly underlying the IPART Act or the Passenger Transport Act is to be preferred to a construction that would not promote that purpose or object;
- (4) words importing the singular include the plural and vice versa;
- (5) a reference to a law or statute includes regulations, rules, codes and other instruments (including licences) under it and consolidations, amendments, re-enactments or replacements of them or of the law or statute itself;
- (6) where a word is defined, other grammatical forms of that word have a corresponding meaning;
- (7) a reference to a year is to a calendar year, as that term is defined in the Interpretation Act;
- (8) a reference to a month is to a calendar month, as that term is defined in the Interpretation Act;
- (9) 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;
- (10) a reference to an officer includes a reference to the officer which replaces him or her, or which substantially succeeds to his or her powers or functions; and

(11)a reference to a body, whether statutory or not:

- (a) which ceases to exist; or
- (b) 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.

13.2 Explanatory notes, examples and clarification notices

(1) Explanatory notes, examples and alternate text do not form part of this determination, but in the case of uncertainty may be relied on for interpretation purposes.

(2) 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, on publication, is taken to form part of this determination.

13.3 Maximum Fares inclusive of GST

Fares specified or calculated in accordance with this determination include GST.

13.4 Rounding rule

- (1) All maximum Fares calculated in this determination are to be rounded to the nearest 10 cents.
- (2) For the avoidance of doubt, any unrounded fare that is a multiple of 5 cents (but not a multiple of 10 cents) is to be rounded up to the nearest 10 cents.

[Note: For example, an unrounded Fare of \$9.25 is to be rounded up to \$9.30.]

A Worked example of maximum Fares determined using the Fuel Cost Adjustment

Box 1 Worked example – determining a Fare using the Fuel Cost Adjustment for two consecutive years

Assume for a Route for **2023**:

- the amount specified in Table 1 for a Route for 2023 is \$9.40
- Average Fuel Price is +19%
- the Fuel Cost Proportion is 8.5%

The Fuel Cost Adjustment for 2023 (calculated in accordance with Part 3) is:

 $(0.085 \times 0.19) + 1 = 1.01615$

The maximum Fare for 2023 is:

 $9.40 \times 1.01615 = 9.55181$

Rounded to the nearest 10 cents, the maximum Fare for 2023 is \$9.60.

Assume for the Route for 2024:

- the amount specified in Table 1 for the Route for 2024 is \$9.50
- Average Fuel Price is -10.4%
- the Fuel Cost Proportion is 8.5%

The Fuel Cost Adjustment for 2024 (calculated in accordance with Part 3) is:

 $(0.085 \times (-0.104)) + 1 = 0.99116$

As the Fare for 2023 is higher than the amount specified in Table 1, the Fuel Cost Adjustment is applied to the Fare for 2023. The maximum Fare for 2024 is:

 $9.60 \times 0.99116 = 9.515136$

Rounded to the nearest 10 cents, the maximum Fare for 2024 is \$9.50.